

Reforms to combat corruption and encourage whistle blowing in the UAE

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Not only does this dissuade potential investors investing in a country, but it also undermines the rule of law and weakens trust in public and private institutions.

In recent years Emirati legislators have enacted several laws to fight corruption. These include laws combating money laundering, laws criminalizing fronting (which is where a local resident acts as a front to allow a foreigner to undertake activities he would not otherwise be allowed to do) and others suppressing fraud in commercial transactions. There have also been several amendments to the penal code.

The most recent effort by the UAE government to further combat corruption is a proposed new federal law to establish an anti-corruption authority named "The Federal Authority for Combating Corruption". The law is currently in the form of a bill being scrutinized by the relevant authorities and it is hoped that it will be passed later this year. We have been able to review the bill and this article highlights some of the key features of it.

The Federal Authority for Combating Corruption

The Federal Authority for Combating Corruption will be based in Abu Dhabi but will be entitled to branch out into any of the other emirates and has the full capacity and a number of powers needed to combat corruption. The bill defines corruption as comprising of various crimes including money laundering; embezzlement; bribery; breach of trust; abuse of public functions or authorities; damage to public property; and the concealment of the proceeds of any of these crimes.

The authority will be tasked with developing strategies to effectively combat corruption while taking into account the federal law and the United Nations Convention Against Corruption which was signed by the UAE on 10 August 2005. The authority will monitor the implementation of its strategies, and liaise with national, regional and international authorities and organizations to help eliminate corruption in public and private sectors. It will create a database to log acts of corruption and may exchange this information with national and international authorities. The authority will participate in international conferences relating to corruption and is expected to liaise with the media to raise awareness amongst the public regarding the serious harm caused by corruption and how it can be eradicated.

The bill explicitly orders all legal bodies to cooperate with the Federal Authority for Combating Corruption. Such legal bodies include: federal and local authorities; the public and private sector; banks and financial institutions; and other natural or juridical persons in the UAE. While forms of cooperation with the authority are numerous, they include complying with its requests; providing it with any information necessary to achieve its goals; and refraining from acts that hinder such goals. Acts that may be considered a hindrance to the performance of the authority and its goals include not only refraining from providing the authority with any data, information, accounts, records, papers or documents; but also procrastinating, stalling or

delaying the supply of any of these materials. The bill provides a strict time limit of 15 days for the requested legal body to provide the authority with the required support unless a reasonable excuse is provided for the delay. In urgent matters the time limit may be reduced. In all cases overdue performance is penalized with a sentence of up to six months imprisonment; a fine between AED 30,000 and AED 200,000; or both.

It is expected that much of the work to be undertaken in implementing the strategies devised by the new authority will fall to local and federal public bodies but under the authority's supervision and instructions. This may involve investigating allegations of corruption, gathering evidence, speaking to witnesses, and tracing and recovering the proceeds of the corrupt practice. They will also need to keep the authority informed of the actions they have taken.

Whistle Blowing

Whistle-blowing occurs when a person speaks up about an illegal activity or injustice to authorities, executives within an organization or directly to the media. Each year around the world many illegal activities are exposed by whistle-blowers. Although they help in bringing injustice into the light and enable perpetrators to be held accountable, whistle-blowers can also be subject to intimidation, harassment, and even threats of violence.

However, due to the importance of whistle-blowing to combating corruption, the bill states that the Federal Authority for Combating Corruption, once established, will issue regulations to protect whistle-blowers. Such regulations shall guarantee the freedom, security and well-being of whistle-blowers and protect them from being prosecuted criminally, civilly or administratively.

The bill defines a whistle-blower as a person who reveals information – in good faith – pertaining to a crime relating to corruption (as defined above) without being a principal or accessory to the reported crime. In addition to this, a witness, expert or victim will also be considered as whistle-blowers. Whistle-blowers report actions that come to their knowledge regarding allegedly dishonest or illegal activities occurring in a government department or private company or organization. The bill creates a general presumption that a whistleblower is acting in good faith if the whistleblower reports the crime for the apparent benefit of the public interest and in the belief that there is enough information or proof to justify reporting it.

Conclusion

The bill is still being deliberated by Emirati legislators and is in the process of being passed. However, given the previous approach of the legislators and their dedication to combating corruption we expect it to be passed before the end of 2013. Ever since the ratification by the UAE of the United Nations Convention Against Corruption, serious reforms have been taken to eradicate corruption in public and private sectors.

Corruption has always been frowned upon in the region, and the steps discussed in this article show that the UAE is further strengthening its anti-corruption regime in order to secure the integrity and dignity of transactions and dealings before different legal bodies. The bill encourages the whole of UAE society to support the proposed Federal Authority for Combating Corruption, and by doing so it is hoped that society will become more aware of the perils and threats of corruption to private and public welfare.