Anti-Money Laundering and Combating the Financing of Terrorism and Illegal Organisations

Guidelines for Designated Non-Financial Businesses and Professions

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Part I—Overview

1. Introduction

1.1 Purpose and Scope

The purpose of these **Anti-Money Laundering and Combating the Financing of Terrorism and the Financing of Illegal Organisations Guidelines for Designated Non-Financial Businesses and Professions (DNFBPs)** (Guidelines) is to provide guidance and assistance to supervised institutions that are DNFBPs, in order to assist their better understanding and effective performance of their statutory obligations under the legal and regulatory framework in force in the United Arab Emirates (UAE or State).

These Guidelines have been prepared as a joint effort between the Supervisory Authorities of the UAE, and set out the minimum expectations of the Supervisory Authorities regarding the factors that should be taken into consideration by each of the supervised DNFBPs which fall under their respective jurisdictions, when identifying, assessing and mitigating the risks of money laundering (ML), the financing of terrorism (FT), and the financing of illegal organisations.

Nothing in these Guidelines is intended to limit or otherwise circumscribe additional or supplementary guidance, circulars, notifications, memoranda, communications, or other forms of guidance or feedback, whether direct or indirect, which may be published on occasion by any of the Supervisory Authorities in respect of the supervised institutions which fall under their respective jurisdictions, or in respect of any specific supervised institution.

Finally, it should be noted that, guidance on the subject of the United Nations Targeted Financial Sanctions (TFS) regime, and the related Cabinet Decision No. (74) of 2020 *Regarding Terrorism Lists Regulation and Implementation of UN Security Council Resolutions On the Suppression and Combating of Terrorism, Terrorists Financing & Proliferation of Weapons of Mass Destruction, and Related Resolutions* is outside of the scope of these Guidelines.

1.2 Applicability

Unless otherwise noted, these Guidelines apply to all Designated Non-Financial Businesses and Professions, and the members of their boards of directors, management and employees, established and/or operating in the territory of the UAE and their respective Financial and Commercial Free Zones, whether they establish or maintain a Business Relationship with a Customer, or engage in any of the financial activities and/or transactions or the trade and/or business activities outlined in Articles (2) and (3) of Cabinet Decision No. (10) of 2019 Concerning the Implementing Regulation of Decree Law No. (20) of 2018 *On Anti-Money Laundering and Combating the Financing of Terrorism and Illegal Organisations*.

Specifically, and without prejudice to the definition of a DNFBP as provided for in the relevant legislative and regulatory framework of the State (see Section 2.1, National Legislative and Regulatory Framework), they are applicable to all such natural and legal persons in the following categories:

- Auditors and accountants;
- Lawyers, notaries and other legal professionals and practitioners;
- Company and trust service providers;
- Dealers in precious metals and stones;
- Real estate agents and brokers;
- Any other DNFBP not mentioned above.

1.3 Legal Status

Article 44.11 of Cabinet Decision No. (10) of 2019 Concerning the Implementing Regulation of Decree Law No. (20) of 2018 *On Anti-Money Laundering and Combating the Financing of Terrorism and Illegal Organisations* charges Supervisory Authorities with "providing Financial Institutions…with guidelines and feedback to enhance the effectiveness of implementation of the Crime-combatting measures."

As such, these Guidelines do not constitute additional legislation or regulation, and are not intended to set legal, regulatory, or judicial precedent. They are intended rather to be read in conjunction with the relevant laws, cabinet decisions, regulations and regulatory rulings which are currently in force in the UAE and their respective Free Zones, and supervised institutions are reminded that the Guidelines do not replace or supersede any legal or regulatory requirements or statutory obligations. In the event of a discrepancy between these Guidelines and the legal or regulatory frameworks currently in force, the latter will prevail. Specifically, nothing in these Guidelines should be interpreted as providing any explicit or implicit guarantee or assurance that the Supervisory or other Competent Authorities would defer, waive, or refrain from exercising their enforcement, judicial, or punitive powers in the event of a breach of the prevailing laws, regulations, or regulatory rulings.

These Guidelines, and any lists and/or examples provided in them, are not exhaustive and do not set limitations on the measures to be taken by supervised institutions in order to meet their statutory obligations under the legal and regulatory framework currently in force. As such, these Guidelines should not be construed as legal advice or legal interpretation. Supervised institutions should perform their own assessments of the manner in which they should meet their statutory obligations, and they should seek legal or other professional advice if they are unsure of the application of the legal or regulatory frameworks to their particular circumstances.

1.4 Organisation of the Guidelines

These Guidelines are organized into five (5) parts, roughly corresponding to the following major themes:

Part I—Overview (including background information on the UAE's AML/CFT legislative and strategy framework, and highlights of key provisions of the law and regulations affecting Financial Institutions);

Part II—Identification and Assessment of ML/FT Risks;

Part III—Mitigation of ML/FT Risks;

Part IV—AML/CFT Compliance Administration and Reporting (including guidance on governance, suspicious transaction reporting, and record-keeping);

Part V—Appendices.

The various sections and sub-sections of each part are organized according to subject matter. In general, each section or subsection includes references to the articles of the AML-CFT Law and/or the AML-CFT Decision to which it pertains. While it has been kept to a minimum, users may find that there are instances of repetition of some content throughout various sections of the Guidelines. This has been done in order to ensure that each section or sub-section pertaining to a specific subject matter is comprehensive, and to minimize the need for cross-referencing between sections.

In some cases, the requirements or provisions of specific sections of the relevant legal and regulatory frameworks are deemed sufficiently clear with regard to the statutory obligations of supervised institutions such that no additional guidance on those sections is provided for in these Guidelines. In other cases, guidance is provided with regard to subjects which are not covered explicitly in the AML-CFT Law or the AML-CFT Decision, but which are nevertheless addressed either implicitly or by reference to international best practices.

In certain instances in which there are meaningful differences between the relevant legal and regulatory framework currently in force and previous laws or regulations, or in which there are differences in specific regulatory requirements between various Supervisory Authorities, the Guidelines may or may not highlight these differences. In the event of such differences or discrepancies, supervised institutions seeking further clarification on matters related to those sections are invited to contact their relevant Supervisory Authority through the established channels.

It is the Supervisory Authorities' intention to update or amend these Guidelines from time to time, as and when it is deemed appropriate. Supervised institutions are reminded that these Guidelines are not the only source of guidance on the assessment and management of ML/FT risk, and that other bodies, including international organisations such as FATF,

MENAFATF and other FATF-style regional bodies (FSRBs), the Egmont Group, and others also publish information that may be helpful to them in carrying out their statutory obligations. It is the sole responsibility of supervised institutions to keep apprised and updated at all times regarding the ML/FT risks to which they are exposed, and to maintain appropriate risk identification, assessment, and mitigation programmes, and to ensure their responsible officers, managers and employees are adequately informed and trained on the relevant policies, processes, and procedures.

Text from the AML-CFT and the AML-CFT Decision are quoted, or otherwise summarized or paraphrased, from time to time throughout these Guidelines. For the sake of convenience, unless specifically noted to the contrary, all references in the text to the term "financing of terrorism" also encompass the financing of illegal organisations. In general, capitalized terms in the text of these Guidelines have the meanings provided in the Glossary of Terms (see Appendix 11.1). However, in the event of any inconsistency or discrepancy between the text or definitions provided for in the Law and/or the Cabinet Decision and such quotations, summaries or paraphrases, or such defined terms, the former shall prevail.

2. Overview of the AML/CFT Legal, Regulatory, and National Strategy Frameworks of the United Arab Emirates

2.1 National Legislative and Regulatory Framework

The legal and regulatory structure of the UAE is comprised of a matrix of federal civil, commercial and criminal laws and regulations, together with the various regulatory and Supervisory Authorities responsible for their implementation and enforcement, and various local civil and commercial legislative and regulatory frameworks in the Financial and Commercial Free Zones. As criminal legislation is under federal jurisdiction throughout the State, including the Financial and Commercial Free Zones, the crimes of money laundering, the financing of terrorism, and the financing of illegal organisations are covered under federal criminal statutes and the federal penal code. Likewise, federal legislation and implementing regulations on the combating of these crimes are in force throughout the UAE, including the Financial and Commercial Free Zones. Their implementation and enforcement are the responsibility of the relevant regulatory and Supervisory Authorities in either the federal or local jurisdictions.

The principal AML/CFT legislation within the State is Federal Decree-Law No. (20) of 2018 *On Anti-Money Laundering and Combating the Financing of Terrorism and Financing of Illegal Organisations* (the "AML-CFT Law" or "the Law") and implementing regulation, Cabinet Decision No. (10) of 2019 Concerning the Implementing Regulation of Decree Law No. (20) of 2018 *On Anti-Money Laundering and Combating the Financing of Terrorism and Illegal Organisations* (the "AML-CFT Decision" or "the Cabinet Decision").

The UAE recently issued Cabinet UBO Resolution No. 58 of 2020 on the Regulation of the Procedures of the Real Beneficiary (UBO Resolution) which came into effect on 28 August 2020 and replaced Cabinet Resolution No. 34 of 2020 issued earlier this year.

Financial free zones (Abu Dhabi Global Market (ADGM) and Dubai International Financial Centre (DIFC) and companies owned by the Federal Government and their subsidiaries are not covered by the UBO Resolution. DNFBPs licensed and operating from Financial Free Zones should refer to the regulations governing beneficial ownership and control issued by their relevant Financial Free Zone authority.

The UBO Resolution introduces the requirement for a beneficial ownership register in the UAE mainland and unify the minimum disclosure requirements for corporate entities incorporated in the UAE mainland and in the non-financial free zones. Financial free zones (Abu Dhabi Global Market (ADGM) and Dubai International Financial Centre (DIFC) and companies owned by the Federal Government and their subsidiaries are not covered by this UBO Resolution. DNFBPs licensed and operating from Financial Free Zones should refer to the regulations governing beneficial ownership and control issued by their relevant Financial Free Zone authority.

2.2 International Legislative and Regulatory Framework

The AML/CFT legislative and regulatory framework of the UAE is part of a larger international AML/CFT legislative and regulatory framework made up of a system of intergovernmental legislative bodies and international and regional regulatory organisations. On the basis of international treaties and conventions in relation to combating money laundering, the financing of terrorism and the prevention and suppression of the proliferation of weapons of mass destruction, intergovernmental legislative bodies create laws at the international level, which participating member countries then transpose into their national counterparts. In parallel, international and regional regulatory organisations develop policies and recommend, assess and monitor the implementation by participating member countries of international regulatory standards in respect of AML/CFT.

Among the major intergovernmental legislative bodies, and international and regional regulatory organisations, with which the government and the Competent Authorities of the State actively collaborate within the sphere of the international AML/CFT framework are:

- The United Nations (UN): The UN is the international organisation with the broadest range of membership. Founded in October of 1945, there are currently 191 member states of the UN from throughout the world. The UN actively operates a program to fight money laundering; the Global Programme against Money Laundering (GPML), which is headquartered in Vienna, Austria, is part of the UN Office of Drugs and Crime (UNODC).

- The Financial Action Task Force (FATF). The Financial Action Task Force (FATF) is an intergovernmental body established in 1989, which sets international standards and promotes effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system. FATF also monitors the implementation of its

standards, the 40 FATF Recommendations and 11 Immediate Outcomes, by its members and members of FSRBs, ensures that the 'FATF Methodology' for assessing technical compliance with the FATF Recommendations and the effectiveness of AML/CFT systems is properly applied.

- The Middle East and North Africa Financial Action Task Force (MENAFATF). Recognizing the FATF 40 Recommendations on Combating Money Laundering and the Financing of Terrorism and Proliferation, and the related UN Conventions and UN Security Council Resolutions, as the worldwide-accepted international standards in the fight against money laundering and the financing of terrorism and proliferation, MENAFATF was established in 2004 as a FATF Style Regional Body (FSRB), for the purpose of fostering co-operation and co-ordination between the countries of the MENA region in establishing an effective system of compliance with those standards. The UAE is one of the founding members of MENAFATF.

- The Egmont Group of Financial Intelligence Units: In 1995, a number of FIUs began working together and formed the Egmont Group of Financial Intelligence Units (Egmont Group) (named for the location of its first meeting at the Egmont-Arenberg Palace in Brussels). The purpose of the group is to provide a forum for FIUs to improve support for each of their national AML/CFT programs and to coordinate AML/CFT initiatives. This support includes expanding and systematizing the exchange of financial intelligence information, improving expertise and capabilities of personnel, and fostering better communication among FIUs through technology, and helping to develop FIUs worldwide.

2.3 AML/CFT National Strategy Framework

Money laundering and the financing of terrorism are crimes that threaten the security, stability and integrity of the global economic and financial system, and of society as a whole. The estimated volume of the proceeds of crime, including the financing of terrorism, that are laundered each year is between 2-5% of global GDP. Yet, by some estimates, the volume of criminal proceeds that are actually seized is in the range of only 2% of the total, while roughly only half of that amount eventually ends up being confiscated by competent judicial authorities. Combating money laundering and the financing of terrorist activities is therefore an urgent priority in the global fight against organised crime.

The UAE is deeply committed to combating money laundering and the financing of terrorism and illegal organisations. To this end, the Competent Authorities have established the appropriate legislative, regulatory and institutional frameworks for the prevention, detection and deterrence of financial crimes, including ML/FT. They also continue to work towards reinforcing the capabilities of the resources committed to these efforts, and towards improving their effectiveness by implementing the internationally accepted AML/CFT standards recommended and promoted by FATF, MENAFATF and the other FSRBs, as well as by the United Nations, the World Bank and the International Monetary Fund (IMF).

As part of these efforts, the Competent Authorities of the UAE have taken a number of substantive actions, including among others:

- Enhancing the federal legislative and regulatory framework, embodied by the introduction of the new AML/CFT Law and Cabinet Decision, which incorporate the FATF standards;
- Conducting the National Risk Assessment (NRA) to identify and assess the ML/FT threats and inherent vulnerabilities to which the country is exposed, as well as to assess its capacity in regard to combating ML/FT at the national level;
- Formulating a National AML/CFT Strategy and Action Plan that incorporate the results of the NRA and which are designed to ensure the effective implementation, supervision, and continuous improvement of a national framework for the combating of ML/FT, as well as to provide the necessary strategic and tactical direction to the country's public and private sector institutions in this regard.

The National Strategy on Anti-Money Laundering and Countering the Financing of Terrorism of the United Arab Emirates is based on four pillars, each of which is associated with its own strategic priorities. These strategic priorities in turn inform and shape the key initiatives of the country's National Action Plan on AML/CFT.

The pillars of the National Strategy, together with their strategic priorities are summarised in the table below:

National AML/CFT Strategic Pillars	Strategic Priorities
Legislative & Regulatory Measures	Increase effectiveness and efficiency of legislative and regulatory policies and ensure compliance
Transparent Analysis of Intelligence	Leverage the use of financial databases and the development of information analysis systems to enhance the transparent analysis and dissemination of financial intelligence information
Domestic and International Cooperation & Coordination	Promote the efficiency and effectiveness of domestic and international coordination and cooperation with regard to the availability and exchange of information
Compliance and Law Enforcement	Ensure the effective investigation and prosecution of ML/FT crimes and the timely implementation of TFS

The National Committee for Combating Money Laundering and the Financing of Terrorism and Illegal Organisations has identified a number of key drivers of success in achieving the goals of the National AML/CFT Strategy. These include, among other things, ensuring:

- Effective coordination between the Financial Intelligence Unit, Law Enforcement Authorities, Public Prosecutors, Supervisory Authorities, and other Competent Authorities within the country;
- Effective compliance with the laws and regulations governing banking activities and other financial services;
- Awareness by DNFBPs of the relevant ML/FT risks facing the UAE in general, and their sectors in particular, as informed by the results of the NRA, as well as their awareness of their statutory obligations in regard to the management and mitigation of those risks.

The present *Anti-Money Laundering and Combating the Financing of Terrorism and Illegal Organisations Guidelines for Designated Non-Financial Businesses and Professions* are thus intended to advance the efforts of the Committee, the Supervisory Authorities, and the other Competent Authorities of the State in this direction.

3. Highlights of Key Provisions Affecting DNFBPs

The AML-CFT Law and the AML-CFT Decision contain numerous provisions setting out the rights and obligations of supervised institutions, including DNFBPs, as well as their senior managers and employees. This section highlights some of the key provisions affecting DNFBPs that are of immediate concern. DNFBPs are reminded that it is their sole responsibility to adhere to all provisions of the AML-CFT Law, the AML-CFT Decision, and all regulatory notices, rulings and circulars affecting them.

3.1 Summary of Minimum Statutory Obligations of Supervised Institutions

The AML-CFT Law and the AML-CFT Decision set out the minimum statutory obligations of supervised institutions as follows:

- To identify, assess, understand risks (AML-CFT Law Article 16.1(a), AML-CFT Decision Article 4.1);
- To define the scope of and take necessary due diligence measures (AML-CFT Law Article 16.1(b), AML-CFT Decision Article 4.1(a) and 2);
- To appoint a compliance officer, with relevant qualification and expertise and in line with the requirements of the relevant Supervisory Authority (AML-CFT Decision Article 21, 44.12);
- To put in place adequate management and information systems, internal controls, policies, procedures to mitigate risks and monitor implementation (AML-CFT Law Article 16.1(d), AML-CFT Decision Article 4.2(a));
- To put in place indicators to identify suspicious transactions (AML-CFT Law Article 15, AML-CFT Decision Article 16);
- To report suspicious activity and cooperate with Competent Authorities (AML-CFT Law Article 9.1, 15, 30, AML-CFT Decision Article 13.2, 17.1, 20.2);
- To promptly apply directives of Competent Authorities for implementing UN Security Council decisions under Chapter 7 of the UN Convention for the Prohibition and Suppression of the FT and Proliferation (AML-CFT Law Article 16.1(e), AML-CFT Decision Article 60);
- To maintain adequate records (AML-CFT Law Article 16.1(f), AML-CFT Decision Article 7.2, 24).

Specific guidance on these and other provisions of the AML-CFT Law and the AML-CFT Decision is provided in the following sections.

3.2 Confidentiality and Data Protection

(AML-CFT Law Article 15; AML-CFT Decision Articles 17.2, 21.2, 31.3, 39)

DNFBPs are obliged to report to the UAE's Financial Intelligence Unit (FIU) when they have reasonable grounds to suspect a transaction or funds representing all or some proceeds, or suspicion of their relationship to a Crime (see Section 7, Suspicious Transaction Reporting). In reporting their suspicions, they must maintain confidentiality with regard to both the information being reported and to the act of reporting itself, and make reasonable efforts to ensure the information and data reported are protected from access by any unauthorised person.

It should be noted that the confidentiality requirement does not pertain to communication within the DNFBP or its affiliated group members (foreign branches, subsidiaries, or parent company) for the purpose of sharing information relevant to the identification, prevention or reporting of a Crime. However, under no circumstances are DNFBPs, or their managers or employees, permitted to inform a Customer or the representative of a Business Relationship, either directly or indirectly, that a report has been made, under penalty of sanctions (see Section 3.9, Sanctions against Persons Violating Obligations). This is the so-called "tipping off" requirement. This also extends to any related information that might be provided to the FIU or information that is being requested by the FIU.

Except for the exemption noted below, DNFBPs are not permitted to object to the statutory reporting of suspicions on the grounds of Customer confidentiality or data privacy, under penalty of sanctions. Moreover, data protection laws include provisions that allow the FI to report to the authorities. (see Section 3.9, Sanctions against Persons Violating Obligations).

Under specific circumstances, the AML-CFT Law and the AML-CFT Decision provide an exemption to the statutory reporting obligation on the grounds of professional secrecy for DNFBPs that are "lawyers, notary publics, other legal stakeholders and independent legal auditors" who have obtained the information during the course of advising or defending their customers against legal or judicial proceedings. For further guidance, see Section 7.6, Specific Exemptions from Reporting Requirement.

3.3 Protection against Liability for Reporting Persons

(AML-CFT Law Article **27; AML-CFT Decision** Article **17.3)**

The AML-CFT Law and the AML-CFT Decision provide DNFBPs, as well as their board members, employees and authorised representatives, with protection from any administrative, civil or criminal liability resulting from their good-faith performance of their statutory obligation to report suspicious activity to the FIU. This protection is also applicable if they did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred.

3.4 Statutory Prohibitions

(AML-CFT Law Article **16.1(c); AML-CFT Decision** Articles **13.1, 14, 35.4, 38)**

DNFBPs are prohibited from the following activities:

- Establishing or maintaining any Customer or Business Relationship, conducting any financial or commercial transactions, keeping any Business Relationship under an anonymous or fictitious name or by pseudonym or number;
- Establishing or maintaining a Business Relationship or executing any business dealing in the event they are unable to complete adequate risk-based CDD measures in respect of the Customer for any reason;
- Dealing in any way with Shell Banks, whether to open accounts with them for their Customers or to facilitate any banking transactions for themselves or on behalf of their Customers;
- Invoking banking, professional or contractual secrecy as a pretext for refusing to perform their statutory reporting obligation in regard to suspicious activity;
- Facilitating issuance of bearer shares or bearer share warrants.

3.5 Money Laundering

(AML-CFT Law Articles **2.1-3, 4, 29.3, AML-CFT Decision** Article **1)**

The AML-CFT Law defines money laundering as engaging in any of the following acts wilfully, having knowledge that the funds are the proceeds of a felony or a misdemeanour (i.e., a predicate offence):

- Facilitating the transfer or movement of proceeds or conducting any transaction which results in concealing or disguising their Illegal source;
- Concealing or disguising the true nature, source or location of the proceeds as well as the method involving their disposition, movement, ownership of or rights with respect to said proceeds;
- Acquiring, possessing or using proceeds upon receipt;
- Assisting the perpetrator of the predicate offense to escape punishment.

Both the AML-CFT Law and the AML-CFT Decision define “funds” in a very broad sense as “assets in whatever form, whether tangible, intangible, movable or immovable including national currency, foreign currencies, documents or notes evidencing the ownership of those assets or associated rights in any forms including electronic or digital forms or any interests, profits or income originating or earned from these assets.” They likewise define “proceeds”

as “funds generated directly or indirectly from the commitment of any crime or felony including profits, privileges, and economic interests, or any similar funds converted wholly or partly into other funds.”

Therefore, in order to be considered money laundering, it is not necessary for any of the above-stipulated acts to involve only money or monetary instruments per se, but any number of tangible or intangible assets such as, but not limited to:

- Funds bank or other financial accounts, including so-called virtual or crypto currencies;
- Financial instruments or securities, such as shares, bonds, notes, commercial paper, promissory notes, IOUs, share warrants, options, rights (including land rights), or other transferrable securities or bearer negotiable instruments;
- Contracts, loan instruments, titles, claims, insurance policies, or their assignment;
- Intellectual property (including but not limited to patents or registered trademarks), royalties, licenses, or the rights thereto;
- Physical property, including but not limited to commodities, land, precious metals and stones, motor vehicles or vessels, works of art, or any other goods exchanged as payment-in-kind.

The size or monetary value of the financial or commercial transaction, the timeframe during which it took place, and the nature of the funds or proceeds (whether in liquid funds or some other tangible or intangible asset) are irrelevant to the suspicion and reporting of a suspicious transaction.

The AML-CFT Law designates money laundering as a criminal offence. Its prosecution is independent of that of any predicate offence to which it is related or from which the proceeds are derived. The suspicion of money laundering is not dependent on proving that a predicate offence has actually occurred or on proving the illicit source of the proceeds involved, but can be inferred from certain information, including indicators or behavioural patterns.

According to the 2018 National Risk Assessment, professional third-party money laundering has been identified as one of the top ML/FT threats in the UAE.

3.6 Predicate Offences

The AML-CFT Law defines a predicate offence as “any act constituting an offence or misdemeanour under the applicable laws of the State whether this act is committed inside or outside the State when such act is punishable in both countries.” A predicate offence is therefore any crime, whether felony or misdemeanour, which is punishable in the UAE, regardless of whether it is committed within the State or in any other country in which it is also a criminal offence.

FATF has designated 21 (twenty-one) categories of predicate offences. Each of these categories of predicate offences has been criminalised in the legislative framework of the State. DNFBPs are reminded that this is not an exhaustive list of predicate offences, but simply a convenient categorisation, since in the UAE according to the AML-CFT Law, even crimes that do not appear on this list, whether felonies or misdemeanours, can be predicate offences to money laundering.

Based on expert analysis of these categories conducted on behalf of the UAE's Competent Authorities for the 2018 National Risk Assessment, the top (highest) threats to the State in relation to money laundering have been identified as: fraud, counterfeiting and piracy of products, illicit trafficking in narcotic drugs and psychotropic substances, and professional third-party money laundering.

Similarly, other (medium-high) threats of particular concern to the UAE in relation to money laundering have been identified as the categories of: insider trading and market manipulation, robbery and theft, illicit trafficking in stolen and other goods, forgery, smuggling (including in relation to customs and excise duties and taxes), tax crimes (related to direct taxes and indirect taxes), and terrorism (including terrorist financing).

While DNFBPs should pay special attention to the most serious threats identified in the NRA and any topical risk assessment when performing their own ML/FT business risk assessments, they are reminded that their risk assessment operations should consider all categories of risk for applicability to their own particular circumstances.

3.7 Financing of Terrorism

(AML-CFT Law Article**s 3.1, 4, 29.3, AML-CFT Decision** Article **1)**

The AML-CFT Law designates the financing of terrorism as a criminal offence, which is not subject to the statute of limitations. It defines the financing of terrorism as:

- Committing any act of money laundering, being aware that the proceeds are wholly or partly owned by a terrorist organisation or terrorist person or intended to finance a terrorist organisation, a terrorist person or a terrorism crime, even if it without the intention to conceal or disguise their illicit origin; or

- Providing, collecting, preparing or obtaining proceeds or facilitating their obtainment by others with intent to use them, or while knowing that such proceeds will be used in whole or in part for the commitment of a terrorist offense, or committing such acts on behalf of a terrorist organisation or a terrorist person while aware of their true background or purpose.

There are numerous risk factors that DNFBPs should consider important when assessing their exposure to the risk of terrorist financing (see Section 4.1.2, Risk Factors), including geographic-, sector-, channel-, product-, service- and customer-specific risks.

In a 2019 report by MENAFATF, an assessment of the global threat posed by the financing of terrorism stated:

> "The number, type, scope, and structure of terrorist actors and the global terrorism threat are continuing to evolve. Recently, the nature of the global terrorism threat has intensified considerably. In addition to the threat posed by terrorist organisations such as ISIL, Al-Qaeda and other groups, attacks in many cities across the globe are carried out by individual terrorists and terrorist cells ranging in size and complexity. Commensurate with the evolving nature of global terrorism, the methods used by terrorist groups and individual terrorists to fulfil their basic need to generate and manage funds is also evolving.
>
> Terrorist organisations use funds for operations (terrorist attacks and pre-operational surveillance); propaganda and recruitment; training; salaries and member compensation; and social services. These financial requirements are usually high for large terrorist organisations, particularly those that aim to, or do, control territory. In contrast, the financial requirements of individual terrorists or small cells are much lower with funds primarily used to carry out attacks. Irrespective of the differences between terrorist groups or individual terrorists, since funds are directly linked to operational capability, all terrorist groups and individual terrorists seek to ensure adequate funds generation and management."[1]

3.8 Financing of Illegal Organisations

(AML-CFT Law Article**s 3.2, 4, 29.3, AML-CFT Decision** Article **1)**

Like the financing of terrorism, the AML-CFT Law designates the financing of illegal organisations as a criminal offence that is not subject to the statute of limitations. The Law defines the financing of illegal organisations as:

- Committing any act of money laundering, being aware that the proceeds are wholly or partly owned by an illegal organisation or by any person belonging to an illegal organisation or intended to finance such illegal organisation or any person belonging to it, even if without the intention to conceal or disguise their illicit origin.
- Providing, collecting, preparing, obtaining proceeds or facilitating their obtainment by others with intent to use such proceeds, or while knowing that such proceeds will be used in whole or in part for the benefit of an Illegal organisation or of any of its members, with knowledge of its true identity or purpose.

[1] *Social Media and Terrorism Financing: A joint project by Asia/Pacific Group on Money Laundering & Middle East and North Africa Financial Action Task Force*, APG/MENAFATF, January 2019, p.4.

When assessing their risk exposure to the financing of illegal organisations, DNFBPs should pay special attention to the regulatory disclosure, accounting, financial reporting and audit requirements of organisations with which they conduct Business Relationships or transactions. This is particularly important where non-profit, community/social, or religious/cultural organisations are involved, especially when those organisations are based, or have significant operations, in jurisdictions that are unfamiliar or in which transparency or access to information may be limited for any reason.

3.9 The ML Phases

To identify, understand and accurately assess the ML/FT risks to which DNFBPs are exposed at both the enterprise and business relationship levels, DNFBPs should be aware of the three phases of money laundering. By determining for which ML/FT phase a certain product can be misused or the DNFBP itself can be misused, will help the DNFBP understand its specific inherent ML/FT risks. The paragraphs below describe the crime of money laundering as consisting of three distinct (though sometimes overlapping) phases:

Placement. In this phase, criminals attempt to introduce Funds or the Proceeds of Crime into the financial system using a variety of techniques or typologies (see Section 3.10, ML/FT Typologies).

Examples of placement transactions include the following:

- Blending of funds: Commingling of illegitimate funds with legitimate funds, such as placing the cash from illegal narcotics sales into cash-intensive, locally owned businesses.
- Foreign exchange: Purchasing of foreign exchange with illegal funds.
- Breaking up amounts: Placing cash in small amounts and depositing them into numerous bank accounts in an attempt to evade attention or reporting requirements.
- Currency smuggling: Cross-border physical movement of cash or monetary instruments.
- Loans: Repayment of legitimate loans using laundered cash.

Layering. Once the Funds or Proceeds are introduced, or placed, into the financial system, they can proceed to the next phase of the process; often, this is accomplished by placing the funds into circulation through formal financial institutions, and other legitimate businesses, both domestic and international. In this layering phase, criminals attempt to disguise the illicit nature of the Funds or Proceeds of Crime by engaging in transactions, or layers of transactions, which aim to conceal their origin.

Examples of layering transactions include:

- Electronically moving funds from one country to another and dividing them into advanced financial options and/or markets;
- Moving funds from one financial institution to another or within accounts at the same institution;
- Converting the cash placed into monetary instruments;
- Reselling high-value goods and prepaid access/stored value products;
- Investing in real estate and other legitimate businesses;
- Placing money in stocks, bonds or life insurance products; and
- Using shell companies to obscure the ultimate beneficial owner and assets.

Integration. In this phase, criminals attempt to return, or integrate, their "laundered" Funds or the Proceeds of Crime back into the economy, or to use it to commit new criminal offences, through transactions or activities that appear to be legitimate.

A key objective for criminals engaged in money laundering—and therefore a key generic risk underlying the specific risks faced by DNFBPs—is the exploitation of situations and factors (including products, services, structures, transactions, and geographic locations) which favour anonymity and complexity, thereby facilitating a break in the "paper trail" and concealment of the illicit source of the Funds.

Although the sizes of transactions related to the financing of terrorism and illegal organisations can be (much) smaller than those involved in money laundering operations, and some of the typologies and specific techniques used may differ, the overall principles and generic risks are the same. The terrorists and criminals involved in these acts attempt to exploit situations and factors favouring anonymity and complexity, in order to obscure and conceal the illicit source of the Funds, or the illicit destination or purpose for which they are intended, or both. DNFBPs should remain careful that their services are not being used either directly or indirectly to facilitate Money Laundering or the Financing of Terrorism or Illegal Organisations in any of the three stages described above.

DFNBPs should remain careful that their services are not being used either directly or indirectly to facilitate money laundering or the financing of terrorism or illegal organisations in any of the three stages described above.

3.10 ML/FT Typologies

The methods used by criminals for money laundering, the financing of terrorism, and the financing of illegal organisations are continually evolving and becoming more sophisticated. It is therefore critical in combating these crimes for DNFBPs to ensure that their personnel are kept up-to-date on the latest ML/FT trends and typologies.

There are numerous useful sources of research and information related to ML/FT typologies, including by the Supervisory Authorities, the FATF, MENAFATF and other FSRBs, the Egmont Group, and others. DNFBPs should incorporate the regular review of ML/FT trends and typologies into their compliance training programmes (see Section 8.2, Staff Screening and Training), as well as into their risk identification and assessment procedures.

Examples of some of the key ML/FT typologies with which DNFBPs should be familiar include (but are not limited to):

- **Currency exchanges / cash conversion**: used to assist with smuggling to another jurisdiction or to exploit low reporting requirements on currency exchange houses to minimize risk of detection – e.g., purchasing of travellers cheques to transport value to another jurisdiction.
- **Cash couriers / currency smuggling**: concealed movement of currency to avoid transaction / cash reporting measures.
- **Structuring (smurfing)**: A method involving numerous transactions (deposits, withdrawals, transfers), often various people, high volumes of small transactions and sometimes numerous accounts to avoid detection threshold reporting obligations.
- **Use of credit cards, cheques, promissory notes, etc.**: Used as instruments to access funds held in a financial institution, often in another jurisdiction.
- **Purchase of portable valuable commodities (gems, precious metals, etc.)**: A technique to purchase instruments to conceal ownership or move value without detection and avoid AML/CFT measures – e.g., movement of diamonds or gold to another jurisdiction.
- **Purchase of valuable assets (real estate, race horses, vehicles, etc.)**: Criminal proceeds are invested in high-value negotiable goods to take advantage of reduced reporting requirements to obscure the source of proceeds of crime.
- **Commodity exchanges (barter)**: Avoiding the use of money or financial instruments in value transactions to avoid AML/CFT measures - e.g., a direct exchange of heroin for gold bullion.
- **Use of wire transfers**: to electronically transfer funds between financial institutions and often to another jurisdiction to avoid detection and confiscation.
- **Underground banking / unlicensed remittance services**: Illegal mechanisms based on networks of trust used to remit monies, without the proper license or

registration. Often work in parallel with the traditional banking sector and exploited by money launderers and terrorist financiers to move value without detection and to obscure the identity of those controlling funds.

- **Trade-based money laundering and terrorist financing**: usually involves invoice manipulation and uses trade finance routes and commodities to avoid financial transparency laws and regulations.
- **Abuse of non-profit organisations (NPOs)**: May be used to raise terrorist funds, obscure the source and nature of funds and to distribute funds for terrorist activities.
- **Investment in capital markets**: to obscure the source of proceeds of crime to purchase negotiable instruments, often exploiting relatively low reporting requirements.
- **Mingling (business investment)**: A key step in money laundering involves combining proceeds of crime with legitimate business monies to obscure the illegal source of the funds.
- **Use of shell companies/corporations**: a technique to obscure the identity of persons controlling funds and exploit relatively low reporting requirements.
- **Use of offshore banks/businesses, including trust company service providers**: to obscure the identity of persons controlling funds and to move monies away from interdiction by domestic authorities.
- **Use of nominees, trusts, family members or third parties, etc**: to obscure the identity of persons controlling illicit funds.
- **Use of foreign bank accounts**: to move funds away from interdiction by domestic authorities and obscure the identity of persons controlling illicit funds.
- **Identity fraud / false identification**: used to obscure the identity of those involved in many methods of money laundering and terrorist financing.
- **Use “gatekeepers” professional services (lawyers, accountants, brokers, etc.)**: to obscure the identity of beneficiaries and the illicit source of funds. May also include corrupt professionals who offer ‘specialist’ money laundering services to criminals.
- **New Payment technologies**: use of emerging payment technologies for money laundering and terrorist financing. Examples include cell phone-based remittance and payment systems.

- **Virtual assets:** (VA) and related services have the potential to spur financial innovation and efficiency, but their distinct features also create new opportunities for money launderers, terrorist financiers, and other criminals to launder their proceeds or finance their illicit activities. DNFBPs may refer to the FATF Recommendations that place AML/CFT requirements on Virtual Assets (VA) and Virtual Asset Service Providers (VASPs). The FATF has also issued a document on Guidance on Risk Based Approach to VAs and VASPs. DNFBPs should be familiar with the AML/CFT risks of dealing with VAs and VASPs in accordance with the FATF guidance.
- **Life insurance products** can be for instance be used for money laundering when they have saving or investment features which may include the options for full or partial withdrawals or early surrenders.

The UAE FIU releases reports on Trends and Typologies of Money Laundering which is an analysis based on the information extracted from the suspicious transaction reports (STRs) filed by reporting entities. This is a very useful resource for DNFBPs for understanding the prevalent typologies of ML and FT crimes as well as getting information on the latest trends on these crimes in the country. This report is released on the FIU's GoAML System for STR reporting and therefore, is accessible to registered users of this system.

Links to some other official sources, which may be useful in keeping up-to-date with regard to ML/FT typologies, may be found in Appendix 11.2.

3.11 Sanctions against Persons Violating Reporting Obligations

(AML-CFT Law Article**s 15, 24, 25)**

The AML-CFT Law provides for the following sanctions against any DNFBPs, their managers or their employees, who fail to perform, whether purposely or through gross negligence, their statutory obligation to report a suspicion of money laundering or the financing of terrorism or of illegal organisations:

- Imprisonment and fine of no less than AED100,000 and no more than AED1,000,000; or
- Any of these two sanctions.

According to Article 15 of the AML-CFT Law, the requirement to report is in the case of suspicion or reasonable grounds to suspect a Crime. It should also be noted that the transactions or funds that are the subject of the suspicion may represent only part of the proceeds of the criminal offence, regardless of their value.

Likewise, the AML-CFT Law provides for sanctions against anyone who warns or notifies a person of a suspicious transaction report or reveals that a transaction is under review or investigation by the Competent Authorities, as follows:

- Imprisonment for no less than six months and a penalty of no less than AED100,000 and no more than AED500,000; or
- Any of these two sanctions.

Part II—Identification and Assessment of ML/FT Risks

4. Identification and Assessment of ML/FT Risks

(AML-CFT Law Article **16.1; AML-CFT Decision** Article **4.1)**

Both the AML-CFT Law and the AML-CFT Decision provide that DNFBPs may utilize a risk-based approach with respect to the identification and assessment of ML/FT risks.

DNFBPs are obliged to assess and to understand the ML/FT risks to which they are exposed, and how they may be affected by those risks. Specifically, the AML-CFT Law provides that they shall:

> *"…continuously assess, document, and update such assessment based on the various risk factors established in the Implementing Regulation of this Decree-Law and maintain a risk identification and assessment analysis with its supporting data to be provided to the Supervisory Authority upon request."*

Furthermore, the AML-CFT Decision charges supervised institutions with:

> *"…Documenting risk assessment operations, keeping them up to date on on-going bases and making them available upon request."*

Guidance on these subjects is provided in the following sections.

4.1 Risk-Based Approach (RBA)

A risk-based approach (RBA) is central to the effective implementation of the AML/CFT legislation. It means that DNFBPs identify, assess, and understand the ML/TF risks to which they are exposed, and implement the most appropriate mitigation measures. An RBA requires DNFBPs to have systems and controls that are commensurate with the specific risks of money laundering and terrorist financing facing them. Assessing this risk is, therefore, one of the most important steps in creating a good AML/CFT compliance program and will enable DNFBPs to focus their resources where the risks are higher. In this regard, DNFBPs can take into account their business nature, size and complexity.

(AML-CFT Law Article **16.1; AML-CFT Decision** Article **4.1-3)**

Implicit in both the AML-CFT Law and the AML-CFT Decision is the well-established concept of a risk-based approach (RBA) to the identification and assessment of ML/FT risks. Specifically, the AML-CFT Law states that DNFBPs should "identify crime risks within (their) scope of work" and should update their risk assessments on the basis of the various risk factors set out in the AML-CFT Decision. Likewise, the AML-CFT Decision states that DNFBPs' identification, assessment and understanding of the risks should be carried out "in concert with their business nature and size," and that various risk factors should be

considered in determining the level of mitigation required. The AML-CFT Decision further provides that enhanced due diligence should be performed in cases where high risks are identified, while simplified due diligence may be performed in certain cases where low risk is identified, unless there is a suspicion of ML/FT.

An RBA to AML/CFT means that DNFBPs should identify, assess and understand the ML/TF risks to which they are exposed and take AML/CFT measures commensurate to those risks in order to mitigate them effectively. This will require an understanding of the ML/TF risk faced by the sector and the DNFBP as well as specific products and services, customer base, the capacity in which customers are operating, jurisdictions in which they operate and the effectiveness of risk controls put in place.

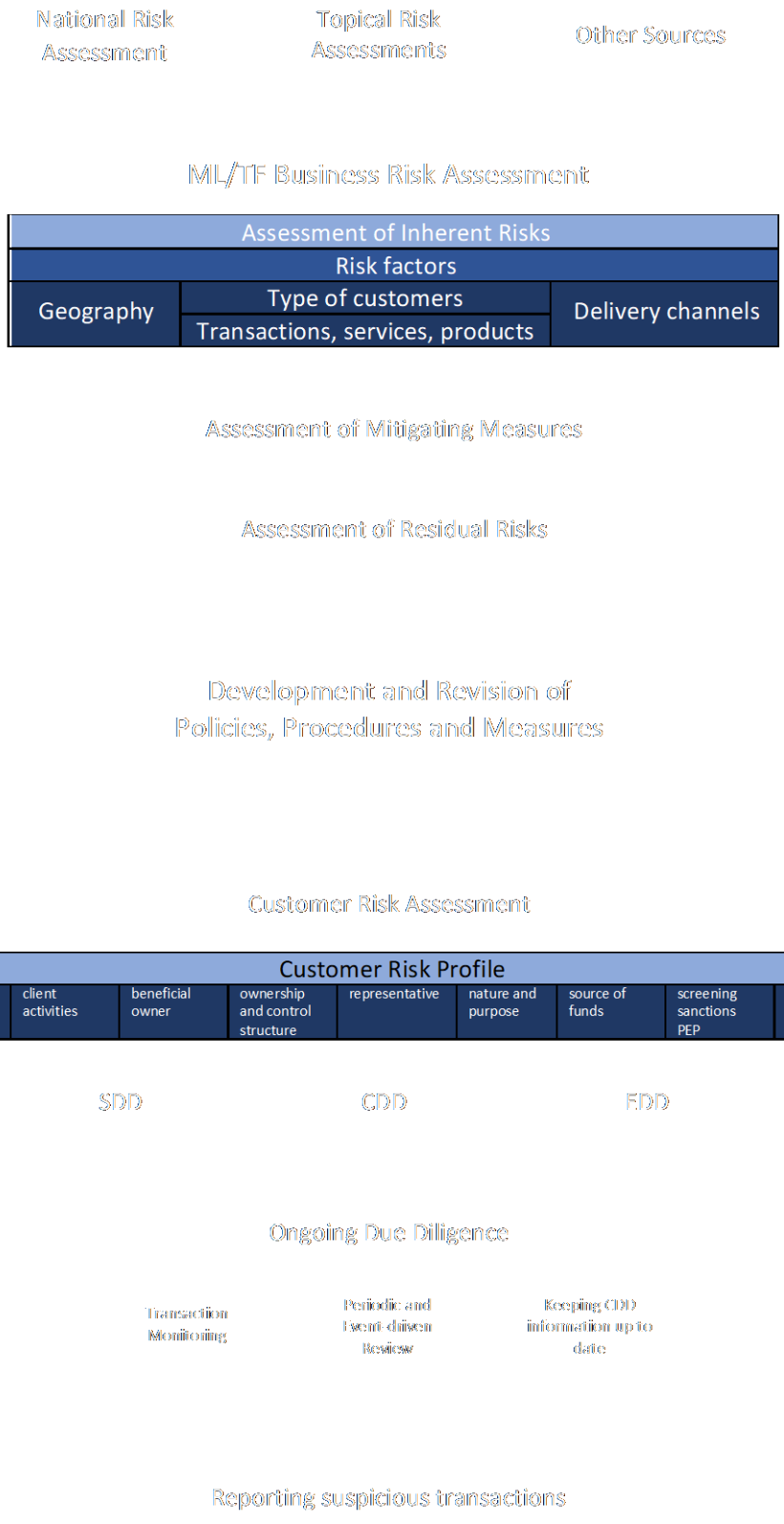
The use of an RBA thus allows DNFBPs to allocate their resources more efficiently and effectively, within the scope of the national AML/CFT legislative and regulatory framework, by adopting and applying preventative measures that are targeted at and commensurate with the nature of risks they face.

While there are limits to any risk-management approach, and no RBA can be considered as completely failsafe; there may be occasions where an DNFBP has taken all reasonable measures to identify and mitigate ML/TF risks, but it is still used for ML/TF in isolated instances. DNFBPs should nevertheless understand that a risk-based approach is not a justification for ignoring certain ML/FT risks, nor does it exempt them from taking reasonable and proportionate mitigation measures, even for risks that are assessed as low. Their statutory obligations require them to identify, assess and understand the level of (inherent) risks presented by their (types of) customers, products and services, transactions, geographic areas and delivery channels, and to be in a position to apply sufficient AML/CFT mitigation measures on a risk-appropriate basis at all times.

In order to do so, they should identify and assess their exposure to ML/FT risks on the basis of a variety of risk factors (see Section 4.1, Risk Factors), some of which are related to the nature, size, complexity and operational environment of their businesses, and others of which are customer- or relationship-specific. Furthermore, they should take reasonable and proportionate risk mitigation measures based on the severity of the risks identified.

Conducting an ML/TF business risk assessments can assist DNFBPs to understand their risk exposure and the areas they should give priority in combating ML/FT. The extent of business-wide risks to which a DNFBP is exposed may require different levels of AML/CFT resources and mitigation strategies.

The following picture is a schematic overview of the RBA process from an ML/TF business risk assessments to developing policies, procedures and measures to CDD and the reporting of suspicious transactions.


National Risk Assessment
Topical Risk Assessments
Other Sources
ML/TF Business Risk Assessment
Assessment of Inherent Risks
Risk factors
Geography
Type of customers
Transactions, services, products
Delivery channels
Assessment of Mitigating Measures
Assessment of Residual Risks
Development and Revision of Policies, Procedures and Measures
Customer Risk Assessment
Customer Risk Profile
identification and verification
client activities
beneficial owner
ownership and control structure
representative
nature and purpose
source of funds
screening sanctions PEP
jurisdictions
SDD
CDD
EDD
Ongoing Due Diligence
Transaction Monitoring
Periodic and Event-driven Review
Keeping CDD information up to date
Reporting suspicious transactions

4.1.1 Assessing Business-wide Risks

(AML-CFT Law Article 16.1; AML-CFT Decision Article 4.1)

An important first step in applying an RBA is to identify, assess and understand the ML/FT risks by way of an business-wide ML/FT risk assessment. The purpose of an ML/FT business risk assessment is to improve the effectiveness of ML/FT risk management, by identifying the inherent ML/FT risks faced by the enterprise as a whole, determining how these risks are effectively mitigated through internal policies, procedures and controls, and establishing the residual ML/FT risks and any gaps in the controls that should be addressed.

Thus, an effective ML/TF business risk assessment can allow DNFBPs to identify gaps and opportunities for improvement in their framework of internal AML/CFT policies, procedures and controls, as well as to make informed management decisions about risk appetite, allocation of AML/CFT resources, and ML/FT risk-mitigation strategies that are appropriately aligned with residual risks.

The first step of conducting an ML/TF business risk assessment for DNFBPs is to identify, assess and understand the inherent ML/FT risks (i.e., the risks that a DNFBP is exposed to if there were no control measures in place to mitigate them) across all business lines and processes with respect to the following risk factors: customers, products, services and transactions, delivery channels, geographic locations, and any other risk factors.

With the inherent risks as a basis, the DNFBP can determine the nature and intensity of risk mitigating controls to apply to the inherent risks. The level of inherent ML/FT risks influence the kinds and levels of AML/CFT resources and mitigation strategies which DNFBPs require to put in place. The assessment of inherent ML/FT risks and of the effectiveness of the risk mitigation measures will result in a residual risk assessment, i.e., the risks that remain when effective control measures are in place. In case the residual risk falls outside the risk appetite of the DNFBP, additional control measures will need to be implemented to ensure that the level of ML/FT risk is acceptable to the DNFBP.

DNFBPs may utilise a variety of models or methodologies to analyse their risks, in keeping with the nature and size of their businesses. DNFBPs should decide on both the frequency and methodology of an ML/FT business risk assessments, including baseline and follow-up assessments, that are appropriate to their particular circumstances, taking into consideration the nature of the inherent and residual ML/FT risks to which they are exposed, as well as the results of the NRA and any Topical Risk Assessment. In most cases, DNFBPs should consider performing the ML/FT business risk assessment at least annually; however assessments that are more frequent or less frequent may be justified, depending on the particular circumstances. They should also decide on policies and procedures related to the periodic review of their ML/TF business risk assessment methodology, taking into consideration changes in internal or external factors. These decisions should be documented,

approved by senior management, and communicated to the appropriate levels of the organisation.

As part of the model or methodology, DNFBPs should consider including in their ML/FT risk assessment the following elements:

- Likelihood or probability of occurrence of identified inherent risks;
- Timing of identified inherent risks;
- Impact on the organisation of identified inherent risks.

The result of an effective ML/FT business risk assessment will be the classification of identified risks into different categories, such as high, medium, low, or some combination of those categories (such as medium-high, medium-low). Such classifications may assist DNFBPs to prioritise their ML/FT risk exposures more effectively, so that they may determine the appropriate types and levels of AML/CFT resources needed, and adopt and apply reasonable and risk-proportionate mitigation measures.

4.1.2 Risk Factors

As part of the business-wide ML/TF risk assessment, a proper identification of risk factors is crucial to the effective assessment of ML/FT risk. Risks will often occur as combinations of these risk factors. A risk can for instance occur because of the interrelationship between a customer and the jurisdictions where the customer is from or is active, or because of the connection between a product and the delivery channel.

Identified risk factors are used for the accurate categorisation of inherent risks, as well as for the application of appropriate mitigation measures. At the enterprise level, this includes adopting and applying adequate policies, procedures, and controls to business processes (see Section 5.1, Internal Policies, Controls and Procedures). The policies, procedures, and controls will in turn address the risks at the individual customer level, including assigning appropriate risk classifications to customers and applying due diligence measures that are commensurate with the identified risks (see Section 6, Customer Due Diligence).

The AML-CFT Decision outlines several risk factors which DNFBPs must consider, when identifying and assessing their ML/FT risk exposure. DNFBPs may also consider a wide array of additional risk factors, utilising various sources, such as:

- ML/FT red-flag indicators;
- Input and information from relevant internal sources, including the designated AML/CFT compliance officer;

- Information from national sources, including the results of the NRA or any Topical Risk Assessment with regard to ML/FT trends and sectoral threats and notices or circulars from the relevant Supervisory Authorities;
- Information from publications of relevant international organisations, such as FATF, MENAFATF and other FSRBs, the Egmont Group, UNODC, and others. (Links to some of these sources may be found in Appendix 11.2.)

In keeping with the ever-evolving nature of ML/FT risks, and in order to ensure that DNFBPs implement a model for conducting the ML/TF business risk assessment that is appropriate to the nature and size of their businesses, DNFBPs should continuously update the risk factors which they consider, in order to reflect new and emerging ML/FT risks and typologies.

A good practice to assess the inherent risk factors, is for DNFBPs to formulate risk scenarios and assess the likelihood that a scenario occurs and the impact should a scenario materialize. The likelihood can be assessed based on the number of times per year that a risk scenario can occur. The impact can be assessed based on the possible financial and reputational effects that can result if a scenario indeed occurs. In this way, the DNFBP can determine the inherent risks of a risk factor.

When assessing the inherent risks, a DNFBP should make an inventory of the customers it services, the products and services it offers, define the scope of business areas to assess, including business units, legal entities, divisions, countries and regions. For this, a DNFBP should make use of up-to-date quantitative and qualitative information on for instance, the types and number of customers, the volume of operations for the types of customers, volume of business per product and services and geographic locations.

Examples with regard to some of the major risk factors that should be taken into account by DNFBPs when conducting the ML/TF business risk assessment are provided in the sections below. Even though some of these risk factors will also be relevant for the risk assessment of an individual Customer or Business Relationship, for the ML/TF business risk assessment, DNFBPs are reminded that they should take a holistic view when evaluating exposure to these categories of customers.

4.1.3 Customer Risk

The customer risk factors relate to types or categories of customers. Certain customer or business relationship categories pose a risk that should be taken into account when assessing the overall level of inherent customer risk. When identifying certain categories of customers as inherently high risk, DNFBPs should also consider the results of the NRA or any Topical Risk Assessment, as well as information from official sources, including the Supervisory Authorities, the FIU, the FATF, MENAFATF and other FSRBs, the Egmont Group, etc.

When assessing the customer risk factors with respect to the business-wide ML/FT risk assessment, a DNFBP can take into account:

- Type of customers: The risks related to retail customers in combination with their product/service needs may be different from those related to high net worth or corporate customers and their respective product/service needs. Likewise, the risks associated with resident customers may be different from those associated with non-resident customers.
- Customer base: DNFBPs with small, homogenous customer bases may face different risks from those with larger, more diverse customer bases. Similarly, DNFBPs targeting growing or emerging markets may face different customer risks than those with more established customer bases.
- Maturity of relationships: DNFBPs that rely on more transactional, occasional, or one-off interactions with their customers may be exposed to different risks from institutions with more repetitive or or long-term business relationships.

The specific customer risk factors that DNFBPs should consider, include:

- Categories of business relationships with complex legal, ownership, or direct or indirect group or network structures, or with less transparency with regard to Beneficial Ownership, effective control, or tax residency, may pose different ML/FT risks than those with simpler legal/ownership structures or with greater transparency.
- Categories of Customers involved in highly regulated and supervised activities and those involved in activities that are unregulated.
- Customers associated with higher-risk persons or professions (for example, foreign PEPs and/or their companies), or those linked to sectors associated with higher ML/FT risks.
- Non-resident entities particularly those with connections to offshore and high risk jurisdictions.
- Persons acting as introducer or intermediary on behalf of customers or groups of customers (whereby there is no direct contact with the customer).
- High net worth individuals.

Some of these customer risk factors are also relevant when determining the customer risk classification of an individual customer and the type and extent of customer due diligence to be performed (see Section 6, Customer Due Diligence).

4.1.4 Geographic Risk

DNFBPs should consider geographic ML/FT risk factors both from domestically and cross-border sources. These risks arise from: (i) the locations where the DNFBP has offices,

branches and subsidiaries and (ii) locations in which the customers reside or conduct their activities. Examples of some of these factors include:

- Regulatory/supervisory framework. Countries with stronger AML/CFT controls present a different level of risk than countries with weaker regulatory and supervisory frameworks, for instance countries identified by the FATF as jurisdictions with weak AML/CFT measures.
- International Sanctions. DNFBPs should consider whether the countries or jurisdictions they deal with are the subject of international sanctions, such as targeted financial sanctions (TFS), UAE, OFAC, UN and EU restrictive measures, that could impact their ML/FT risk exposure and mitigation requirements.
- Reputation. DNFBPs should consider whether the countries or jurisdictions they deal with are associated with higher or lower levels of ML/FT, corruption, and (lack of) transparency (particularly as regards financial and fiscal reporting, criminal and legal matters, and Beneficial Ownership, but also including such factors as freedom of information and the press).
- Combination with customers' inherent risk factors. DNFBPs should consider the countries risk in combination with customers risks, including principal residential or operating locations of customers.

4.1.5 Product-, Service-, Transaction-Related Risk

When assessing the inherent ML/FT risks associated with product, service, and transaction types, a DNFBP should take stock of its lines of business, products and services that are more vulnerable to ML/FT abuse. DNFBPs should assess the inherent ML/FT risks of abuse of the products and services by their customers taking into account a number of factors such as their ease for holding and transferring value or their complexity and transparency. Some of the risk factors that DNFBPs should consider, among others, are:

- Typology. DNFBPs should consider whether the product, service, or transaction type is associated with any established ML/FT typologies (see Section 3.10, ML/FT Typologies).
- Complexity. Products, services, or transaction types that favour complexity, especially when that complexity is excessive or unnecessary, can often be exploited for the purpose of money laundering and/or the financing of terrorism or illegal organisations. DNFBPs should consider the conceptual, operational, legal, technological and other complexities of the product, service, or transaction type. Those with higher complexity or greater dependencies on the interactions between multiple systems and/or market participants may expose DNFBPs to different types and levels of ML/FT risk than those with lower complexity or with fewer dependencies on multiple systems and/or market participants.

- Transparency and transferability. Situations that favour anonymity can often be exploited for the purpose of ML/FT. DNFBPs should consider the level of transparency and transferability of ownership or control of products, services, or transaction types, particularly in respect of the ability to monitor the identities and the roles/responsibilities of all parties involved at each stage. Special attention should be given to products, services, or transaction types in which funds can be pooled or co-mingled, or in which multiple or anonymous parties can have authority over the disposition of funds, or for which the transferability of Beneficial Ownership or control can be accomplished with relative ease and/or with limited disclosure of information.
- Size/value. Products, services, or transaction types with different size or value parameters or limits may pose different levels of ML/FT risk.

4.1.6 Delivery Channel-Related Risk

Different delivery channels for the acquisition and management of customers and business relationships, as well as for the delivery of products and services, entail different types and levels of ML/FT risk.

When evaluating delivery channel-related risk, DNFBPs should pay particular attention to those channels, whether related to customer acquisition and/or relationship management, or to product or service delivery, which have the potential to favour anonymity. Among others, these may include non-face-to-face channels (especially in cases where there are no safeguards in place such as electronic identification means), such as internet-, phone-, or other remote-access services or technologies; the use of third-party business introducers, intermediaries, agents or distributors; and the use of third-party payment, or other transaction intermediaries.

4.1.7 Other Risk Factors

Given the ever-evolving nature of ML/FT risks, new risks are constantly emerging, while existing ones may change in their relative importance due to legal or regulatory developments, changes in the marketplace, or as a result of new or disruptive products or technologies. For this reason, no list of risks can ever be considered as exhaustive.

Nevertheless, additional factors that may present specific risks are, e.g., the introduction of new products or services, new technologies or delivery processes or the establishment of new branches and subsidiaries locally and abroad.

In order to ensure, therefore, that DNFBPs are in a position to review and update the ML/TF business risk assessment as well as mitigation measures, DNFBPs should take into consideration the results of the annual NRA or any Topical Risk Assessment. They should also consult publications from official sources on a regular basis, including those of the

relevant Supervisory Authorities, the FIU, the FATF, MENAFATF and other FSRBs, the Egmont Group, and others. Links to some of these sources may be found in Appendix 11.2.

Examples of some of the types of additional risk factors which DNFBPs may consider in identifying and assessing their ML/FT risk exposure include:

- Novelty/innovation. DNFBPs should consider the depth of experience with and knowledge of the product, service, transaction, or channel type. Products, services, transaction, or delivery channel types that are new to the market or to the enterprise may not be as well understood as, and may therefore pose a different level of ML/FT risk than, more established ones. Likewise, products, services, transaction, or delivery channel types which are unexpected or unusual with respect to a particular type of customer may indicate a different level of potential ML/FT risk exposure than would more traditional or expected product, service, transaction, or channel types in regard to that same type of customer.
- Cyber security/distributed networks. DNFBPs may consider evaluating the degree to which their operational processes and/or their customers expose them to the risk of exploitation for the purpose of professional third-party money laundering and/or the financing of terrorism or of illegal organisations, through cyber-attacks or through other means, such as the use of distributed technology or social networks. An example of such a risk is the recent dramatic increase in the global incidence of so-called CEO fraud, in which fraudsters troll companies with phishing e-mails that are purportedly from the CEO or other senior executives, and attempt to conduct fraudulent transactions or obtain sensitive data that can be used for criminal purposes.

4.1.8 Assessing New Product and New Technologies Risks

(AML-CFT Decision Article 23)

As part of their obligation to update their ML/FT risk assessments on an ongoing basis, the AML-CFT Decision specifically requires DNFBPs to "identify and assess the risks of money laundering and terrorism financing that may arise when developing new products and new professional practices, including means of providing new services and using new or under-development techniques for both new and existing products."

DNFBPs must complete the assessment of such risks, and take the appropriate risk management measures, prior to launching new products and services, practices or techniques, or technologies. In general, they should integrate these ML/FT risk assessment and mitigation requirements into their new product, service, channel, or technology development processes.

For the purpose of assessing the ML/FT risks associated with new products, services, practices, techniques, or technologies, DNFBPs may consider utilising the same or similar

risk assessment models or methodologies as those utilised for their ML/TF business risk assessments, updated as necessary for the particular circumstances. They should also document the new product, service, practice, technique, or technology risk assessments, in keeping with the nature and size of their businesses (see Section 4.6.1, Documentation, Updating and Analysis).

4.2 Risk Assessment Methodology and Documentation

(AML-CFT Law Article **16.1(a) and AML-CFT Decision** Article **4.1)**

A well-documented assessment of the identified inherent risk factors (see Section 4.1, Risk Factors) is fundamental to the adoption and effective application of reasonable and proportionate ML/FT risk-mitigation measures. Thus, the result of such an ML/TF business risk assessment allows for a systematic categorisation and prioritization of inherent and residual ML/FT risks, which in turn allows DNFBPs to determine the types and appropriate levels of AML/CFT resources needed for mitigation purposes.

An effective ML/TF business risk assessment is not necessarily a complex one. The principle of a risk-based approach means that DNFBPs' risk assessments should be commensurate with the nature and size of their businesses. DNFBPs with smaller or less complex business models may have simpler risk assessments than those of institutions with larger or more complex business models, which may require more sophisticated risk assessments.

4.2.1 Risk Assessment Methodology

(AML-CFT Decision Article 4.1(b))

The AML-CFT Decision obliges DNFBPs to document their risk assessment operations. DNFBPs may utilise a variety of models or methodologies in assessing their ML/FT risk. DNFBPs should determine the type and extent of the risk assessment methodology that they consider to be appropriate for the size and nature of their businesses, and should document the rationale for these decisions.

To be effective, a risk assessment should be based on a methodology that:

- Is based on quantitative and qualitative data and information and makes use of internal meetings or interviews; internal questionnaires concerning risk identification and controls; review of internal audit reports;
- Reflects the DNFBP's management-approved AML/CFT risk appetite and strategy;
- Takes into consideration input from relevant internal sources, including input and views from the designated AML/CFT compliance officer and other relevant units like risk management and internal control;

- Takes into consideration relevant information (such as ML/FT trends and sectoral risks) from external sources, including the NRA or any Topical Risk Assessment, Supervisory and other Competent Authorities, and the FATF, MENAFATF and other FSRBs, the Egmont Group, and others where appropriate;
- Describes the weighting of risk factors, the classification of risks into different categories, and the prioritisation of risks.
- Evaluates the likelihood or probability of occurrence of identified ML/FT risks, and determining their timing and impact on the organisation.
- Takes into account whether the AML/CFT controls are effective, specifically whether there are adequate controls to mitigate risks concerning customers, products, services, or transactions.
- Determines the effectiveness of the AML/CFT risk mitigating measures in place by using information such as audit and compliance reports or management information reports.
- Determines the residual risk as a result of the inherent risks and the effectiveness of the AML/CFT risk mitigating measures.
- Establishes based on the residual risk and the risk appetite, whether additional AML/CFT controls have to be put in place.
- Determines the rationale and circumstances for approving and performing manual interventions or exceptions to model-based risk weightings or classifications.
- Is properly documented and maintained, regularly evaluated and updated, and communicated to management and relevant personnel within the organisation.
- Is tested and audited for the effectiveness and consistency of the risk methodology and its output with regard to statutory obligations.

4.2.2 Documentation and Updating

(AML-CFT Law Article 16.1(a) and AML-CFT Decision Article 4.1(a)-(b))

Documentation

DNFBPs are obliged to document their ML/TF business risk assessment, including methodology, analysis, and supporting data, and to make them available to the Supervisory Authorities upon request. DNFBPs should incorporate into their documentation, the information used to conduct the ML/TF business risk assessment in order to demonstrate the effectiveness of their risk assessment processes. Examples of such information include, but are not limited to:

- Organisation's overall risk policies (for example, risk appetite statement, customer acceptance policy, and others, where applicable).
- ML/FT risk assessment model, methodology and procedures, including such information as organisational roles and responsibilities; process flows, timing and frequency; internal reporting requirements; and review, testing, and updating requirements.
- Risk factors identified, and input received from relevant internal sources, including the designated AML/CFT compliance officer.
- Details of the inherent and residual risk-factor analysis that constitutes the risk assessment

The documentation measures taken by DNFBPs should be reasonable and commensurate with the nature and size of their businesses.

Updating

DNFBPs are obliged to keep their ML/TF business risk assessment up-to-date on an ongoing basis. In fulfilling this obligation, they should review and evaluate their ML/FT risk assessment processes, models, and methodologies periodically, in keeping with the nature and size of their businesses. DNFBPs should also update their ML/TF business risk assessment whenever they become aware of any internal or external events or developments which could affect their accuracy or effectiveness.

Such developments may include, among other things, changes in business strategies or objectives, technological developments, legislative or regulatory developments, or the identification of material new ML/FT threats or risk factors. In this regard, DNFBPs should take into consideration the results of the most recent NRA or any Topical Risk Assessment, as well as circulars, notifications and occasional published information from official sources, such as the Supervisory Authorities; other national Competent Authorities; or relevant international organisations, such as FATF, MENAFATF and other FSRBs, the Egmont Group, and others. Links to some of these sources may be found in Appendix 11.2.

Part III—Mitigation of ML/FT Risks

The Elements of an AML/CFT Program

Commonly referred to as the three lines of defense, the basic elements that must be addressed in an AML/ CFT program are

- A system of internal policies, procedures and controls, including an ongoing employee training program (first line of defense);
- A designated compliance function with a compliance officer or money laundering reporting officer (second line of defense); and
- An independent audit function to test the overall effectiveness of the AML program (third line of defense).

In setting up these three lines of defense, DNFBPs can take into account their business nature, size and complexity.

(AML-CFT Law Article 16.1(b), 16.1(d); AML-CFT Decision Articles 4.2 to 13, 15, 20)

DNFBPs are obliged to take the necessary measures to manage and mitigate the ML/FT risks to which they are exposed. Both the AML-CFT Law and the AML-CFT Decision provide that DNFBPs may utilize a risk-based approach with respect to mitigation of ML/FT risks.

5. Internal Policies, Controls and Procedures

Policies:

Clear and simple high-level statements that are uniform across the entire organisation (sets the tone from the top).

Procedures:

Translates the AML/CFT policies into an acceptable and workable practice, tasking the stakeholders with their respective responsibilities.

Controls:

The internal technology or tools the DNFBP utilizes to ensure the AML/CFT program is functioning as intended and within predefined parameters.

(AML-CFT Law Article 16.1(d); AML-CFT Decision Articles 4.2(a), 20)

The AML-CFT Law and the AML-CFT Decision require DNFBPs to implement internal policies, controls and procedures that enable them to manage and mitigate the ML/FT risks they have identified in their ML/TF business risk assessment, in keeping with the nature and size of their businesses. Such policies, controls and procedures must be approved by senior management, reviewed for effectiveness and continuously updated, and must apply to all branches, subsidiaries and affiliated entities in which DNFBPs hold a majority interest (see Section 8.3, Group Oversight for more guidance). They must also take into consideration the results of the NRA and topical risk assessments.

Additionally, DNFBPs should ensure that the policies, controls and procedures they implement to manage and mitigate ML/FT risks are reasonable, proportionate to the risks involved, and consistent with the results of their ML/TF business risk assessments.

Such policies, procedures and methodologies should be reasonable and proportionate to the risks involved, and, in formulating them, DNFBPs should consider the results of both the NRA and topical risk assessments as well as their own ML/TF business ML/FT risk assessments. Commensurate with the nature and size of the DNFBPs' businesses, the policies, procedures and methodologies should also be documented, approved by senior management, and communicated at the appropriate levels of the organisation.

In developing the internal AML/CFT control systems, DNFBPs should also take into account their IT infrastructure and management information systems capabilities. DNFBPs should consider how well their technical infrastructure, including their data management and management information reporting capabilities, are suited to the ML/FT risk mitigation requirements of the types of customers they deal with, particularly in respect of the size and growth dynamics of their customer base.

The internal policies, controls and procedures that DNFBPs design to prevent, detect and deter ML/FT risks can be categorised broadly as those related to:

- The identification and assessment of ML/FT risks (see Section 4.5, Business-wide Risk Assessment).
- Customer due diligence (CDD), including enhance due diligence (EDD), and simplified due diligence (SDD) (see Section 6, Customer Due Diligence), including its review and updating, and reliance on third parties in regard to it.
- Customer and transaction monitoring, and the reporting of suspicious transactions (see Section 7, Suspicious Transaction Reporting).
- AML/CFT governance, including compliance staffing and training, senior management responsibilities, and the independent auditing of risk mitigation measures (see Section 8, Governance).
- Record-keeping requirements (see Section 9, Record Keeping).

Guidance in relation to these categories is provided in the above-referenced sections.

6. Customer Due Diligence (CDD)

MAIN ELEMENTS OF A CUSTOMER DUE DILIGENCE PROGRAM

- Customer Identification;
- Profiles;
- Customer Acceptance;
- Risk rating;
- Monitoring;
- Investigation; and
- Documentation

(AML-CFT Law Article 16.1(b); AML-CFT Decision Articles 4.2(b), 4.3, 5-13, 14, 15, 19, 20.1, 22, 24.2-4, 25, 27, 29.2, 30, 31.1, 35.1-2 and 5, 37.1-2, 44.10, 55.1)

6.1 Risk-Based Application of CDD Measures

The AML-CFT Law implicitly recognises the need for an RBA to customer due diligence measures, by obliging DNFBPs to "take the necessary due diligence measures and procedures and define their scope, taking into account the various risk factors and the results of the national risk assessment…." This principle is further emphasised by the AML-CFT Decision, which explicitly provides for the application of enhanced due diligence (EDD) measures to manage identified high risks (see Section 6.4, Enhanced Due Diligence (EDD) Measures), and of simplified due diligence (SDD) to manage identified low risks in the absence of a suspicion of ML/FT (see Section 6.5, Simplified Due Diligence (SDD) Measures).

DNFBPs are reminded that each customer's ML/FT risk profile is dynamic and subject to change depending on numerous factors, including (but not limited to) the discovery of new information or a change in behaviour, and the appropriate level of due diligence should be applied in keeping with the specific situation and risk indicators identified. In that regard, DNFBPs should always be prepared to increase the type and level of due diligence exercised on a customer of any ML/FT risk category whenever the circumstances require, including situations in which there are any doubts as to the accuracy or appropriateness of the customer's originally designated ML/FT risk category. This means that the CDD measures are not to be taken as a static formula but that depending on the risk of a customer the intensity and depth of the CDD measures should vary.

6.1.1. Assessing Customer and Business Relationship Risk

(AML-CFT Law Article 16.1; AML-CFT Decision Article 4.1)

A customer can be anyone who performs a one-off or occasional financial activity or transaction or anyone who establishes an ongoing commercial or financial relationship with the DNFBP.

The accurate assessment of customer or business relationship risk is fundamental to the risk classification of customers and the effective application of appropriate risk-based customer due diligence measures. DNFBPs should take the necessary steps to ensure that their customer or business relationship risk assessment processes are robust and reliable, and that they incorporate the results of the NRA, any Topical Risk Assessment and their own ML/TF business risk assessments, as well as the input of relevant internal stakeholders, including the designated AML/CFT compliance officer.

In assessing customer or business relationship risk, DNFBPs should analyse customers on the basis of the identified risk factors in order to arrive at a risk classification. DNFBPs may utilize different methodologies to accomplish their risk classification, depending on the nature and size of their businesses, and of the risks involved. For example, some entities with smaller or less complex businesses, or with more homogenous customer bases, may elect to assess business relationship risk and assign customer risk classifications on the basis of generic profiles for customers of the same type. Other larger or more complex DNFBPs may elect to assess business relationship risk and assign customer risk classifications using more sophisticated models or scorecards based on weightings of various risk factors.

Regardless of the methodologies they choose, DNFBPs should ensure that their business relationship risk assessment processes and the rationale for their methodologies are well-documented, approved by senior management, and communicated at the appropriate levels of the organisation. They should also decide on policies and procedures related to both the periodic review of their business relationship risk assessment processes, and to the frequency for updating the individual business relationship risk assessments and customer risk classifications produced by them, taking into consideration changes in internal or external factors.

6.1.2 Establishing a Customer Risk Profile

(AML-CFT Decision Articles 7.1, 8.3-4)

DNFBPs should establish a risk profile for their customers, commensurate with the types and levels of risk involved. Such risk profiles allow DNFBPs to compare a customer's actual activity with the expected activity more effectively, and thus contribute to their capacity to discover unusual circumstances or potentially suspicious transactions.

Where legal persons or legal arrangements are concerned, DNFBPs are obliged to identify any natural person who owns or controls an interest of 25% or more. In order to achieve an effective understanding of the ownership and control structure of a customer that is a legal person or arrangement, DNFBPs should obtain from the customer and including in the risk profile a detailed explanation or a company structure chart providing the details of any ownership interests of 25% or more, and tracing them through any intermediate entities (whether legal persons or arrangements, or natural persons who are nominee stakeholders) to the natural persons who ultimately own or control them.

Furthermore, in order to understand the nature of the business of a legal person or Legal Arrangement, DNFBPs should obtain and include in the profile a detailed explanation or company structure chart showing the entity's internal management structure, identifying the persons holding senior management positions, or other positions of control. They should also obtain information about the legal person's or arrangement's majority-owned or controlled operating subsidiaries, including the nature of the business and the operating locations of those subsidiaries.

DNFBPs are also required to understand the intended purpose and nature of the Business Relationship, and, for legal persons or arrangements, the nature of the customer's business and its ownership and control structure.

Based on the risk profile, DNFBPs should carry out ongoing due diligence of their Business Relationships, so as to be able to ensure that the transactions or dealings conducted are consistent with the information they have about the customer, the type of activity they are engaged in, the risks they entail, and, where necessary, their source of funds.

When dealing with higher-risk or more complex customers, in addition to the type of information referred to above, DNFBPs may obtain and include in the customer's risk profile more detailed information about their customers' activities, such as:

- Anticipated size and/or turnover of account balances or transactional activity;
- Expected types and volumes of transactions;
- Known or expected counterparties or third-party intermediaries with whom the customer conducts transactions;
- Known or expected locations related to transactional activity;
- Anticipated timing or seasonality of transactional activity.

Where lower-risk customers are concerned, DNFBPs may consider applying more generic risk profiles in order to compare actual and expected types and levels of activity.

6.2 Circumstances and Timing for Undertaking CDD Measures

(AML-CFT Decision Article 5.1)

Under normal circumstances, DNFBPs are obliged to undertake CDD measures (including verifying the identity of customers, Beneficial Owners, beneficiaries, and controlling persons[2]) either prior to or during the establishment of a Business Relationship or the opening of an account, or prior to the execution of a transaction for a customer with whom there is no Business Relationship. Guidance in regard to these requirements and certain exceptional circumstances provided for in the AML-CFT Decision is provided in the sub-sections below.

6.2.1 Establishment of a Business Relationship

DNFBPs establish a Business Relationship with a customer when they perform any act for, on behalf of, or at the direction or request of the customer, with the anticipation that it will be of an ongoing or recurring nature, whether permanent or temporary. Such acts may include, but are not limited to:

- Assigning an account number or opening an account in the customer's name;
- Effecting any transaction in the customer's name or on their behalf, or at the customer's direction or request for the benefit of someone else;
- Providing any form of tangible or intangible product or service (including but not limited to granting credits, guarantees, or other forms of value) to or on behalf of the customer, or at the customer's direction or request for the benefit of someone else;
- Signing any form of contract, agreement, letter of intent, memorandum of understanding, or other document with the customer in relation to the performance of a transaction or series of transactions, or to the provision of any form of tangible or intangible product or service as described above;
- Accepting any form of compensation or remuneration (including a promise of future payment) for the provision of tangible or intangible products or services, as described above, from or on behalf of the customer;
- Receiving funds or proceeds of any kind (including those held on a fiduciary basis, for safekeeping, or in escrow) from or on behalf of the customer, whether for their account or for the benefit of someone else;

[2]The controlling threshold of 25%

- Any other act performed by DNFBPs in the course of conducting their ordinary business, when done on behalf of, or at the request or direction of, a customer.

In such cases, and other than in the exceptional circumstances described below (see Section 6.2.3, Exceptional Circumstances), DNFBPs are required to undertake appropriate risk-based CDD measures (see Section 6.3, Customer Due Diligence (CDD) Measures, Section 6.4, Enhanced Due Diligence (EDD) Measures, and Section 6.5, Simplified Due Diligence (SDD) Measures for further guidance).

In addition, CDD also needs to be conducted when

- there is a ML/FT suspicion (see Section 7.2, Identification of Suspicious Transactions);
- there are doubts about the veracity or adequacy of identification data previously obtained with regard to the customer.

Among other things, the CDD measures should include verifying the identity of the customer as well as the Beneficial Owners, beneficiaries, and controlling persons, and understanding the nature of their business and the purpose of the Business Relationship.

6.2.2 Occasional Transactions

During the course of business, DNFBPs may be called upon to perform occasional or non-recurring transactions for customers with whom there is no ongoing account or Business Relationship. Examples of such transactions include, but are not limited to:

- Sale or purchase of goods such as precious stones, metals, coins or other valuable property to or from a customer;
- Accepting a deposit for a real-estate purchase from a prospective buyer;
- Drafting of a will, trust agreement, or other legal agreement for a walk-in customer.

On such occasions, and other than in the exceptional circumstances described below (see Section 6.2.3, Exceptional Circumstances), DNFBPs are required to identify the customer and verify the customer's identity as well as that of the Beneficial Owners, beneficiaries, and controlling persons. Furthermore, DNFBPs are required to undertake appropriate risk-based CDD measures (see Section 6.3, Customer Due Diligence (CDD) Measures, Section 6.4, Enhanced Due Diligence (EDD) Measures, and Section 6.5, Simplified Due Diligence (SDD) Measures for further guidance), including among other things understanding the nature of the customer's business and the purpose of the transaction, in the cases specified in Article 6 of the AML-CFT Decision, such :

- When carrying out occasional transactions in favour of a Customer for amounts equal to or exceeding AED 55,000 (or equivalent in any other currency), whether the transaction is carried out in a single transaction or in several transactions that appear to be linked;

- When there is a ML/FT suspicion (see Section 7.2, Identification of Suspicious Transactions);
- When there are doubts about the veracity or adequacy of identification data previously obtained with regard to the customer.

6.2.3 Exceptional Circumstances

(AML-CFT Decision Articles 4.3, 5.1(a)-(c), 10, 11.1(b), 13.2)

From time to time, certain situations may arise which fall outside of the normal course of CDD processes. Under these circumstances, described below, DNFBPs are permitted to handle the timing, customer identification, and other aspects of customer due diligence procedures exceptionally. Specifically:

- When there is no ML/FT suspicion, and the ML/FT risks are identified as low, DNFBPs may complete the verification of the customer's identity after establishing the Business Relationship under the conditions specified in the relevant provisions of the AML-CFT Decision. In such circumstances, the verification of the identity must be conducted in a timely fashion, and DNFBPs must ensure that they implement appropriate and effective measures to manage and mitigate the risks of crime and of the customer benefiting from the Business Relationship prior to the completion of the verification process. Examples of such measures which DNFBPs may consider taking in this regard are, among others:
  - Holding up the execution of business deal or transaction until the verification of the identity is completed;
  - Making the completion of the verification of the identity a condition precedent to the closing of a business deal or transaction.
- In the case of Legal Arrangements, such as Trusts or foundations, or dealing with life insurance policies (including funds-generating transactions, such as life insurance products relating to investments and family Takaful insurance) in which there are beneficiaries who are not named, but instead belong to a designated class of future or contingent beneficiaries, DNFBPs are required to obtain sufficient information about the details of the class of beneficiaries so as to be in a position to establish the identity of each beneficiary at the time of the settlement, pay-out, or exercise of their legally acquired rights. Furthermore, DNFBPs must verify the identity of the beneficiaries at the time of settlement or pay-out and prior to the exercise of any related legally acquired rights. They should also ensure that they implement appropriate and effective measures to manage and mitigate the risks of crime and of the customer benefiting from the Business Relationship prior to the completion of the verification process. Examples of such measures which DNFBPs may consider taking in this regard are, among others:

- Holding up the execution of business deal or transaction until the verification of the identity is completed;
- Making the completion of the verification of the identity a condition precedent to the closing of a transaction.

- When a legal entity customer or its controlling stakeholder meets the conditions specified in Article 10.1-2 of the AML-CFT Decision with regard to publicly listed companies (including the condition that information concerning the identity of the shareholders, partners, or Beneficial Owners with an interest of 25% or more is available from reliable sources), DNFBPs are exempted from taking the normally required identity verification measures. In this regard, DNFBPs should ensure that the disclosure and transparency requirements of the regulated stock exchange are at least equivalent to those of the State, and should document the evidence they obtain concerning the relevant disclosure and transparency requirements.

  It is important to note that, while DNFBPs are exempted in such situations from verifying the identity of the shareholders, partners or Beneficial Owners (or in the event that no such person can be identified, of the relevant senior management officers), they are not exempted from ascertaining the identity of senior management.

  Examples of reliable information sources in this regard include, but are not limited to:

  - Stock exchange disclosure reports or websites;
  - Corporate annual reports, websites, or other forms of official public disclosure;
  - Official or public registries;
  - Credit reporting agencies;
  - Recognized, well-established media outlets.

- When DNFBPs suspect that a customer or Beneficial Owner is involved in the commitment of a crime related to money laundering, the financing of terrorism, or the financing of illegal organisations, and they have reasonable grounds to believe that undertaking customer due diligence measures would tip off the customer, then they should not apply CDD measures, but should instead report their suspicion to the FIU along with the reasons that prevented them from carrying out the CDD measures.

6.3 Customer Due Diligence (CDD) Measures

The application of risk-based CDD measures is comprised of several components, in keeping with the customer's ML/FT risk classification and the specific risk indicators that are identified. Generally, these components include, but are not limited to, the following categories:

- Identification of the customer, Beneficial Owners, beneficiaries, and controlling persons; and the verification of their identity on the basis of documents, data or information from

reliable and independent sources (see Section 6.3.1, Customer and Beneficial Owner Identification/Verification).

- Screening of the customer, Beneficial Owners, beneficiaries, and controlling persons, to screen for the applicability of targeted or other international financial sanctions, and, particularly in higher risk situations, to identify any potentially adverse information such as criminal history (see Section 6.4, Enhanced Due Diligence (EDD) Measures).
- Obtaining an understanding of the intended purpose and nature of the Business Relationship, as well as, in the case of legal persons or arrangements, of the nature of the customer's business and its ownership and control structure (see Section 6.3.3, Establishing a Customer Due Diligence Profile).
- Monitoring and supervision of the Business Relationship, to ensure consistency between the transactions or activities conducted and the information that has been gathered about the customer and their expected behaviour (see Section 6.3.4, Ongoing Monitoring of the Business Relationship).
- Scrutinising transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the DNFBP's knowledge of the customer, their business and risk profile, including where necessary, the source of funds.
- Ensuring that documents, data or information collected under the CDD process is kept up-to-date and relevant, by undertaking reviews of existing records, particularly for higher risk categories of customers.

In cases involving higher levels of risk, DNFBPs are generally required to exercise enhanced levels of customer due diligence, such as identifying and/or verifying the customer's source of funds and taking other appropriate risk-mitigation measures (see Section 6.4, Enhanced Due Diligence (EDD) Measures).

As part of their overall AML/CFT framework, DNFBPs should take a risk-based approach in developing the internal CDD policies, procedures and controls. Factors to take into account, include:

- The outcomes of the ML/TF business risk assessment;
- Circumstances, timing, and composition in regard to the application of CDD measures;
- Frequency of reviews and updates in relation to CDD information;
- Extent and frequency of ongoing supervision of the Business Relationship and monitoring of transactions in relation to customers to which CDD measures are applied.

Such policies, procedures and methodologies should be reasonable and proportionate to the risks involved, and, in formulating them, supervised institutions should consider the results of both the NRA and topical risk assessments. Commensurate with the nature and size of the DNFBPs' businesses, the policies, procedures and methodologies should also be documented, approved by senior management, and communicated at the appropriate levels of the organisation.

Additional guidance related to these and other key aspects of risk-based CDD measures is provided in the following sub-sections.

6.3.1 Customer and Beneficial Owner Identification and Verification of the Identity

(AML-CFT Decision Articles 4.2(b), 3(a), 5.1, 8.1, 9, 10, 11.2, 13.1, 14.2)

Grounded on the principles of "Know Your Customer" and risk-based CDD, the identification and verification of the identity of customers is a fundamental component of an effective ML/FT risk management and mitigation programme. In accordance with Cabinet Resolution no. 58 of 2020 regulating the Beneficial Owner Procedures (the UBO Resolution), DNFBPs are obliged to identify customers, including the Beneficial Owners, beneficiaries, and controlling persons, whether permanent or walk-in, and whether a natural or legal person or Legal Arrangement, and to verify their identity using documents, data or information obtained from reliable and independent sources.

The specific requirements concerning the timing, extent, and methods of identifying and verifying the identity of customers and Beneficial Owners depend in part on the type of customer (whether a natural or legal person) and on the level of risk involved (also see Sections 6.4, Enhanced Due Diligence (EDD) Measures, and 6.5, Simplified Due Diligence (SDD) Measures). Thus, the type and nature of the customer (including Beneficial Owners, beneficiaries, and controlling persons) should be considered as risk factors in determining the type of CDD that should be applied, whether standard CDD, EDD or SDD. However, the core components of a customer's identification generally remain the same in all cases. They are:

- Personal data, including details such as the name, passport or identity card number, country of issuance, date issuance and expiry date of the identity card or passport, nationality, date and place of birth (or date and place of establishment or incorporation, in the case of a legal person or arrangement); and
- Principal address, including evidence of the permanent residential address of a natural person, or the registered address of a legal person or arrangement.

In taking adequate CDD measures, DNFBPs are obliged at a minimum to identify and verify the identity of the customer as specified in the relevant articles of the AML-CFT Decision. In

fulfilling these requirements, DNFBPs should use a risk-based approach to determine the internal policies, procedures and controls they implement in relation to the identification and verification of customers (including the Beneficial Owners, beneficiaries, and controlling persons). The CDD policies and procedures that DNFBPs apply should be reasonable and proportionate to the risks involved, and, in formulating them, entities should consider the following guiding principles.

In relation to natural persons:

- The verification of a customer's identity, including their address, should be based on original, official (i.e. government-issued) documents whenever possible. When that is not possible, DNFBPs should augment the number of verifying documents or the amount of information they obtain from different independent sources. They should also identify the lack of official documents and the use of alternative means of verification as risk factors when assessing the customer's ML/FT risk classification.

  An example of alternative verification means is verification by way if digital identification systems. Such a digital identification systems should rely upon technology, adequate governance, processes and procedures that provide appropriate levels of confidence that the system produces accurate results. The FATF Guidance on Digital Identity of March 2020 provides further information on how to making a risk-based determination of whether a particular digital ID system provides an appropriate level of reliability and independence.

- The identification data should include the name, nationality, date of birth and place of birth, and national identification number of a natural person.

- With regard to the identification and verification of the identity of foreign nationals, whether customers or Beneficial Owners, beneficiaries or controlling persons, DNFBPs should take steps to understand and request only those types of identification documents that are legally valid in the relevant jurisdictions. Furthermore, when verifying the identity of foreign nationals associated with high-risk factors, DNFBPs should validate the authenticity of customer identification documents obtained. Some of the methods that DNFBPs may consider in order to do so, commensurate with the nature and size of their businesses, include but are not limited to:

  - Relying on information from the relevant foreign embassy or consulate, or the relevant issuing authority;
  - Using commercially available applications to validate the information in machine-readable zones (MRZs) or biometric data chips of foreign identification documents.

- The types of address verification that may generally be considered acceptable include, but are not limited to, the following categories of documents issued in the name of the customer:

  – Bills or account statements from public utilities, including electricity, water, gas, or telephone line providers;
  – Local and national government-issued documents, including municipal tax records;
  – Registered property purchase, lease or rental agreements;
  – Documents from supervised third-party financial institutions, such as bank statements, credit or debit card statements, or insurance policies.

In situations where natural persons do not have this documentation in their own name, for instance because they share accommodation or do not (yet) have a permanent or own residence, other evidence of address may be used as long as this evidence gives the DNFBP reasonable confidence. Where the DNFBP has determined that an individual has a valid reason for being unable to produce the usual documentation to verify the address and who would otherwise be excluded from establishing a business relationship with the DNFBP, the address can be verified by other means, provided the DNFBP is satisfied that the method employed adequately verifies the address of the natural person and any additional risk has been appropriately mitigated.

This can for instance be evidence of entitlement to a state or local authority-funded benefit, pension, educational or other grant, or a letter from a reputable employer or school stating the address.

In relation to legal persons and legal arrangements:

- In addition to the identifying and verifying the identity of customers, Beneficial Owners, beneficiaries, and controlling persons, DNFBPs should verify the identity of any person legally empowered to act or transact business on behalf of the customer, whether the customer is a legal or natural person. Such persons may include:

  – Signatories or other authorized persons in case they are authorized to act on behalf of the customer;
  – Parents or legal guardians of a minor child, or legal guardians of a physically or mentally disabled or incapacitated person;
  – Attorneys or other legal representatives, including liquidators or official receivers of a legal person or arrangement.

  In the event that a legally empowered representative is also a legal person or Legal Arrangement, the normal CDD procedures for such entities should be applied.

- When verifying that a person purporting to act on behalf of a customer is so authorised, the following types of documents may generally be considered to be acceptable:

- A legally valid power-of-attorney;
- A properly executed resolution of a legal person's or Legal Arrangement's governing board or committee;
- A document from an official registry or other official source, evidencing ownership or the person's status as an authorised legal representative;
- A court order or other official decision.

- As part of their procedures for identifying and verifying the identity of customers, and for authenticating the original documents upon which the verification is based, DNFBPs should include procedures for the certification of the customer identification and address documentation they obtain. Such procedures may encompass certification by employees of the DNFBP (for example, by including the name, title of position, date and signature of the verifying employee(s) on the copies of documents maintained on file), as well as by reputable third parties (for example, by including the name, organization, title of position, date and signature of the verifying person, along with a statement representing that the copy of the document is a "true copy of the original"). In cases where documents are obtained from foreign sources in countries which are members of The Hague Apostille Convention, consideration should be given to requesting documents certified by Apostille seal.

- Whenever possible, DNFBPs should incorporate a "four-eyes" principle (review by at least two people) into their procedures with regard to the verification of customer identification documentation and other CDD information, as well as with regard to the entry of the relevant data into their information systems.

6.3.2 CDD Measures Concerning Legal Persons and Arrangements

(AML-CFT Decision Articles 8, 9, 37.1-3)

DNFBPs are obliged to undertake CDD measures concerning legal persons and Legal Arrangements, including identification and verification of the identity of the Beneficial Owners, beneficiaries, and other controlling persons, in accordance with the provisions of the AML-CFT Decision. In fulfilling these requirements, they should take the following guidance into consideration:

- Without prejudice to the provisions of Article 9.1(b) of the AML-CFT Decision, when customers that are legal persons are owned or controlled by other legal persons or Legal Arrangements (for example, when customers are subsidiaries of a parent company or a Trust), DNFBPs should make reasonable efforts to identify and verify the Beneficial Owners by looking through each layer of legal persons or Legal Arrangements (intermediate entities) until the natural persons with owning or controlling interests of 25% or more in aggregate are identified. Furthermore, in the event of multiple legal persons or arrangements with ownership or controlling interests, even where each legal person or

Legal Arrangement owns or controls less than 25%, DNFBPs should consider whether there are indications that the entities may be related by common ownership, which could reach or surpass the Beneficial Ownership threshold level of 25% in aggregate.

- When undertaking CDD measures on Legal Arrangements which allow funds or other forms of assets to be added or contributed to the arrangement after the initial settlement and by any persons other than the identified settlor(s), DNFBPs should take the necessary steps to ascertain and verify the identity of the Beneficial Owners, and to understand the nature of their relationship with the Legal Arrangement. For customers that are trusts or other legal arrangements, the DNFBP should verify the identity of beneficial owners, being the settlor, the trustee(s), the protector (if any), the beneficiaries or class of beneficiaries, and any other natural person exercising ultimate effective control over the trust (including through a chain of control/ownership), or equivalent or similar positions for other legal arrangements. For beneficiaries of trusts or other legal arrangements that are designated by characteristics or by class, the DNFBP should obtain sufficient information concerning the beneficiary to satisfy the DNFBP that it will be able to establish the identity of the beneficiary at the time of the payout or when the beneficiary intends to exercise vested rights.
- The AML-CFT Decision obliges trustees in Legal Arrangements to maintain basic information relating to intermediaries, who are subject to supervision, and service providers, including consultants, investors or investment advisors, directors, accountants and tax advisors, who have responsibilities in relation to its management. In order to understand the control structure of a customer that is a Legal Arrangement, DNFBPs should obtain this information from the trustees, representatives, or governing or managing officials and including it in the customer's CDD profile. They should also give the same consideration to other forms of Legal Arrangements and their controlling persons (such as, for example, foundations, membership clubs, religious institutions, or others, along with their founders, representatives and other governing or managing officials).

6.3.3 Ongoing Monitoring of the Business Relationship

(AML-CFT Decision Article 4.2(b), Article 4.3(c), 7.1)

With regard to established Business Relationships, DNFBPs are obliged to undertake ongoing supervision of customers' activity, including monitoring of transactions executed throughout the course of the relationship to ensure that they are consistent with the information, types of activity, and the risk profiles of the customers. DNFBPs should use a risk-based approach to determine the policies, methods, procedures and controls they implement in relation to monitoring customers' transactions and activities, as well as in regard to the extent of monitoring for specific customers or categories of customers.

As part of a risk-based approach to AML/CFT, in the case of customers or Business Relationships identified as high risk, DNFBPs are expected to investigate and obtain more information about the purpose of transactions, and to enhance ongoing monitoring and review of transactions in order to identify potentially unusual or suspicious activities. In the case of customers or Business Relationships that are identified as low risk, DNFBPs may consider monitoring and reviewing transactions at a reduced frequency.

Thus, in keeping with the level of risk involved, DNFBPs should monitor and examine transactions in relation to the CDD information and risk profile of the customer (see Section 6.3, Customer Due Diligence (CDD) Measures, Section 6.4, Enhanced Due Diligence (EDD) Measures, and Section 6.5, Simplified Due Diligence (SDD) Measures). Where necessary, DNFBPs should also obtain sufficient information on the counterparties and/or other parties involved (including but not limited to information from public sources, such as internet searches), in order to determine whether the transactions appear to be:

- Normal (consideration should be given as to whether the transactions are typical for the customer, for the other parties involved, and for similar types of customers);
- Reasonable (consideration should be given as to whether the transactions have a clear rationale and are compatible with the types of activities that the customer and the counterparties are usually engaged in);
- Legitimate (consideration should be given as to whether the customer and the counterparties are permitted to engage in such transactions, such as when specific licenses, permits, or official authorisations are required).

Examples of some of the methods that may be employed for the ongoing monitoring of transactions include, but are not limited to:

- Threshold-based rules, in which transactions above certain pre-determined values, numerical volumes, or aggregate amounts are examined;
- Transaction-based rules, in which the transactions of a certain type are examined;
- Location-based rules, in which the transactions involving a specific location (either as origin or destination) are examined;
- Customer-based rules, in which the transactions of particular customers are examined.

DNFBPs may use all or any combination of the above methods, or any others that are appropriate to their particular circumstances, to effect ongoing monitoring of the Business Relationship. Furthermore, monitoring systems and methods may be automated, semi-automated, or manual, depending on the nature and size of their businesses. Whichever methods DNFBPs elect to use, however, DNFBPs should document them (see Section 9, Record Keeping), obtain senior management approval for them, and periodically review and

update them to ensure their effectiveness. DNFBPs should also establish specific monitoring procedures for customers and business relationships which have been reported as suspicious to the FIU (see Section 7.11, Handling of Transactions and Business Relationships after Filing of STRs).

6.3.4 Reviewing and Updating the Customer Due Diligence Information

(AML-CFT Decision Articles 4.2(b), 4.3(b), 7.2, 12)

The timely review and update of CDD information is a fundamental component of an effective ML/FT risk management and mitigation programme. DNFBPs are obliged to maintain the CDD documents, data and information obtained on customers, and their Beneficial Owners or beneficiaries in the case of legal persons or arrangements, up to date. The AML-CFT Decision provides that DNFBPs should update the CDD information on High Risk Customers more frequently, and that, in the absence of a ML/FT suspicion, DNFBPs may update the CDD information of identified low-risk customers less frequently.

In order to be able to update the CDD information of customer in a risk-based manner, DNFBPs should develop internal policies, procedures and controls in relation to the periodic or event-driven review and updating of CDD information. These policies and procedures should be reasonable and proportionate to the risks involved, and, in formulating them, DNFBPs are advised to consider parameters such as:

- Circumstances, timing and frequency of reviews and updates. Generally, DNFBPs should establish clear rules per customer risk category with respect to the maximum period of time that should be allowed to elapse between CDD reviews and updates of customer records. The expiry of a customer's or Beneficial Owner's identification documents is a circumstance that call for updating the customer information. Changes in legislation or internal procedures are also a cause for reviewing and updating customer files.
- Additionally, DNFBPs should also establish clear rules with respect to circumstances that would trigger an interim or event-driven review, or the acceleration of a particular customer's review cycle. Circumstances or events that might trigger an interim review include:
  - Discovery of information about a customer that is either contradictory or otherwise puts in doubt the appropriateness of the customer's existing risk classification or the accuracy of previously gathered CDD information;
  - Material change in ownership, legal structure, or other relevant data (such as name, registered address, purpose, capital structure) of a legal person or arrangement;
  - Initiation of legal or judicial proceedings against a customer or Beneficial Owner;
  - Finding materially adverse information about a customer or Beneficial Owner, such as media reports about allegations or investigations of fraud, corruption or other crimes;

- Qualified opinion from an independent auditor on the financial statements of a legal entity customer;
- Transactions that indicate potentially unusual or suspicious transactions or activities.

- Components and extent of reviews and updates. In keeping with the nature and size of their businesses, DNFBPs should clearly define the moments, contents and extent of CDD reviews for Business Relationships in different risk categories, including which data elements, documents, or information should be examined and updated if necessary. In this regard, DNFBPs are advised that tools such as checklists and procedural manuals will help to enhance the effectiveness of CDD reviews and updates. Examples of procedures might include, but are not necessarily limited to:

  - When the source of wealth or the source funds of a customer should be verified;
  - When additional inquiries or investigations should be made pertaining to the nature of a customer's business, the purpose of a Business Relationship, or the reasons for a transaction;
  - How much of a customer's transactional history, including how many and which specific transactions or transaction types, should be reviewed as part of a periodic or an interim review.

- Organisational responsibilities. In keeping with the nature and size of their businesses, DNFBPs should consider clearly defining the relevant organisational arrangements in relation to the CDD review and update process. Examples of such responsibilities might include, but are not necessarily limited to:

  - Carrying out reviews and updates;
  - Escalating and/or reporting situations in which risk classifications should be changed, Business Relationships should be suspended or terminated, or potentially unusual or suspicious activities should be further investigated;
  - Approving or rejecting reviews of Business Relationships (including senior management involvement with regard to PEPs and other High Risk Customers);
  - Undertaking CDD file remediation measures when necessary;
  - Auditing the quality of CDD reviews and updates;
  - Maintaining records with regard to CDD reviews and updates, in accordance with statutory record-keeping requirements (see Section 9, Record Keeping).

6.4 Enhanced Due Diligence (EDD) Measures

(AML-CFT Decision Articles 4.2(b), 7.2, 15, 22, 25)

In keeping with a risk-based approach to CDD, DNFBPs are obliged to enhance their CDD measures with regard to customers identified as high-risk, including the specific categories of customers as provided for in the relevant articles of the AML-CFT Decision, such as politically exposed persons (PEPs) (see Section 6.4.1, Requirements for Politically Exposed

Persons), customers associated with high-risk countries (see Section 6.4.3, Requirements for High-Risk Countries).

Generally speaking, EDD involves a more rigorous application of CDD measures, including elements such as:

- Increased scrutiny and higher standards of verification and documentation from reliable and independent sources with regard to customer identity;
- More detailed inquiry and evaluation of reasonableness in regard to the purpose of the Business Relationship, the nature of the customer's business, the customer's source of funds and source of wealth, and the purpose of individual transactions;
- Increased supervision of the Business Relationship, including the requirement for higher levels of management approval, more frequent monitoring of transactions, and more frequent review and updating of customer due diligence information.

EDD means that DNFBPs should intensify their measures, specifically by obtaining further evidence and supporting documentation. DNFBPs should obtain additional information and evidence from high-risk customers such as:

  - Source of funds (revenue) and source of wealth;
  - Identifying information on individuals with control over the customer (legal person or arrangement), such as signatories or guarantors;
  - Occupation or type of business;
  - Financial statements;
  - Banking references;
  - Domicile;
  - Description of the customer's primary trade area and whether international transactions are expected to be routine;
  - Description of the business operations, the anticipated volume of currency and total sales, and a list of major customers and suppliers; and
  - Explanations for changes in business activity.

In addition, DNFBPs should also apply specific EDD measures in case there are doubts about the accuracy or appropriateness of a customer's ML/FT risk classification in order to determine the appropriate risk classification. EDD should also be applied when there are red-flag indicators of potentially unusual or suspicious transactions or activities. In all cases in which EDD is applied, DNFBPs should ensure that they take reasonable measures to obtain adequate, substantiated, information about the customer, commensurate with the level of the risks identified.

As part of their overall AML/CFT framework, DNFBPs should develop risk-based internal policies, procedures and controls in connection with the application of EDD measures. Examples of the some of the factors they should consider when developing the risk-based policies include:

- the ML/FT risks identified in the ML/TF business risk assessment;
- Circumstances, timing, and composition regarding the application of EDD measures;
- Frequency of reviews and updates in relation to information on high-risk customers;
- Extent and frequency of ongoing monitoring of the Business Relationship and monitoring of transactions in relation to high-risk customers.

Such policies, procedures and methodologies should be reasonable and proportionate to the risks involved, and, in formulating them, DNFBPs should consider the results of the NRA, any Topical Risk Assessment and their own ML/FT business risk assessments. Commensurate with the nature and size of the DNFBPs' businesses, the policies, procedures and methodologies should also be documented, approved by senior management, and communicated at the appropriate levels of the organisation.

Additional guidance regarding the application of EDD measures to statutory high-risk Business Relationship categories is provided in the following sub-sections.

6.4.1 Requirements for Politically Exposed Persons (PEPs)

(AML-CFT Decision Article 15)

Due to their potential ability to influence government policies, determine the outcome of public funding or procurement decisions, or obtain access to public funds, politically exposed persons (PEPs) are classified as high-risk individuals from an AML/CFT perspective. The AML-CFT Law and the AML-CFT Decision define PEPs as:

> *"Natural persons who are or have been entrusted with prominent public functions in the State or any other foreign country such as Heads of States or Governments, senior politicians, senior government officials, judicial or military officials, senior executive managers of state-owned corporations, and senior officials of political parties and persons who are, or have previously been, entrusted with the management of an international organisation or any prominent function within such an organisation; and the definition also includes the following:*
>
> - *Direct family members (of the PEP, who are spouses, children, spouses of children, parents).*
> - *Associates known to be close to the PEP, which include:*

- *Individuals having joint ownership rights in a legal person or arrangement or any other close Business Relationship with the PEP.*
- *Individuals having individual ownership rights in a legal person or arrangement established in favour of the PEP.*

DNFBPs are obliged to put in place appropriate risk management systems to determine whether a customer, Beneficial Owner, beneficiary, or controlling person is a PEP. In addition to undertaking standard CDD procedures, DNFBPs are also required to take reasonable measures to establish the source of funds and the source of wealth of customers and Beneficial Owners identified as PEPs. In this regard, and commensurate with the nature and size of their businesses, DNFBPs should take measures that include:

- Implementing (automated) screening systems which screen customer and transaction information for matches with known PEPs;
- Incorporating thorough background searches into their CDD procedures, using tools such as:
  - Manual internet search protocols;
  - Public or private databases;
  - Publicly accessible or subscription information aggregation services;
  - Commercially available background investigation services.

If a customer, Beneficial Owner, beneficiary, or controlling person is identified as a PEP, DNFBPs are required to take reasonable measures to establish the PEP's source of funds and source of wealth. In this regard, they should also evaluate the legitimacy of the source of funds and source of wealth, including making reasonable investigations into the individual's professional and financial background.

Furthermore, DNFBPs are also required to obtain senior management approval before establishing a Business Relationship with a PEP, or before continuing an existing one. In regard to the latter, senior management should be notified and their approval should be obtained for the continuance of a PEP relationship each time any of the following situations occur:

- An existing customer, Beneficial Owner, beneficiary, or controlling person becomes, or is newly identified as, a PEP;
- An existing PEP Business Relationship is reviewed and the CDD information is updated, either on a periodic or an interim basis, according to the organisation's internal policies and procedures;
- A material transaction that appears unusual or illogical for the PEP Business Relationship is identified;

- The beneficiary or Beneficial Owner of a life insurance policy or family *takaful* insurance policy is identified as a PEP, and in case higher risks are identified, the overall Business Relationship should also be thoroughly examined and consideration given to filing an STR. Senior management should be informed before the payout of the policy proceeds.

With regard to identified Domestic PEPs and individuals who were previously (but are no longer) entrusted with prominent functions at international organisations, the AML-CFT Decision provides that DNFBPs should implement the measures described above when, apart from their PEP status, the Business Relationships associated with such persons could be classified as high-risk for any other reason.

The handling of a customer who is no longer entrusted with a prominent public function should be based on an assessment of risk. This risk based approach requires that DNFBPs assess the ML/FT risk of a PEP who is no longer entrusted with a prominent public function, and take effective action to mitigate this risk. Possible risk factors are the level of (informal) influence that the individual could still exercise; the seniority of the position that the individual held as a PEP; or whether the individual's previous and current function are linked in any way (e.g., formally by appointment of the PEPs successor, or informally by the fact that the PEP continues to deal with the same substantive matters).

6.4.2 EDD Measures for High-Risk Customers or Transactions

(AML-CFT Decision Article 4.2(b))

DNFBPs are obliged to apply EDD measures to manage and mitigate the risks associated with identified High Risk Customers and/or transactions. The AML-CFT Decision defines a High Risk Customers as including those who represent a risk:

> *"…either in person, activity, Business Relationship, nature or geographical area, such as a customer from a high-risk country or non-resident in a country that does not hold an identity card, or a customer having a complex structure, performing complex operations or having unclear economic objective, or who conducts cash-intensive operations, or operations with an unknown third party..."*

Examples of the EDD measures that should be taken by DNFBPs are laid out in the relevant article of the AML-CFT Decision. When carrying out such measures (especially as regards obtaining and investigating more information about the nature of the customer's business, purpose of the Business Relationship, or reason for the transaction), DNFBPs should pay particular attention to the reasonableness of the information obtained, and should evaluate it for possible inconsistencies and for potentially unusual or suspicious circumstances. Examples of factors that DNFBPs should take into consideration in this regard include, but are not limited to:

- An illogical reason for a foreign customer's or Beneficial Owner's presence, or establishment of a Business Relationship, in the UAE;
- Consistency between the nature of the customer's business and transactions and the customer's or Beneficial Owner's professional background and employment history, in regard to which DNFBPs may find it helpful to obtain background information from reliable and independent sources, as well as from internet and social media searches, and from the customer's or Beneficial Owner's CV;
- The level of complexity and transparency of the customer's transactions, especially in comparison with the customer's or Beneficial Owner's educational and professional background;
- The level of complexity and transparency of the customer's legal structure of legal persons or arrangements;
- The nature of any other business interests of the customer or Beneficial Owner, including any other legal persons or arrangements owned or controlled;
- Consistency between the customer's line of business and that of the counterparty to the customer's transactions (as identified, for example, through internet searches).

Additionally, and commensurate with the nature and size of their businesses, when carrying out EDD measures in respect of High Risk Customers or Beneficial Owners, DNFBPs should take appropriate risk-mitigation measures such as, but not limited to:

- Performing background checks (among other via internet searches, public databases, or subscription information aggregation services) to screen for possible matches with targeted and other international financial sanctions lists, indications of criminal activity (including financial crime), or other adverse information;
- Using more rigorous methods for the verification of the customer's or Beneficial Owner's identity in regard to High Risk Customers (see Section 6.3.1, Customer and Beneficial Owner Identification/Verification for more information).

6.4.3 Requirements for High-Risk Countries

(AML-CFT Law Article 16.1(e); AML-CFT Decision Article 22, 44.7, 60)

DNFBPs are obliged to implement EDD measures commensurate with the ML/FT risks associated with Business Relationships and transactions with customers from high-risk countries subject to a Call for Action and Jurisdictions under Increased Monitoring and the countries identified by NAMLCFTFC. In the case of legal persons and arrangements, their Beneficial Owners, beneficiaries and other controlling persons from high-risk countries.

DNFBPs can obtain guidance on high risk countries from NAMLCFTFC, from the FATF list of High-Risk Jurisdictions subject to a Call for Action and Jurisdictions under Increased Monitoring, and from NRA report. IN addition, reference can also be made to the Organisation for Economic Cooperation and Development (OECD) list of jurisdictions classified as tax havens. The Basel AML index can be a useful source to determine the risk of a country.

Examples of some of the measures DNFBPs should apply in this regard include:

- Increased scrutiny and higher standards of verification and documentation from reliable and independent sources with regard to the identity of customers, Beneficial Owners, beneficiaries and other controlling persons;
- More detailed inquiry and evaluation of reasonableness in regard to the purpose of the Business Relationship, the nature of the customer's business, the customer's source of funds, and the purpose of individual transactions;
- Increased investigation to ascertain whether the customers or related persons (Beneficial Owners, beneficiaries and other controlling persons, in the case of legal persons and arrangements) are foreign PEPs;
- Increased supervision of the Business Relationship, including the requirement for higher levels of internal reporting and management approval, more frequent monitoring of transactions, and more frequent review/ updating of customer due diligence information.

Additionally, DNFBPs are obliged to implement all specific CDD measures and countermeasures regarding High Risk Countries as defined by the National Committee for Combating Money Laundering and the Financing of Terrorism and Illegal Organisations, including those related to the implementation of the decisions of the UN Security Council under Chapter VII of the Charter of the United Nations, the *International Convention for the Suppression of the Financing of Terrorism* and the *Treaty on the Non-Proliferation of Nuclear Weapons*, and other related directives, and those called for by the Financial Action Task Force (FATF) and/or other FSRBs.

In order to fulfil these obligations, and commensurate with the nature and size of their businesses and the risks involved, DNFBPs should establish adequate internal policies, procedures and controls in relation to the application of EDD measures and risk-proportionate effective countermeasures to customers and Business Relationships associated with high-risk countries. Some of the factors to which DNFBPs should give consideration when formulating such policies, procedures and controls, include but are not limited to the following:

- The organisation's risk appetite with respect to Business Relationships involving high-risk countries;
- Methodologies and procedures for assessing and categorising country risk, and identifying high-risk countries, including the statutorily defined High Risk Countries as established by

the NAMLCFTC, and taking into consideration advice or notifications of concerns about weaknesses in the AML/CFT system of other countries issued by the relevant Supervisory Authorities and/or Competent Authorities;

- Determination and implementation of appropriate risk-based controls (for example, certain product or service restrictions, transaction limits, or others) with regard to customers and Business Relationships associated with high-risk countries;
- Organisational roles and responsibilities in relation to the monitoring, management reporting, and risk management of high-risk country Business Relationships;
- Appropriate procedures for the enhanced investigation of Business Relationships involving high-risk countries in relation to their assessment for possible PEP associations;
- Independent audit policies in respect of EDD procedures pertaining to customers/Business Relationships involving high-risk countries and the business units that deal with them.

For all countries identified as high-risk, the FATF calls on all members and urges all jurisdictions to apply EDD, and in the most serious cases, countries are called upon to apply countermeasures to protect the international financial system from the ongoing money laundering, terrorist financing, and proliferation financing risks emanating from the country. However, specific countermeasures which need to be applied by DNFBPs shall be advised by the corresponding supervisory authorities, the FIU or the NAMLCFTC.

6.4.4 Requirements for Money or Value Transfer Services

(AML-CFT Decision Articles 26, 30)

As part of a risk-based AML/CFT approach, DNFBPs that enter into or maintain Business Relationships with Money or Value Transfer Services (MVTSs) should take adequate CDD measures that are commensurate with the risks involved (see Sections 6.3, Customer Due Diligence (CDD) Measures and 6.4, Enhanced Due Diligence (EDD) Measures). Examples of measures that DNFBPs should consider in this regard include, but are not limited to:

- Ensuring that the MVTS is properly licensed or registered;
- Obtaining information about and assessing the adequacy of the MVTS's AML/CFT policies, procedures and controls, including those related to wire transfers as stipulated in the relevant provisions of the AML-CFT Decision;
- Obtaining the MVTS's list of agents, and identifying and assessing the associated ML/FT risks, especially with regard to high-risk countries or other identified high-rsideisk factors;
- Obtaining sufficient information about the MVTS's ownership and management structure (including taking into consideration the possibility of PEP involvement), the nature and scope of its business, the nature of its customer base, and the geographic areas in which

it operates, so as to be in a position to identify, assess, and manage or mitigate the associated ML/FT risks.

DNFBPs that enter into or maintain relationships with MTVSs should also use a risk-based approach to determine the appropriate internal AML/CFT policies, procedures and controls DNFBPs implement in relation to the risk assessment, risk classification, and the type and extent of CDD they perform on the MVTSs. The policies and procedures that DNFBPs apply should be reasonable and proportionate to the risks involved, and should be adequately documented, senior management approved, and communicated to the relevant employees of the organisation.

6.4.5 Requirements for Non-Profit Organisations

Non-Profit Organisations (NPOs) can often pose increased risks in regard to money laundering, the financing of terrorism, and the financing of illegal organisations. As part of an effective risk-based approach to AML/CFT, DNFBPs that enter into or maintain Business Relationships with NPOs should take adequate CDD measures that are commensurate with the risks involved (see Sections 6.3, Customer Due Diligence (CDD) Measures and 6.4, Enhanced Due Diligence (EDD) Measures). Examples of measures that DNFBPs should consider include, but are not limited to:

- Ensuring that the NPO is properly licensed or registered;
- Obtaining information about and assessing the adequacy of the NPO's AML/CFT policies, procedures and controls;
- Obtaining sufficient information about the NPO's legal, regulatory and supervisory status, including requirements relating to regulatory disclosure, accounting, financial reporting and audit (especially where community/social or religious/cultural organisations are involved, and when those organisations are based, or have significant operations, in jurisdictions that are unfamiliar or in which transparency or access to information may be limited for any reason);
- Obtaining sufficient information about the NPO's ownership and management structure (including taking into consideration the possibility of PEP involvement); the nature and scope of its activities; the nature of its donor base, as well as of that of the beneficiaries of its activities and programmes; and the geographic areas in which it operates, so as to be in a position to identify, assess, and manage or mitigate the associated ML/FT risks;
- Performing thorough background checks (including but not limited to the use of internet searches, public databases, or subscription information aggregation services) on the NPO's key persons, such as senior management, branch or field managers, major donors and major beneficiaries, to screen for possible matches with targeted and other

international financial sanctions lists, indications of criminal activity (including financial crime), or other adverse information.

DNFBPs that enter into or maintain relationships with NPOs should also use a risk-based approach to determine the appropriate internal AML/CFT policies, procedures and controls the DNFBPs implement in relation to the risk assessment, risk classification, and the type and extent of CDD they perform on NPOs. The policies and procedures that DNFBPs apply should be reasonable and proportionate to the risks involved, and should be adequately documented, senior management approved, and communicated to the relevant employees of the organisation.

6.5 Simplified Due Diligence (SDD) Measures

(AML-CFT Decision Articles 4.3, 5, 10)

In keeping with a risk-based approach to CDD, under certain circumstances and in the absence of a ML/FT suspicion, DNFBPs are only permitted to exercise simplified customer due diligence measures (SDD) with regard to customers identified as low-risk through an adequate analysis of risks.

SDD generally involves a more lenient application of certain aspects of CDD measures, including elements as:

- A reduction in verification requirements with regard to customer or Beneficial Owner identification;
- Fewer and less detailed inquiries in regard to the purpose of the Business Relationship, the nature of the customer's business, the customer's source of funds, and the purpose of individual transactions;
- More limited supervision of the Business Relationship, including less frequent monitoring of transactions, and less frequent review/updating of customer due diligence information.

Specifically, the AML-CFT Decision permits the application of SDD in the following circumstances:

- Identified low-risk customers. When the customer or Beneficial Owner is identified as posing a low risk of ML/FT, DNFBPs are permitted to complete the verification of their identity after the establishment of a Business Relationship under the conditions specified in the relevant provisions of the AML-CFT Decision. In this regard, DNFBPs are required to implement appropriate and effective measures to control the risks of ML/FT, including the risks in regard to the customer or Beneficial Owner benefitting from the Business Relationship prior to the completion of the verification process. Examples of such measures which DNFBPs may consider taking in this regard are, among others:

- Holding up the execution of business deal or transaction until the verification of the identity is completed;
- Making the completion of verification of the identity a condition precedent to the closing of a transaction.

It should be noted that the provision allowing a relaxation of the timing for the completion of the identity verification procedures does not imply that DNFBPs are permitted to establish a Business Relationship without any customer identification at all. On the contrary, in all cases, the basic identification information in relation to the customer (whether a natural or legal person or arrangement) should be obtained; however under the specified conditions, DNFBPs are permitted to establish the Business Relationship prior to the completion of the verification process, which may include such steps as: obtaining appropriate supporting documentation, certifications or attestations, when necessary (for example, as regards the corporate documents of a legal person); or obtaining all the necessary information related to the relevant parties of a legal person or Legal Arrangement, such as Beneficial Owners, settlors, trustees or executors, protectors, beneficiaries, or other controlling persons.

- Listed companies. DNFBPs are exempted from identifying and verifying the identity of any shareholder, partner or Beneficial Owner of a legal person under the conditions specified in the relevant provisions of the AML-CFT Decision. Namely:

  - When the relevant information on the shareholder, partner or Beneficial Owner is obtained from reliable sources; and
  - When the customer, or the owner holding the controlling interest of the customer, is a company listed on a regulated stock exchange subject to adequate disclosure and transparency requirements related to Beneficial Ownership; or when the customer, or the owner holding the controlling interest of a legal entity customer, is the majority-held subsidiary of such a listed company.

Without prejudice to the above, in the case of foreign stock exchanges, DNFBPs should take steps to adequately assess and document the relevant disclosure and transparency requirements related to Beneficial Ownership, and to ensure that they are at least equivalent to those of the UAE.

In addition, DNFBPs should be aware that, regardless of the exemption mentioned above, DNFBPs are required with respect to listed companies to verify that any person purporting to act on behalf of the customer is so authorised, and verify the identity of that person.

As part of their overall AML/CFT framework, DNFBPs should use a risk-based approach to determine the internal policies, procedures and controls they implement in connection with the application of SDD procedures. Examples of some of the factors they should consider when developing their risk-based policies include:

- the ML/FT risks identified in the ML/TF business risk assessment, especially with regard to low-risk categories of customers;
- Circumstances, timing, and composition in regard to the application of SDD measures;
- Frequency of reviews and updates in relation to customer SDD information;
- Extent and frequency of ongoing supervision of the Business Relationship and monitoring of transactions in relation to customers to which SDD measures are applied.

Such policies, procedures and methodologies should be reasonable and proportionate to the risks involved, and, in formulating them, DNFBPs should consider the results of both the NRA and topical risk assessments and their own ML/FT business risk assessments. Commensurate with the nature and size of the DNFBPs' businesses, the policies, procedures and methodologies should also be documented, approved by senior management, and communicated at the appropriate levels of the organisation.

6.6 Reliance on a Third Party

(AML-CFT Decision Articles 19)

Under certain conditions, the AML-CFT Decision permits DNFBPs to rely on third parties to undertake the required CDD measures, including those measures specifically laid out in regard to identified high-risk countries (see Section 6.4.3, Requirements for High-Risk Countries), with the responsibility for the validity of the measures resting directly with the DNFBPs. Among the conditions set forth in the AML-CFT Decision concerning the reliance on third parties, it is stipulated that DNFBPs shall:

> *"Ensure that the third party is regulated and supervised, and adheres to the CDD measures towards Customers and record-keeping provisions of the present Decision."*

In order to fulfil this obligation, DNFBPs that rely on third parties to undertake CDD measures on their behalf should implement adequate measures, in keeping with the nature and size of their businesses, to ensure the third party's adherence to the requirements of the AML-CFT Law and the AML-CFT Decision in relation to CDD measures. Examples of such measures include:

- Clearly defined procedures for determining the adequacy of a third-party's CDD and record-keeping measures, including the evaluation of such factors as the comprehensiveness and quality of its AML/CFT policies, procedures and controls; the number of personnel dedicated to CDD; and its audit and/or quality assurance policies in regard to CDD. In this regard, DNFBPs are advised that tools such as questionnaires, scorecards, and on-site visits may be useful in evaluating the adequacy of a third party's adherence.

- Service-level agreements, clearly setting out the roles and responsibilities of the DNFBP and the third party and specifying the nature of the CDD and record-keeping requirements to be fulfilled.
- Procedures for the certification by third parties of documents and other records pertaining to the CDD measures undertaken.

In addition to the above, when relying on foreign third parties for the undertaking of CDD measures, DNFBPs should take steps to ensure that the AML/CFT regulatory and supervisory framework under which the third party operates is at least equivalent to that of the State. This means that DNFBPs should ensure that the third party is regulated and supervised for AML/CFT purposes, and adheres to the equivalent CDD and record-keeping measures.

Whichever methods are utilized to ensure the adherence of third parties to the statutory CDD and record-keeping requirements, DNFBPs should document and periodically review them for effectiveness.

Reliance on a third party refers to a DNFBP's reliance on a third party of the entire or part of the CDD process as well as reliance on a third party when to introducing business. DNFBPs should therefore take adequate steps to satisfy themselves that copies of identification data and other relevant documentation relating to the CDD requirements will be made available from the third party upon request without delay. This includes the identification and verification of the identity of customers and Beneficial Owners, beneficiaries or controlling persons of legal entities or arrangements, as well as the investigation and assembly of other relevant customer documents, information and data, as per the statutory CDD and record-keeping requirements. Nevertheless, DNFBPs remain ultimately responsible for the outcome of the CDD process. Furthermore, DNFBPs should themselves assess the risks of the customer, including the customer's risk profile. DNFBPs should thus document their rationale for the assignment of relevant customer risk classifications, as well as their analysis of the CDD information obtained from the third parties. Moreover, DNFBPs remain themselves responsible for conducting ongoing due diligence on the business relationship and scrutiny of transactions undertaken throughout the course of that relationship.

For the purpose of this guidance, it is important to note that DNFBPs are expected to use documents, data or information from reliable and independent sources in carrying out their CDD obligations, which include, among other things, verifying the identity of customers and Beneficial Owners, beneficiaries or controlling persons of legal entities or arrangements.

Reliable and independent sources may include, but are not necessarily limited to, official bodies such as Competent Authorities, governmental departments or agencies, governmental or state-sponsored business registries, public utilities or similar official enterprises; as well as non-official organisations, such as publicly accessible free or subscription information aggregation services, credit reporting agencies, and others.

DNFBPs are reminded that simply obtaining CDD documents and supporting information from reliable and independent sources during the course of performing their own CDD procedures is not necessarily considered as reliance on a third party. On occasion that DNFBPs during the course of carrying out their own CDD procedures, receive certain documents, information or data from a third-party, DNFBPs should obtain evidence of the third party's regulatory and supervisory status and good standing, and they should also consider obtaining the third party's certification that any CDD documents provided by them (such as identification documents, proof of address, or documents corroborating a customer's source of funds) are true copies of the originals.

Part IV—AML/CFT Administration and Reporting

7. Suspicious Transaction Reporting

(AML-CFT Law Articles 9.1, 15, 30; AML-CFT Decision Articles 16-18)

Under the AML/CFT legal and regulatory framework of the UAE, all DNFBPs are obliged to promptly report to the Financial Intelligence Unit (FIU) suspicious transactions and any additional information required in relation to them, when there are suspicions, or reasonable grounds to suspect, that the proceeds are related to a crime, or to the attempt or intention to use funds or proceeds for the purpose of committing, concealing or benefitting from a crime. DNFBPs are required to put in place and update indicators that can be used to identify possible suspicious transactions.

In order to fulfil these obligations, DNFBPs should implement adequate internal policies, procedures and controls in relation to the identification and the immediate reporting of suspicious transactions. The following sub-sections provide additional guidance in this regard.

7.1 Role of the Financial Intelligence Unit

(AML-CFT Law Articles 9-10; AML-CFT Decision Articles 13, 16, 17.1, 21.2 and 5, 40-43, 46.1-4, 49.2-3)

The FIU of the UAE is established within the premises of the Central Bank, however, the FIU operates independently by legal and regulatory mandate as the central national agency with sole responsibility for performing the following functions:

- Receiving and analysing STRs from DNFBPs and DNFBPs, and disseminating the results of its analysis to the Competent Authorities of the State;
- Receiving and analysing reports of suspicious cases from the Federal Customs Authority;
- Requesting additional information and documents relating to STRs, or any other data or information it deems necessary to perform its duties, from DNFBPs, DNFBPs, and Competent Authorities, including information relating to customs disclosures;
- Cooperating and coordinating with Supervisory Authorities by disseminating the outcomes of its analysis, specifically with respect to the quality of STRs, to ensure the compliance of DNFBPs and DNFBPs with their statutory AML/CFT obligations;
- Sending data relating to STRs and the outcomes of its analyses and other relevant data, including information obtained from foreign FIUs, to national Law Enforcement Authorities, prosecutorial authorities and judiciary authorities when actions are required by those authorities in relation to a suspected crime;

- Exchanging information with its counterparts in other countries, with respect to STRs or any other information to which it has access.

Under the aegis of the National Committee for Combating Money Laundering and the Financing of Terrorism and Illegal Organisations, and for the effective performance of its functions, the FIU maintains operational protocols with numerous national and international Competent Authorities.

The FIU has launched the GoAML system for the purposes of facilitating the filing of STRs by all DNFBPs. DNFBPs shall register themselves on the GoAML system by following the procedure manual and maintain their registration in an active status. The Compliance Officer of the company can register as the user of the system. GoAML provides a secure link of each DNFBP to the FIU through their respective supervisory authorities. The system hosts processes for facilitating filing of STRs. The guidance documents for filing of STRs are posted on the dashboard of this system. All DNFBPs shall register themselves immediately so as to confirm their readiness for filing of STRs.

The STRs are received by the FIU and processed for any required further information or documents or for further action by Law Enforcement or Supervisory Authorities. The FIU maintains a record of these STRs, performs a trend analysis to understand the prevailing trends in transactions and sectors or Institutions where possibility of ML or FT exists and this trend analysis is shared with all the registered users of GoAML through the system by means of a periodic trends and typologies report.

7.2 Processing of STRs by the FIU

(AML-CFT Law Articles 9-10; AML-CFT Decision Articles 42, 43.1-3, 49.3)

A core function of the FIU is to conduct operational analysis on STRs and information received from DNFBPs, DNFBPs, as well as from Competent Authorities, and to support the investigations of Law Enforcement Authorities. It does so by identifying specific targets (such as persons, funds, or criminal networks) and by following the trail of specific transactions in order to determine the linkages between those targets and the possible proceeds of crime, money laundering, predicate offences and terrorist financing.

Upon the receipt of STRs or information from reporting institutions or other sources, the FIU assesses the information, prioritises the risk, and performs its own analyses using a variety of information sources and analytical techniques.

In certain cases, the FIU may request additional information from the reporting entity, Competent Authorities, or even from other DNFBPs which also have a business relationship with the subject of its analysis or investigation, through the Integrated Enquiries Management System (IEMS). Upon concluding its analysis or investigation, the FIU may disseminate information about the case to Law Enforcement Authorities or foreign FIUs, and may, at its

own discretion, also provide feedback to the reporting entity in the form of instructions regarding required actions to be taken, or recommendations and guidance.

In addition to the above, the FIU also performs strategic analysis, using data aggregated from the STRs and other information it receives, including from national and international Competent Authorities and FIUs of other countries, to identify trends and patterns relating to ML/FT. As a result of this analysis, the FIU may from time to time disseminate enhanced due diligence and fraud alerts to DNFBPs as a preventive measure, and may also disseminate information to DNFBPs about prevalent or new and emerging ML/FT typologies, or other specific risks which DNFBPs should take into consideration.

7.3 Meaning of Suspicious Transaction

(AML-CFT Law Article 16; AML-CFT Decision Article 17.1)

Within the meaning of the AML-CFT Law and its implementing AML-CFT Decision, a suspicious transaction refers to any transaction, attempted transaction, or funds which a DNFBP has reasonable grounds to suspect as constituting—in whole or in part, and regardless of the amount or the timing—any of the following:

- The proceeds of crime (whether designated as a misdemeanour or felony, and whether committed within the State or in another country in which it is also a crime);
- Being related to the crimes of money laundering, the financing of terrorism, or the financing of illegal organisations;
- Being intended to be used in an activity related to such crimes.

It should be noted that the only requirement for a transaction to be considered as suspicious is “reasonable grounds” in relation to the conditions referenced above. Thus, the suspicious nature of a transaction can be inferred from certain information, including indicators, behavioural patterns, or CDD information, and it is not dependent on obtaining evidence that a predicate offence has actually occurred or on proving the illicit source of the proceeds involved. DNFBPs do not need to have knowledge of the underlying criminal activity nor any founded suspicion that the proceeds originate from a criminal activity; reasonable grounds are sufficient.

DNFBPs should also note that transactions need not be completed, in progress or pending completion in order to be considered as suspicious. Attempted transactions, transactions that are not executed and past transactions, regardless of their timing or completion status, which are found upon review to cause reasonable grounds for suspicion, must be reported in accordance with the relevant requirements.

7.4 Identification of Suspicious Transactions

(AML-CFT Decision 16)

DNFBPs are obliged to put in place indicators that can be used to identify suspicious transactions, and to update those indicators on an ongoing basis in accordance with the instructions of the Supervisory Authorities or the FIU, as well as in keeping with relevant developments concerning ML/FT typologies. DNFBPs should also consider the results of the NRA, any Topical Risk Assessment and their own ML/FT business risk assessments in this regard.

As part of their overall AML/CFT framework, and commensurate with the nature and size of their businesses, DNFBPs should determine the internal policies, procedures and controls they apply in connection with the identification, implementation, and updating of indicators, as well as with the identification and evaluation of potentially suspicious transactions. Some factors that should be considered include, but are not limited to:

- Organisational roles and responsibilities with respect to the implementation and review/updating of the relevant indicators, especially in relation to obligatory indicators required by the Supervisory Authorities or the FIU;
- Operational and IT systems procedures and controls in connection with the application of relevant indicators to processes such as transaction handling and monitoring, customer due diligence measures and review, and alert escalation;
- Staff training in relation to the identification and reporting of suspicious transactions (including attempted transactions), the appropriate use and assessment of the relevant indicators, and the degree and extent of internal investigation that is appropriate prior to the reporting of a suspicious transaction.

DNFBPs should ensure that they have an adequate process and dedicated, experienced staff for the investigation of and dealing with alerts. The investigation of alerts and the conclusion of the investigation should be documented, including the decision to close the alert or to promptly report the transaction as suspicious.

Prompt reporting to the FIU is one of the key elements of the AML/CFT process. This means that DNFBPs must report to the FIU the transaction immediately once the suspicious nature of the transaction becomes clear. This will be the case when from an objective point of view, taking the available information into account, there is a reason to believe that a transaction is suspicious. This means that DNFBPs expeditiously investigate alerts and possible indications of ML/FT and immediately report the transaction upon determining that the transaction should be reported to the FIU. DNFBPs therefore need to able to show that from the moment of the alert immediate and continuous action has been taken.

In this respect, DNFBPs must have a procedure in place that defines the reporting process, and what steps to take in such cases. When investigating alerts it is important to examine the customer's earlier and related transactions, and to reconsider the customer's risk profile.

When identifying suspicious transactions, DNFBPs, and their management and employees, should be aware of the facts that, in relation to ML/FT crimes, there is no minimum threshold or monetary value for reporting, and that no amount or transaction size should be considered too small for suspicion. This is of particular significance where the crimes of the financing of terrorism and of illegal organisations is concerned, since typologies related to them may often involve very small amounts of money.

Furthermore, with the exception of obligatory indicators for which reporting is required by the relevant Supervisory Authorities or the FIU, DNFBPs should note that the presence of an *indicator* means that a transaction needs to be immediately investigated in order to determine whether the transaction needs to be reported. When determining whether a transaction is suspicious or whether there is reasonable ground for a suspicion, DNFBPs should give consideration to the nature of the specific circumstances, including the products or services involved, and the details of the customer in the context of its risk profile. In some cases, patterns of activity or behaviour that might be considered as suspicious in relation to a specific customer or a particular product type, might not be suspicious in regard to another. For this reason, clear internal policies and procedures with regard to alert escalation and investigation, and internal suspicious transaction reporting are critical to an effective ML/FT risk-mitigation programme. This includes an adequate training program that will allow staff to detect possible unusual or suspicious transactions.

While it is impossible to list all the indicators of suspicion in these Guidelines, some useful links to sources of AML/CFT suspicious transaction indicators are provided in Appendix 11.2, Useful Links. A few examples of potentially suspicious transaction types that DNFBPs should take into consideration include:

- Transactions or series of transactions that appear to be unnecessarily complex, that make it difficult to identify the Beneficial Owner, or that do not appear to have an economic or commercial rationale;
- Numbers, sizes, or types of transactions that appear to be inconsistent with the customer's expected activity and/or previous activity;
- Transactions that appear to be exceptionally large in relation to a customer's declared income or turnover;
- Large unexplained cash amounts, especially when they are inconsistent with the nature of the customer's business;

- Loan repayments that appear to be inconsistent with a customer's declared income or turnover;
- Early repayment of a loan followed by an application for another loan;
- Third-party loan agreements, especially when there are amendments to or assignments of the loan agreement;
- Requests for third-party payments, including those involving transactions related to loans, investments, or insurance policies;
- Transactions involving high-risk countries, including those involving "own funds" transfers, particularly in circumstances in which there are no clear reasons for the specific transaction routing;
- Frequent or unexplained changes in ownership or management of Business Relationships;
- Illogical changes in business activities, especially where high-risk activities are involved;
- Situations in which CDD measures cannot be performed, such as when the customers or Beneficial Owners refuse to provide CDD documentation, or provide documentation that is false, misleading, fraudulent or forged.

  When reporting an STR in the GoAML system, the user is required to select the most appropriate reason for reporting available from the menu selection provided. More than one reason may also be provided, if deemed necessary. In order to select the appropriate indicator, click 'Add' to select the appropriate reason for the report.

  Select the reason(s) applicable and then press 'Close'. Alternatively, the user may search for reasons using the search bar available on the top left when expanding the form. It is imperative that a minimum of one reason for reporting must be selected to avoid rejection of the report by the GoAML system.

7.5 Requirement to Report

(AML-CFT Law Articles 9.1, 15, 24; AML-CFT Decision Articles 13.2, 17.1, 20.2)

DNFBPs are obliged to report transactions to the FIU without delay when there are suspicions, or reasonable grounds to suspect, that the proceeds are related to a crime, or to the attempt or intention to use funds or proceeds for the purpose of committing, concealing or benefitting from a crime. There is no minimum reporting threshold; all suspicious transactions, including attempted transactions, should be reported regardless of the amount of the transaction. There is also no statute of limitations with regard to when the possible crimes or the suspicious transaction took place.

Under federal law and regulations, whether the DNFBP operates in the mainland UAE or in a Financial or Commercial Free Zone, the designated Competent Authority for the reporting of suspicious transactions is the FIU.

Failure to – immediately - report a suspicious transaction, whether intentionally or by gross negligence, is a federal crime. With the exception of the exemption described in Section 7.6, Specific Exemption from the Reporting Requirement below, any person, including DNFBPs or their managers and employees, who fails to perform their statutory obligation to report a suspicion of money laundering, or the financing of terrorism or of illegal organisations, is liable to a fine of no less than AED100,000 and no more than AED1,000,000 and/or imprisonment.

7.6 Specific Exemption from the Reporting Requirement

(AML-CFT Law Article 15; AML-CFT Decision Article 17.2)

The AML-CFT Law and AML-CFT Cabinet Decision provide an exemption from the statutory reporting obligation only for DNFBPs that are lawyers, notaries, other legal professionals, and independent legal auditors, on the grounds of professional secrecy only under one specific condition.

When they have obtained information concerning the transactions during the course of:

"…(assessing) their Customers' legal position, or defending or representing them before judiciary authorities or in arbitration, or providing legal opinion with regards to legal proceedings, including providing consultation concerning the initiation or avoidance of such proceedings, whether the information was obtained before or during the legal proceedings, or after their completion, or in other circumstances where such Customers are subject to professional secrecy."

There are no exemptions from the statutory reporting requirement provided for the other DNFBPs under the AML-CFT Law or AML-CFT Cabinet Decision.

7.7 Procedures for the Reporting of Suspicious Transactions

(AML-CFT Law Article 9; AML-CFT Decision Articles 17.1(a), 21.2)

As the designated Competent Authority for receiving and analysing STRs from all DNFBPs, it is within the purview of the FIU to determine the procedures for the reporting of suspicious transactions. As stated in the AML-CFT Decision, DNFBPs shall report STRs "via the electronic system of the FIU or by any other means approved by the FIU", which is the FIU's GoAML system.

Without prejudice to the above, it should be noted that the AML-CFT Decision provides for the reporting of STRs to be effected by the designated compliance officer of the DNFBP. Specifically, the Cabinet Decision states that the duty of a compliance officer is to:

"Review, scrutinise and study records, receive data concerning Suspicious Transactions, and take decisions to either notify the FIU or maintain the Transaction with the reasons for maintaining while maintaining complete confidentiality."

In this regard, as part of their overall risk-based AML/CFT framework and commensurate with the nature and size of their businesses, DNFBPs should establish appropriate policies, procedures and controls pertaining to the internal reporting by their managers and employees of potentially suspicious transactions, including the provision of the necessary records and data, to the designated AML/CFT compliance officer for further analysis and reporting decisions, as well as to the reporting of STRs by the compliance officer to the FIU. The relevant policies, procedures and controls should take into consideration such factors as:

- Policies and procedures for the internal investigation of potentially suspicious transactions prior to the reporting of STRs;
- Conditions, timing, and methods for filing internal potentially suspicious transactions;
- Content requirements and format of internal potentially suspicious transactions;
- Appropriate controls for ensuring confidentiality and the protection of data from unauthorized access (also see Section 7.8, Confidentiality and Prohibition against "Tipping Off");
- Procedures related to the provision of additional information, follow-up actions pertaining to the transactions, and the handling of Business Relationships after the filing of STRs;
- Policies and procedures for the analysis and decision-making of suspicious transactions by the compliance officer in regard to reporting to the FIU;
- Other conditions deemed appropriate by the AML/CFT compliance officer.

Such policies, procedures and controls should be documented, approved by senior management, and communicated to the appropriate levels of the organisation, in keeping with the nature and size of the DNFBP's business.

7.8 Timing of Suspicious Transaction Reports (STRs)

(AML-CFT Law 9; AML-CFT Decision 17.1(a), 21.2)

DNFBPs are obliged to report STRs to the FIU without delay. Since it is the responsibility of the designated AML/CFT compliance officer to "review, scrutinise and study records, receive data concerning suspicious transactions, and take decisions to either notify the FIU or maintain the transaction," (see Section 8.1, Compliance Officer) it follows that the STRs should be immediately reported once the suspicious nature of the transaction becomes clear. This means that the internal reporting of suspicious transactions to the compliance officer should be done directly once the suspicion or reasonable grounds for suspicion are

established, and immediately the designated AML/CFT compliance officer has confirmed that the transaction (whether pending, in progress, or past) is suspicious, it should be reported.

Without prejudice to the above, DNFBPs should note that, with the exception of any obligatory indicators for which immediate reporting to the FIU is required by the relevant Competent Authorities, some potentially suspicious transactions or indicators of suspicion may require a degree of internal investigation before a suspicion or reasonable grounds for suspicion are established and an internal STR is reported to the designated AML/CFT compliance officer. The DNFBP should however be able to demonstrate that this investigation is started immediately and has been ongoing continuously until the transaction is reported to the FIU. In this regard, and commensurate with the nature and size of their businesses, DNFBPs should establish clear policies, procedures and staff training programmes pertaining to the identification, investigation and internal reporting of suspicious transactions (including attempted transactions), and the degree and extent of investigations that are appropriate prior to the internal reporting of a suspicious transaction (also see Section 7.2, Identification of Suspicious Transactions). These policies and procedures should be documented, approved by senior management, and communicated to the appropriate levels of the organisation.

7.9 Confidentiality and Prohibition against “Tipping Off”

(AML-CFT Law Article 25; AML-CFT Decision Articles 17.2, 21.2, 31.3, 39)

When reporting suspicious transactions to the FIU, DNFBPs are obliged to maintain confidentiality with regard to both the information being reported and to the act of reporting itself, and to make reasonable efforts to ensure the information and data reported are protected from access by any unauthorized person.

As part of their risk-based AML/CFT framework, and in keeping with the nature and size of their businesses, DNFBPs, and their foreign branches or group affiliates where applicable, should establish adequate policies, procedures and controls to ensure the confidentiality and protection of information and data related to STRs. These policies, procedures and controls should be documented, approved by senior management, and communicated to the appropriate levels of the organisation.

DNFBPs must ensure that all relevant information relating to STRs is kept confidential, with due regard to the conditions and exceptions provided for in the law, and the guiding principles for this must be established in policies and procedures. DNFBPs need to ensure that policy and procedures are reflected in for example, appropriate access rights with regard to core systems used for case management and notifications, secure information flows and guidance/training to all staff members involved. This guidance and training is primarily important for the first-line staff who have contact with customers. It is essential that these staff know when there may be cases of suspicious transactions, what questions they have to ask the customer and which information they must not under any circumstances disclose to the customer.

It should be noted that the confidentiality requirement does not pertain to communication within the DNFBP or its affiliated group members (foreign branches, subsidiaries, or parent company) for the purpose of sharing information relevant to the identification, prevention or reporting of suspicious transactions and/or crimes related to ML/FT.

It is a federal crime for DNFBPs or their managers, employees or representatives, to inform a customer or any other person, whether directly or indirectly, that a report has been made or will be made, or of the information or data contained in the report, or that an investigation is under way concerning the transaction. Any person violating this prohibition is liable to a penalty of no less than AED100,000 and no more than AED500,000 and imprisonment for a term of not less than six months.

7.10 Protection against Liability for Reporting Persons

(AML-CFT Law Article 27; AML-CFT Decision Article 17.3)

DNFBPs, as well as their board members, employees and authorised representatives, are protected by the relevant articles of the AML-CFT Law and AML-CFT Decision from any administrative, civil or criminal liability resulting from their good-faith performance of their statutory obligation to report suspicious activity to the FIU. This is also the case even if they did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred. However, it should be noted that such protections do not extend to the unlawful disclosure to the customer or any other person, whether directly or indirectly, that they have reported or intend to report a suspicious transaction, or of the information or data the report contains, or that an investigation is being conducted in relation to the transaction.

7.11 Handling of Transactions and Business Relationships after Filing of STRs

Once a Suspicious Transaction or other suspicious information related to a Customer or Business Relationship has been reported to the FIU, there are two immediate consequences:

- DNFBPs are obliged to follow the instructions, if any, of the FIU in relation to both the specific transaction and to the business relationship in general.
- The Customer or Business Relationship should immediately be classified as a High Risk Customer and appropriate risk-based enhanced due diligence and ongoing monitoring procedures should be implemented in order to mitigate the associated ML/FT risks (see Sections 6.4, Enhanced Due Diligence (EDD) Measures, especially 6.4.2, EDD Measures for High-Risk Customers or Transactions, and 6.3.5 Ongoing Monitoring of the Business Relationship). It is however not required to terminated the relationship.

Further guidance on both of these topics is provided below.

FIU Instructions

After receiving an STR from a DNFBP, the FIU may or may not revert to the reporting institution with specific instructions, requests for additional information, feedback or further guidance related to the STR or to the business relationship in general. In such cases, these communications will generally be directed to the designated AML/CFT compliance officer of the DNFBP.

Confidentiality of FIU's Instructions

The responsibility for coordinating the DNFBP's prompt compliance with the FIU's instructions or requests lies with the designated AML/CFT compliance officer. It should be noted that, depending on the nature of the case, the FIU may require the compliance officer to maintain certain information related to its instructions or requests privileged and/or confidential within the DNFBP's organisation. In other words, in some cases, the compliance officer could be restricted from divulging information about a transaction or business relationship to anyone other than certain members of senior management or the board of directors of the DNFBP. Regardless of the circumstances surrounding the FIU's instructions or requests, including whether or not the compliance officer is permitted to provide explanations to the staff of the DNFBP, the DNFBP is obliged at all times to follow the compliance officer's instructions in regard to any follow-up actions required in relation to an STR.

Timing of FIU's Instructions

Whether or not the FIU issues instructions or requests for additional information to a reporting institution, or how quickly this may occur after the STR is initially reported, both depend on numerous factors. These may include the prioritisation of the incoming STR among all of the STRs received by the FIU, the results of the ensuing analysis, or the possible need for information to be exchanged with other Competent Authorities or international FIUs, as well as the timing and the results of such exchanges.

When an STR involves an anticipated, pending, or already in-progress transaction, DNFBPs should use their best efforts to delay the execution or completion of the transaction, in order to allow for a reasonable amount of time in which to receive feedback, instructions, or additional information requests from the FIU. In taking such measures, DNFBPs should take the necessary steps to avoid "tipping off" or arousing the customer's suspicion that the transaction is being investigated or reported. Examples of some of the measures DNFBPs may consider taking, either singly or in combination, in order to delay the execution or completion of transactions include but are not limited to:

- Delaying processing of the transaction without explanation for as long as possible;
- Advising the customer that the transaction has been delayed due to an unspecified operational, technical or other problem, and that efforts are underway to resolve it;

- Requesting additional information and/or supporting documentation (for example, evidence of relevant licences or authorisations, shipping or customs documents, additional identification documents, bank or other references) relating to the transaction, the customer, or the counterparty;
- Advising the customer that paperwork related to the transaction has been lost and requesting that it be resubmitted;
- Advising the customer that the transaction is pending an internal approval process;
- Any other reasonable delaying tactics, bearing in mind the obligation to avoid "tipping off" the customer.

During the time interval during which an anticipated, pending, or in-progress STR that has already been reported to the FIU is being delayed by the DNFBP, any additional suspicions that may arise should also be immediately reported to the FIU as a follow-up to the original STR. Examples of such additional suspicions may include, but are not limited to:

- New adverse information obtained in relation to the transaction, the business relationship, or the counterparty to the transaction;
- Unusual behaviour of the customer as a result of the transaction being delayed, such as but not limited to:
  - Sudden material amendments or changes to the circumstances or details of the transaction;
  - Excessive pressure, intimidation, displays of anger (beyond what would normally be expected) or threats of any kind, aimed at forcing the DNFBP or its employees to complete the transaction;
  - Abrupt cancellation of the transaction, termination of the business relationship, or sudden attempts to close out the customer's account and/or withdraw the balance of funds or other assets held by the DNFBP;
  - Any other indication or reasonable grounds to suspect that the customer has become aware that the transaction is being investigated or reported as suspicious.

If a reasonable amount of time has not yet elapsed before the receipt of feedback, instructions, or requests for additional information from the FIU in regard to an STR, and it becomes impossible for the DNFBP to delay the execution or completion of the reported transaction any longer without arousing the customer's suspicion that the transaction is being investigated or reported, then the DNFBP should request specific instructions or permission from the FIU in regard to executing or rejecting the transaction.

No Instructions, Feedback or Additional Information Requests from the FIU

Due to the factors previously mentioned, DNFBPs may not receive instructions, additional information requests, or other feedback from the FIU in regard to STRs that have been filed; or the receipt of such communications may be delayed beyond what they consider to be a reasonable time period. In such instances, DNFBPs should determine the appropriate handling of the STR and of the business relationship in general, taking into consideration all of the risk factors involved.

In particular, DNFBPs are reminded that, unless they are specifically instructed by the FIU to do so, they are under no obligation to carry out transactions they suspect, or have reasonable grounds to suspect, of being related to a Crime. Furthermore, unless they are specifically instructed by the FIU to maintain the business relationship (for example, so that the Competent Authorities may monitor the customer's activity), DNFBPs should take appropriate steps in order to decide whether or not to maintain the business relationship. These steps may include, but are not limited to:

- Reassessing the business relationship risk and re-evaluate the customer's risk profile, where necessary;
- Initiating an enhanced customer due diligence review;
- Considering the performance of an enhanced background investigation (including, if appropriate, the use of a third-party investigation service);
- Any other reasonable steps, commensurate with the nature and size of their businesses, and bearing in mind the obligation to avoid "tipping off" the customer.

DNFBPs should be aware that filing an STR does not automatically mean that the relationship with the customer needs to be terminated. However, when deciding to terminate a business relationship for which an STR has been filed and no feedback has been received from the FIU after a reasonable time period, DNFBPs should formally advise the FIU of their intention to do so unless there is an official objection.

Reasonable Time Period for Receiving Feedback from the FIU

DNFBPs should note that there are no pre-established processing times, and no statute of limitations, in regard to the time interval during which the FIU may provide feedback, including instructions or requests for additional information in response to an STR. Furthermore, the time period that may be considered reasonable in relation to such feedback depends on numerous factors, including but not limited to the:

- Type, size and circumstances of the transaction;
- Normal average processing times for the specific transaction type;
- Type of customer or business relationship;

- Nature and size of the DNFBP's business;
- Precise nature of the suspicion.

The time period considered to be reasonable could thus vary widely from one case to another.

As a general guideline, the reasonable time periods for feedback from the FIU concerning transaction types that are less complex, more routine, and have faster average processing times (such as account-to-account or wire transfers, the exchange of currencies, or over-the-counter purchases of precious metals or stones, for example) would normally be expected to be shorter than those for more complex, less routine transaction types (such as, for example, purchases of real estate or other complex assets, trade finance transactions, or various forms of loan or credit agreements). DNFBPs that require further assistance in determining reasonable time periods should consult with the FIU or the relevant Supervisory Authorities.

High-Risk Classification of Reported Business Relationships

When a transaction or other information about a business relationship is reported to the FIU as suspicious, it means that, by definition, the customer or business relationship to which it pertains should be classified as high risk (in case the business relationship has not yet been classified as such). In situations in which no feedback or instructions have been received from the FIU, DNFBPs that determine to maintain the business relationship should, commensurate with the nature and size of their businesses:

- Document the process by which the decision was made to maintain the business relationship, along with the rationale for, and any conditions related to, the decision;
- Implement adequate EDD measures to manage and mitigate the ML/FT risks associated with the business relationship.

In such cases, beyond the EDD measures described in previous sections (see Sections 6.4, Enhanced Due Diligence (EDD) Measures and 6.3.5, Ongoing Monitoring of the Business Relationship), DNFBPs should also implement additional control measures such as, but not limited to:

- Requiring additional data, information or documents from the customer in order to carry out transactions (for example, evidence of relevant licenses or authorisations, customs documents, additional identification documents, bank or other references);
- Restricting the customer's use of certain products or services;
- Placing restrictions and/or additional approval requirements on the processing of the customer's transactions (for example, transaction size and/or volume limits, or limits to the number of transactions of certain types that can be executed during a given time period).

DNFBPs should also document the specific EDD, ongoing monitoring, and additional control measures to be taken. In this regard, DNFBPs should obtain senior management approval for the plan, including its specific conditions, duration and any requirements for its removal, as well as the roles and responsibilities for its implementation, monitoring and reporting, commensurate with the nature and degree of the ML/FT risks associated with the business relationship.

8. Governance

(AML-CFT Law Article 16.1(d); AML-CFT Decision Articles 4.2(a), 20, 21, 44.4)

In order for the AML/CFT framework of any organisation to be effective, it must be based on the foundation of a sound governance structure, and held together by a strong compliance culture.

The governance structure should take the following into consideration:

- Establish clear accountability lines and responsibilities to ensure that there is appropriate and effective oversight of staff who engage in activities which may pose a greater AML/CFT risk.
- Have the mechanism to inform the board of directors (or a committee of the board) and senior management of compliance initiatives, compliance deficiencies, STRs filed and corrective actions taken;
- Develop and maintain a system of reporting that provides accurate and timely information on the status of the AML/CFT program, including statistics on key elements of the program, such as the number of transactions monitored, alerts generated, cases created and STRs filed;
- Develop and implement quality assurance testing programs to assess the effectiveness of the AML/CFT program's implementation and execution of its requirements.

DNFBPs should also make sure to have management structures which are accountable for clear ML/FT risk management and mitigation measures, as well as appropriate independent control functions. Implicit in both the AML-CFT Law and the AML-CFT Decision are the elements of both, concerning which additional guidance is provided in the sections below.

8.1 Compliance Officer

(AML-CFT Decision Articles 20.3, 21 and 44.12)

8.1.1 Appointment and Approval

DNFBPs are obliged to appoint a compliance officer (CO) with the appropriate competencies and experience to perform the statutory duties and responsibilities associated with this role. The AML-CFT Decision stipulates that the CO performs these duties "under his or her own responsibility", referring to the independent nature of the function and from which it should be understood that the position should be at a management level.

DNFBPs must take all appropriate steps to identify and to prevent or manage confilicts of interests between:

- The DNFBP, its' personnel including its CO, or any other representatives, including any person who is directly or indirectly associated with the organization and who has control to make decisions, and the DNFBP's customer.
- The CO and senior management of the organization including the Board of Directors. The CO must be independent and must hold a position of sufficient seniority within the organization, to ensure informed decisions are made without undue pressure to challenge decisions that are considered ill-suited, to protect the organization from possible ML/TF abuse. The MLRO's independence of judgement is required to be free from conflicts of interest, whether it is pecuniary or otherwise.

The AML-CFT Decision further provides that the appointment of a person to the position of CO requires the prior consent of the relevant Supervisory Authority. Some DNFBPs might also have appointed a Money Laundering Reporting Officer (MLRO).

In determining the competencies, level of experience, and organizational reporting structures that are appropriate for their COs, DNFBPs should take several factors into consideration, including but not limited to:

- The results of the NRA and other topical risk assessments
- The nature, size, complexity, and risk profile of their industries and businesses, as well as those associated with the products and services they offer and the markets and customer segments they serve;
- The organisation's governance framework and management structure, with particular consideration given to the independent nature of compliance as a control function;
- The specific duties and responsibilities of the CO's role (described below).

Where appropriate, DNFBPs may also consider engaging in dialogue with Supervisory Authorities, professional associations in their sectors, and industry peers, in relation to the competencies, experience, and governance structures that make for an effective compliance officer and an effective AML/CFT programme.

8.1.2 Responsibilities

(AML-CFT Decision Article 21.1-5)

The specific tasks of the CO are detailed in the relevant provisions of the AML-CFT Decision. In general, the CO will collaborate with the relevant Supervisory Authority and the FIU to ensure that these can perform their respective duties.The CO's tasks can be grouped broadly into the following categories:

- ML/FT Reporting. The compliance officer is DNFBP's officer in charge of reviewing, scrutinizing and reporting STRs. In this capacity, the CO is ultimately responsible for the

detection of transactions related to the crimes of money laundering and the financing of terrorism and of illegal organisations, for reporting suspicions to the FIU, and for cooperating with the Competent Authorities in relation to the performance of their duties in regard to AML/CFT.

- AML/CFT Programme Management. The CO should ensure the quality, strength and effectiveness of the DNFBP's AML/CFT programme. As such, the CO should be a stakeholder with respect to the DNFBP's ML/FT business risk assessment, and the overarching AML/CFT risk mitigation framework, including its AML/CFT policies, controls and CDD measures. The CO is in charge of informing and reporting to senior management on the level of compliance and report on that to the relevant Supervisory Authority.

- AML/CFT Training and Development. The CO is responsible for helping to establish and maintain a strong and effective AML/CFT compliance culture within the DNFBP. This duty includes working with senior management and other internal and external stakeholders to ensure that the DNFBP's staff are well-qualified, well-trained, well-equipped, and well-aware of their responsibility to combat the threat posed by ML/FT.

8.2 Staff Screening and Training

(AML-CFT Decision Articles 20.4-5, 21.4)

In order for their ML/FT risk assessment and AML/CFT mitigation measures to be effective, DNFBPs should ensure that their employees have a clear understanding of the ML/FT risks that the DNFBP is exposed to and can exercise sound judgment, both when adhering to the DNFBP's AML/CFT risk mitigation measures and when identifying suspicious transactions. Furthermore, due to the ever-evolving nature of ML/FT risks, DNFBPs should ensure that their employees are kept up to date on an ongoing basis in relation to emerging ML/FT typologies and new internal and external risks. Depending on the nature, size and level of complexity of a DNFBP, a DNFBP should also screen staff to ensure high standards when hiring employees.

Thus, to ensure a high level of competence and AML/CFT programme effectiveness, DNFBPs should formulate and implement appropriate policies, procedures and controls with regard to staff screening and training. An effective training program should not only explain the relevant AML/CFT laws and regulations, but also cover the institutions' policies and procedures used to mitigate ML/FT risks, scope of target employees such as but not limited:

- Customer-facing staff.
- AML/CFT compliance staff.
- Senior management and board of directors

These measures should be applied across organisations and financial groups, including their foreign branches and majority-owned subsidiaries. Examples of some of the factors that

should be considered when determining appropriate staff screening and training measures include, but are not limited to:

- The results of the NRA and other topical risk assessments
- The nature, size, complexity, and risk profile of DNFBPs' sectors and businesses, as well as those associated with the products and services they offer and the markets and customer segments they serve;
- Effective screening and selection methods in relation the AML/CFT cultural compatibility of their employment candidates;
- Assessment of staff AML/CFT competency in relation to training and development needs;
- The type, frequency, structure, content, and delivery channels of AML/CFT training programmes and development opportunities;
- The effective identification, deployment and management of both internal and external training resources;
- Appropriate methods and tools for assessing the effectiveness of staff hiring, training, and development programmes, including screening procedures to ensure high standards when hiring employees.

8.3 Group Oversight

(AML-CFT Decision Articles 20, 31, 32)

When a DNFBP is part of a gropup, the DNFBP is obliged to implement appropriate group-wide AML/CFT programmes, and to apply them in relation to all branches and majority-owned subsidiaries of the financial group. The specific requirements that must be met by DNFBPs with respect to their foreign branches and majority-owned subsidiaries are set out in the relevant provisions of the AML-CFT Decision, and reflect those to which DNFBPs are subject within the State.

In meeting these obligations with regard to their branches and majority-owned subsidiaries in foreign countries, DNFBPs, and in particular DNFBPs that are members of financial groups, should ensure that the measures they apply are consistent with the requirements of the AML-CFT Law and AML-CFT Decision. In this regard, DNFBPs should establish appropriate policies and procedures for the exchange and sharing of data and information, including those required for the purposes of CDD and ML/FT risk management, between the foreign branches and subsidiaries and the head office, for the purpose of combating the crimes of money laundering and the financing of terrorism and of illegal organisations, and for reporting suspicious transactions.

In situations where these measures are not possible due to legislative or regulatory restrictions in the foreign countries in which their branches and majority-owned subsidiaries operate, DNFBPs (including those which are members of Financial Groups) should implement the necessary additional measures, commensurate with the nature and size of their businesses, that will enable them to manage and mitigate appropriately the ML/FT risks that relate to their foreign operations. Examples of some of the measures that should be considered include but are not limited to:

- Assessing the effectiveness of foreign branches and majority-owned subsidiaries' AML/CFT measures, including evaluating such factors as the comprehensiveness and quality of their policies, procedures and controls, and performing gap analyses in relation to the requirements of the AML-CFT Law and AML-CFT Decision;
- Establishing clear policies, procedures and controls in relation to the type and extent of access which managers and employees of foreign branches and majority-owned subsidiaries have to the DNFBPs' IT and operational systems, including CDD and transaction processing systems;
- Establishing clear policies, procedures and controls in relation to the type and extent of access which customers and Business Relationships of foreign branches and majority-owned subsidiaries have to the DNFBPs' products, services and transactional processing capabilities;
- Establishing clear policies, procedures and controls in relation to the type of CDD and transaction-related information, data, and analysis DNFBPs accept from their foreign branches and majority-owned subsidiaries in relation to customer or Business Relationship referrals, and the extent of their reliance on such information (see Section 6.6, Reliance on a Third Party);
- Implementing service-level agreements, clearly setting out the roles and responsibilities of the parties and specifying the nature of the CDD and record-keeping requirements to be fulfilled in relation to customer or Business Relationship referrals;
- Establishing protocols for the certification by the foreign branches and subsidiaries of documents and other records pertaining to the CDD measures undertaken in relation to customer or Business Relationship referrals.

In particular, in cases in which the minimum AML/CFT requirements of host countries in which DNFBPs maintain foreign operations are less strict than those of the State, DNFBPs should take the necessary measures to ensure that their foreign branches and/or majority-owned subsidiaries in those countries implement requirements consistent with those of the State, to the extent permitted by the laws and regulations of the host countries. If such host countries do not permit the proper implementation of the AML/CFT requirements consistent with those of the State, DNFBPs should apply appropriate additional measures to manage and mitigate

the ML/FT risks (including but not limited to those described above). They should also inform the relevant Supervisory Authorities of the circumstances and comply with any additional supervisory actions, controls, or requirements of the Competent Authorities of the State (up to and including, if requested, terminating their operations in the host countries).

8.4 Independent Audit Function

(AML-CFT Decision Article 20.6)

A robust and independent audit function is a key component to a well-functioning governance structure and an effective AML/CFT framework. DNFBPs are obliged to have in place an independent audit function to test the effectiveness and adequacy of their internal polices, controls and procedures relating to combating the crimes of money laundering and the financing of terrorism and of illegal organisations. In this regard, DNFBPs should ensure that their independent audit function is appropriately staffed and organized, and that it has the requisite competencies and experience to carry out its responsibilities effectively, commensurate with the ML/FT risks to which the DNFBPs are exposed, and with the nature and size of their businesses.

It should be noted that, while most DNFBPs are expected to have the capacity to meet these requirements internally, depending on the nature and size of their businesses, some DNFBPs (particularly smaller ones) may not necessarily have the resources to maintain a fully functioning and effective internal audit unit. In such cases, those DNFBPs should ensure that they take adequate measures to obtain the necessary capabilities from qualified external sources. They should also ensure that they have in place adequate internal capabilities to provide sufficient coordination with and oversight of any external resources they may utilise, and that such external resources are adequately regulated and supervised by relevant Competent Authorities.

DNFBPs should ensure that the periodic inspection and testing of all aspects of their AML/CFT compliance programmes, including ML/FT business risk assessment and AML/CFT mitigation measures, and CDD policies, procedures and controls, is incorporated into their regular audit plans. They should also ensure that all their branches and the subsidiaries in which they hold a majority interest, whether domestic or foreign, are part of an independent audit testing programme that covers the effectiveness and adequacy of their internal AML/CFT polices, controls and procedures.

Some of the factors DNFBPs should consider in determining the appropriate frequency and extent of audit testing of their AML/CFT programmes by their independent audit functions include but are not limited to:

- The results of the NRA and other topical risk assessments;

- The nature, size, complexity, and geographic scope of the DNFBPs' businesses, and the results of their ML/TF business risk assessments;
- The risk profile associated with the products and services they offer and the markets and customer segments they serve;
- The frequency of supervision and inspection by, and the nature of the feedback (including the imposition of administrative sanctions) they receive from, Supervisory Authorities, relative to enhancing the effectiveness of their AML/CFT measures;
- Internal and external developments in relation to ML/FT risks, as well as developments pertaining to the management and operations of the DNFBPs.

The scope of such audits should include but not be limited to:

- Examine the adequacy of AML/CFT and CDD policies, procedures and processes, and whether they comply with regulatory requirements.
- Assess training adequacy, including its comprehensiveness, accuracy of materials, training schedule, attendance tracking and escalation procedures for lack of attendance.
- Review all the aspects of any AML/CFT compliance function that have been outsourced to third parties, including the qualifications of the personnel, the contract and the performance and reputation of the company.
- Review case management and STR systems, including an evaluation of the research and referral of unusual transactions, and a review of policies, procedures and processes for referring unusual or suspicious activity from all business lines to the personnel responsible for investigating unusual activity

8.5 Responsibilities of Senior Management

(AML-CFT Decision Articles 4.2(a), 4.2(b)(5), 8.1(a), 15.1(b) and 15.2, 17.3, 21.3, 25.1(d))

A cornerstone of any sound governance structure, including those related to AML/CFT compliance, is senior management involvement and accountability. The members of a DNFBP's senior management (together with the members of the board of directors in those organisations that have one) are ultimately responsible for the quality, strength and effectiveness of the DNFBP's AML/CFT framework, as well as for the robustness of its compliance culture. In this regard, a DNFBP's senior management should set the ML/FT risk appetite and a proper "tone at the top," by demonstrating their commitment to ensuring an effective AML/CFT compliance programme is in place, and by clearly articulating their

expectations with regard to the responsibilities and accountability of all staff members in relation to it.

Under the AML/CFT legal and regulatory framework of the UAE, the senior management of all DNFBPs are responsible for performing certain functions related to the assessment, management and mitigation of the ML/FT risks to which their organisations are exposed. These responsibilities can be grouped broadly into categories which include:

- Implementation of governance, control, and operating systems. These include such elements as:
  - Appointing a qualified compliance officer in line with the requirements of the relevant Supervisory Authority;
  - Ensuring a robust and effective independent audit function is in place;
  - Putting in place and monitoring the implementation of adequate management and information systems, internal controls, and policies, procedures to mitigate risks.
- Approval of internal policies, procedures and controls. These include such elements as the DNFBP's overall ML/FT risk appetite as well as the framework of AML/CFT policies, procedures and controls related to areas such as:
  - Identification, assessment, understanding, management and mitigation of ML/FT risks;
  - Performance, review and updating of CDD (including EDD and SDD) measures;
  - Identification and implementation of indictors to identify suspicious transactions;
  - Record retention and data protection;
  - Staff screening, training and development.
- Oversight of the AML/CFT compliance programme. This includes such elements as:
  - Reviewing and providing comments in relation to the compliance officer's semi-annual reports to the relevant Supervisory Authority;
  - Approving the establishment and continuance of High Risk Customer Business Relationships and their associated transactions, including those with PEPs;
  - Approving the establishment and continuance of Business Relationships involving high-risk countries;
  - Ensuring the adequate application of the appropriate components of the AML/CFT compliance programme to all branches and majority-owned subsidiaries, including those operating in foreign jurisdictions.
- Application of the directives of Competent Authorities. This includes such elements as:
  - Applying the directives of Competent Authorities for implementing UN Security Council decisions under Chapter VII of the Charter of the United Nations, and other related directives, including Cabinet Decision (74) of 2020 Regarding Terrorism Lists

Regulation and Implementation of UN Security Council Resolutions On the Suppression and Combating of Terrorism, Terrorists Financing & Proliferation of Weapons of Mass Destruction, and Related Resolutions;

- Implementing CDD measures defined by the National Committee for Combating Money Laundering and the Financing of Terrorism and Illegal Organisations, regarding High Risk Countries.

8.6 Governance Issues of Small Organisations

Some DNFBPs may operate as small or mid-sized businesses, without large staff organisations or sophisticated IT infrastructures. In such cases, individual managers and employees may often be called upon to undertake multiple roles and responsibilities in the course of day-to-day business activities, and it may be difficult at times to maintain a clear separation of duties or functions. While a DNFBP's small size does not in any way exempt it from fulfilling its obligations under the AML-CFT Law and AML-CFT Decision, and without prejudice to guidance provided in the previous sections, the following additional considerations are of particular importance to small and mid-sized DNFBPs.

- In situations in which the responsibilities of the AML/CFT compliance officer are delegated to a manager or staff member who also has other responsibilities, DNFBPs should undertake their best efforts to ensure that the designated AML/CFT compliance officer does not have day-to-day responsibility for sales and/or customer business relationship management.

- When an adequate separation of responsibilities is not possible due to the small size of a DNFBP's organisation, DNFBPs should take the necessary steps to ensure that operational and AML/CFT policies and procedures (particularly those pertaining to CDD, the identification and reporting of Suspicious Transactions, and the monitoring and updating of required High Risk Country CDD measures, and Local and Sanctions Lists—see Sections 6, Customer Due Diligence (CDD), 6.4.3 Requirements for High-Risk Countries, and 10, International Financial Sanctions) are clearly formulated, documented, and adhered to during the establishment and ongoing monitoring of business relationships and the carrying out of transactions.

- In such cases, DNFBPs should ensure that they clearly document the rationale for any policy and/or procedural exceptions they make, along with any additional AML/CFT risk mitigation measures they implement, and that these records are properly retained in accordance with the statutory record-keeping requirements (see Section 9, Record Keeping). DNFBPs should also consider referring to any significant policy or procedural exceptions, along with their rationale, associated additional AML/CFT risk mitigation measures, and senior management comments, in the AML/CFT compliance officer's required semi-annual reports to the relevant Supervisory Authorities.

- DNFBPs that are unable to ensure a clear and effective separation of AML/CFT responsibilities from those related to the day-to-day management of their businesses, including but not limited to sales and customer business relationship management functions, due to the small size of their organisation should also consider taking additional measures to enhance the application of their independent audit controls (see Section 8.4, Independent Audit Function). Examples of such measures include but are not limited to:

  - Incorporating the audit of policies, procedures (particularly those pertaining to CDD, the identification of Suspicious Transactions, and the monitoring and updating of required High Risk Country CDD measures, and Local and Sanctions Lists), and records related to exceptions made to them, as part of their audit plans and/or their service-level agreements with their external providers of independent audit services;
  - Increasing the frequency of independent audits and random audit inspections;
  - Applying stricter criteria with regard to the review of past transactions, such as increasing the number of transactions reviewed for a given time period, reducing size threshold limits for transactions to be reviewed, or taking other reasonable measures in this regard.

9. Record Keeping

9.1 Obligations and Timeframe for the Retention and Availability of Records

(AML-CFT Law Articles 16.1(a),(f); AML-CFT Decision Articles 7.2, 24, 36, 37.3)

DNFBPs are obliged to maintain detailed records, documents, data and statistics for all transactions, all records obtained through CDD measures, account files and business correspondence, and results of any analysis undertaken, as well as a variety of record types and documents associated with their ML/FT risk assessment and mitigation measures, as specified in the relevant provisions of the AML-CFT Decision (see Section 9.2, Required Record Types). DNFBPs are required to maintain the records in an organized fashion so as to permit data analysis and the tracking of financial transactions, and to make the records available to the Competent Authorities immediately upon request. They should be sufficient to permit reconstruction of individual transactions so as to provide, if necessary, evidence for prosecution of criminal activity. All CDD information and transaction records should be available swiftly to Competent Authorities upon appropriate authority.

The statutory retention period for all records is at least five (5) years, depending on the circumstances, from the date of the most recent of any of the following events:

- Termination of the Business Relationship or the closing of a customer's account with the FI;
- Completion of an occasional transaction (in respect of a customer with whom no Business Relationship is established);
- Completion of an inspection of the records by the Supervisory Authorities;
- The issue date of a final judgment by the competent judicial authorities;
- Liquidation, dissolution, or other form of termination of a legal person or arrangement.

Without prejudice to the above, DNFBPs should note that it is the prerogative of the Competent Authorities to require the retention of the records of any DNFBP, whether data, statistics, or records pertaining to a specific customer or transaction or to general categories of customers or transactions which they deemed to be of interest, for a longer period of time at their own discretion.

In order to fulfil their record-keeping obligations, and commensurate with the nature and size of their businesses, DNFBPs should determine the appropriate policies, procedures and controls related to the adequate retention, organisation, and maintenance of records. The policies, procedures and controls should be documented, approved by senior management, and communicated to appropriate levels of the organisation. Examples of the factors which

DNFBPs should give consideration to when formulating the relevant policies, procedures and controls, include but are not limited to:

- Organisational roles and responsibilities in regard to the ML/TF business risk assessment, implementation, review and updating of AML/CFT policies, procedures and controls related to record-keeping and data protection, including appropriate business contingency and escalation procedures;
- Organisational roles and responsibilities in relation to record-keeping (including logging, cataloguing and organisation, archiving, handling and transferring of records and documents, as well as of the destruction of expired records) of CDD information and transactions;
- Physical and cyber security, and the protection of active and archived data and records from unauthorised access;
- Appropriate audit and quality assurance testing policies.

9.2 Required Record Types

(AML-CFT Law Articles 16.1(a),(b),(f); AML-CFT Decision Articles 7.2, 24)

The AML-CFT Law and AML-CFT Decision oblige DNFBPs to retain several types of records, which can be classified broadly into the following categories:

- Transaction Records. This category relates to operational and statistical records, documents and information concerning all (commercial or financial) transactions executed or processed by the DNFBP, whether domestic or international in nature.
- CDD Records. This category relates to records, documents, and information about customers, their due diligence, and the investigation and analysis of their activities, and can be further divided into sub-categories such as records pertaining to:
  - Customer Information, including account files and business correspondence, and results of any analysis undertaken
  - Company Information
  - Reliance on Third Parties to Undertake CDD
  - Ongoing Monitoring of Business Relationships
  - Suspicious Transaction Reports (STRs)

Additional guidance related to these record types is provided in the following sub-sections.

9.2.1 Transactions

(AML-CFT Law Articles 16.1(f); AML-CFT Decision Articles 24.1-3, 28.1-2, 29.4)

DNFBPs are obliged to retain the operational and statistical records, documents and information concerning all (commercial or financial transactions) transactions executed or processed by the DNFBP, whether domestic or international in nature, and irrespective of the type of customer and whether or not a Business Relationship is maintained, for a minimum period of five (5) years. Some examples of the type of records, documents and information which must be retained include but are not limited to:

- Customer correspondence, requests or order forms related to the initiation and performance of all types of transactions and related agreements;
- Customer payment advices, receipts, invoices, billing notifications, bills of exchange, statements of account, expense reimbursement requests or notifications;
- Escrow or fiduciary account transaction records;
- Sale, purchase, lease, merger-acquisition, and similar agreements;
- Statistics and analytical data related to customers' financial transactions, including their monetary values, volumes, currencies, interest rates, and other information.

In addition to the above, DNFBPs should compile notes on any particularly large or unusual transactions, and keep these notes as part of their records.

9.2.2 Customer Information

(AML-CFT Law Articles 16.1(b); AML-CFT Decision Articles 24.2-4, 27.7, 28.1-2, 29.4, 37.1-3)

DNFBPs are required to retain all customer records and documents obtained through the performance of CDD measures in relation to Business Relationships, including customers, Beneficial Owners, beneficiaries, or other controlling persons. Examples of such records include but are not limited to:

- Customer account information and files;
- Customer correspondence (including email and fax correspondence), call reports or meeting minutes (including where applicable recordings, transcripts or logs of telephone or videophone calls);
- Copies of personal identification documents, CDD (including EDD and SDD) forms, profiles and supporting documentation, and results of due diligence background searches, queries and investigations;
- Customer risk assessment and classification records.

9.2.3 Company Information

(AML-CFT Law Articles 16.1(b); AML-CFT Decision Articles 8.1(b), 9.1, 34-36)

The AML-CFT Decision provides that the administrators, liquidators, or any other stakeholders involved in the dissolution of a company are obliged to retain the records, documents and information specified in the relevant articles for a minimum period of five (5) years from the date of its dissolution, liquidation or termination. These records pertain to corporate documents as well as to information on Beneficial Owners, legal shareholders, and senior managers. Such records include but are not limited to documents and information concerning:

- Company formation, registration, deregistration, liquidation, dissolution or expiry, including documents such as share registers, memoranda and articles of association, deeds of settlement and foundation charters, or similar documents, along with any amendments to them (whether the organisation is for-profit or not-for-profit);
- Changes to company information, such as name, registered address, legal representatives and corporate officers (directors, company secretary), or legal form;
- Identification and identity verification documents related to Beneficial Owners, shareholders, nominee shareholders, directors and senior management officers and, in the case of Legal Arrangements, settlors or founders, protectors, beneficiaries, trustees or executors, governing council or committee members, or similar controlling persons.

In order to fulfil their statutory record-keeping obligations in this regard, DNFBPs should determine the appropriate policies, procedures and controls related to the adequate retention, organisation, and maintenance of records when they dissolve or liquidate companies in which they hold a controlling interest. The policies, procedures and controls should be documented, approved by senior management, and communicated to appropriate levels of the organisation (see Section 9.1, Obligations and Timeframe for the Retention and Availability of Records for additional guidance concerning policies, procedures, controls and statutory retention periods related to record-keeping and data protection).

9.2.4 Reliance on Third Parties to Undertake CDD

(AML-CFT Law Article 16.1(b); AML-CFT Decision Articles 24.2-4, 19.1(b)-2(a))

DNFBPs that rely on third parties, whether unaffiliated or members of their own financial groups, are obliged to ensure that copies of all the necessary documents collected through the performance of CDD measures can be obtained upon request and without delay, and that the third parties adhere to the record-keeping provisions of the AML-CFT Decision. See Section 9.2.2, Customer Information above for examples of such records.

In order to fulfil their statutory obligations, and commensurate with the nature and size of their

businesses, DNFBPs should determine the appropriate policies, procedures and controls related to the assessment, monitoring, and testing of third parties' record-retention frameworks. The policies, procedures and controls should be documented, approved by senior management, and communicated to appropriate levels of the organisation. Some of the factors to which DNFBPs should give consideration when formulating relevant policies, procedures and controls include but are not limited to:

- Organisational roles and responsibilities in regard to the assessment, monitoring and testing of the third party's policies, procedures and controls related to record-keeping and data protection, including appropriate business contingency and escalation procedures;
- Organisational roles and responsibilities for the implementation of service-level agreements with third parties governing the provision of record-keeping services;
- Operational procedures related to request and transfer of records and documents, as well as their physical and cyber security, and the protection of active and archived data and records from unauthorised access;
- Appropriate audit and quality assurance testing policies related to the monitoring and testing of the third-party's record-retention framework.

9.2.5 Ongoing Monitoring of Business Relationships

(AML-CFT Law Article 16.1(b),(f); AML-CFT Decision Article 24.2-4)

DNFBPs are required to retain all customer records and documents obtained through the ongoing monitoring of Business Relationships. Examples of such records include but are not limited to:

- Transaction review, analysis, and investigation files, with their related correspondence;
- Customer correspondence (including email and fax correspondence), call reports or meeting minutes (including where applicable recordings, transcripts or logs of telephone or videophone calls) related to those transactions or their analysis and investigation;
- CDD records, documents, profiles or information gathered in the course of reviewing, analysing or investigating transactions, as well as transaction-related supporting documentation, including the results of background searches on customers, Beneficial Owners, beneficiaries, controlling persons, or counterparties to transactions;
- Transaction handling decisions, including approval or rejection records, together with related analysis and correspondence.

9.2.6 Suspicious Transaction Reports (STRs)

(AML-CFT Law Article 16.1(f); AML-CFT Decision Articles 24.2-4)

DNFBPs are required to retain all records and documents pertaining to STRs and the results of all analysis or investigations performed. Such records relate to both internal STRs and those filed with the FIU, and include but are not limited to:

- Suspicious transaction indicator alert records, logs, investigations, recommendations and decision records, and all related correspondence;
- Competent authority request for information, requests for assistance by FIs or other DNFPBs, and their related investigation files and correspondence;
- CDD and Business Relationship monitoring records, documents and information obtained in the course of analysing or investigating potentially suspicious transactions, and all internal or external correspondence or communication records associated with them;
- STRs (internal and external), logs, and statistics, together with their related analysis, recommendations and decision records, and all related correspondence;
- Notes concerning feedback provided by the FIU with respect to reported STRs, as well as notes or records pertaining to any other actions taken by, or required by, the FIU.

10. International Financial Sanctions

The UAE is a member of several multinational and international organisations and governing bodies, including the United Nations. As such, the UAE is a party to many international agreements and conventions pertaining to the combating of money laundering and the financing of terrorism, as well as to the prevention and suppression of the proliferation of weapons of mass destruction. These conventions include, among others, the *International Convention for the Suppression of the Financing of Terrorism* and the *Treaty on the Non-Proliferation of Nuclear Weapons*.

DNFBPs are obliged to comply with the directives of the Competent Authorities of the State in relation to the agreements and conventions referred to above, including but not limited to Cabinet Decision No. (**74**) of **2020** *Regarding Terrorism Lists Regulation and Implementation of UN Security Council Resolutions On the Suppression and Combating of Terrorism, Terrorists Financing & Proliferation of Weapons of Mass Destruction, and Related Resolutions*.

Because it is outside of the scope of these Guidelines to provide detailed guidance on this, reference is made to the guidance on TFS issued by the Executive Office for the Import and Export of Goods. Due to the significance, complexity and extent of the subject matter of international financial sanctions, it is deemed appropriate that this material be covered in depth in separate guidance materials.

Part V—Appendices

11 Appendices

11.1 Glossary of Terms

Term	Definition
Beneficial Owner:	Natural person who owns or exercises effective ultimate control, directly or indirectly, over a customer or the natural person on whose behalf a transaction is being conducted or, the natural person who exercises effective ultimate control over a legal person or Legal Arrangement.
Business Relationship	Any ongoing commercial or financial relationship established between Financial Institutions, Designated Non-Financial Businesses and Professions, and their customers in relation to activities or services provided by them.
Committee:	National Committee for Combating Money Laundering and the Financing of Terrorism and Illegal Organisations.
Competent Authorities:	The competent government authorities in the State entrusted with the implementation of any provision of the Decree-Law and the present Decision.
Crime:	Money laundering crime and related Predicate Offences, or Financing of Terrorism or Illegal Organisations.
Customer Due Diligence (CDD):	Process of identifying or verifying the information of a Customer or Beneficial owner, whether a natural or legal person or a Legal Arrangement, and the nature of its activity and the purpose of the Business Relationship and the ownership structure and control over it for the purposes of the Decree-Law and this Decision.
Customer:	Any person involved in or attempts to carry out any of the activities specified in the Implementing Regulations of this Decree Law (Articles 2 and 3 the Cabinet Resolution) with one of the Financial Institutions or Designated Nonfinancial Businesses and Professions.
Decree-Law (or “AML-CFT Law”):	Federal Decree-Law No. (20) of 2018 On Anti-Money Laundering and Combating the Financing of Terrorism and Financing of Illegal Organisations.
Decision (or “AML-CFT Decision” or “Cabinet Decision”):	Cabinet Decision No. (10) of 2019 Concerning the Implementing Regulation of Decree Law No. (20) of 2018 On Anti-Money Laundering and Combating the Financing of Terrorism and Illegal Organisations.

Term	Definition
Designated Nonfinancial Businesses and Professions (DNFBPs):	Anyone who conducts one or several of the commercial or professional activities defined in Article 3 of the Cabinet Decision, being anyone who is engaged in the following trade or business activities: 1. Brokers and real estate agents when they conclude operations for the benefit of their Customers with respect to the purchase and sale of real estate 2. Dealers in precious metals and precious stones in carrying out any single cash transaction or several transactions that appear to be interrelated or equal to more than AED 55,000. 3. Lawyers, notaries, and other independent legal professionals and independent accountants, when preparing, conducting or executing financial transactions for their Customers in respect of the following activities: (a) Purchase and sale of real estate. (b) Management of funds owned by the Customer. (c) Management of bank accounts, saving accounts or securities accounts. (d) Organising contributions for the establishment, operation or management of companies. (e) Creating, operating or managing legal persons or Legal Arrangements. (f) Selling and buying commercial entities. 4. Providers of corporate services and trusts upon performing or executing a transaction on the behalf of their Customers in respect of the following activities: (a) Acting as an agent in the creation or establishment of legal persons. (b) Working as or equipping another person to serve as director or secretary of a company, as a partner or in a similar position in a legal person. (c) Providing a registered office, work address, residence, correspondence address or administrative address of a legal person or Legal Arrangement. (d) Performing work or equipping another person to act as a trustee for a direct Trust or to perform a similar function in favour of another form of Legal Arrangement. (e) Working or equipping another person to act as a nominal shareholder in favour of another person. 5. Other professions and activities which shall be determined by a decision of the Minister

Term	Definition
Egmont Group:	The Egmont Group is an intergovernmental body of 159 Financial Intelligence Units (FIUs), which provides a platform for the secure exchange of expertise and financial intelligence to combat money laundering and the financing of terrorism (ML/FT).
FATF:	The Financial Action Task Force is an inter-governmental body that sets international standards and promotes effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system.
FSRBs:	FATF-Style Regional Bodies are regional intergovernmental organisations which promote and assess the implementation of internationally accepted AML/CFT policies and regulations.
Financial Group:	A group of financial institutions that consists of holding companies or other legal persons exercising the control over the rest of the group and coordinating functions for the application of supervision on the group, branch, and subsidiary level, in accordance with the international core principles for financial supervision, and AML/CFT policies and procedures.
Financial Institution:	Anyone who conducts one or several of the financial activities or operations of /or on behalf of a Customer.
Financial Transactions or Activities:	Any activity or transaction defined in Article (2) of the Cabinet Decision.
Financing of Illegal Organisations:	Any physical or legal action aiming at providing funding to an illegal organisation, or any of its activities or members.
Financing of Terrorism:	Any of the acts mentioned in Articles (29, 30) of Federal Law no. (7) of 2014 on combating terrorism offences.
FIU:	Financial Intelligence Unit.
Funds:	Assets in whatever form, whether tangible, intangible, movable or immovable including national currency, foreign currencies, documents or notes evidencing the ownership of those assets or associated rights in any forms including electronic or digital forms or any interests, profits or income originating or earned from these assets.

Term	Definition
High Risk Customer:	A customer who represents a risk either in person, activity, Business Relationship, nature or geographical area, such as a customer from a high-risk country or non-resident in a country that does not hold an identity card, or a costumer having a complex structure, performing complex operations or having unclear economic objective, or who conducts cash-intensive operations, or operations with an unknown third party, or operations without directly confronting any other high risk operations identified by Financial Institutions, or Designated Non-Financial Businesses and Professions, or the Supervisory Authority.
Illegal Organisations:	Organisations whose establishment is criminalised or which exercise a criminalised activity.
Intermediary Account:	Corresponding account used directly by a third party to conduct a transaction on its own behalf.
Law Enforcement Authorities:	Federal and local authorities which are entrusted under applicable legislation to combat, search, investigate and collect evidences on the crimes including AML/CFT crimes and financing illegal organisations.
Legal Arrangement:	A relationship established by means of a contract between two or more parties which does not result in the creation of a legal personality such as Trusts or other similar arrangements.
MENAFATF:	MENAFATF is a FATF-Style Regional Body (FSRB), for the purpose of fostering co-operation and co-ordination between the countries of the MENA region in establishing an effective system of compliance with international AML/CFT standards. The UAE is one of the founding members of MENAFATF.
Means:	Any means used or intended to be used for the commitment of an offence or felony.
Minister:	Minister of Finance
Money Laundering:	Any of the acts mentioned in Clause (1) of Article (2) of the Decree-Law.
Non-Profit Organisations (NPOs):	Any organized group, of a continuing nature set for a temporary or permanent time period, comprising natural or legal persons or not for profit Legal Arrangements for the purpose of collecting, receiving or disbursing funds for charitable, religious, cultural, educational, social, communal or any other charitable activities.

Term	Definition
Politically Exposed Persons (PEPs):	Natural persons who are or have been entrusted with prominent public functions in the State or any other foreign country such as Heads of States or Governments, senior politicians, senior government officials, judicial or military officials, senior executive managers of state-owned corporations, and senior officials of political parties and persons who are, or have previously been, entrusted with the management of an international organisation or any prominent function within such an organisation; and the definition also includes the following: 1. Direct family members (Of the PEP, who are spouses, children, spouses of children, parents). 2. Associates known to be close to the PEP, which include: a- Individuals having joint ownership rights in a legal person or arrangement or any other close Business Relationship with the PEP. b- Individuals having individual ownership rights in a legal person or arrangement established in favour of the PEP.
Predicate Offense:	Any act constituting an offense or misdemeanour under the applicable laws of the State whether this act is committed inside or outside the State when such act is punishable in both countries.
Proceeds:	Funds generated directly or indirectly from the commitment of any crime or felony including profits, privileges, and economic interests, or any similar funds converted wholly or partly into other funds.
RBA:	A Risk-Based Approach is a method for allocating resources to the management and mitigation of ML/FT risk in accordance with the nature and degree of the risk.
Registrar:	Entity in charge of supervising the register of commercial names for all types of establishments registered in the State.
Sanctions Committee:	The UN Security Council Committee established as per resolution nos. 1988 (2011), 1267 (1999), 1989 (2011), 2253 (2015), 1718 (2006) and all other related resolutions.
Sanctions List:	A list wherein individuals and terrorist organisations, which are subject to the Sanctions imposed as per the Security Council Sanctions Committee are listed, along with their personal data and the reasons for Listing.
Settlor:	A natural or legal person who transfers the control of his funds to a Trustee under a document.

Term	Definition
Shell Bank	Bank that has no physical presence in the country in which it is incorporated and licensed, and is unaffiliated with a regulated financial group that is subject to effective consolidated supervision.
State:	United Arab Emirates
Supervised institutions:	Financial institutions (DNFBPs) and Designated Non-Financial Businesses and Professions (DNFBPs) which fall under the scope of Federal Decree-Law No. (20) of 2018 on Facing Money Laundering and Combating the Financing of Terrorism and Illegal Organisations, and of Cabinet Decision No. (10) of 2019 Concerning the Implementing Regulation of Decree Law No. (20) of 2018 On Anti-Money Laundering and Combating the Financing of Terrorism and Illegal Organisations.
Supervisory Authority:	Federal and local authorities, which are entrusted by legislation to supervise Financial Institutions, Designated Non-Financial Businesses and Professions and non-profit organisations or the Competent Authority in charge of approving the pursuit of an activity or a profession in case a supervisory authority is not assigned by legislations.
Suspicious Transactions:	Transactions related to funds for which there are reasonable grounds to believe that they are earned from any misdemeanour or felony or related to the Financing of Terrorism or of illegal organisations, whether committed or attempted.
TFS:	Targeted Financial Sanctions are part of an international sanctions regime issued by the UN Security Council under Chapter (7) of the United Nations Convention for the Prohibition and Suppression of the Financing of Terrorism and Proliferation of Weapons of Mass Destruction.
Transaction (incl Commercial Transaction):	Any business of either dealing, structuring, advising, drafting, appearing, arranging for funding or investing, preparing documentation or disposal or use of Funds or proceeds including for example: deposit, withdrawal, conversion, sale, purchase, lending, swap, mortgage, and donation.
Trust:	A legal relationship in which a settlor places funds under the control of a trustee for the interest of a beneficiary or for a specified purpose. These assets constitute funds that are independent of the trustee's own estate, and the rights to the trust assets remain in the name of the settlor or in the name of another person on behalf of the settlor.

Term	Definition
Trustee:	A natural or legal person who has the rights and powers conferred to him by the Settlor or the Trust, under which he administers, uses, and acts with the funds of the Settlor in accordance with the conditions imposed on him by either the Settlor or the Trust.
Wire Transfer:	Financial transaction conducted by a Financial Institution or through an intermediary institution on behalf of a transferor whose funds are received by a beneficiary in another financial institution, whether or not the transferor and the beneficiary are the same person.

11.2 Useful Links

Institution	URL
Abu Dhabi Global Market	https://www.adgm.com/
Abu Dhabi Securities Exchange	http://www.adx.ae/
Basel Committee on Banking Supervision (BCBS)	http://www.bis.org/bcbs/index.htm
Central Bank of the UAE	https://www.centralbank.ae
Dubai Financial Market	http://www.dfm.ae/
Dubai Financial Services Authority (DFSA)	http://www.dfsa.ae/
Egmont Group	https://egmontgroup.org
FATF	http://www.fatf-gafi.org
Gulf Cooperation Council For The Arab States (GCC)	http://www.gcc-sg.org/
International Organisation of Securities Commissions (IOSCO)	http://www.iosco.org/
Interpol/Money Laundering	http://www.interpol.int/Public/FinancialCrime/MoneyLaundering/default.asp
MENAFATF	http://www.menafatf.org/
Securities and Commodities Authority	http://www.sca.ae/
United Nations	http://www.un.org/
United Nations Office on Drugs & Crime – Global Programme Against Money Laundering	http://www.unodc.org/unodc/money-laundering/index.html
Wolfsberg Group	https://www.wolfsberg-principles.com/