

The UAE: A Treasure Trove of Opportunity but Watch out for the New Gold Mine of AML Rules

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The City of Gold

The United Arab Emirates (“UAE”), but the emirate of Dubai in particular, has not earned its epithet as the “the city of gold” for no good reason. In 2020, gold accounted for 29% of the total non-oil foreign trade exports of the country and the UAE currently sits as the fourth highest country in the world for gold imports, and accounts for 11% of all global gold exports.

From the Dubai Multi Commodities Centre (“DMCC”), the largest free zone of its kind in the world, to the bustling gold souks and vast malls that play host to high-end fashion and jewellery brands, all combine to allure tens, if not hundreds of thousands of individuals and businesses to operate in the precious metals and stones sector in the country.

The unfortunate, although undeniable consequence of such a booming and lucrative industry, is that it entices criminal actors looking to expose and benefit from such high levels of transactions and wealth. It comes as no surprise, therefore, that the precious metals and stones sector has been identified by the Financial Action Task Force (“FATF”), being the international standard setter for anti-money laundering (“AML”) and combatting the financing of terrorism (“CFT”) regulation, as a high-risk sector for money laundering due to its global exploitation by criminal actors seeking to utilise this industry, and to ultimately layer illegitimate funds within the legitimate financial system.

Indeed, the Middle East and North Africa Financial Action Task Force (“MENAFATF”), the regional body of the FATF, and the UAE National Risk Assessment (“NRA”), have both identified that the overall size and openness of the UAE’s financial sector, its geography, the large proportion of foreign residents, the systemic use of cash in transactions, and the highly active trade in gold and precious metals and stones, cumulate to make it inherently vulnerable to money laundering abuse by criminals. This results in a need to impose additional legislative requirements to protect precious metals and stones businesses from illegitimate actors.

Accordingly, and in direct response to the identified sector risks, the Ministry of Economy (MoE), being the competent authority and regulator for the majority of Designated Non-Financial Business or Professions (“DNFBPs”), which amongst others encompasses dealers in precious metals and stones (“DPMS”), extended a number of obligations under the current UAE AML and CFT framework. It did so by issuing two unambiguous Circulars to DNFBPS and DPMS: the first in February 2021, being Circular No. 2 of 2021 and shortly thereafter, in June 2021, Circular No. 8 of 2021, which all businesses operating in this sector should take heed and implement at the earliest should they not have already done so.

Circular No. 2 of 2021

Effectively, this Circular imposes additional and enhanced obligations on DNFBPs to ensure that they have robust internal controls and processes in place to prevent money laundering in this sector.

Firstly, to the extent that a DNFBP has not already done so, it must appoint a compliance officer to oversee

the firm wide AML obligations, and it is stipulated that this must be a natural person who is employed or appointed by the company, but more importantly, who can demonstrate the appropriate competence and experience to deal with the procedures and obligations enforceable by the MoE.

A further obligation for companies is to register on the GoAML platform; an integrated digital platform through which Suspicious Transaction Reports (“STRs”) and Suspicious Activity Reports (“SARs”) are to be submitted by DNFBPs to the Financial Information Unit (“FIU”) of the Central Bank of the UAE (“CBUAE”).

Finally, DNFBPs must subscribe to the automatic reporting system for sanctions lists on the website of the Committee for Good and Material Subject to Import and Export Control. It is important that all new customers must be searched across the consolidated list of sanctioned individuals and entities found on this website, and no company should ever conduct business with a designated person or body. Additionally, when new notifications are received through the website, existing customers should be screened against the list and any necessary action taken if there are matches.

Circular No. 8 of 2021

In a matter of months from the issuance of Circular No. 2 of 2021, the MoE disseminated Circular No. 8 of 2021, which targeted and imposed specific obligations on DPMS. These predominantly relate to obtaining customer due diligence (“CDD”) and payer information. This set of new obligations go far beyond the obligations of the current UAE AML legislation, and are a clear indication that the country is doing all it can to prevent money laundering in this high-risk sector.

So what does it say, and what further obligations apply to DPMS:

Significantly, the obligations differentiate between whether the transactions are with UAE residents or non-residents, whether they are with a corporate entity or an individual, and the means of payment, i.e. cash, or wire transfers.

Where cash transactions are with UAE resident individuals, a dealer must obtain identification documents (that is an Emirates ID or Passport) for all transactions equal to or exceeding AED 55,000.

Similarly, where cash transactions are with non-resident individuals, the dealer must also obtain identification documents (ID or Passport) for transactions equal to or exceeding AED 55,000.

However, for transactions with legal entities / companies, a copy of its trade license, and identification documents (Emirates ID or passport) of the person representing the company, must be obtained where the transactions equal or exceed AED 55,000, and importantly, this applies to both cash or wire transfers.

Crucially, and in respect of all of the transactions caught under Circular No. 8 of 2021 above, the customer information collected must now be documented and registered on the GoAML platform using a newly created Dealers in Precious Metals and Stones Report, also known as the “DPMSR”. Records of all documents and information related to the above transactions should also be kept for a minimum period of 5 years.

How to Avoid those Mines

The new regulations imposed by the MoE are a clear indicator of the UAE’s heightened phase of implementing AML and CFT legislation, and the relentless commitment to developing its regulatory framework in order to combat not just local, but financial crime on a global scale.

Since the issuance of the Circulars, the MoE has provided relevant dealers with a period of grace to implement the new measures, but is in the process of conducting an extensive inspection campaign targeting DNFBPs to ensure their compliance with the regulations and in order to ensure the safety and transparency of transactions.

The MoE has already shown it means business, and has come down very hard for non-compliance. In May 2021, a gold trading group was hit with 8 violations of the AML rules, cumulating in a fine of AED 1,350,000 and we are sure this is just the start.

The director of AML at the MoE has stated with clear intent that the adoption of necessary procedures is a national duty for all DNFBs in the country, as it supports the UAE's efforts to counter money laundering and combat terrorist financing at the global level. It has also been said that the new measures will enhance the country's position across relevant global indicators and contribute to strengthening global confidence in the UAE economy.

As such, any DPMS operating in the UAE, to the extent they are conducting transactions over AED 55,000, are obligated to ensure they have the necessary internal controls to implement the full extent of the AML Legislation and related CDD and reporting procedures. For those that have not yet considered whether they fall within the rules, or looked at creating or updating their policies and procedures in this regard, it is important that immediate action is taken before the authorities impose large fines, and even suspension of business licenses.

For further information, please contact [Benjamin Jones](#).