

GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE
OF INFORMATION FOR TAX PURPOSES

Peer Review Report on the Exchange of Information
on Request

UNITED ARAB EMIRATES

2019 (Second Round)



Global Forum on Transparency and Exchange of Information for Tax Purposes: United Arab Emirates 2019 (Second Round)

PEER REVIEW REPORT ON THE EXCHANGE
OF INFORMATION ON REQUEST

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(reflecting the legal and regulatory framework
as at August 2019)

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Reader's guide

The Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) is the multi-lateral framework within which work in the area of tax transparency and exchange of information is carried out by over 150 jurisdictions that participate in the Global Forum on an equal footing. The Global Forum is charged with the in-depth monitoring and peer review of the implementation of the international standards of transparency and exchange of information for tax purposes (both on request and automatic).

Sources of the Exchange of Information on Request standards and Methodology for the peer reviews

The international standard of exchange of information on request (EOIR) is primarily reflected in the 2002 OECD Model Agreement on Exchange of Information on Tax Matters and its commentary, Article 26 of the OECD Model Tax Convention on Income and on Capital and its commentary and Article 26 of the United Nations Model Double Taxation Convention between Developed and Developing Countries and its commentary. The EOIR standard provides for exchange on request of information foreseeably relevant for carrying out the provisions of the applicable instrument or to the administration or enforcement of the domestic tax laws of a requesting jurisdiction. Fishing expeditions are not authorised but all foreseeably relevant information must be provided, including ownership, accounting and banking information.

All Global Forum members, as well as non-members that are relevant to the Global Forum's work, are assessed through a peer review process for their implementation of the EOIR standard as set out in the 2016 Terms of Reference (ToR), which break down the standard into 10 essential elements under three categories: (A) availability of ownership, accounting and banking information; (B) access to information by the competent authority; and (C) exchanging information.

The assessment results in recommendations for improvements where appropriate and an overall rating of the jurisdiction's compliance with the EOIR standard based on:

1. The implementation of the EOIR standard in the legal and regulatory framework, with each of the element of the standard determined to be either (i) in place, (ii) in place but certain aspects need improvement, or (iii) not in place.
2. The implementation of that framework in practice with each element being rated (i) compliant, (ii) largely compliant, (iii) partially compliant, or (iv) non-compliant.

The response of the assessed jurisdiction to the report is available in an annex. Reviewed jurisdictions are expected to address any recommendations made, and progress is monitored by the Global Forum.

A first round of reviews was conducted over 2010-16. The Global Forum started a second round of reviews in 2016 based on enhanced Terms of Reference, which notably include new principles agreed in the 2012 update to Article 26 of the OECD Model Tax Convention and its commentary, the availability of and access to beneficial ownership information, and completeness and quality of outgoing EOI requests. Clarifications were also made on a few other aspects of the pre-existing Terms of Reference (on foreign companies, record keeping periods, etc.).

Whereas the first round of reviews was generally conducted in two phases for assessing the legal and regulatory framework (Phase 1) and EOIR in practice (Phase 2), the second round of reviews combine both assessment phases into a single review. For the sake of brevity, on those topics where there has not been any material change in the assessed jurisdictions or in the requirements of the Terms of Reference since the first round, the second round review does not repeat the analysis already conducted. Instead, it summarises the conclusions and includes cross-references to the analysis in the previous report(s). Information on the Methodology used for this review is set out in Annex 3 to this report.

Consideration of the Financial Action Task Force Evaluations and Ratings

The Financial Action Task Force (FATF) evaluates jurisdictions for compliance with anti-money laundering and combating terrorist financing (AML/CFT) standards. Its reviews are based on a jurisdiction's compliance with 40 different technical recommendations and the effectiveness regarding 11 immediate outcomes, which cover a broad array of money-laundering issues.

The definition of beneficial owner included in the 2012 FATF standards has been incorporated into elements A.1, A.3 and B.1 of the 2016 ToR. The 2016 ToR also recognises that FATF materials can be relevant for carrying out EOIR assessments to the extent they deal with the definition of beneficial ownership, as the FATF definition is used in the 2016 ToR (see 2016 ToR, annex 1, part I.D). It is also noted that the purpose for which the FATF materials have been produced (combating money-laundering and terrorist financing) is different from the purpose of the EOIR standard (ensuring effective exchange of information for tax purposes), and care should be taken to ensure that assessments under the ToR do not evaluate issues that are outside the scope of the Global Forum's mandate.

While on a case-by-case basis an EOIR assessment may take into account some of the findings made by the FATF, the Global Forum recognises that the evaluations of the FATF cover issues that are not relevant for the purposes of ensuring effective exchange of information on beneficial ownership for tax purposes. In addition, EOIR assessments may find that deficiencies identified by the FATF do not have an impact on the availability of beneficial ownership information for tax purposes; for example, because mechanisms other than those that are relevant for AML/CFT purposes exist within that jurisdiction to ensure that beneficial ownership information is available for tax purposes.

These differences in the scope of reviews and in the approach used may result in differing conclusions and ratings.

More information

All reports are published once adopted by the Global Forum. For more information on the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes, and for copies of the published reports, please refer to www.oecd.org/tax/transparency and <http://dx.doi.org/10.1787/2219469x>.

Abbreviations and acronyms

2010 Terms of Reference	Terms of Reference related to EOIR, as approved by the Global Forum in 2010.
2016 Assessment Criteria Note	Assessment Criteria Note, as approved by the Global Forum on 29-30 October 2015.
2016 Methodology	2016 Methodology for peer reviews and non-member reviews, as approved by the Global Forum on 29-30 October 2015.
2016 Terms of Reference	Terms of Reference related to EOIR, as approved by the Global Forum on 29-30 October 2015.
2002 AML Law	Federal Law No. 4 of 2002 Regarding Criminalisation of Money Laundering
2018 AML Law	Federal Decree Law No. 20 of 2018 on Anti-Money Laundering, Combating the Financing of Terrorism and Financing of Illegal Organisations
ADGM	Abu Dhabi Global Market
AED	United Arab Emirates Dirham
AML	Anti-Money Laundering/Countering the Financing of Terrorism
AML By-Law	Cabinet Resolution No. 10 of 2019 Concerning the Implementing Regulation of Federal Decree Law No. 20 of 2018 on Anti-Money Laundering, Combating the Financing of Terrorism and Financing of Illegal Organisations
BOCR	Beneficial Ownership and Control Regulations of Abu Dhabi Global Market
CCL	Federal Commercial Companies Law
CDD	Customer Due Diligence

CIR	Jebel Ali Free Zone Companies Implementing Regulations 2016
CTL	Federal Commercial Transactions Law
DED	Department of Economic Development
DFSA	Dubai Financial Services Authority
DIFC	Dubai International Financial Centre
DMCC	Dubai Multi Commodities Centre
DNFBP	Designated Non-Financial Businesses or Profession as defined in the AML By-Law (federal and non-financial free zones), the DFSA Rulebook (for the DIFC) or the FSR AML Rulebook (for the ADGM), depending on the context
DTC	Double Tax Convention
EOI	Exchange Of Information
EOIR	Exchange Of Information on Request
FATF	Financial Action Task Force
FSRA	ADGM Financial Services Regulatory Authority
FZCo	Jebel Ali Free Zone Company
FZE	Jebel Ali Free Zone Establishment
Global Forum	Global Forum on Transparency and Exchange of Information for Tax Purposes
JAFZ	Jebel Ali Free Zone
MENAFATF	Middle East and North African Financial Action Task Force
Multilateral Convention (MAC)	Convention on Mutual Administrative Assistance in Tax Matters, as amended in 2010
OCR	Jebel Ali Free Zone Offshore Companies Regulations 2018
OECD	Organisation for Economic Co-operation and Development
PLC	Public Limited Company
RAK EZ	Ras Al Khaimah Economic Zone

RAK ICC	Ras Al Khaimah International Corporate Centre
ROC	Registrar of Companies
SCA	Securities and Commodities Authority
TIEA	Tax Information Exchange Agreement
ToR	Terms of Reference
UAE	United Arab Emirates
USD	United States Dollar
VAT	Value Added Tax

Executive summary

1. This report analyses the implementation of the international standard of transparency and exchange of information on request in the United Arab Emirates (UAE) in the second round of reviews conducted by the Global Forum against the 2016 Terms of Reference (ToR). It assesses the legal and regulatory framework as at 9 August 2019 and the practical implementation of this framework against the 2016 ToR, including in respect of EOI requests received during the review period of 1 April 2015 to 31 March 2018. This report concludes that the UAE is rated overall **Largely Compliant** with the international standard. In 2016 the Global Forum evaluated the UAE against the 2010 Terms of Reference for both the legal implementation of the EOIR standard as well as its operation in practice. The report of that evaluation (the 2016 report) concluded that the UAE was rated Partially Compliant overall.

Comparison of ratings for First Round Report and Second Round Report

Element	First Round Report (2016)	Second Round EOIR Report (2019)
A.1 Availability of ownership and identity information	LC	LC
A.2 Availability of accounting information	PC	LC
A.3 Availability of banking information	C	LC
B.1 Access to information	PC	LC
B.2 Rights and Safeguards	C	C
C.1 EOIR Mechanisms	PC	C
C.2 Network of EOIR Mechanisms	LC	C
C.3 Confidentiality	C	C
C.4 Rights and safeguards	C	C
C.5 Quality and timeliness of responses	NC	PC
OVERALL RATING	PC	LC

C = Compliant; LC = Largely Compliant; PC = Partially Compliant; NC = Non-Compliant

Progress made since previous review and key recommendations

2. The most notable improvements since the UAE's evaluation under the 2010 ToR have been the introduction of a comprehensive beneficial ownership regime, supported by a general revision of its Anti-Money Laundering and Countering the Financing of Terrorism (AML) rules, and the further development of the EOI apparatus.

3. In the 2016 report, the UAE's practice of responding to EOI requests was rated Non-Compliant for the period of 2012 to 2014. Most requests were unanswered or responses were very delayed. This reflected a lack of organised processes to respond to the demands of EOI partners for information held by persons and authorities across the multiple Emirates and free zones. The situation has vastly improved with the progressive expansion of the EOI team, better communication with peers and more streamlined processes. Communication with the various authorities who are required to obtain information in their jurisdictions, and their access powers under the law, have also improved significantly, leading to an upgrade to Largely Compliant on the element of the standard related to access to information (element B.1). The UAE should nevertheless continue to monitor these access powers and their enforcement provisions.

4. The UAE's efforts have not, however, fully accompanied the growth in EOI requests over the years. Many requests received in the review period remain outstanding, and it often took a long time for peers to receive responses from the UAE. Moreover, in many cases the UAE did not provide status updates within 90 days where a full or partial response could not be provided. These issues inevitably impacted the effectiveness of the UAE's EOI practice and the progress made is therefore insufficient to justify a rating beyond Partially Compliant on the quality and timeliness of responses (element C.5).

5. The 2016 report found that whilst federal commercial law required (non-financial) free zone entities to keep reliable accounting records, including underlying documentation, the legislation in most free zones varied from the federal law. The variations raised uncertainty as to whether reliable records were required to be kept in line with the standard throughout the free zones. The UAE has since improved the legal obligations for accounting records to be maintained in the free zones. However, in some instances, a lack of clarity remains regarding the interaction with federal rules in respect of keeping underlying documentation. The monitoring of accounting record-keeping obligations by the authorities has also improved, but some gaps persist. Nevertheless, UAE-wide authorities and businesses now have a better understanding of the need to have accounting records available for EOI purposes and this is reflected in the UAE's ability to provide such information to its peers during the review period. Element A.2 is therefore upgraded to Largely Compliant.

6. The UAE’s adherence to the multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC) has essentially closed past gaps in its network of EOI agreements, upgrading it to Compliant on element C.1. Other progress and recommendations are discussed in the report.

7. Whilst the 2016 report found that legal ownership information was available for most relevant entities and arrangements, the 2016 ToR now require *beneficial* ownership information to be available. The AML laws enacted in 2018-19 require it to be available in the hands of financial and non-financial service providers, commercial registrars, and legal entities and arrangements across the UAE. The UAE has made significant progress in enacting beneficial ownership requirements that are mostly in line with the international standard, within what is an inherently complex and fragmented legal system. However, some weaknesses remain, and the new AML regime is in its early stages of implementation, which means that the system is yet to be substantially tested in practice for EOI purposes. It is therefore recommended that the remaining gaps be fixed and that the UAE monitors the new regime in practice to ensure its effectiveness.

8. In light of the weaknesses in the relevant laws not being of a fundamental nature and the UAE’s ongoing work to supervise and enforce the application of its commercial and AML laws, the situation with respect to availability of ownership, identity and bank information, including beneficial ownership, justifies a rating of Largely Compliant on elements A.1 and A.3.

Exchange of information

9. The UAE has established itself as a trade and financial hub in the Middle East, with an economy focused on investment in airports, ports and services and a business environment connecting regional markets to the outside world. The UAE’s EOI relationships with exchange partners are driven by these business relations, the presence of a large and diversified cohort of expatriates in the country, including their ownership of UAE businesses, and financial services relationships. India accounts for three quarters of the requests received in the review period, due to a large representation of its residents and businesses in the UAE economy. Other partners are in Asia, Africa and Europe.

10. The UAE received 1 419 requests for information during the period from 1 April 2015 to 31 March 2018 (but counts each request for information from a separate source as a separate request, which means that it received much fewer “letters”).

Overall rating

11. The UAE has achieved a Compliant rating in five elements (B.2, C.1, C.2, C.3, C.4), Largely Compliant in four elements (A.1, A.2, A.3, B.1) and Partially Compliant in element C.5. The overall rating is therefore Largely Compliant. This report was approved at the Peer Review Group of the Global Forum in October 2019 and was adopted by the Global Forum on 8 November 2019. A follow up report on the steps undertaken by the UAE to address the recommendations made should be provided to the Peer Review Group no later than 30 June 2020 and thereafter in accordance with the 2016 Methodology.

Summary of determinations, ratings and recommendations

Determinations and Ratings	Factors underlying Recommendations	Recommendations
Jurisdictions should ensure that ownership and identity information, including information on legal and beneficial owners, for all relevant entities and arrangements is available to their competent authorities (<i>ToR A.1</i>)		
The legal and regulatory framework is in place, but certain aspects of the legal implementation need improvement	The definition of “beneficial owner” in the relevant federal and free zone regimes is not always fully consistent with the international standard.	The UAE should ensure that its legal framework requires beneficial ownership information to be available for all relevant entities and arrangements in line with the standard in all cases.
Rating: Largely Compliant	The new AML framework was only put in place in January 2019. Nevertheless, mechanisms to monitor the availability of beneficial ownership information were already in place with registration authorities and AML supervisory authorities. The robustness of these monitoring mechanisms varies among the different authorities. This results in the fact that, while a baseline of beneficial ownership information is available, the reliability of this information may be questioned in some cases. This would particularly be the case in respect of entities and arrangements that have not engaged a UAE bank and fall under the jurisdiction of a registration authority which does not perform checks that would provide comfort that the information is accurate.	The UAE should ensure that the new requirements to identify and verify beneficial owners of all relevant legal entities and arrangements are effectively implemented and that appropriate monitoring is carried out on the requirements to have beneficial ownership information available in all cases.

Determinations and Ratings	Factors underlying Recommendations	Recommendations
Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements (<i>ToR A.2</i>)		
<p>The legal and regulatory framework is in place, but certain aspects of the legal implementation need improvement</p>	<p>Under the federal Commercial Transactions Law (CTL), entities in the free zones other than financial free zones are required to keep reliable accounting records, including underlying documentation, for a period of at least five years. However, the legislation in some free zones analysed varies from the CTL in relation to the requirement to keep underlying documentation.</p>	<p>The UAE should clarify that all entities in the free zones are consistently required to keep reliable accounting records, including underlying documentation, for a period of at least five years.</p>
	<p>There are no specific provisions requiring accounting records to be kept beyond an entity's existence, except in the ADGM, the DIFC and in certain circumstances in the DMCC. While most entities must file audited financial statements to the authorities, which keep this information indefinitely, this does not cover underlying documentation.</p>	<p>The UAE should ensure that accounting records are kept for at least five years after the date an entity ceases to exist in all cases.</p>
<p>Rating: Largely Compliant</p>	<p>There is no regular oversight with respect to the obligation on (i) partnerships falling under the federal regime, and (ii) companies in the Ras Al Khaimah International Corporate Centre (RAK ICC) to keep reliable accounting records, including underlying documentation.</p>	<p>The UAE should implement a system of oversight to ensure that (i) partnerships falling under the federal regime, and (ii) companies in the RAK ICC keep reliable accounting records, including underlying documentation, in practice.</p>

Determinations and Ratings	Factors underlying Recommendations	Recommendations
Banking information and beneficial ownership information should be available for all account-holders (<i>ToR A.3</i>)		
The legal and regulatory framework is in place, but certain aspects of the legal implementation need improvement	The definition of “beneficial owner” in the relevant federal and free zone regimes is not always fully consistent with the international standard.	The UAE should ensure that its legal framework requires beneficial ownership information to be available for all bank accountholders in line with the standard.
Rating: Largely Compliant	The 2018 AML Law, the AML By-Law and the new AML Guidelines for Financial Institutions are only recent. Whilst they significantly strengthen the beneficial ownership obligations in respect of bank accounts in the federal territory and reinforce the existing regimes in the financial free zones, their effectiveness in practice remains untested to some extent.	The UAE should monitor the application of the new legislation in practice to ensure that beneficial ownership information on bank accountholders is available in line with the standard in all cases.
Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information) (<i>ToR B.1</i>)		
The legal and regulatory framework is in place but needs improvement	No access powers have been identified in the Dubai Multi Commodities Centre (DMCC).	The UAE should ensure that clear access powers, with accompanying enforcement provisions, are available in all instances.
	The type of communication covered by legal professional privilege in the federal regime and the Abu Dhabi Global Market (ADGM) regime appears to extend beyond that provided for in the international standards.	The UAE should ensure that the application of legal professional privilege does not limit or prevent it from responding to an EOI request.

Determinations and Ratings	Factors underlying Recommendations	Recommendations
Rating: Largely Compliant	The UAE has taken a more active approach in using enforcement provisions, compared to the previous period reviewed, but they have not always been effective and there have also been instances where no enforcement action was taken when only partial information was obtained.	The UAE should continue to monitor that the available enforcement provisions are effectively used.
The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information (<i>ToR B.2</i>)		
The legal and regulatory framework is in place		
Rating: Compliant		
Exchange of information mechanisms should provide for effective exchange of information (<i>ToR C.1</i>)		
The legal and regulatory framework is in place		
Rating: Compliant		
The jurisdictions' network of information exchange mechanisms should cover all relevant partners (<i>ToR C.2</i>)		
The legal and regulatory framework is in place		
Rating: Compliant		
The jurisdictions' mechanisms for exchange of information should have adequate provisions to ensure the confidentiality of information received (<i>ToR C.3</i>)		
The legal and regulatory framework is in place		
Rating: Compliant		

Determinations and Ratings	Factors underlying Recommendations	Recommendations
The exchange of information mechanisms should respect the rights and safeguards of taxpayers and third parties (<i>ToR C.4</i>)		
The legal and regulatory framework is in place	The definition of information subject to legal professional privilege in the UAE’s DTCs follows that of its domestic law, which is wider than the scope accepted under the international standard.	The UAE should ensure that the scope of legal professional privilege in its EOI mechanisms is consistent with the international standard.
Rating: Compliant		
The jurisdiction should request and provide information under its network of agreements in an effective manner (<i>ToR C.5</i>)		
Legal and regulatory framework:	This element involves issues of practice. Accordingly, no determination on the legal and regulatory framework has been made.	
Rating: Partially Compliant	Despite the efforts made by the UAE authorities to improve the organisation and processes for EOI and the improvements in timeliness seen as a result, substantial delays and a significant backlog of pending requests remain. The EOI unit and local authorities therefore continue experiencing constraints in their ability to handle the EOI workload.	The UAE should continue with its efforts to improve the timeliness of responses, ensure that all relevant authorities are sufficiently equipped (both in terms of organisational resources and processes) to duly prioritise requests, and ensure that the backlog of EOI cases is reduced on an urgent basis.
	As concerns communication with partners, although the UAE provides status updates when partial information is sent and upon request from peers, this does not happen in all cases, as required by the international standard, and partial information is also not always sent within 90 days.	The UAE should consistently provide status updates within 90 days in all cases where a full response is not possible.

Overview of the UAE

12. This overview provides some basic information about the UAE that serves as context for understanding the analysis in the main body of the report. This is not intended to be a comprehensive overview of the UAE's legal, commercial or regulatory systems.

Governance and legal system

13. The federation of the United Arab Emirates was established in 1971. The UAE is a union of seven Emirates, which united to form a federation by ceding certain powers to a central federal government, whilst retaining the powers not expressly ceded. The Emirates are Abu Dhabi, Ajman, Dubai, Fujairah, Ras Al Khaimah, Sharjah and Umm Al Quwain.

14. Each Emirate has its own ruler. At present, the ruler of Abu Dhabi holds the position of President (head of state) and the ruler of Dubai is the Vice-President and Prime Minister of the UAE (head of government). The Federal National Council represents the Emirati people. It consists of 40 members drawn from all the Emirates and provides advice to the Council of Ministers, which is the executive authority of the Union.

15. The UAE operates under a civil law system and statutes are the primary source of law. There is no doctrine of binding precedents and judgments of the higher courts are not binding on the lower courts. UAE codified laws consist mainly of the Constitution, Federal Laws, Laws issued by Decrees, Ordinary Decrees, Emiri Laws and Emiri Decrees. The provisions of the Constitution prevail over any conflicting provisions of Federal Laws, local laws, regulations and decisions issued by the authorities of the Emirates.

16. In case of conflict, inferior legislation that is inconsistent with superior legislation must be rendered null and void. In case of dispute the matter is referred to the Federal Supreme Court (Article 151 of the UAE Constitution). Although the legal system is primarily a civil law system, some free zones have elected to also apply common law directly (e.g. the Abu Dhabi Global Market (ADGM)). Federal legislation applies to free zones as well, unless specified otherwise (for example, Federal Law No. 8 of 2004 which allows for

financial free zones to be established, explicitly states that these zones “shall also be subject to all Federal laws, with the exception of the Federal civil and commercial laws” (s. 3(2)). Where inconsistencies exist between federal and free zone legislation in cases where the federal legislation applies, the federal legislation prevails; this is, for example, the case in respect of AML legislation.

17. Pursuant to Article 125 of the UAE Constitution, governments of the Emirates should undertake the appropriate measures to implement the laws by promulgating local laws, regulations, decisions and orders necessary for the implementation of Federal Laws, treaties and international agreements concluded by the UAE.

18. The Supreme Council of the Union (consisting of the Rulers of the seven individual Emirates) ratifies treaties and international agreements by Decree. In the event of inconsistencies between the UAE domestic law and any international treaty ratified by the Union, the responsibility of the UAE, pursuant to its international treaty obligations and prevailing international law, is to enforce the treaty by enacting or amending domestic legislation to resolve such inconsistency in accordance with the UAE legal system.

19. The UAE Constitution provides for a federal court system, but acknowledges the right of each individual Emirate to maintain an independent judicial authority. Each Emirate was given the right to elect either to integrate into the federal judicial system (and transfer jurisdiction of its local courts to federal courts established pursuant to the provisions of the UAE Constitution and Federal Law No. 3 of 1983, enacted to regulate the federal judicial authorities), or to retain its own judicial system of local courts. Currently, all the Emirates, with the exception of the Emirates of Abu Dhabi, Dubai and Ras Al Khaimah, are part of the federal court system. Federal laws that apply to all seven Emirates govern rules of evidence and court procedure.

20. In addition to the federal and local courts, a parallel system of Shari’a courts exists in each individual Emirate. These Shari’a courts deal predominantly with matters related to the legal status of individuals (marriage and divorce) and succession and testamentary matters on the basis of Islamic law (the Shari’a) and are administered locally by the Emirates in which they are located.

Free zones

21. All Emirates in the UAE have established one or more free zones to stimulate the economy by attracting foreign investment. The major advantage of setting up a business in a free zone is that it entitles foreign investors to: (i) 100% foreign ownership of the enterprise; (ii) 100% import and export tax exemptions; (iii) 100% repatriation of capital and profits; (iv) no corporate

taxes for 15 years, renewable for an additional 15 years; (v) no personal income taxes; and (vi) assistance with labour recruitment, and additional support services, such as sponsorship and housing. Criminal and some other federal laws apply to the free zones but each free zone authority has the power to establish its own regulations, including regulations on commercial entities and matters. There are currently around 40 free zones in the UAE.

22. Most free zones are focused on commercial activities, and financial services are only allowed to be carried out from within the two financial free zones, the Dubai International Financial Centre (DIFC) and the ADGM (see Financial services sector below). The free zones have generally issued their own legislation governing the entities that can be established there. The free zone authorities are responsible for supervising these entities and monitoring their compliance with most legal requirements, including the availability of ownership and accounting information.

23. Considering the different legal and regulatory frameworks that exist in the free zones regarding areas relevant for the international standards of transparency and exchange of information for tax purposes, this report also (in addition to the federal legal framework) examines the frameworks of the four largest free zones (in terms of the number of entities registered and EOI requests received) as well as the two financial free zones: ADGM, DIFC, Dubai Multi Commodities Centre (DMCC), Jebel Ali Free Zone (JAFZ), Ras Al Khaimah Economic Zone (RAK EZ) and Ras Al Khaimah International Corporate Centre (RAK ICC). According to the UAE authorities, the regimes in the other free zones are similar to the regimes explicitly covered by this report. Nevertheless, the UAE should address any gaps in relation to the 2016 ToR identified in one or more free zones taking into account that the same or similar gaps may exist in other free zones which are not explicitly covered in this report (see Annex 1).

Tax system

24. Pursuant to Article 120 of the UAE Constitution, the Union has exclusive legislative and executive jurisdiction in certain defined matters, including federal finance, taxes, duties and fees. However, no federal income tax legislation exists.

25. Some Emirates have their own (local) income tax laws in place. Laws establishing a corporate tax regime are currently in place in the Emirates of Abu Dhabi, Dubai and Sharjah. In practice, however, these laws have not been enforced, except in certain defined circumstances (only oil and gas companies and branch offices of foreign banks are, in practice, currently required to pay taxes on their income and profits). Personal income tax, capital gain tax and withholding tax are not in place anywhere in the UAE.

26. A Value Added Tax (VAT) was introduced in the UAE with effect from 1 January 2018. The Federal Tax Authority was established to administer the VAT. A business must register for VAT if its taxable supplies exceed the mandatory registration threshold of 375 000 United Arab Emirates Dirhams (AED) (approximately 102 000 United States Dollars (USD)). A business may also choose to register for VAT voluntarily if its supplies are less than the mandatory registration threshold, but exceed the voluntary registration threshold of AED 187 500 (approximately USD 51 000). The general rate is 5%, while a 0% rate applies in a limited amount of circumstances.

Financial services sector

27. Financial and insurance activities accounted for approximately 9.2% of the UAE’s nominal gross domestic product and 8.5% of real gross domestic product in 2018. The financial services sector is divided between institutions operating in the UAE domestic market and those licensed to operate in the DIFC and the ADGM financial free zones. These are the only financial free zones so far established in the UAE.

Federal financial sector

28. The UAE Central Bank is the main body responsible for regulating banking and investment business, and the Securities and Commodities Authority (SCA) is responsible for certain categories of investment and securities business.

29. As at December 2018, 22 locally incorporated banks and 27 foreign banks were registered with the UAE Central Bank. Together they held assets worth AED 2.87 trillion (approximately USD 781.5 billion). Approximately 88% of the deposits are from UAE residents.¹ These figures comprise both conventional and Islamic banking.

30. Apart from the banking sector, the UAE Central Bank also supervises 20 finance companies (which are prohibited from accepting deposits) and 123 moneychangers.

Dubai International Financial Centre (DIFC)

31. The DIFC is an independent financial free zone. It was established by Federal Decree No. 35 of 2004 (the “DIFC Federal Decree”) and has exclusive jurisdiction over civil and commercial laws and subsidiary legislation.

1. UAE Central Bank monthly Statistical Bulletin: <https://www.centralbank.ae/en/statistics/monthly-statistics>.

Federal civil and commercial laws do not apply in the DIFC, pursuant to the Financial Free Zone Law (Federal Decree No. 8 of 2004). On the other hand, the DIFC is subject to the federal government’s legislation on administrative and criminal matters, including the AML legislation outlined in the following section.

32. The three key authorities in the DIFC are the Dubai Financial Services Authority (DFSA), the DIFC Authority (DIFCA) and the DIFC courts (the DIFC has its own independent civil and commercial courts and judges). The DFSA is the sole independent regulator of financial services conducted in and from the DIFC. The DFSA is also the competent authority for the administration of federal and DIFC AML legislation which means it has sole administrative responsibility for the direct supervision of obliged entities for compliance with such legislation, including the DFSA’s AML Rules. The DIFCA handles the incorporation, registration and licensing of entities not performing financial services and hosts the Registrar of Companies (ROC).

33. The DIFC specialises predominantly in wholesale financial services for the region. There were 491 financial institutions (including 8 trust service providers), 116 designated non-financial businesses or professionals (DNFBP), 16 registered auditors and 2 authorised market institutions in the DIFC as of the end of 2018. The majority of financial services provided are in the securities sector, i.e. investment and asset advice and management (76%), with a minority of licensees in the insurance (16%) and banking (8% or 37 firms) sectors. By geographic origin, 31% of financial institutions are from the UAE, followed by the United Kingdom (17%), United States (10%) and other Gulf Co-operation Council states (5%). The size of the banking sector balance sheet as of September 2018 was USD 157 billion (compared with total banking assets of USD 748 billion for the UAE banking sector (excluding the DIFC)).

Abu Dhabi Global Market (ADGM)

34. The ADGM is an independent financial free zone established by Federal Decree No. 15 of 2013. Cabinet Resolution No. 4 of 2013 located the ADGM on the Al Maryah Island and Law No. 4 of 2013 defined its powers and structure. Like the DIFC, the ADGM is exempt from federal civil and commercial laws. Federal criminal and AML laws continue to apply.

35. The ADGM Board has ultimate authority over its affairs, with the power to enact regulations governing the operation of each ADGM authority. There are three key independent authorities in the ADGM: the Registration Authority, the Financial Services Regulatory Authority (FSRA) and the ADGM Courts (like the DIFC, the ADGM has its own independent civil and commercial courts and judges). The FSRA is the sole independent regulator of financial services conducted in and from the ADGM. It administers and

supervises compliance with the federal AML legislation and its Anti-Money Laundering and Sanctions Rules and Guidance (FSR AML Rulebook). The Registration Authority handles all aspects of incorporation, registration and licensing of entities not performing financial services.

36. The FSRA has licensed 57 financial institutions since commencing operations in October 2015, 18% of which are banks holding total assets of USD 825 million as of June 2018 and managing USD 22 billion as of August 2018. The remaining 82% are made up of financial institutions that provide services in the securities sector, primarily investment, asset management and money service businesses.

AML Framework

37. A jurisdiction's AML framework is often key to ensuring the availability (in the hands of AML-obliged service providers) of beneficial ownership information on legal persons and arrangements in the context of EOI for tax purposes.

Pre-2018 federal framework

38. The UAE's first AML law was Federal Law No. 4 of 2002 Regarding Criminalisation of Money Laundering (the 2002 AML Law). Other than criminalising money laundering and related offences, this law provided for the establishment of a financial information unit within the Central Bank and the National Anti-Money Laundering Committee; required licensing and supervisory agencies to establish appropriate mechanisms to ensure relevant businesses' compliance; and established the penalties for various AML-related violations. The 2002 AML Law was amended in 2014 to seek to further align it with international standards, e.g. expanding the scope of money laundering offences and establishing harsher criminal sanctions.

39. The UAE Government also issued executive regulations in respect of the 2002 AML Law in 2014, through Cabinet Resolution No. 38 of 2014 Concerning the Executive Regulation of the Federal Law No. 4 of 2002 (2014 Cabinet Resolution). Prior to this Resolution being issued, the UAE underwent its Financial Action Task Force (FATF) and Middle East and North African Financial Action Task Force (MENAFATF) Mutual Evaluation in 2007-08. As noted in the Mutual Evaluation Report (MER) report of April 2008, the primary (federal) AML legislation imposed few customer due diligence (CDD) obligations on financial institutions and relevant non-financial entities. Specific requirements were contained only in instruments issued by the regulatory authorities (and these were found to vary markedly in depth

and quality, resulting in a significant number of areas in which the requirements did not comply with the FATF standards).²

40. The 2014 Cabinet Resolution established general obligations for financial institutions and “other financial, commercial and economic establishments”³ to apply preventative measures, report suspicious transactions, and comply with certain other procedures aimed at combating money laundering and terrorist financing as set out in the Resolution, and in any applicable regulations or instructions issued by the relevant supervisory authorities.

41. The Central Bank is the main regulatory authority charged with implementing and enforcing the provisions of the federal AML law. The Financial Intelligence Unit within the Central Bank collects, analyses and disseminates information to combat money laundering and the financing of terrorism to protect the UAE financial system from abuse, including co-operation with foreign counterparts.

42. The Regulation Concerning Procedures for Anti-Money Laundering 24/2000 of 14 November 2000 issued by the Central Bank (Central Bank AML Regulation), was previously the key implementing regime issued by a supervisory authority at the federal level. It applied to banks, money changers, finance companies and other financial institutions operating in the UAE, and set out some basic know-your-customer procedures for bank accounts. As of June 2019 it has been cancelled and replaced by the AML Guidelines for Financial Institutions, aimed at aligning the guidance with international standards, which includes more comprehensive requirements.

Post-2018 federal framework

43. New federal AML legislation abrogating the 2002 AML Law, with effect from 30 October 2018, was introduced through Federal Law No. 20 of 2018 on Anti-Money Laundering and Combating the Financing of Terrorism and Financing of Illegal Organisations (2018 AML Law). Federal AML law, unlike company law, applies throughout the UAE, i.e. in the mainland and in each of the free zones. In contrast with the 2002 AML law, the 2018 AML

2. See paragraph 14 of the 2008 Mutual Evaluation Report: <https://www.fatf-gafi.org/countries/u-z/unitedarabemirates/documents/mutualevaluationoftheunitedarabemiratesuae-reportandannexes.html>.

3. Defined as “establishments licensed and controlled by entities other than the Central Bank or the [Securities and Commodities] Authority, including non financial activities and professions such as real estate brokers, jewelry and precious metals and stones traders, lawyers, legal consultants, private notaries public and accountants”.

Law articulates various obligations for financial institutions and designated non-financial businesses (defined in the implementing regulations) to develop policies and procedures to mitigate AML risks (s. 16). Obligated entities must maintain all records, documents and data for all transactions, whether local or international, and make this information available to the competent authorities promptly upon request (s. 16(1)(f)). They must also apply due diligence measures and procedures in cases specified by the implementing regulations (s. 16(1)(b)). The 2018 AML law also charges commercial registrars and obliged entities alike with the retention of information and records, as set out in the implementing regulations (s. 17).

44. Regulations implementing the 2018 AML Law were issued with effect from 28 January 2019 through Cabinet Decision No. 10 of 2019 Concerning the Implementing Regulation of Decree Law No. 20 of 2018 on Anti-Money Laundering, Combating the Financing of Terrorism and Financing of Illegal Organisations (AML By-Law).

45. Chapter 3 of the AML By-Law sets out the new requirements for nationwide registrars of legal persons and legal persons themselves, and for legal arrangements, to maintain information on legal and beneficial owners (ss. 34-37). These are discussed in more detail in the analysis of beneficial ownership information availability in respect of each relevant legal person or arrangement in the federal and free zones.

46. The federal AML regime applies equally to the domestic financial sector and within the DIFC and ADGM. In these free zones, the respective regulatory authorities (the DFSA for the DIFC and the FSRA for the ADGM) are responsible for issuing regulations implementing the federal laws and overseeing compliance by financial institutions located therein. In the domestic sector, oversight is the responsibility of the Central Bank (for banks, money changers, and finance companies), the Emirates Securities and Commodities Authority (for securities brokers) and the Ministry of Economy (for insurance companies). More broadly, the federal regime charges supervisory and licensing authorities within each UAE jurisdiction (i.e. covering financial institutions and DNFBPs) with the supervision, monitoring and follow-up to ensure compliance with the AML By-Law (s. 44), including conducting onsite and offsite supervision and inspections over obliged entities under a risk-based approach.

Part A: Availability of information

47. Sections A.1, A.2 and A.3 evaluate the availability of ownership and identity information for relevant entities and arrangements, the availability of accounting information and the availability of bank information.

A.1. Legal and beneficial ownership and identity information

Jurisdictions should ensure that legal and beneficial ownership and identity information for all relevant entities and arrangements is available to their competent authorities.

48. The availability of *legal* ownership and identity information for all relevant entities and arrangements continues to be ensured through obligations contained in the federal and free zone commercial laws and the regulatory authorities' supervision activities enforcing compliance with those obligations. No recommendations are made in this regard.

49. The 2016 report noted two gaps regarding the availability of legal ownership information. First, in respect of foreign companies having their main offices or effective management in the Dubai Airport Free Zone. Since then, the Ministry of Economy has issued a circular regarding the provision of ownership information on branches of foreign companies in the form of certified documentation stating the parent company's owners, which closes such gap. This free zone is not covered by the current report as it is no longer among the most significant free zones. Second, the report recommended the UAE to establish an obligation to maintain ownership information in all cases in relation to foreign trusts which have an administrator or trustee in the UAE or in a free zone other than the Dubai International Financial Centre (DIFC). This recommendation has been addressed with the introduction of the new AML law, which requires all trustees to maintain beneficial ownership information in relation to the trust(s) they administer.

50. The UAE sought to modernise its AML and beneficial ownership information framework from 2018 with the aim of aligning it with international AML and tax transparency standards. The availability of beneficial ownership information is achieved to a large extent through the new federal

AML regime, supplemented by additional obligations in free zone regulations, which requires the information to be maintained by:

1. AML-obliged service providers
2. entities and arrangements themselves
3. federal and free zone registration authorities.

51. The new AML framework applies throughout the UAE, including the free zones, and all main obligations are set out with a sufficient level of detail that it could be directly applied by the relevant authorities. This was not the case before the new framework was put in place. CDD obligations were high level and lacking a more detailed level of implementation rules and guidance. They were underpinned by the notion of “real beneficiaries”, which, whilst defined to cover natural persons with “actual control” over a corporate person or legal arrangement, seems to have been often associated with the idea of mere *legal* ownership with a 5% or more shareholding or capital interest in a body corporate. The more detailed international standards on the identification of beneficial owners of bodies corporate and legal arrangements were not present in the federal regime, although in the DIFC and ADGM more extensive guidance was already provided to AML obliged entities which addressed most of the deficiencies in the federal legislation.

52. The obligations under the old AML framework only applied to financial institutions and designated non-financial businesses and professionals (DNFBPs), which meant that where an entity did not engage an AML-obliged person such as a bank, beneficial ownership information on that entity was not required to be available.

53. The Emirati authorities explained that in anticipation of the new AML framework, in 2017, the company registrars in the Emirates and the free zones started collecting beneficial ownership information from the entities they were responsible for with the aim of mitigating AML risks in their jurisdiction. Registrars generally used existing powers to ask for this information and in some cases issued their own regulations or policy (see below for each registrar separately). It does not appear, however, that adequate checks of the information were being undertaken that would provide comfort about its accuracy and reasonableness. This is likely to be different for entities and arrangements that have engaged a UAE bank or other AML-obliged service provider (such as a lawyer or accountant), as the UAE Central Bank and the supervisory authorities in the ADGM and DIFC have had a more robust monitoring mechanism in place throughout the review period vis-à-vis AML requirements (see also section A.3). In this regard, the UAE explains that in practice most entities and arrangements are likely to hold a UAE bank account in order to carry out routine commercial business, to satisfy labour law requirements to have wages paid through the banking system, and by

virtue of certain free zone requirements for initial share capital to be demonstrated to regulatory authorities through sums available in a UAE bank account. The extent of such entities covered could not, however, be estimated.

54. This demonstrates that during the review period a baseline of beneficial ownership information is likely to have been maintained by AML-obliged service providers, and by free zone registration authorities. Some peers confirmed that the UAE was able to provide beneficial ownership information during the review period to their satisfaction. Considering the large amount of pending requests, however, it is not clear that the information would have been available in the hands of those persons in all cases where requested by the UAE's exchange partners.

55. It is concluded, however, that beneficial ownership information will be largely available in accordance with the standard under the post-2018 framework, as the UAE and its free zones progressively consolidate their implementation and supervise AML-obliged entities as well as relevant entities and arrangements as to their compliance with the new obligations.

56. Some issues have been identified, nevertheless, in relation to definitional aspects:

1. It is unclear whether the “cascade approach” in respect of legal persons is fully incorporated in the federal legislation because its second step (identification of natural persons who exercise control through means other than a controlling ownership interest) is not well expressed. In the ADGM's AML regime, there is a risk the “cascade approach” could be construed as lacking the third step (default to the senior managing official). In the ADGM's beneficial ownership regulations, the third step is in place for companies and limited liability partnerships but not other legal persons. Whilst the DIFC regime largely aligns with the international standard, the aforementioned lack of clarity in the federal regime could cause the DIFC rules to be applied unevenly in some cases. For instance, the DIFC beneficial ownership regulations could allow reporting entities to record foreign entities in the ownership or control structure as beneficial owners, instead of natural persons. Furthermore, the analyses in this Part A of the non-financial free zones suggest that their registration authorities would benefit from further aligning their detailed beneficial ownership guidance with the new federal AML By-Law.
2. It appears that foundations and trusts in the ADGM do not need to be “looked through” under the ADGM AML and beneficial ownership regulations where a party to the foundation or trust is an entity or arrangement other than a body corporate or a partnership. The information may be available in such circumstances if the foundation

or trust has a relationship with an AML-obliged service provider (including a trustee) that abides by the more comprehensive identification rules in the federal AML regime. The concept of ultimate effective control over a trust in the ADGM AML rules seems narrower than the standard. In any case, the UAE advises that there are few ADGM foundations (24) or trusts (1) in existence, so this issue is of low materiality at present. The UAE indicates that it is considering addressing these issues.

57. The above issues and their materiality do not seem to fundamentally compromise the availability of beneficial ownership information from its various possible sources going forward. For instance, the rules of the post-2018 framework as a whole would cause information in line with the standard to be available in cases where beneficial ownership of a legal person is established through a natural person’s controlling ownership interest, and in many cases where control is exercised through means other than ownership. Nevertheless, the definition of “beneficial owner” in the federal and free zone regimes analysed is not always fully consistent with the international standard. Whilst the challenges of ensuring an entirely uniform legal regime in a complex federal system like the UAE are acknowledged, the UAE should ensure that its legal framework requires beneficial ownership information to be available for all relevant entities and arrangements in line with the standard in all cases.

58. Regarding the practical implementation, the new AML framework has been implemented recently and its effective application has not been tested in practice. On the other hand, registration authorities and supervisory authorities of AML obliged service providers all had a monitoring mechanism in place even before the new AML framework was enacted, both in respect of the pre-existing AML framework and the business law obligations that ensure the availability of legal ownership information. As illustrated by the compliance approaches and statistics discussed in section A.1, whilst the robustness of monitoring mechanisms varies among the different jurisdictions of the federation, the various federal and free zone authorities have displayed a commitment to monitor compliance with applicable business rules, including the beneficial ownership information requirements contained in the AML framework and new beneficial ownership regulations.

59. The UAE should ensure that the new requirements to identify and verify beneficial owners of all relevant legal entities and arrangements are effectively implemented and that appropriate monitoring is carried out on the requirements to have beneficial ownership information available in all cases.

60. Due to the weaknesses in the relevant laws not being of a fundamental nature and the UAE’s ongoing work to supervise and enforce the application of its commercial and AML laws, the situation with respect to availability of ownership and identity information, justifies a rating of

Largely Compliant on element A.1 and A.3. The table of recommendations, the determination and the rating is as follows:⁴

Legal and Regulatory Framework		
Deficiencies identified	Underlying Factor	Recommendations
	The definition of “beneficial owner” in the relevant federal and free zone regimes is not always fully consistent with the international standard.	The UAE should ensure that its legal framework requires beneficial ownership information to be available for all relevant entities and arrangements in line with the standard in all cases.
Determination: The element is in place, but certain aspects of the legal implementation of the element need improvement		
Practical Implementation of the standard		
Deficiencies identified	Underlying Factor	Recommendations
	The new AML framework was only put in place in January 2019. Nevertheless, mechanisms to monitor the availability of beneficial ownership information were already in place with registration authorities and AML supervisory authorities. The robustness of these monitoring mechanisms varies among the different authorities. This results in the fact that, while a baseline of beneficial ownership information is available, the reliability of this information may be questioned in some cases. This would particularly be the case in respect of entities and arrangements that have not engaged a UAE bank and fall under the jurisdiction of a registration authority which does not perform checks that would provide comfort that the information is accurate.	The UAE should ensure that the new requirements to identify and verify beneficial owners of all relevant legal entities and arrangements are effectively implemented and that appropriate monitoring is carried out on the requirements to have beneficial ownership information available in all cases.
Rating: Largely Compliant		

4. The tables of determinations and ratings shown in this report display all recommendations that have been made in the previous report in strike-through and replaced, if necessary, with recommendations based on the current analysis in all cases where the circumstances have changed. If circumstances have not changed, then the factor underlying the recommendation and the recommendation remain unchanged. New recommendations and factors underlying those recommendations are shown as underlined. On publication, the box will be displayed as a clean version.

A.1.1. Availability of legal and beneficial ownership information for companies

61. This report covers the companies governed by the UAE's federal regime, as well as the companies governed by the regimes of six free zones: the DMCC, the JAFZ, the RAK EZ, the RAK ICC, the DIFC and ADGM. Apart from the DMCC and ADGM, these regimes were all covered by the 2016 report where the availability of legal ownership was assessed.

62. While the UAE's federal regime has largely remained the same, new legislation governing the entities in the DIFC, the JAFZ, the RAK EZ and the RAK ICC has been enacted since the 2016 report. In any case, the availability of beneficial ownership was not assessed at that time. The following table provides an overview of where the main obligations to keep legal and beneficial ownership information can be found in respect of the different companies governed by the regimes covered:

Legislation requiring the availability of legal and beneficial ownership information

	Number incorporated	Legal ownership	Beneficial ownership
Federal UAE⁵			
Limited liability companies	253 494	Commercial Companies Law (CCL) – all	AML By-Law – all
Private joint stock companies	199	CCL – all	AML By-Law – all
Public joint stock companies	847	CCL – all	AML By-Law – all
DMCC			
Limited liability companies	15 760	Companies Regulations – all	AML By-Law – all AML Policy – all
Jebel Ali Free Zone			
Free zone companies	2 664	Companies Implementing Regulations – all	AML By-Law – all UBO Policy – all
Free zone establishments	2 605	Companies Implementing Regulations – all	AML By-Law – all UBO Policy – all
Public listed companies	0	Companies Implementing Regulations – all	AML By-Law – all UBO Policy – all
Offshore companies	7 183	Offshore Companies Regulations – all	AML By-Law – all UBO Policy – all

5. Foreign companies are only allowed to operate in the UAE through registered branch offices, which are not expected to create sufficient nexus to the UAE to be covered by the ToR, as headquarters would generally not be set up as branch offices. In any case, ownership information must be provided to the authorities, please see paragraphs 79-82 of the 2016 report. As at September 2019, there were 2 829 branch offices from foreign companies registered in the UAE.

	Number incorporated	Legal ownership	Beneficial ownership
RAK EZ			
Limited liability companies	13 806	Companies Regulations 2017 – all	AML By-Law – all
RAK ICC			
Companies limited by shares	11 303	Business Companies Regulations – all	AML By-Law – all
Companies limited by guarantee that are authorised to issue shares	0	Business Companies Regulations – all	AML By-Law – all
Companies limited by guarantee that are not authorised to issue shares	0	Business Companies Regulations – all	AML By-Law – all
Unlimited companies that are authorised to issue shares	0	Business Companies Regulations – all	AML By-Law – all
DIFC			
Private companies	1 670	Companies Law – all	AML By-Law – all UBO Regulations – all
Public companies	6	Companies Law – all	AML By-Law – all UBO Regulations – all
Recognised companies	335	Companies Law – all	AML By-Law – all UBO Regulations – all
ADGM			
Companies limited by shares	882	Companies Regulations – all	AML By-Law – all BOC Regulations – all
Companies limited by guarantee	15	Companies Regulations – all	AML By-Law – all BOC Regulations – all
Unlimited companies with shares	1	Companies Regulations – all	AML By-Law – all BOC Regulations – all
Unlimited companies without shares	0	Companies Regulations – all	AML By-Law – all BOC Regulations – all
Branches of foreign companies	227	Companies Regulations – all	AML By-Law – all BOC Regulations – all

63. The legal ownership and identity information requirements in respect of companies in the UAE’s federal regime and the six free zones covered in the current report are discussed in turn.

Legal Ownership and Identity Information Requirements

Federal UAE

64. Three types of companies can be established under the federal Commercial Companies Law (CCL): limited liability companies, public joint stock companies and private joint stock companies. At least 51% of the capital of any CCL company must be held by a UAE national.

65. Limited liability companies are by far the most common form. These are registered with the DED of the Emirate in which they are incorporated, which also checks and monitors whether the requirements of the CCL are met. Details of all shareholders must be included in the memorandum of association, which must be registered with the DED to be effective. This also applies to any changes of owners. By checking annual returns which must be provided for license renewal, the DEDs can identify any discrepancies between the registered details and the information in the annual return.

66. The DEDs also carry out quick on-site inspections checking whether all paperwork is in order and whether the company operates in accordance with its licence. The Dubai DED, where the vast majority of federal UAE companies is registered, provided the following statistics:

Dubai DED inspection and findings statistics

Year	Number of inspections	Number of registered entities/businesses in violation	Percentage of registered entities/businesses where no violation was identified
2016	139 747	22 599	84%
2017	156 205	21 962	86%
2018	110 847	10 227	91%

67. These statistics represent all types of entities and businesses registered with the Dubai DED, but the largest part refers to the 253 494 limited liability companies. Penalties have been applied to public and private joint stock companies as well. Depending on the nature of the violation, companies may see their licence suspended until they comply or receive another penalty. Ultimately, the company may be struck off, which happened in more than 1 000 cases in the 2016-18 period. The frequent visits and penalties imposed have resulted in a gradual increase in compliance generally.

68. Public and private joint stock companies are also registered with the DEDs, but part of the supervision is the responsibility of the Securities and Commodities Authority (SCA). Public joint stock companies are regulated and supervised directly by the SCA, including in respect of the obligation to

keep a share register (which must generally be kept in accordance with the rules of the financial market where the company is listed). The shareholder register of private joint stock companies must be kept with a share register secretariat, licensed by the SCA. As at April 2019, there were five share register secretariats licensed as such. These secretariats have all been subject to an inspection in 2017, and two of them are scheduled for another inspection in the second half of 2019. These inspections include verification of compliance with all regulatory obligations, including the duties as a share register secretariat. For instance, they seek to understand the organisational structure and staffing arrangements for the management of the secretariats, their procedure manuals, records and operation systems, and transactions.

Dubai International Financial Centre (DIFC)

69. The federal CCL does not apply to companies in the DIFC. The legal and regulatory regime with respect to companies in the DIFC was analysed in the 2016 report (paragraphs 92 to 101) and was found to be in line with the standard in respect of legal ownership information availability. The then legal framework (DIFC Companies Law No. 2 of 2009 and its Companies Regulations), which applied during the current review period, ensured the availability of legal ownership information in the hands of the Registrar of Companies (ROC) and companies themselves. DIFC companies are now governed by the DIFC Companies Law No. 5 of 2018 (DIFC Companies Law) which entered into force in November 2018. The regime with respect to legal ownership information remains essentially the same since the last review.⁶

70. The ROC sits within the DIFC Authority and has 2 011 active companies registered as of the end of the review period. Companies in the financial services sector (a total of 495 firms, including partnerships) are supervised by the DFSA whereas others, mainly in the retail and corporate services sectors, are under the supervision of the DIFC Authority.

71. The new DIFC Companies Law no longer recognises limited liability companies (LLC) and now recognises private companies and public companies, which are companies limited by shares, and recognised companies (i.e. branches of foreign companies) (s. 8). A private company is one with no more than 50 shareholders whereas a public company is one that is not prohibited from making an offer of its securities to the public, has a minimum

6. The new DIFC Companies Law has made notable overall changes, including no longer recognising limited liability companies (LLC), new shareholder resolution rules, directors' duties and others. Changes have also been introduced through the new DIFC Operating Law No. 7 of 2018 to strengthen the DIFC Authority's regulatory powers and, notably, to introduce beneficial ownership disclosure requirements (see below).

share capital of AED 100 000 (approximately USD 27 000) at any time and can have any number of shareholders (s. 27). The ROC collects the name, identity documentation and contact details of all shareholders of private and public companies upon registration (s. 11 DIFC Companies Law, ss. 2.1.1, 2.3 DIFC Companies Regulations). Shareholders must be entered on the share register following incorporation with the names, addresses, class and number of shares (ss. 33, 44 DIFC Companies Law). Shareholders' names appear on the ROC's public register (s. 9.2 DIFC Companies Regulations). Share transfers must be entered on the shareholder register (s. 46). An external company that wishes to register as a recognised company must provide the details of its shareholders, including any changes, to the ROC (s. 136). Moreover, all registered companies must file an annual confirmation statement to confirm that the information on the public register is accurate and up to date and must inform any changes in legal and beneficial ownership within 30 days (ss. 15, 16 DIFC Operating Law).

72. Also under the new AML By-Law, analysed in more detail below, companies themselves must maintain accurate and up-to-date identity information on their shareholders and beneficial owners, and provide the information upon request to the ROC (s. 35). If there is a change, the information must be updated within 15 business days. The ROC and companies, or the administrators or liquidators or any other stakeholder involved in the dissolution of a company, are required to maintain the legal and beneficial ownership information mentioned in ss. 34 and 35 for at least five years from the date when a company is dissolved or otherwise ceases to exist (s. 36).

73. Failure to comply with the requirements of the DIFC Companies Law in respect of maintaining and filing legal ownership information can result in fines up to AED 10 000 (approximately USD 2 700) and ultimately the possibility of a company being struck off (Schedule 2, DIFC Companies Law, s. 32 DIFC Operating Law). The ROC has an ongoing monitoring programme with respect to all registered entities' compliance with their regulatory obligations. The programme includes risk based scheduled inspection visits (once every two years for low risk entities) and surprise inspection visits (based on complaints or the ROC's suspicion of non-compliance and also in cases where information in response to an EOI request needs to be obtained from a registered entity). The ROC also routinely checks information updates filed with it via its online portal or client walk ins. The ROC checks compliance with rules concerning entities' business activity, premises, legal and beneficial ownership maintenance and filing requirements, commercial licensing, and accounting record-keeping. One fine was applied in the review period to a failure to keep a shareholder register. The following table provides an overview of the ROC's inspection activities in the review period.

DIFC ROC compliance statistics

	2016	2017	2018
Scheduled inspection	184	200	206
Surprise inspection	0	3	4
Fines applied	8	8	2

74. The availability of legal ownership information on entities registered in the DIFC is confirmed in the EOI practice: 27 requests from the Ministry of Finance were responded to within 30 days during the review period.

75. In the DIFC, inactive companies are considered to include those that have their licence withdrawn or not renewed, have their dissolution pending, or their registration suspended by the ROC or DFSA. There was a total of 236 as of the end of the review period. The DIFC authorities take action to ensure that all entities in such categories are brought into compliance with DIFC company law requirements or are struck off, as appropriate, and it is therefore not possible for a company to retain its registration long term without complying with its record-keeping and filing requirements. 145 registered entities were struck off in the review period. 628 were dissolved.

Abu Dhabi Global Market (ADGM)

76. All ADGM legal entities are subject to the same degree of disclosure of legal ownership and identity information to the Registration Authority. The UAE CCL does not apply to ADGM companies. The Companies Regulations 2015 allows for the incorporation of companies limited by shares (public and private, though there are no public companies in existence), companies limited by guarantee (CLG), companies unlimited with shares and companies unlimited without shares. Within these, special purpose companies including protected or incorporated cell companies, restricted companies, and investment companies are also allowed. A branch of a foreign company may register with the Registration Authority.

77. Companies' application for registration must include a statement of each initial shareholder's name and number of shares (s. 7) or of each initial member's guarantees in the case of a CLG (s. 8). The names and dates of appointment and cessation of shareholders and members also appear on the public register. Every company must keep a register of its members containing their names, dates of registration and cessation, and number of shares (for those limited by shares) (s. 118) and a list of members (s. 120) that must be updated within 14 days of any alteration. A branch of a foreign company must also register the details of its shareholders or members and directors, and notify the Registrar of any changes (ss. 3, 7, Commercial Licensing Regulation 2015 (Conditions of Licence and Branch Registration) Rules

2018). Companies must file annual returns with the Registration Authority containing the names and number of shares of all persons that were a member of the company during the year (s. 782). Company records of dissolved companies filed with the Registrar may be ordered to be destroyed after two years (s. 958), but in practice they are kept indefinitely. With the coming into force of the AML By-Law, there is now also a legal obligation for the Registrar to keep ownership information for at least five years after dissolution of the company (s. 36 AML By-Law); this provision prevails over the ADGM Companies Regulations. Former directors must retain company records for up to seven years after a company is dissolved.

78. Fines up to USD 2 000 apply to companies, their directors, secretaries or other officers in default for not keeping a register or list of members as required (ss. 118(7), 120(6)) and failing to deliver annual returns (s. 783). Depending on the level of non-compliance, the suspension or cancellation of a commercial licence is also possible under the Commercial Licensing Regulations 2015 (ss. 40-57). The Registration Authority's online registration system generates automatic reminders for the filing of annual returns and renewal of commercial licences. The renewal of licences contains a statement where the entity must confirm the validity of the information held by the registrar.

79. The Registration Authority routinely monitors all ADGM entities' compliance with the commercial legislation, including legal and beneficial ownership and accounting record-keeping requirements, under a risk-based approach. The programme includes published guidance, email, town hall and video campaigns, correspondence and follow up, relationship manager meetings, annual return and account reviews, as well as desk based thematic reviews and full onsite inspections. To avoid the duplication of compliance tasks, it is common for the Registration Authority to combine a review with the FSRA (e.g. combine an AML inspection of a DNFBP with a commercial compliance check). The following table provides the number of inspections and fines applied in the last three years. It is noted that the commencement of inspections in 2017 is attributable to the recent establishment of the free zone and its supervision functions.

ADGM RA compliance statistics

	2016	2017	2018
Onsite inspections	0	20	31
Fines applied	0	4	24

80. The Registration Authority strikes off companies believed not to be in operation or carrying on a business ("defunct company"). Non-filing of the annual returns that contain shareholder and member information is used as an indication that an entity may be defunct and in such cases letters

are sent to the company and its directors at their registered address to make inquiries. Struck off entities lose their legal personality. The UAE reports that out of around 1 500 ADGM entities registered to date, 50 firms (including companies and other legal entities) have been de-registered (in most cases voluntarily). It appears that compliance levels in this relatively new free zone are good and unlikely that a company will retain its existence for long whilst not complying with information-filing requirements.

Dubai Multi Commodities Centre (DMCC)

81. The Government of Dubai launched the DMCC in 2002 to establish a commodities trading market place in the emirate. The DMCC is a non-financial free zone and was not covered in the 2016 report. The DMCC legal framework allows the incorporation of companies of limited liability (only) with a minimum of one and a maximum of 50 shareholders. The DMCC Authority approves, registers, licenses, regulates and acts as the registrar for companies in the free zone, in accordance with the DMCC Company Regulations 2003.

82. Under the Regulations, the registered memorandum of association of a company must include the name, address, nationality, and number and value of shares held by the shareholders (s. 7). The registrar maintains a shareholder register for each company and any share transfers must be registered (ss. 18 and 30). The Regulations allow the application of fines (set by the DMCC Authority up to AED 20 000 (approximately USD 5 400)) in the case of various failures to comply with the Regulations, including failure to file a Memorandum of Association or its amendments (s. 15(3)), to carry on an unlicensed business (s. 38(2)), or generally for any breach of the Regulations or a company's licence conditions (s. 105(4)). Where an offence is not explicitly covered by the tariff of penalties in the Regulations, the Authority may level a fine or penalty it deems appropriate (s. 17.3). The Authority has the ability to strike off companies from the register for non-compliance with various requirements (ss. 102-104) and to fine, revoke or suspend their licenses for violations of applicable rules (ss. 3.5(e), 6 and 17 of the DMCC Authority Free Zone Rules and Regulations). A company or a liquidator will be held responsible for not keeping records for ten years following dissolution under the Regulations (s. 81) and with the coming into force of the AML By-Law, there is also a legal obligation for the Authority to keep ownership information for at least five years after dissolution of a company (s. 36).

83. The availability of such information also appears to be ensured in practice. There are 15 760 registered companies in the DMCC; the vast majority of these hold an active licence and the remainder are either in the process of obtaining a licence or renewing it. A DMCC company that does not carry on an active business will be struck off. Whilst the DMCC

Authority permits a grace period of three months for licence renewal, companies that do not renew their licence thereafter are struck off from the register between 3 and 12 months following licence expiry (s. 102 and s. 6 of the DMCC Authority Free Zone Rules and Regulations).

84. The Authority conducts desktop reviews and physically inspects the premises of DMCC companies to check compliance with regulatory requirements. These include on-request inspections (e.g. at the request of a DMCC department or third parties such as the police), automated inspections ahead of licence expiry, and other specific purpose inspections. 14 135 inspections were conducted in 2017 and 2018 with 1 410 compliance notifications issued in relation to a variety of issues, resulting in 57 fines being applied in the amount of AED 800 000 (approximately USD 218 000). During 2018 and 2017, nine and five companies respectively had their licence terminated for non-compliance with applicable rules.

85. The DMCC is a member of the Dubai Free Zone Council along with the DIFC and the Jebel Ali Free Zone analysed in this report. The Council operates a database which is used to share information between Dubai free zones on persons who engage in non-compliant practices and to help prevent non-compliant persons from setting up entities in other free zones. There is information on around 44 000 entities recorded in this database.

86. The availability of ownership and identity information on companies is confirmed by the EOI practice in the review period: the DMCC Authority advises it received 45 requests from the UAE Competent Authority in 2018 (including requests for legal and beneficial ownership information, other company information, audited financial statements and underlying documentation) and was able to obtain and provide it within 30 days in all cases. The Authority has not needed to apply its compulsory powers in those instances.

Jebel Ali Free Zone (JAFZ)

87. The JAFZ is a non-financial free zone and was covered in the 2016 report (paragraphs 102 to 109, 120 to 121 and 126). Only companies can be formed: free zone companies (FZCo), which are limited liability companies with a minimum of two and a maximum of 50 shareholders; public listed companies (PLC); free zone establishments (FZE), which are single shareholder limited liability companies; and offshore companies with limited liability, which cannot carry out a commercial activity within the UAE, including banking, insurance and other specified activities, or hold property (other than a registered office). Companies formed outside the JAFZ are able to transfer into it as a branch. Branches must renew their registration yearly and submit details including shareholder information. The availability of up-to-date legal ownership information was found to be ensured by the then

applicable Implementing Regulations 1/92 and 1/99 in respect of FZCo, PLC, FZE and branches of foreign companies (regulations which were in force until August 2016, when they were replaced by the Companies Implementing Regulations 2016 (CIR)) and the Offshore Companies Regulations 2003 in respect of offshore companies (replaced by the Offshore Companies Regulations 2018 (OCR) from 1 January 2018).

88. The new regimes continue to ensure availability of ownership information. The name, nationality, address and other details of shareholders of FZCo, PLC and FZE must be provided to the ROC, including official supporting documentation, upon applying to incorporate and in the memorandum and articles of association (ss. 12.1, 12.3, 53 CIR). Transfers of shares in an FZCo or FZE must be done through an instrument of transfer in writing submitted to the ROC for approval and the payment of a fee to JAFZA (ss. 9.1 and 23 CIR). The transfer is recorded in the ROC's company register. A transfer is only valid upon the issuance of a share certificate to the new shareholder by the JAFZ Authority. A PLC must maintain an up-to-date register of shareholders (s. 64 CIR).

89. An offshore company's application to register must contain the name and address of the shareholders (s. 5.3 OCR). It must maintain a register of members (shareholders) (s. 23 OCR). Transfers of shares in an offshore company must be in writing and the instrument of transfer submitted to the ROC for approval (s. 24, OCR). Offshore companies must have a registered office and a registered agent in the free zone or in Dubai at all times, and communication between the JAFZ Authority and the company would generally take place through them.

90. Companies are subject to termination of their licence, fines up to AED 10 000 (approximately USD 2 700) per day and other penalties, such as staff being impeded from entering or exiting the free zone, and as determined by the ROC, if they are in breach of the JAFZ rules including the requirement to keep a register of members and provide ownership information to the JAFZ Authority (s. 109, CIR, s. 14 JAFZ Rules). It is an offence for an offshore company not to maintain a register of members (s. 23.2, OCR), punishable by a fine of AED 1 000 (approximately USD 270) and a daily default fine of AED 200 (approximately USD 54) applicable to both the company and its officers (Schedule 3, OCR). The JAFZ Authority Licensing Department's Procedure for non-compliant companies foresees that where a company does not comply with JAFZ regulations, including submitting annual financial statements within three months from the end of the financial year, renewing its licence, or refusing to provide accounting or beneficial owner records (see below and element A.2) upon request within one month, the Authority will apply a fine (up to AED 10 000 per day (approximately USD 2 700)) or other sanctions or ultimately strike off (for offshore companies) or terminate (for onshore companies) the company.

91. The JAFZ Authority’s Compliance Section undertakes risk assessments, staff training and continual screening to ensure that its departments ensure the application of JAFZ company rules and federal AML rules in the course of company formation, transfers of shares, company conversions and changes in company officers. The Inspection Department visits company premises to verify compliance with all JAFZ rules. Whether ownership information is maintained is routinely checked. A team of 21 inspectors undertakes an average of three inspections per inspector per day. Each entity is inspected twice a year, in addition to any follow ups requested by other authorities. The JAFZA undertakes paper and onsite inspections of registered agents upon the annual licence renewal. Companies that become inactive and cease to comply with their obligations are struck off the register. The following table provides statistics on the JAFZA’s sanctions applied in the review period.

JAFZA Compliance Activities

Action taken	2016	2017	2018
Fine, other penalty or strike off	270	102	295

92. The number of instances in which the JAFZ Authority provided information in response to an EOI request was not provided. The Authority indicated that it takes one to two days to provide information to the Ministry of Finance if the information requested is already available to it, and generally one to two weeks if the information needs to be sought from a company. Underlying accounting records usually take a longer time to obtain.

Ras Al Khaimah Economic Zone (RAK EZ)

93. In the RAK EZ, only companies of limited liability with a minimum of one and a maximum of 50 shareholders can be incorporated. As at October 2018, 13 806 companies were registered, of which almost 75% only had one shareholder. The RAK EZ Authority approves, registers, licenses, regulates and acts as the registrar for companies in the free zone, in accordance with the RAK EZ Companies Regulations 2017.

94. The Regulations require the Memorandum of Association of a company to include the name, address and nationality of each of the shareholders (s. 12). This is then registered with the registrar (s. 14), and the company itself must also maintain a shareholder register (s. 43). Share transfers are only effective from the date they are registered with the registrar (s. 39). This means that the authorities always have up-to-date legal ownership information readily available.

95. Where the Registrar considers that a person (company, director or other person) has contravened a provision of the Regulations, it may impose any penalty as deemed necessary, including the termination of the licence and the imposition of a fine (s. 116).

96. There is a designated team to carry out compliance functions. This includes checking that all documentation is in order upon registration and renewal, as well as the carrying out of inspections to monitor compliance with RAK EZ rules and regulations and applicable federal rules. In 2018 (the first full year under the new Regulations), this team conducted 5 313 inspections. In 530 cases, information was missing and the company's account with the authorities was blocked (which means it is very difficult to still do business, as for example employment and land lease require the authority's approval) until the required information was provided. In addition, 2 523 fines were issued for late licence renewal or late provision of mandatory updates to the registered details.

97. The Registrar may strike off companies if they are no longer active, if they fail to pay the annual renewal fee or for other reasons (ss. 119-121). Around 1 000 inactive companies have been struck off in 2017 and 2018 each, for failing to renew their license. Restoration of the company is possible within two years after strike off (s. 122).

Ras Al Khaimah International Corporate Centre (RAK ICC)

98. The RAK ICC Business Companies Regulations 2018 allow for the incorporation of companies limited by shares, companies limited by guarantee that are authorised to issue shares, unlimited companies that are authorised to issue shares and companies limited by guarantee that are not authorised to issue shares. The rules described below apply to all types of companies (except that the rules relating to shares do not apply to companies limited by guarantee). In any case, the only type of company registered with the authorities is the company limited by shares: 11 303 as at October 2018.

99. Upon incorporation, companies must submit to the Registrar a document with the full name and address of the initial member(s) (s. 6(1)(e)). Subsequently, the Registrar must keep a register of members for the company (s. 54(1)). While section 54 only refers to shareholders, the RAK ICC authorities indicated that the details of guarantee members and unlimited members, where relevant, would also be included in the register of members. This also follows from section 79, which defines guarantee members and unlimited members as persons whose names are entered in the register of members. It is, however, unclear to what extent a register of members of companies limited by guarantee that are not authorised to issue shares would be kept by the Registrar, since these are excluded from this requirement under

section 5. Although there are currently none in existence, the UAE should clarify its legislation to ensure that legal ownership information is kept for all companies limited by guarantee in the RAK ICC that are not authorised to issue shares (see Annex 1). The company or its registered agent must file any changes in its register of members with the Registrar in the approved form within 30 days of such change, and the changes will take effect upon the register of members being updated by the Registrar (s. 54(4)). This means that the authorities always have up-to-date legal ownership information readily available.

100. All companies must have a registered agent (s. 92), who is generally the contact point for the authorities and files documents. Nevertheless, it is the company's responsibility, usually through its registered agent, to keep the register of members with the Registrar up to date. A fine of AED 2 000 (approximately USD 540) may be imposed in case of non-compliance (ss. 54(2) and 54(3)), although a share transfer does not take effect until it is reflected in the register of members anyway. The registered information in respect of the shareholders is confirmed as part of the annual renewal process.

101. The Registrar may strike off companies in case of non-compliance with the rules (s. 243). In practice, this occurs regularly where companies fail to renew their licence. During the review period, more than 5 000 companies have been struck off for this reason. Restoration of the company is possible within three years after strike off (s. 246(3)). In addition, 1 203 companies have been officially liquidated during the review period.

102. There is a designated team to carry out compliance functions. This includes checking that all documentation is in order upon registration and renewal. Fines are imposed where non-compliance is detected. For example, in 2018 five companies were fined for not notifying the Registrar of an update in the register of members.

103. In addition, a comprehensive audit of all registered agents took place in 2016, after which 169 of the 337 registered agents were disqualified. In the second quarter of 2019 a new risk based on-site inspection team and programme was put in place that applies to the current 271 registered agents. There has been a focus on educating agents as to their responsibilities and the implementation of the risk based inspection regime.

Nominees

104. As mentioned in the 2016 report, UAE nationals may not act as nominees for foreign nationals pursuant to the Anti-Fronting law. This is a safeguard to the rule in the CCL that 51% of the capital of a company or partnership must be held by UAE nationals.

105. For other situations, the new AML framework specifically designates all providers of nominee shareholder services as DNFBPs, which means they must identify the person they act for as well as its beneficial owner(s). The specific framework in some of the free zones, such as the DIFC and the DMCC, explicitly confirms this, although the federal AML framework applies in all free zones anyway.

Availability of beneficial ownership information

106. The EOIR standard was strengthened in 2016 to require that beneficial ownership information on companies be available. In the UAE, this aspect of the standard is met through the combination of the federal AML legislation, free zone AML frameworks and free zone beneficial ownership regulations. As noted in the overview, before 2014, the primary (federal) AML legislation imposed few CDD obligations on financial institutions and relevant non-financial entities. Specific requirements were contained only in instruments issued by the regulatory authorities and these were found by MENAFATF to vary markedly in depth and quality, resulting, within the domestic sector, in a significant number of areas in which the requirements did not comply with the FATF standards. This framework was enhanced in 2018 to align it with the international standards.

General AML regime before 2018

107. The UAE's first AML law was Federal Law No. 4 of 2002 Regarding Criminalisation of Money Laundering (the 2002 AML Law) and the UAE Government issued executive Cabinet Resolution No. 38 of 2014 Concerning the Executive Regulation of the Federal Law No. 4 of 2002 (2014 Cabinet Resolution). The Resolution established general obligations for financial institutions and "other financial, commercial and economic establishments" to apply preventative measures and comply with certain other procedures set in any applicable regulations or instructions issued by the relevant supervisory authorities.

108. The measures in the 2014 Cabinet Resolution included identifying clients and the "real beneficiaries", defined as "such natural person in actual control of the client or performs transactions on his behalf, [sic] including the person that actually controls a corporate person or legal arrangement." In respect of corporate persons, the Resolution required obliged entities to keep copies of documents, information and statements on, among others, the names and addresses of the partners and shareholders each holding 5% or more of the share capital (s. 4(2)(a)). It also required entities to update all information and data in connection with the identity of the clients regularly and periodically. In any case, the obligations remained high level and the

need remained for the primary law to be supplemented by implementing regulations issued at the level of supervisory authorities.

109. The Regulation Concerning Procedures for Anti Money Laundering 24/2000 of 14 November 2000 issued by the Central Bank (Central Bank AML Regulation) was the key implementing regime issued by a supervisory authority at the federal level. It applied to banks, moneychangers, finance companies and other financial institutions operating in the UAE. It set out some basic know your customer procedures for bank accounts (including the requirement to maintain the names and addresses of shareholders of public shareholding companies whose shareholdings exceed 5%), a range of discrete preventative measures along with several examples of customer transactions that pose AML risks. It also set out the need for financial businesses to maintain records of all transactions, including transaction identifiers and other details and account opening documentation for a period of five years after an account is closed (ss. 18 21). It did not, however, set out requirements for more comprehensive and systematic mechanisms to ensure that AML obliged entities maintain information on the beneficial owners of customers in line with the international standard. This instrument has been cancelled following the putting in place of the new AML framework, as mentioned in the overview and discussed in section A.3.

110. Central Bank Notice No. 2922 of 2008 specified that banks and other financial institutions were “required to identify the beneficial owners of companies and businesses opening accounts or remitting money and should obtain satisfactory evidence of their identities”. To do so, they should “clearly understand the ownership and control structure of all legal entities”. However, the term “beneficial owner” remained undefined and lacking specificity vis-à-vis the components of the definition and other requirements in the international standard.

111. The AML regime in place before 2018 (i.e. during most of the review period) was therefore not up to the standard and did not support the identification of all beneficial owners of all relevant entities and arrangements in the UAE.

General AML regime since 2018

112. New federal AML legislation abrogating the 2002 AML Law, with effect from 30 October 2018, was introduced through Federal Law No. 20 of 2018 on Anti Money Laundering and Combating the Financing of Terrorism and Financing of Illegal Organisations (2018 AML Law). Federal AML law, unlike company law, applies throughout the UAE, i.e. in the mainland and in each of the free zones.

113. In contrast with the 2002 AML law, the 2018 AML Law articulates various obligations for financial institutions and designated non-financial businesses (defined in the implementing regulations) to develop policies and procedures to mitigate AML risks (s. 16). Obligated entities must maintain all records, documents and data for all transactions, whether local or international, and make this information available to the competent authorities (meaning the government authorities in each UAE jurisdiction responsible for the implementation of the new AML framework in their jurisdiction) promptly upon request (s. 16(1)(f)). Obligated entities must also apply due diligence measures and procedures in cases specified by the implementing regulations (s. 16(1)(b)). The 2018 AML Law charges commercial registrars and obliged entities alike with the retention of information and records, as set out in the implementing regulations (s. 17).

114. Regulations implementing the 2018 AML Law were issued with effect from 28 January 2019 through Cabinet Decision No. 10 of 2019 Concerning the Implementing Regulation of Decree Law No. 20 of 2018 on Anti-Money Laundering, Combating the Financing of Terrorism and Financing of Illegal Organisations (AML By-Law). The AML By-Law imposes CDD and other requirements, as set out in its Chapter 2, on financial institutions (s. 2) and designated non-financial businesses and professions (DNFBP) (s. 3), including lawyers, notaries, independent accountants and other independent legal professionals as well as corporate and trust service providers.

Definition of beneficial ownership applicable throughout the Emirates

115. The 2018 AML law, section 1, defines “Beneficial Owner” as “the natural person who owns or exercises effective ultimate control, directly or indirectly, over a client 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”.

116. This general definition is replicated in the implementing regulations and seems broadly consistent with the international standard, although it refers to “the natural person” in singular when an entity can have several beneficial owners. The authorities have confirmed that the absence of a plural reference to natural persons would not be interpreted to allow the relevant entities to choose only one natural person as the beneficial owner if there are multiple beneficial owners.

117. In the AML By-Law, whilst the definition of “beneficial owner” is consistent with the international standard, the rule on verifying the identity of beneficial owners of a legal person covers “the natural person, whether working alone or with another person, who has a controlling ownership interest in

the legal person of 25% or more, and in case of failing or having doubt about the information acquired, the identity shall be verified by any other means” (s. 9(1)(a)). The provision lacks some clarity and may be construed to omit the requirement to identify the natural person(s) exercising control through other means before defaulting to the person holding the position of senior management officer, in line with the international standard (i.e. to the extent that there is doubt as to whether the person(s) with the controlling ownership interest is the beneficial owner(s), or where no person exerts control through ownership interests). For federal and free zone-level registrars and companies relying on the AML By-Law, therefore, the AML By-Law may not of itself ensure that beneficial ownership information is kept fully in line with the standard in all cases.

Obligations of service providers

118. The federal AML regime applies equally to the domestic financial sector and within the DIFC and ADGM. Under the AML By-Law, financial institutions and DNFBPs are generally required to undertake CDD measures to verify the identity of the customer and its beneficial owners before the establishment of the business relationship or opening an account (s. 5), using documents, data or information from a reliable source (ss. 8-9). Where they are unable to undertake CDD measures, it is prohibited to establish or maintain a business relationship or execute a transaction (s. 13(1)).

119. Obligated entities must maintain all records, documents, data, account files and business correspondence relating to CDD measures and ongoing monitoring undertaken, for a period of no less than five years (from the date of termination of a business relationship, closing of an account) (s. 24).

120. The reliance on third parties to undertake the required CDD measures in respect of a customer is permitted (s. 19). An obliged entity is responsible for the validity of such measures. It must immediately obtain from the third parties the necessary identification data and ensure that copies of necessary documentation can be obtained without delay and upon request, as well as ensure that the third party is regulated and supervised by relevant licensing authorities and adheres to the rules of the AML By-Law.

121. Obligated entities must undertake ongoing monitoring of business relationships including through audits to ensure that transactions are consistent with the information held on customers and ensuring, through reviews of records, that documents, data or information collected is up to date and appropriate (s. 7). There is no minimum frequency prescribed for the monitoring.

122. Under the 2018 AML Law, supervisory authorities throughout the UAE are tasked with monitoring and supervision functions (s. 13) and may

impose administrative sanctions on financial institutions and DNFBPs for contraventions of the AML regime, ranging from warnings to administrative penalties between AED 50 000 and 5 000 000 for each violation, banning an offender from operating in the business sector, constraining the powers of board members and related persons, arrest and licence cancellation (s. 14). There is a residual penalty provision imposing imprisonment or a fine between AED 10 000 and 100 000 on a person who violates the provisions of the law (s. 31). Whilst the rules do not stipulate a specific term of imprisonment, the term will be at the discretion of the judge, taking into account the nature and gravity of the offence.

Beneficial ownership requirements for Registrars and companies in the new AML By-Law

123. Chapter 3 of the AML By-Law sets out the new requirements for nationwide registrars of legal persons and for legal persons themselves to ensure the transparency of legal and beneficial owners. (ss. 34-47). Companies must maintain accurate and up-to-date identity information on their shareholders (including a shareholder register) and beneficial owners, and provide the information upon request to their respective registrar (s. 35). If there is a change, the information must be updated within 15 business days.

124. The AML By-Law also requires a registrar, meaning a body charged with supervising a register of commercial names for all types of establishments registered in the UAE (s. 1), to obtain accurate and up-to-date information on the beneficial owner of a company (s. 34(3)). The UAE notes that this provides an express legal basis for the requirement for registrars in the different Emirates, as well as in free zones, to collect and keep beneficial ownership information. In the free zones analysed, regulations were issued for this purpose, which generally seek to ensure the availability of legal and beneficial ownership information on legal persons, including companies.

125. The Registrar and companies, or the administrators or liquidators or any other stakeholder involved in the dissolution of a company, are required to maintain the legal and beneficial ownership information mentioned in ss. 34 and 35 for at least five years from the date when a company is dissolved or otherwise ceases to exist (s. 36).

Federal UAE (without the free zones): application of the AML regime and supervision

126. Beneficial ownership information in respect of companies incorporated under the federal regime may be available through three mechanisms. Firstly, the Departments of Economic Development (DEDs) of the different Emirates must collect beneficial ownership information on companies

registered by them under the new AML framework. The Dubai DED, where the vast majority of federal companies is registered, indicated that it already started collecting beneficial ownership information in 2017, and checks whether this is available and up to date yearly upon registration renewal. Secondly, companies must maintain the information themselves under the AML By-Law.

127. The robustness of the collection and checking of beneficial ownership information by the DEDs will need improvement going forward. The guidance under the old AML framework on what to collect was minimal and focused on persons holding 5% or more of the share capital. The new framework was only put in place in early 2019, and it is unclear to what extent DEDs other than the Dubai DED started collecting beneficial ownership information before that time. In addition, the DED staff has not been trained on beneficial ownership and specific DED guidance in relation to the post-2018 AML framework (i.e. the 2018 AML Law and AML By-Law) is not yet available. Checks for accuracy and reasonableness may therefore have not yet been carried out at all nor done by people with appropriate training. As described in respect of legal ownership, the DEDs carry out inspections in relation to companies' compliance with their commercial legal obligations. The Dubai DED carries out an adequate number of inspections covering the vast majority of businesses registered in the federal UAE. The frequent visits and penalties imposed have seen a gradual increase in compliance. The UAE should ensure that the new requirements for companies in the federal zone to maintain and file up-to-date beneficial ownership information are effectively implemented and that appropriate monitoring is carried out on the requirements to have beneficial ownership information available in all cases (see Annex 1).

128. The third mechanism that may ensure the availability of beneficial ownership information of companies incorporated under the federal regime is through private service providers, such as banks, lawyers and other service providers managing assets for their clients. Oversight in respect of the most common service providers is the responsibility of the Central Bank (for banks, money changers, and finance companies), the Emirates Securities and Commodities Authority (for securities brokers), the Ministry of Economy (for auditors and insurance companies) and the Ministry of Justice (for lawyers). As noted above in paragraph 68, private joint stock companies must have their shares registered with a share register secretariat. This secretariat is also an AML obliged service provider in relation to this activity (s. 2(6) AML By-Law). The supervision by the SCA on the share register secretariats under the new AML regime has yet to commence, with the first on-site inspections planned for the last quarter of 2019.

129. In particular in respect of companies incorporated under the federal regime that have engaged a UAE bank (or other service providers), beneficial ownership information is likely to have been available already under the old AML framework (albeit impacted by the deficiencies in that legal framework already discussed above). Whilst monitoring by the Central Bank has been adequate (see A.3 for further details) in respect of the obligations under the old AML framework, the UAE should ensure that appropriate monitoring is carried out on the requirements for banks and other service providers to have beneficial ownership information available in all cases under the new AML framework (see Annex 1).

130. At least 51% of the capital of companies and partnerships registered with the DEDs must be held by a UAE national, which are prohibited by law to be nominees. Limited ownership/control in companies for foreigners limits the attraction for them to participate in these companies, which tends to reduce the materiality of the recommendations made in respect of companies in the federal UAE jurisdiction.

Conclusion

131. It seems that a minimum baseline of beneficial ownership information may have been available in the federal UAE during the review period through the DEDs, banks and other AML-obliged service providers. However, in respect of service providers the concept of beneficial ownership in the legal framework was not in line with the international standard. Checks by the Dubai DED for the accuracy and reasonableness of beneficial ownership information collected from companies have been minimal or non-existent.

Dubai International Financial Centre (DIFC): additional obligations and supervision

132. The ROC already recorded some beneficial ownership information before the new federal AML framework was introduced as part of its AML screening process at the point of on boarding a registrant. However, this would only partially have aligned with the requirements of the international standard.

133. The DIFC's AML framework has been in place since July 2013 and was an additional source of beneficial ownership information during the review period.

Customer due diligence by service providers

134. The DFSA issues, regulates and supervises its own AML Rules in accordance with the federal law (s. 70(3), DIFC Regulatory Law). The regime is contained in the DFSA Rulebook's Anti Money Laundering, Counter Terrorist Financing and Sanctions Module (DFSA AML Module), which has extensive guidance for obliged entities. The DFSA AML Module has been updated to refer expressly to the federal 2018 AML Law as its legislative basis.

135. Entities with obligations under the DFSA AML Module include DNFBPs, registered auditors, and “authorised firms” and “authorised market institutions” carrying out a broad range of financial services activities as set out in the DFSA Rulebook (s. 2.2, General Module). The scope of these obliged entities appears to be in line with the international standard. Obligated entities are collectively referred to as “Relevant Persons” (s. 7.1). Authorised firms include providers of company and trust services. A DNFBP is defined to include law or notary firms, other independent legal businesses, accounting, auditing or insolvency firms, and company service providers (s. 3.2, DFSA AML Module).

136. The DFSA AML Module requires obliged entities to maintain records, including information and documents obtained in the course of CDD, business correspondence and records of all transactions for at least six years from the date on which a business relationship ends or a transaction is completed and make them immediately available to the DFSA (s. 14), even if they are held outside the DIFC. Any failure to comply with federal AML law is also a failure to comply with s. 71(1) of the DIFC Regulatory Law, which may result in sanctions and disciplinary actions being imposed by the DFSA.

137. An obliged entity must not establish a business relationship with a legal person or arrangement if the ownership or control arrangements of such customer prevent it from identifying the beneficial owners (ss. 6.1.4, 7.1-7.3) and it must terminate or suspend a relationship where CDD, including beneficial owner verification, cannot be adequately undertaken (s. 7.7). The DFSA AML Module requires financial institutions and DNFBPs to review the adequacy of information held on those persons to ensure it is complete and up to date; and to understand the business nature, ownership and control structure of customers.

138. Obligated entities must undertake ongoing CDD including reviewing the adequacy of information held on beneficial owners (s. 7.6.1(d)). The DIFC advises such information would need to be refreshed at maximum intervals of three to five years for customers classified as lower risk. An obliged entity may rely on CDD conducted by a third party only if it immediately obtains the CDD information from that party, satisfies itself that certified copies of

the documents used will be available from the third party on request and without delay, and if the requirements that party is subject to meet international standards (s. 8.1). The entity remains responsible and liable for failures to comply with its obligations (s. 8.2).

Beneficial ownership regulations

139. The Ultimate Beneficial Ownership (UBO) Regulations enacted with effect from November 2018 are the principal source of beneficial ownership information availability in the DIFC in respect of companies. All entities or arrangements, except recognised companies, wishing to incorporate or register in the DIFC (“registered person”, including all companies, partnerships and foundations – s.3 DIFC Operating Law), as well as existing registrants within 90 days, must disclose beneficial ownership details to the ROC as part of the registration process and within 90 days when there is a subsequent change (ss. 6.1, 6.2). They must also maintain an up-to-date register of UBOs themselves (s. 4.1). The ROC keeps UBO records for six years from the date a registered person is wound up or struck off (s. 7.4).

140. Registered entities that are provided with a share transfer or other document relating to a change in ownership must not register, recognise or give effect to it unless provided with a statement from the transferee with details of any UBO changes (s. 3.2.3). Moreover, entities are required to issue notices to any persons who they have reasonable cause to believe are UBOs (s. 3.3.1) so that recorded data may be corrected. The ROC screens for AML risks before approving any company registrations.

141. The UBO particulars to be kept are the full name, residential address, date and place of birth, nationality, issuance details for passports or other government-issued identification documents, and the dates on which a person became and ceased to be a UBO (s. 4.1.4). Changes must be recorded within 30 days.

142. Persons that do not comply with the requirement to provide UBO information will not be registered and those that fail to notify changes in UBO are in breach of the DIFC Operating Law (ss. 15 and 61) and subject to maximum fines of USD 25 000. The ROC may strike off any entity for failure to comply with the UBO Regulations (s. 8.2).

Definition and identification of Beneficial Owner

143. The DFSA 2013 AML Module’s definition of “Beneficial Owner” (s. 3.2.1) applicable to obliged persons seems to be consistent with the international standard in respect of legal entities and arrangements. The module does not use an ownership or control threshold in respect of legal persons. The DIFC

indicates that it prefers obliged entities to take a substantive, non-threshold based approach to identifying beneficial owners of legal persons. A Relevant Person does not have to identify an ownership interest if, having regard to a risk-based assessment of the customer, it is reasonably satisfied that the ownership interest is minor and in the circumstances poses no or negligible risk of money laundering (s. 7.3.3(3)). The UAE explains that this is intended to constrain the general rule of identifying persons who detain any ownership interest in a customer that is of a controlling nature. In any case, the 25% threshold is imported from the federal AML By-Law and would now apply at a minimum.

144. The required methods of identification and verification of beneficial owners of legal persons and arrangements seem consistent in scope with the international standard (e.g. the “cascade approach” in respect of legal persons and the requirements in respect of trusts and similar arrangements are incorporated) and they must be based on reliable and independent source documents, data or information (s. 7.3, DFSA AML Module).

145. The definition of UBO (s. 3.1) in the 2018 Regulations in respect of companies is largely consistent with the international standard. There are, however, some particularities to note. An UBO exercising control through other means (in accordance with beneficial owner identification method of the “cascade approach”) is equated to “any natural person upon whose instructions the registered person or its governing body is required or is accustomed to act.” It is unclear whether in practice this articulation of control through other means results in the identification of beneficial owners consistent with the international standard. Moreover, where a foreign “recognised” entity owns or controls 25% of the company, it will be sufficient to record the entity as the UBO (s. 2). This would not result in the correct UBO(s) being identified in all cases. The UAE should ensure that beneficial ownership information in line with the standard is required to be available for DIFC entities in all cases (see Annex 1).

Supervision

146. The ROC routinely and adequately checks companies’ compliance with DIFC rules as set out above in the analysis of legal ownership. The DIFC advises that whilst it does not currently undertake specific reviews of the accuracy, currency and completeness of beneficial ownership information maintained and filed by companies, these aspects form part of its general compliance checks and will be specifically looked into if there is suspicion of non-compliance. The UAE should ensure that the new requirements for DIFC companies to maintain and file up-to-date beneficial ownership information are effectively implemented and that appropriate monitoring is carried out on the requirements to have beneficial ownership information available in all cases (see Annex 1).

147. With the DFSA AML Module, the availability of beneficial ownership information in the DIFC is further ensured to the extent that DIFC entities have relationships with AML-obliged entities such as banks, legal professionals and company services providers. This is particularly the case for recognised companies (i.e. companies formed outside the DIFC) which, whilst only being required to satisfy the ROC that they are subject to equivalent beneficial ownership transparency requirements in their home jurisdiction rather than fully complying with the UBO Regulations (as DIFC-incorporated entities do), would see such information available in the hands of a UAE-based AML-obliged service provider where a relationship with such a service provider exists.

148. The DFSA monitors and supervises its financial institutions' and DNFBPs' compliance with the DFSA AML Module through risk-based assessments including desk-based reviews (e.g. of annual AML returns, controller reports and institutional policies and procedures) as well as onsite inspections. Client files are a particular focus of onsite inspection when an entity is newly licensed by the DIFC. Thematic reviews are undertaken (e.g. in the areas of trade finance, accounting and financial crime). There are 46 supervisors in the Supervision Department, who receive appropriate AML-related training.

149. The following table provides statistics on the DFSA's compliance activities.

DFSA AML compliance activities

Type of activity	2016	2017	2018
Risk assessment – Authorised Firm	174	177	147
Risk assessment – Registered Auditor	17	10	8
Risk assessment – DNFBPs	0	0	15
Client file reviews	19	26	28

150. The following table provides the percentage of CDD and record keeping breaches identified as at 31 December 2018 through DFSA risk assessments:

DFSA AML compliance activities

Type of breach	2016	2017	2018
CDD	8%	8%	6%
Reliance on third parties	2%	1%	2%
Accounting records	1%	0%	0%

151. Eight Relevant Persons were issued fines amounting to approximately USD 12 million in the period from 2015 to 2018 for non-compliance with AML rules. With respect to the keeping of AML records, the DFSA

relies on Registered Auditors to check and provide annual opinions on Relevant Persons' compliance and such auditors are in turn inspected by the DFSA. The DIFC advises that auditors have been found to undertake appropriate checking and no non-compliance by them has been identified to date.

Conclusion

152. Whilst during the review period the ROC already recorded some beneficial ownership information (meaning a person owning more than 10% of an entity) as part of its AML screening process at the point of on boarding a registrant, this would only partially align with the requirements of the international standard and would not seem to be subject to systematic updating of the information on file. Moreover, the ROC's checking of its accuracy was limited. However, beneficial ownership information would have been available in the hands of AML-obliged service providers to the extent that a relationship with such providers existed. This would be the case for most entities which must have their accounts audited by a Registered Auditor (see section A.2), however not all such auditors would necessarily be subject to the DIFC's relatively more robust AML framework in place during the review period. Going forward, the combination of the DIFC AML framework and UBO Regulations should ensure availability. The UAE should ensure that appropriate implementation and monitoring is conducted in relation to the DIFC requirements for beneficial ownership information to be available in all cases (see Annex 1).

153. The availability of beneficial ownership information for companies is confirmed in the EOI practice: the DIFC authorities responded to 27 requests from the federal Ministry of Finance in the review period (13 of which to confirm that the subject was not located in the DIFC) which included providing beneficial ownership obtained from DIFC companies. All responses were provided within 30 days. The DIFC authorities were not required to obtain beneficial ownership information from financial institutions or DNFBPs in the review period.

Abu Dhabi Global Market (ADGM): additional obligations and supervision

154. The ADGM indicates that it started to seek beneficial ownership information from ADGM entities from its inception in 2015, before the introduction of the new federal AML framework and its own beneficial ownership regulations, due to its desire to establish a robust regulatory environment. It did so on the basis of its general licensing powers. However, this would only partially have aligned with the requirements of the international standard.

155. The ADGM’s AML framework was also in place during the review period and is contained in the FSRA AML Rulebook, which has been in effect since October 2015 but has been updated progressively.

Customer due diligence by service providers

156. Service providers in ADGM are AML-obliged persons⁷ which must perform risk-assessment and CDD on their clients. Obligated entities are required to identify and verify the identity of the beneficial owners when establishing a business relationship (ss. 7.1.1, 8.3.3), and generally before carrying out a transaction or providing a service (s. 8.2). They must not establish or continue a business relationship with a legal person or arrangement when CDD cannot be conducted or completed or the ownership or control arrangements of such customer (e.g. bearer shares) prevent the identification of one or more beneficial owners (ss. 7.2.1, 8.7.1).

157. Obligated entities must take into account any indication that a customer’s beneficial owner has changed, and review the adequacy of CDD information held periodically, i.e. every year for customers classified as high risk and every five years for low risk customers (ss. 8.1.2 and 8.6.1). An obliged entity may rely on third party CDD only if it immediately obtains CDD information from it, is satisfied that supporting documents will be available upon request and without delay, and that the third party is subject to AML standards in line with international standards, among other safeguards (s. 9.1). The entity remains liable for any failure to comply with the Rulebook.

158. Obligated entities must keep copies of all documents and information obtained in undertaking initial and ongoing CDD for at least six years, including business correspondence, transaction records that enable these to be reconstructed, and internal findings and analysis relating to a transaction or any business (s. 4.5.1). Records must be kept in a manner that enables them

7. Including financial services providers licensed by the FSRA under the Financial Services and Markets Regulations 2015 (FSMR) and DNFBPs (s. 1.2.1, s. 258 FSMR). DNFBPs include accounting, audit, insolvency or taxation consulting firms as well as law and notary firms and other independent legal businesses when providing relevant services to legal persons and arrangements (ss. 3.2.1, 8.1.1). Covered legal or notarial services (e.g. in relation to the creation, operation or management of legal persons or arrangements, and buying and selling of business entities) refer to those provided to a person “participating in financial or real property transactions” (s. 8.1.1(2)(e)). Whilst the ADGM explains this drafting was intended to provide a broad view of what transactions were envisaged, it recognises that the language could be read to restrict the scope of covered activities or transactions vis-à-vis the international standard and is therefore reviewing the rule to align it with the standard and avoid any doubt.

to be easily accessible and made available to the regulatory authorities within an appropriate time (ss. 4.5.4 and 4.5.5).

159. A contravention of the FSRA AML Rulebook, including any rules on CDD and transaction or account record keeping requirements, is a contravention of the ADGM Financial Services and Markets Regulations 2015 (FSMR) (s. 218). Persons knowingly involved in a contravention also commit a contravention (s. 220). A range of penalties and disciplinary measures can be imposed, including financial penalties at an appropriate level determine by the FSRA (s. 232), public censure (s. 231), suspension or cancellation of a services permission (s. 233), prohibition of an activity (s. 234), and enforceable undertakings (s. 235). The FSRA also has a broad power to make an application to the ADGM Courts for injunctive relief and other orders to address contraventions (ss. 236-238).

Beneficial ownership regulations

160. The Beneficial Ownership and Control Regulations (BOCR), issued in April 2018 and with effect from October 2018, are now the principal source of beneficial ownership information availability in the ADGM in respect of companies, partnerships, foundations, and trusts governed by ADGM law (“ADGM persons”) that are incorporated or registered in the ADGM. ADGM persons must provide beneficial ownership information to the Registration Authority as part of the formation and registration process (“statement of initial beneficial ownership and control”, s. 9A Companies Regulations) and keep an accurate, complete and up-to-date record of beneficial owners (ss. 2, 3). Persons existing at the time of the BOCR’s enactment must have established a record of beneficial owners within 90 days. The Registration Authority maintains a “Register of Beneficial Owners of Legal Persons” based on ADGM persons’ own beneficial owner records and other relevant information (s. 11), and screens the beneficial owners of all registrants (initially and on a continuous basis) for AML risks.

161. ADGM persons must file their beneficial owner records (s. 4) and notify the Registration Authority of any changes within 15 days (s. 5). Where they have cause to believe that a change of beneficial ownership has occurred, ADGM persons are also required to request in writing details of any change from each person recorded as a beneficial owner who may be affected and amend the record accordingly (s. 3). The particulars to be kept are the full name, country of residence, date of birth, nationality, occupation, date on which the person became a beneficial owner, and the grounds on which the person is considered to be a beneficial owner (s. 2(5)).

162. Entities must take reasonable steps to ascertain the true, accurate and complete identity of its beneficial owners. If the entity has reasonable

grounds for believing that a person is or may be its beneficial owner, it must send a request in writing to such person requiring him/her to state whether he/she is a beneficial owner in relation to the ADGM Person; and if so, to provide, confirm or correct any required particulars (BOCR, s. 1). The rules are recent and therefore untested, and it is also not clear how the “reasonableness” of the measures taken will be implemented and assessed in practice.

163. Persons that do not comply with the BOCR regulations are subject to a fine up to USD 25 000 (ss. 17, 19). As mentioned in the analysis of legal ownership, the Registration Authority may ultimately strike off an entity for failure to comply with applicable regulations. The Registration Authority must maintain records for six years from a ADGM person’s dissolution or strike off (the same applies to the person and their liquidator, if appointed (ss. 7, 14)).

Definition and identification of Beneficial Owner

164. Regarding the FSRA AML Rulebook, pursuant to the FSRA General Glossary a beneficial owner “in relation to AML means, in relation to a customer, a natural person who ultimately owns or controls the customer or a natural person on whose behalf a transaction is conducted or a business relationship is established”. Since April 2019, the AML Rules specify that for body corporates the AML-obliged entity must identify “any natural person who a) owns or controls (directly or indirectly) 25% or more of the shares or voting rights in the body corporate; or b) controls the body corporate. For the purposes of (2)(b), a natural person controls a Body Corporate if such person: (a) holds, directly or indirectly: i) 25% or more of the Body Corporate’s shares; (ii) 25% or more of the voting rights in the Body Corporate; or (iii) the right to appoint or remove a majority of the board of directors of the Body Corporate; or (b) has the right to exercise, or actually exercises, significant influence or control over the Body Corporate.” (s. 8.3.3). The fall back of identifying a senior managing official (as required by the standard) in case no natural person corresponds to the definition above is expressed in a manner which is essentially the same as the general concept of “control through other means”. This means that if no person has been identified as having control through other means, it is likely that there will also be no person (i.e. a senior managing official) identified as a fall back.

165. It is noted that, during the review period, older versions of the FSRA AML Rulebook were in force. These lacked the more granular definitions of “beneficial owner” in respect of bodies corporate, partnerships, trusts and foundations as required under the international standard.⁸ The regulator did require, nevertheless, obliged entities to take a substantive approach

8. FRSA Glossary, version 07, s. 1.2.1.

to identifying the natural persons exercising control over legal entities and arrangements (e.g. by not applying ownership and control thresholds and using a risk-based approach) and gave detailed guidance on doing so.⁹

166. In the BOCR, “Beneficial owner” is defined in Schedule 1 (“Meaning of Beneficial Owner”) in respect of companies, general partnerships, limited liability partnerships, foundations, trusts, and legal arrangements similar to trusts, in a manner that seems largely consistent with the international standard. However, the requirement that a beneficial owner must be a natural person is only implicit (i.e. within the rule that certain low risk owners, e.g. governmental entities, must be treated as natural persons for purposes of the BOCR). In addition, in the case of a company or other legal person, it is not explicit that the “cascade approach” is to be applied sequentially. This could lead to misinterpretation of the obligation to identify all beneficial owners in some cases. The senior managing officer or their equivalent is described as “any person who exercises control over the management of the company or LLP.”

167. The UAE should ensure that beneficial ownership information is available for ADGM entities and arrangements in line with the standard in all cases, and in particular that only natural persons are recorded as beneficial owners in practice and that the “cascade approach” is incorporated in respect of all legal persons (see Annex 1). Shares held by nominees are to be treated as held by their beneficial owner for purposes of the BOCR (Schedule 1, s. 10).

Supervision

168. The ADGM is a recent financial services centre and its monitoring and supervision apparatus is in development. Monitoring and supervision is undertaken by the FSRA according to a risk-based approach in relation to AML, commercial, conduct and prudential matters. It is done through offsite reviews (review of periodical regulatory filing and audited statements, and thematic reviews) and onsite reviews (scheduled and spot inspections and management meetings). The FSRA has a financial crime unit of three persons, to be expanded to six by the end of 2019. A thematic AML monitoring exercise is being undertaken in 2019.

169. Since inception, the FSRA has undertaken 21 onsite inspections covering AML compliance, including 4 banks, 17 other financial businesses, and 4 DNFBPs. The ADGM reported that it had not yet had to take compliance action other than issuing one “cease and desist” notice to one entity. As the ADGM’s AML monitoring and supervision function is relatively recent, the

9. Paragraphs 40-44, FRSA AML Rulebook version 02.

UAE should monitor this function to ensure that appropriate checks are performed regarding the beneficial ownership information that is required to be available with AML-obliged entities (see Annex 1).

Conclusion

170. The definitional issues discussed above may have led to sub-standard and uneven beneficial ownership information being maintained by obliged entities in some cases during the review period. Information gaps could also occur going forward to the extent that the FSRA AML Rulebook and BOCR lead entities to misapply the cascade approach. Nevertheless, the combination of both regimes should broadly ensure availability. The UAE should ensure that appropriate implementation and monitoring is conducted on the ADGM requirements to have beneficial ownership information available in all cases (see Annex 1).

171. It does not appear that the ADGM was required to provide beneficial ownership information in response to an EOI request during the review period.

Dubai Multi Commodities Centre (DMCC): additional obligations and supervision

172. The DMCC’s AML Policy and Process issued in June 2016 sets out its procedures and controls to prevent the use of the free zone for money laundering, terrorist financing and other illicit purposes. These include the DMCC Authority’s identification of shareholders and beneficial owners of applicant companies before they are granted DMCC membership (s. 8). Applicants are screened through the collection of background information and checks of the business plan and sources of funds. The DMCC carries out all identification, verification and KYC procedures itself (s. 8.5.4.) using information and documentation checklists annexed to the policy. Shell companies are prohibited (s. 8.5).

173. On the basis of the federal AML rules, DMCC policy and DMCC licensing requirements, companies seeking to incorporate are required to submit an Ultimate Beneficial Ownership Declaration Form (UBO Form) to the Authority as part of the KYC requirements (s. 34, AML By-Law). Prior to the entry into force of the AML By-Law in January 2019, an “ultimate beneficial owner” was defined by the DMCC Authority for this purpose as “normally an individual who ultimately owns or controls 5% or more of the company or group of companies.” Following the new AML By-Law, the UBO Form has been revised to reflect the new ownership threshold of 25% for legal persons.

174. KYC information, including shareholder and beneficial owner information, maintained by the DMCC Authority must be updated at least every two years (s. 9). Also under the AML By-Law all companies must maintain accurate and up-to-date information on their beneficial owners and file changes with the Authority within 15 days (s. 35). All relevant documentation must be retained for five years following the termination of a company's DMCC membership (s. 13.2). A breach of the AML policy by any DMCC staff or member is a disciplinary offence (s. 5.2) and, as discussed in the section on legal ownership, non-compliance by member companies with applicable DMCC rules, including the identification of beneficial owners, can result in strike-off.

175. It is a requirement under the Company Regulations 2003 for a company to undertake to provide the Authority, upon request, original bank statements from a bank licensed by the UAE Central Bank, indicating that the minimum share capital was available within the three weeks following the issuance of a trade licence, although such banking relationship may not necessarily subsist throughout the life of the company. For this purpose and, more generally, in order to run the business it is likely that DMCC companies will hold UAE bank accounts and beneficial ownership information on companies will therefore also be available in the hands of such banks in many cases. No statistics are available, however, to confirm the extent of this.

176. The combination of the current DMCC licensing, registration and KYC requirements and federal and DMCC AML rules appears to ensure that beneficial ownership information is collected and maintained in the hands of the DMCC Authority, UAE banks with which DMCC companies hold a bank account, or AML obliged service providers. The availability of such beneficial ownership information is confirmed in practice, with the DMCC indicating that it was able to provide some beneficial ownership information for EOI purposes during the review period. Peers did not identify shortcomings in the information provided. However, there were substantial gaps surrounding the federal level definition of “beneficial owner” under the old AML framework and it is likely that the authorities’ checking of the accuracy of the information collected during the review period was limited. This creates the likelihood that the information that was in practice maintained by banks and the DMCC Authority during the review period was not in line with the international standard. The UAE should ensure that appropriate monitoring is carried out on the requirements to have beneficial ownership available in all cases in the DMCC (see Annex 1).

Jebel Ali Free Zone (JAFZ): additional obligations and supervision

177. The JAFZ Authority's Licensing Department issued the Ultimate Beneficial Owner Policy No. 2 of 2018 (UBO Policy) with effect from

December 2018. It applies to all companies and requires UBO records to be maintained and ready for submission to the registrar upon request. The Licensing Department must identify and verify beneficial owners of companies according to a definition that is in line with the international standard. There appear to be requirements for the Authority to scrutinise beneficial ownership of a company upon a change of shareholders or beneficial owner, but these are unclearly expressed. The requirements in the AML By-Law are directly applicable, however, albeit that the JAFZ policy could lead the requirements to be applied unevenly in some cases. Whilst a beneficial ownership record retention period is not provided in JAFZ rules, the five year period mandated by the AML By-Law would also apply directly. The sanctions in the Companies Implementing Regulations 2016 (CIR) and Offshore Companies Regulations 2018 (OCR), as implemented under the Procedure for non-compliant companies (discussed above) apply to a failure of a company to provide beneficial ownership information.

178. The UBO Policy was issued recently and therefore during the review period the federal and financial free zone AML frameworks were the only sources of beneficial ownership information on JAFZ companies, to the extent that these had a relationship with an obliged entity. The UAE notes that most companies would hold a UAE banking relationship and that FZCo, PLC and FZE would need to confirm capital requirements via statements from an account held with a UAE bank, although such banking relationship may not necessarily subsist throughout the life of the company. It is also noted that most registered agents for offshore companies are licensed AML-obliged lawyers. Finally, the registrar's approved auditors (i.e. for all companies' accounts) are AML-obliged professionals who provide the registrar with statements confirming their compliance with UAE AML rules.

179. Consistent with the above analysis of other free zones, the substantial legal and supervisory gaps under the old AML framework raise the likelihood that the beneficial ownership information that was maintained by AML-obliged banks and DNFBPs engaged by JAFZ companies was of sub-standard quality during the review period. Going forward, the current federal level definition is also not fully aligned with the international standard which casts doubt on the quality of the information collected. Whilst the UBO Policy incorporates a compliant definition, it expresses the requirements on the licensing authority and on companies unclearly and has only recently been enacted. The JAFZ Authority's Inspection Department is only recently checking companies' compliance with the UBO Policy under the Procedure for non-compliant companies. The UAE should ensure that appropriate checks are performed regarding the beneficial ownership information that is required to be available in respect of JAFZ companies (see Annex 1).

Ras Al Khaimah Economic Zone (RAK EZ): additional obligations and supervision

180. The RAK EZ authorities indicated that they started to collect beneficial ownership information from the companies registered in the RAK EZ under the old AML framework in 2017. While the RAK EZ has not issued its own regulations or guidance in respect of beneficial ownership, it uses its general information gathering powers (ss. 8, 12(3)(g) and 113 of the Companies Regulations 2017) to collect beneficial ownership information upon initial registration and annual renewal.

181. As mentioned above, there was limited guidance under the old AML framework on what constitutes beneficial ownership. With respect to companies, the guidance available referred to persons holding 5% or more of the share capital and this is what was applied by the RAK EZ authorities. This approach omitted the concept of control. Without more specific guidance, checks for accuracy and reasonableness by the authorities may not have been carried out at all or were not done by people with appropriate training or guidance. Nevertheless, a baseline of available beneficial ownership information was collected. Where companies refused to provide the information, the RAK EZ authorities suspended their licence. This has occurred in more than 100 cases in 2018 specifically in relation to beneficial ownership information.

182. It is a legal requirement that companies incorporated in the RAK EZ have their principal activity in the RAK EZ (s. 22(2) Companies Regulations 2017). The authorities indicate that this means that almost all companies have a bank account with a UAE bank, which is generally used to pay the lease of their offices and the salaries of employees. The UAE bank would have to collect and maintain beneficial ownership information on the company, as described under section A.3.

183. There may be companies which do not have a bank account with a UAE bank. While the approach by the RAK EZ authorities would in that case have established a baseline of available beneficial ownership information, the UAE should ensure that appropriate checks are performed regarding the beneficial ownership information that is required to be available in respect of companies incorporated in the RAK EZ that do not have a bank account with a UAE bank (see Annex 1).

Ras Al Khaimah International Corporate Centre (RAK ICC): additional obligations and supervision

184. In the RAK ICC, most companies generally only do business outside the free zone and the UAE. An obligation to have a registered agent in the UAE exists to which all correspondence from the authorities is addressed. The registered agents are subject to the federal AML legislation, both under

the old framework and under the new framework (ss. 3(3)(d) and 3(3)(e) of the AML By-Law).

185. First, similar to what is done in the RAK EZ, the RAK ICC authorities started to collect beneficial ownership information from the companies registered in the RAK ICC under the old AML framework in 2017. They use their general information gathering powers (s. 6(1)(g) and 264 of the Business Companies Regulations 2018) to collect beneficial ownership information upon initial registration and annual renewal.

186. While there was limited guidance under the old AML framework on what constitutes beneficial ownership, the RAK ICC authorities would be expected to have a certain level of knowledge considering the fact that they license and supervise registered agents as well. It does seem, however, that the main criterion used by the authorities is a threshold of 5% or more of the share capital. This approach omitted the concept of control. Nevertheless, a baseline of available beneficial ownership information was collected.

187. In addition, the RAK ICC authorities issued an AML Policy document to registered agents confirming their obligations under federal AML law. This Policy also sets out further details in respect of the definition of the term “beneficial owner” as well as on carrying out CDD and maintaining and updating the information.

188. In the Policy, the beneficial owner is defined as an “individual who ultimately owns or controls, directly or indirectly and legally or beneficially, shares, capital, a right to profits or voting rights of the body corporate or partnership of which the Registered Agent acts or any individual who otherwise exercises control over the management of such body corporate or partnership”. This definition recognises control as the main condition and does not impose a threshold for ownership.

189. The Policy suggests that it may be sufficient to only take reasonable measures to maintain information on all beneficial owners. However, s. 26 of the Registered Agent Regulations 2018 clearly states this as a requirement to be fulfilled at all times. It is also a clear requirement in the federal AML framework to which the registered agents must adhere as well.

190. Finally, the Policy requires registered agents to update the CDD information regularly and when certain circumstances occur (material change, doubt, significant transaction, etc.). CDD information must be kept for at least five years from ceasing to be a registered agent.

191. Registered agents are subject to supervision by the RAK ICC authorities. As mentioned above, a comprehensive audit of all registered agents took place in 2016, after which 169 of the 337 registered agents were disqualified. In 20 of the 169 cases, the disqualification was based on the conclusion that

the registered agent did not have a robust AML practice. In the second quarter of 2019 a new risk based on-site inspection regime commenced to audit the current 271 registered agents.

192. In conclusion, beneficial ownership information is likely to be available in respect of all companies incorporated in the RAK ICC, both with its registered agent and with the authorities. Monitoring of the registered agents of their obligation to collect and maintain beneficial ownership information has taken place and has been turned into an ongoing activity as of mid-2019. The UAE should ensure that appropriate monitoring is carried out on the requirements to have beneficial ownership available in all cases in the RAK ICC (see Annex 1).

A.1.2. Bearer shares

193. The 2016 report concluded that only international companies in the Ras Al Khaimah Free Trade Zone could have issued bearer shares before April 2014, and that the companies that had done so were either struck off the register, were liquidated or had converted their bearer shares into registered shares. The Ras Al Khaimah Free Trade Zone no longer exists, and international companies incorporated under the old regime have now been re-registered in the RAK ICC. The RAK ICC Business Companies Regulations explicitly prohibit the issuance of bearer shares (s. 50).

194. Companies incorporated under any of the following regimes are also explicitly prohibited from issuing bearer shares: ss. 104, 208 and 265 of the CCL (federal UAE), s. 39 DIFC Companies Law (DIFC), s. 33 Company Regulations (DMCC), ss. 16.4, 57.3, CIR, and s. 22, OCR (JAFZ) and s. 42 Companies Regulations (RAK EZ). Under the ADGM Companies Regulations, only persons whose name is entered in the register of members can become members (ss. 117 and 118), effectively prohibiting the issuance of bearer shares as well.

A.1.3. Partnerships

Types of partnerships

195. The following table provides an overview of where the main obligations to keep information on the partners and beneficial owners in respect of partnerships governed by the regimes covered.

	Number incorporated	Partners	Beneficial Owners
Federal UAE¹⁰			
General partnership	1 266	CCL – all	AML By-Law – all
Limited partnership	641	CCL – all	AML By-Law – all
DMCC			
N/A			
Jebel Ali Free Zone			
N/A			
RAK EZ			
N/A			
RAK ICC			
N/A			
DIFC			
General partnership	2	General Partnership Law – all	AML By-Law – all UBO Regulations – all
Limited liability partnership	19	Limited Liability Partnership Law – all	AML By-Law – all UBO Regulations – all
Limited partnership	12	Limited Partnership Law – all	AML By-Law – all UBO Regulations – all
Recognised partnership	44	GPL, LLPL, LPL – all	AML By-Law – all UBO Regulations – all
ADGM			
General partnership	0	Application of English Law Regulations – all	AML By-Law – all BOC Regulations – all
Limited liability partnership	10	Limited Liability Partnership Law – all	AML By-Law – all BOC Regulations – all
Branch of foreign LLP	14	Application of English Law Regulations – all	AML By-Law – all BOC Regulations – all
Limited partnership	4	Application of English Law Regulations – all	AML By-Law – all BOC Regulations – all
Branch of foreign LP	1	Application of English Law Regulations – all	AML By-Law – all BOC Regulations – all

10. Foreign entities are only allowed to operate in the UAE through registered branch offices, and one requirement is to present proof of foreign incorporation. For foreign partnerships proof of registration may be sufficient. If any foreign partnerships are allowed to operate in the UAE, these are included in the number of 2 829 branch offices from foreign companies registered in the UAE (see footnote 5 in this report). Information on the partners must be provided to the authorities, please see paragraphs 79-82 of the 2016 report.

196. The requirements with respect to each covered regime are analysed in turn.

Federal UAE

197. There are two types of partnerships that can be established in the UAE, both of which are considered legal entities and are covered by the CCL:

- General partnerships (ss. 39-61): All partners (two or more) are jointly liable for the partnership's debts to the extent of all their assets. Partners' shares can only be assigned either by the approval of all the partners or as per the terms and conditions of the memorandum of association.
- Simple limited partnerships (ss. 62-70): This partnership consists of one or more general partners liable for the company's debts to the extent of all their assets, and one or more limited partners liable for the company's debts to the value of their respective shares. A limited partner may not be involved in management of the partnership.

198. The 2016 report concluded that information on the partners was available both with the partnerships themselves and with the authorities (the DEDs). This is because the memorandum of association of all partnerships must include the details of each partner as well as their shares in the partnership. The memorandum and any changes thereto must be registered with the DED. A person shall not become a partner until its assignment is registered with the DED. The requirement of s. 36 of the AML By-Law to keep information for at least five years from the date when an entity is dissolved or otherwise ceases to exist also applies to partnerships, as they are considered legal entities. This covers both the information on the partners and on the beneficial owners.

199. In respect of beneficial ownership information, it is relevant to point out that the partners of general partnerships must be natural persons and UAE nationals, and this also applies to the general partners of limited partnerships (ss. 10, 39, 62 and 64 CL). The circumstances under which the beneficial owners could be persons other than the partners in these cases, are therefore very limited. Nevertheless, the DEDs have taken the same approach as for companies (see under A.1.1). This means that a minimum baseline of beneficial ownership information is available at the Dubai DED (where the vast majority of partnerships are registered) and possibly at other DEDs. However, as in respect of companies, checks by the DEDs for accuracy and reasonableness of the information have been minimal or non-existent.

200. While beneficial ownership information for companies may also be available with their auditor, partnerships do not have an obligation to have their accounts audited. The most likely service provider they would engage

in the UAE would therefore be a bank. This means that only in relation to partnerships that have engaged a UAE bank the reliability of the available beneficial ownership information can be considered sufficient (see also A.3). The UAE should ensure that appropriate checks are performed regarding the beneficial ownership information that is required to be available in respect of partnerships established under the federal regime that have not engaged a UAE bank (see Annex 1).

Dubai International Financial Center (DIFC)

201. The 2016 report discussed the DIFC's regime on partnerships (paragraphs 141 to 151). It concluded that all DIFC partnerships must maintain and file up-to-date information identifying their partners. Partnerships formed outside the DIFC that are registered as DIFC recognised partnerships (in order to operate and carry on a business in the DIFC) are required to maintain and update such information. Whilst the three partnership laws were amended (DIFC Laws Amendment Law No. 8 of 2018), and new regulations in respect of each of them were issued, in November 2018, the regime with respect to maintaining and filing information on partners remains essentially the same.

202. All DIFC partnerships, including general partnerships, limited liability partnerships, limited partnerships, and recognised partnerships (i.e. partnerships formed outside the DIFC that carry on business in the DIFC) falling into each of these categories, must register with the ROC to incorporate (ss. 12, 13 General Partnership Law (GPL), ss. 8, 36 Limited Liability Partnership Law (LLPL), ss. 12, 43 Limited Partnership Law (LPL)). A general partnership, including a recognised one, must provide the name and address of its partners upon registration and changes in its constitution, including changes in partners, must be notified to the ROC within 30 days (s. 12 GPL, s. 3.2 General Partnership Regulations (GPR)). A limited liability partnership, including a recognised one, must provide the names and addresses of its partners upon registration and any changes in members must also be notified to the ROC within 30 days (ss. 8, 24, 36 LLPL, s. 5 Limited Liability Partnership Regulations (LLPR)). A limited partnership, including a recognised one, must equally register the names, addresses and other details of the general and limited partners and any change in registered information must be notified to the ROC within 30 days (s. 12 LPL, s. 3.2 Limited Partnership Regulations). The DIFC ROC maintains a register of all partnerships containing information on current and former partners and keeps the information indefinitely. Moreover, all partnerships are required to maintain registers of partners (ss. 3.1 GPR, LLPR, LPR).

203. The partnership laws stipulate fines of up to AED 20 000 (approximately USD 5 400) for contraventions of applicable rules. A failure to notify changes in respect of the partners within 30 days results in a fine of

USD 2 000 (s. 15 DIFC Operating Law, Schedules 2, GPL, LLPL, LPL). The ROC’s general strike-off power (s. 32, DIFC Operating Law) could apply to partnerships that act in contravention of the legislation. Partnerships are covered by the ROC’s compliance programme analysed above in respect of DIFC companies, which looks at compliance with record-keeping and filing requirements in respect of both partners and beneficial owners.

204. The DIFC UBO Regulations apply to DIFC partnerships. The above analysis of these regulations in respect of DIFC companies (including some definitional shortcomings highlighted) is therefore relevant. Requirements for partnerships to maintain, file and update information on their beneficial owners are largely in place. An UBO in relation to a partnership means a natural person who has the legal right to exercise, or actually exercises, significant control or influence over the activities of the partnership (s. 3.1, DIFC UBO Regulations). The federal AML By-Law’s 25% threshold would apply as a minimum, where relevant, as discussed above. Where no such person is identified, the “cascade approach” in respect of legal persons would apply in the manner discussed in relation to DIFC companies. The ROC must keep a partnership’s UBO records for six years from its dissolution or strike off (s. 7.4). A further source of beneficial ownership information on DIFC partnerships (and the principal source during the review period) is the AML framework of the DIFC or other UAE jurisdiction (the DFSA AML Module), as discussed above, to the extent that a DIFC-incorporated partnership or a recognised partnership carrying on a business in the DIFC has a relationship with an AML-obligated entity in the DIFC or in the UAE more broadly. DIFC recognised partnerships are only required to satisfy the ROC that they are subject to equivalent international standards on transparency of ownership (s. 2.1(c)) rather than fully complying with the UBO Regulations. There may be such partnerships carrying on business in the UAE which do not have a relationship with an AML obliged entity in the UAE such that the gap would be filled. The UAE should ensure that beneficial ownership information is available in line with the standard for DIFC recognised partnerships in all cases (see Annex 1). Whilst gaps could therefore exist during the period under examination, there is a relatively small number of registered partnerships (77) which suggests that the issue is of low materiality. The EOI practice and peer input does not suggest any particular issues in respect of the availability of ownership and identity information on DIFC partnerships.

Abu Dhabi General Market (ADGM)

205. The Limited Liability Partnerships Regulations 2015 (LLPR), effective from October 2015, provides for the creation of LLPs as legal persons in the ADGM. Partners (“members”) must be identified in the incorporation document delivered to the Registration Authority (s. 2). Changes of partners must be notified to the Registration Authority within 14 days, subject to a

fine of USD 1 500 (s. 9). LLPs must also file annual returns including the names of the partners, subject to the application of a fine up to USD 2 000 for non-compliance (ss. 40, 41, Limited Liability Partnership Rules 2015)

206. The creation of general and limited partnerships is provided for by virtue of the ADGM’s application of English common law and certain statutes in accordance with the Application of English Law Regulations 2015 (AELR) (s. 2), including the Partnership Act 1980 and the Limited Partnerships Act 1907 with modifications specified in the Schedule to the AELR. These partnerships are required to file copies of signed partnership agreements, including the identity information of the partners. Partners go through the same due diligence processes applied in the registration of ADGM companies and are required to file a notification to the Registration Authority of any appointment or removal of partners and any changes to their details, and to renew their commercial licence during which process all partner details are confirmed. The Registration Authority keeps partner details indefinitely. The same requirements apply to foreign general and limited partnerships operating in the ADGM.

207. The 2018 BOCR applies to ADGM partnerships. The above analysis of these regulations in respect of the beneficial ownership requirements for ADGM companies therefore also applies to partnerships, which are required to maintain, file and update beneficial ownership information. The Registration Authority must keep a partnership’s beneficial ownership records for six years from its dissolution or strike off (ss. 7, 14). The definition of “beneficial owner” for partnerships other than LLPs, similarly to that for companies and LLPs, also does not present the “cascade approach” in a sequential manner and there is no allusion to the senior managing official or equivalent. The UAE should therefore ensure, as mentioned above in respect of companies, that beneficial ownership information is available for ADGM partnerships in line with the standard in all cases (see Annex 1). In any case, this issue is of low materiality, particularly considering the low number of ADGM partnerships in existence.

Other free zones

208. No partnerships can be formed in the DMCC, JAFZA, RAK EZ and RAK ICC free zones.

A.1.4. Trusts

209. Apart from the DIFC and ADGM (see below for specific analysis), the UAE legal framework does not provide for the creation of trusts. However, nothing prevents a resident of the UAE from acting as a trustee or administrator of a trust formed under foreign law.

210. The 2016 report noted that ownership information on trusts administered from within the UAE may be available pursuant to AML legislation where the trustee or administrator is a financial institution or lawyer. However, the extent of the ownership information that would be available was unclear and not all service providers would be covered. A recommendation was made to ensure that comprehensive ownership information would be available for all trusts which have a trustee or administrator in the UAE.

211. The new AML framework addresses trusts more comprehensively. All trustees must maintain beneficial ownership information in relation to the trust(s) administered (s. 37(1) AML By-Law). This is irrespective of whether the trustee is acting in a personal or professional capacity. Persons providing trustee services as a profession are now in any case considered DNFBPs (s. 3(4)(d) AML By-Law) and are thus subject to all obligations under the new AML framework.

212. In respect of legal arrangements (s. 9(2)), an obliged entity, including a trustee, must maintain information, and take reasonable measures to verify the identity of, the settlor, the trustee(s) or anyone holding a similar position, the beneficiaries or class of beneficiaries, and of any other natural person exercising ultimate effective control over the legal arrangement. Information on protectors is not expressly covered by the law but protectors with control are captured by the notion of control. Further, sufficient information regarding the beneficial owner must be obtained to enable the verification of their identity at the time of payment, and at the time they intend to exercise their legally acquired rights. Although the text of the rule does not explicitly include mention of an obligation to *identify* the beneficial owners in first instance, the UAE confirmed it would of course be necessary to do so in order to conduct a verification. Trustees must keep all information for five years from the date of their last involvement with a trust (s. 37(3)), which covers information for a trust that is terminated.

213. The UAE authorities indicated that in practice they have not encountered any professional trustees outside of the DIFC. There has also not been specific peer input in respect of trusts administered in the UAE. Nevertheless, while there is an obligation on all trustees to maintain beneficial ownership information under the new AML framework, there is no specific authority which is responsible for supervising trustees, since it is not a known activity in the UAE. It is therefore unclear how non-compliance of trustees of foreign trusts would be monitored if they are not otherwise AML obliged service providers. It is recommended that the UAE monitors whether identity information in respect of foreign trusts managed from the UAE is available (see Annex 1).

Waqfs

214. In the UAE, the concept of a waqf exists, whereby a natural person endows property for a defined purpose through a court. The property is then controlled and managed by another person. A waqf is irrevocable.

215. As mentioned in the 2016 report, waqfs can only be established for either charitable purposes or for the benefit of family members. All waqfs fall under the responsibility of the General Authority of Islamic Affairs and Endowments (Authority), which directly administers the waqf property. According to the Authority, 99% of the waqfs have a charitable purpose.

216. As the administrator, the Authority holds all information on the waqfs and is responsible for any payments that would be made, so there is a clear separation between the person donating and the administration of those funds. No issues have been raised by peers with respect to the review period in relation to waqfs and the information, if sought, is available.

Dubai International Financial Center (DIFC)

217. The 2016 report (paragraphs 161 to 170) discussed the availability of ownership information in respect of trusts in the DIFC. It concluded that the then DIFC Law No. 11 of 2005 on trusts and the common law, combined with the then applicable AML framework, ensured the availability of information on the settlors, trustees and beneficiaries of express trusts created in the DIFC, and of foreign trusts either administered in the DIFC or for which a trustee is resident in the DIFC.

218. A new DIFC Trust Law No. 4 of 2018 entered into force in November 2018. As its predecessor, it governs the duties and powers of trustees and the rights and interests of a beneficiary (s. 9). It applies to all DIFC trusts other than those created under the DIFC Investment Trust Law No. 5 of 2006 (intended to facilitate the introduction of a collective investment funds regime), and to foreign trusts in respect of all acts, omission or transaction occurring in the DIFC (s. 4). A trust comes into existence by an instrument in writing (s. 33) and can only be created if either it has a definite beneficiary, is a charitable trust or is a non-charitable purpose trust (s. 34).¹¹ A beneficiary must be identifiable by name or ascertainable by reference to a class or a relationship to some person, whether or not living at the time of the creation of the trust or at the time which under the terms of the trust is the time by reference to which members of a class are to be determined (s. 45).

219. Under s.60 of the DIFC Trust Law, a trustee must keep accurate accounts of their trusteeship, keep trust property separate from their personal property and separately identifiable from any other property of which they are a trustee. A trustee must take reasonable steps to identify the ultimate beneficial owners of any party to the trust which is a body corporate, including the settlor, enforcer, protector, beneficiaries and any other person

11. A purpose trust is a type of trust which has no beneficiaries, but exists for advancing some non-charitable purpose of some kind (e.g. holding or making investments).

exercising effective ultimate control over the trust. In this context, however, “ultimate beneficial owner” is cross-referenced to the definition in the DIFC UBO Regulations. In respect of companies, this definition refers to natural persons who ultimately own or control DIFC “registered persons”, which may limit the DIFC trustee’s duty to identifying the natural persons behind companies *registered in the DIFC* (rather than any company that appears as a party to the trust). This could limit the scope of the trustee’s look-through in some cases. The UAE should ensure that beneficial ownership information is kept for trusts in the DIFC in line with the standard in all cases (see Annex 1).

220. Trustees must also keep records of the names and contact details of the agents and service providers engaged on behalf of the trust. A trustee is required to disclose its status to financial institutions and DNFBPs when engaging their services on behalf of the trust. S. 60 also requires a trustee to maintain accurate and up-to-date records of the above information for six years from the date on which they ceased to act as trustee or to be involved with the trust. Failure to comply with such requirements enables the DIFC ROC to apply to the courts to remove the trustee (s. 54) or make an order concerning the administration of the trust (s. 20). A court may compel a trustee from redressing a breach of trust by paying money, restoring property or other means, reduce or deny compensation to the trustee, and other relevant measures (s. 74).

221. The current DIFC AML framework (including the DFSA AML Module) is a further source of beneficial ownership information in respect of trusts (including foreign trusts with a trustee or administrator resident in the DIFC), as obliged entities include trust service providers, lawyers, other independent legal professionals and accountants. As discussed above, the Central Bank, DIFC and ADGM authorities’ supervision in relation to the AML framework would appear proportionate to the goal of ensuring that beneficial ownership information on trusts that are customers of obliged entities is available in practice. Trust service providers are specifically regulated in the DFSA’s Conduct of Business Module (s. 5). The UAE advises that it is aware of only one DIFC trust being set up by a DIFC DNFBP in 2018.

222. As discussed in the 2016 report, in respect of an investment trust under the DIFC Investment Trust Law, the trustee must be regulated by the DFSA for acting as a trustee of a fund or providing custody services. Alternatively, the trustee may be regulated by another regulator in a recognised jurisdiction¹² to provide custody or depository services. A public domestic fund must register with the DFSA. As of the end of 2018 there were no investment trusts in the DIFC. Other DIFC trusts are not required to be registered.

12. Recognised jurisdictions are those which the DFSA has assessed as having standards at least equivalent to those in place for regulation of trusts in the DIFC.

Abu Dhabi General Market (ADGM)

223. The creation of trusts is provided for by virtue of the ADGM’s application of English common law and certain statutes (Application of English Law Regulations 2015 (AELR)), including statutes concerning trusts. The application of English law in respect of trusts is delimited in certain respects by the AELR and the Trusts (Special Provisions) Regulations 2016, in effect from 15 June 2016, which further regulates issues such as the application of foreign law to a trust governed by ADGM law, heirship rights, foreign judgments and non-charitable purposes trusts. The rules do not appear to limit the duties of trustees with respect to maintaining adequate beneficial ownership and accounting information on a trust, including the obligations contained in the AML By-Law with respect to keeping beneficial ownership information during and for five years after the end of a trustee’s involvement with a trust (s. 37(3)).

224. As discussed above, the new federal AML regime requires trustees throughout the UAE to maintain beneficial ownership information on trusts. Additionally, the ADGM BOCR apply to trustees of ADGM trusts (s. 27 and Schedule 1, s. 2) who must provide beneficial ownership information to the Registration Authority. This includes the settlor, any other trustee(s), each beneficiary or class of beneficiaries, and any other person who has control over the trust.

225. Under the FSRA AML Rulebook, further obligations are in place for ADGM AML-obliged entities to maintain beneficial ownership information in respect of trusts and other legal arrangements. It is noted, however, that in the reference to a natural person “who has control over the trust” (as the residual category), control is defined only by reference to powers conferred by law or trust deed in relation to the management of the affairs of the trust, and therefore does not appear to include other means of control (s. 8.3.5(3)). This could create instances of misinterpretation of the rules by ADGM obliged entities. The UAE advises the ADGM is considering broadening the scope of control over a trust.

226. The UAE should monitor the application of the requirements applicable in the ADGM to ensure that beneficial ownership information in respect of trusts and other legal arrangements is required to be available in line with the standard in all cases (see Annex 1).

Conclusion

227. The combination of the federal and free zone AML legislation and DIFC and ADGM trust law and common law appear to ensure that beneficial ownership information in respect of trusts (including foreign trusts with a UAE-resident trustee or administrator) is available in most cases in the hands

of trustees. One peer indicated that they were able to obtain trust information from the UAE, although it is unclear what information was concerned.

A.1.5. Foundations

228. At the time of the 2016 report, the UAE federal commercial laws, which also apply in the non-financial free zones, did not provide for the creation of foundations to benefit certain individuals; only associations for public welfare could be established (paragraphs 174 to 179). This situation remains unchanged.

Dubai International Financial Center (DIFC)

229. The DIFC introduced the Foundations Law No. 3 of 2018, with effect from March 2018 with the aim of improving creditor protection, succession planning and private wealth management. There were therefore no DIFC foundations during the review period, but 11 foundations have registered since the law's enactment. Foundation regulations have not yet been introduced.

230. A foundation is a body corporate with legal personality separate from that of its founder(s) (s. 10). It may not carry out any commercial activities, except those necessary, ancillary or incidental to its objects (which can be charitable, not exclusively charitable, or for the benefit of private persons) (s. 12). The Foundations Law applies to foundations formed or registered under it and foreign foundations that wish to conduct operations within the DIFC and must therefore apply for a licence and registration as a “recognised foreign foundation”, and appoint a registered agent (ss. 4, 62).

231. An application to establish a foundation must be filed with the ROC and include the name, nationality and address of each founder, member of the foundation council, and registered agent, as well as the charter and by-laws (unless the latter are kept with an appointed registered agent). The by-laws of a foundation may provide for the distribution of property of the foundation to beneficiaries (“qualified recipients”) (s. 29). These are persons or classes of persons specified in the charter or determined in accordance with the by-laws.

232. To the extent that beneficiaries are identified in the charter, changes are required to be registered with the ROC, as an amended charter comes into force upon registration (s. 19(9)). Otherwise, the mechanism to determine the beneficiaries must be provided for in the by-laws. Where a distribution to one or more beneficiaries occurs, their identity would be expected to be recorded as part of the foundation's accounting record-keeping obligations (see element A.2).

233. The ROC must keep a public register of foundations that includes the names of the founders and members of the foundation council (s. 35). Addresses and nationalities of these are kept with the ROC. Along with registered agents, who must always be communicated to the ROC, the rules appear to cover all persons with authority to represent a foundation. The ROC must keep all records it receives for at least six years from a foundation's dissolution (s. 38(3)).

234. Where a foundation contravenes the rules the ROC may give it notice that after three months it will be struck off the register unless reason is shown to the contrary (s. 71). A range of fines up to AED 10 000 (approximately USD 2 700) apply to foundations for certain contraventions, including failing to notify the ROC of changes to the Charter, the council, the by-laws or the registered agent (ss. 19(8), 20(6), Schedule 3). In addition, the DIFC Operating Law (s. 15) requires all DIFC entities, including foundations, to notify the Registrar of any changes to their registered details and constitutional documents (including Charter and by-laws) within 30 days. The ROC must keep all foundation records filed with it for at least six years from the dissolution of a foundation (s. 36).

235. The DIFC UBO Regulations cover foundations. In this context a UBO means a natural person who has the legal right to exercise, or actually exercises, significant control or influence over the activities of the governing body, person or other arrangement administering the property or carrying out the objects of the foundation (s. 3.1). As for other legal persons, the ROC must keep a foundation's UBO records for six years from its dissolution or strike off (s. 7.4). In conjunction with the new federal AML framework and the DIFC framework, adequate obligations appear to be in place to require the availability of beneficial ownership information on foundations. Nevertheless, as the Foundations Law and the new federal AML framework are recent, the UAE should monitor their application to ensure that information on foundations, as required under the ToR, is available in practice in all cases (see Annex 1).

Abu Dhabi Global Market (ADGM)

236. The ADGM introduced the Foundations Regulations 2017, with effect from 16 August 2017, as an alternative to trusts for financial planning and structuring. There were therefore no ADGM foundations during most of the review period and as of the end of 2018 there were 24 registered foundations.

237. ADGM foundations may have any object that is not contrary to law or public policy, but must be non-charitable (s. 5). The foundation charter must contain the name and address of each founder and the registered agent (if any) (s. 9). It may contain the names and addresses of the councillors and

beneficiaries but this is not mandatory. The Registration Authority must maintain a Foundations Register including the name and address of each councillor (s. 7). A “Confidential Disclosure” must be filed upon establishing and registering a foundation (ss. 1, 47) that includes the name and address of the councillors, beneficiaries, guardian (if any), and beneficial owners. In the event that there is no surviving founder, a guardian must be appointed in writing (s. 26) and removal of a guardian must be notified to the Registration Authority in writing, subject to a fine of USD 1 500 for non-compliance (s. 30). An overseas foundation may transfer its registration to the ADGM (in which case it must cease to be established and registered in the place of origin) and must comply with the requirements of the Regulations (s. 38). Changes to a foundation’s charter or Confidential Disclosure must be sent to the Registration Authority within 14 days, and failing to do so is punishable by fine up to USD 2 000 (s. 10(8)). The Registration Authority may strike off a foundation for any breach of the Regulations (s. 42). The Registration Authority must keep a foundation’s ownership records for six years from its dissolution or strike off (ss. 7, 14 BOCR).

238. Foundations are also required to maintain and file beneficial ownership information under the BOCR. A beneficial owner includes (Schedule 1) the founder, the foundation council members, and the guardian (if any). It also includes the beneficiaries to the extent that the foundation has been established in their “main interest” in the opinion of the Registration Authority. If a beneficiary is a trust, another foundation, or other legal person or arrangement other than a company or a partnership, the BOCR does not appear to require such beneficiary to be “looked through” for its beneficial owners. Whilst there are few foundations registered so far and this issue seems of low materiality, the UAE should ensure that beneficial ownership information in line with the standard is available for ADGM foundations in all cases (see Annex 1). The UAE advises it is seeking to rectify this issue. Moreover, as the regime for ADGM foundations is recent, the UAE should monitor its application and ensure the availability of ownership information on ADGM foundations in practice (see Annex 1).

A.2. Accounting records

Jurisdictions should ensure that reliable accounting records are kept for all relevant entities and arrangements.

239. The 2016 report concluded that under the Commercial Transactions Law (CTL) and the Commercial Companies Law (CCL) comprehensive obligations were in place to maintain reliable accounting records, including underlying documentation, for a minimum period of five years in respect of companies and partnerships covered by the federal regime. The CCL required

the annual accounts of companies to be audited. No changes to the relevant parts of the CTL and CCL were made since the 2016 report.

240. The UAE authorities explained that these obligations did not only apply to companies and partnerships registered with the DEDs of the different Emirates, but also to entities registered with the authorities of the non-financial free zones. However, a recommendation was made for the UAE to further clarify the accounting record keeping obligations on free zone entities, because the legislation in most free zones varied from the federal legislation.

241. The legislation in the free zones still varies from the requirements of the CTL and CCL in two of the non-financial free zones covered in this report. This relates to the extent of the requirement to keep underlying documentation, which is unclear in the DMCC and RAK EZ. This may lead to an uneven application in practice. However, this issue is mitigated by the requirement for entities in the RAK EZ to have their annual accounts audited. This provides for a minimum level of verification that underlying documentation is being kept. The requirement to have the annual accounts audited does not apply to entities in the DMCC, even though following the logic of the UAE authorities such requirement would be in place following the application of the CCL rules in the free zones on a residual basis. The UAE confirms that underlying documentation was obtained from the DMCC during the review period for EOI purposes. Nevertheless, the recommendation for the UAE to further clarify the accounting record keeping obligations on non-financial free zone entities remains, although its materiality has decreased.

242. Legislative changes in the DIFC have clarified that underlying documentation is required to be kept by all DIFC entities and not only by entities regulated by the DFSA. The recommendation from the 2016 report in this regard is therefore removed.

243. The recommendation in relation to the keeping of accounting records of foreign trusts with a UAE resident trustee or administrator has also been removed, following the introduction of the new AML framework establishing a requirement to keep a minimum level of accounting records in those cases.

244. A recommendation has been added because it is not clear that accounting records must be kept for five years beyond an entity's existence in all cases.

245. The 2016 report also contained three recommendations on the practical implementation. The first two related to a lack of monitoring of accounting record obligations. This applied to partnerships falling under the federal regime and offshore companies in JAFZA and the RAK Free Zones (these offshore companies are now in the RAK ICC).

246. There is still no monitoring mechanism of partnerships falling under the federal regime and offshore companies in the RAK ICC. In respect of offshore companies in JAFZA, the licensing authorities have included a check for accounting records in their inspections of offshore companies. In addition, these companies must have their annual accounts audited by an auditor licensed and supervised by the Ministry of Economy. Therefore, one recommendation remains which covers partnerships falling under the federal regime and offshore companies in the RAK ICC.

247. The third recommendation on practical implementation was for the UAE to monitor the availability of accounting information, and in particular underlying documentation, where this is requested by an EOI partner. Peer input for the current review period does not raise specific issues in relation to accounting information, and improvements in the collaboration between the UAE Competent Authority and the local authorities have been made to ensure that all of the requested accounting information is obtained (and not just partial, see Section B.1 below). The recommendation is therefore removed.

248. Overall, during the current review period, the UAE received many requests for accounting information and was able to answer most of them, although about one third requests are still pending an answer (see issues discussed in section C.5). Contrary to the previous review, partners now receive the information requested, including underlying documents.

249. The table of recommendations, determination and rating is as follows:

Legal and Regulatory Framework		
	Underlying Factor	Recommendations
Deficiencies identified	Under the federal Commercial Transactions Law (CTL) entities in the free zones other than financial free zones are required to keep reliable accounting records, including underlying documentation, for a period of at least five years. However, the legislation in some free zones analysed varies from the CTL in relation to the requirement to keep underlying documentation.	The UAE should clarify that all entities in the free zones are consistently required to keep reliable accounting records, including underlying documentation, for a period of at least five years.

Legal and Regulatory Framework		
	Underlying Factor	Recommendations
	There are no specific provisions requiring accounting records to be kept beyond an entity's existence, except in the ADGM, the DIFC and in certain circumstances in the DMCC. While most entities must file audited financial statements to the authorities, which keep this information indefinitely, this does not cover underlying documentation.	The UAE should ensure that accounting records are kept for at least five years after the date an entity ceases to exist in all cases.
Determination: The element is in place, but certain aspects of the legal implementation need improvement		
Practical Implementation of the standard		
Deficiencies identified	Underlying Factor	Recommendations
	There is no regular oversight with respect to the obligation on (i) partnerships falling under the federal regime, and (ii) companies in the RAK ICC to keep reliable accounting records, including underlying documentation.	The UAE should implement a system of oversight to ensure that (i) partnerships falling under the federal regime, and (ii) companies in the RAK ICC keep reliable accounting records, including underlying documentation, in practice.
Rating: Largely Compliant		

A.2.1. General requirements and A.2.2 Underlying documentation

250. The requirements under the federal regime and in the free zones are analysed in turn.

Federal UAE

251. The accounting record keeping obligations in the CTL and CCL are in accordance with the standard and apply directly to all companies and partnerships registered with the DEDs in the different Emirates (see paragraphs 227-232, 266 and 272 of the 2016 report). Usually jurisdictions ensure that the reliable accounting records are kept through tax audits. The corporate tax regime being very limited in the UAE, supervision is done through the Department of Economic Development and the Ministry of Economy.

252. Companies are required to provide their annual accounts and the auditor's report to the DED where they are registered. Where these are not provided, the licence of the company may be suspended or ultimately

cancelled. The DED Dubai, where the vast majority of companies is registered, indicates that it is standard policy not to renew a licence if audited accounts are not provided.

253. Another level of assurance that reliable accounting records are kept, is the fact that the accounts must be audited (paragraph 230 of the 2016 report). The Ministry of Economy is responsible for licensing and supervising auditors. As at January 2019, there were approximately 115 audit companies, employing almost 1 200 auditors. The Ministry of Economy has an on-site inspection programme for the audit companies. The inspections take place using a checklist, which includes verification of whether the auditors are up to date on international audit standards training and whether those standards have been applied in practice (by checking a sample of client files). The companies to be inspected are selected on the basis of their performance history. Each year, the Ministry of Economy performs about 60 inspections.

254. With respect to partnerships, the situation described in the 2016 report remains the same. There is no system of oversight to check whether partnerships keep reliable accounting records, and the UAE should implement one.

255. The 2016 report contained a recommendation for the UAE to expressly provide for an obligation to keep accounting records, including underlying documentation, for foreign trusts with resident administrators or trustees. The federal UAE does not recognise the concept of trusts and therefore has no specific trust legislation. However, as described in Section A.1.4 above, persons providing trustee services as a profession are considered DNFBPs and are thus subject to all obligations under the new AML framework (s. 3(4)(d) AML By-Law). This includes an obligation to maintain, for a period of five years, all records, documents, data and statistics for all financial transactions (s. 24(1) AML By-Law). As the trustee or administrator of a trust would be the one carrying out all transactions for the trust, this ensures that a minimum level of accounting records for the trust must be kept. Given that the number of trustees or administrators of foreign trusts in the UAE is likely to be limited (the UAE has indicated they have never encountered a professional trustee outside the DIFC), the recommendation from the 2016 report has been removed.

Entities that have ceased to exist

256. The CTL or CCL do not contain specific provisions requiring accounting records to be kept beyond an entity's existence. While it could be argued that the retention period does not stop when an entity ceases to exist, it would be difficult to enforce this if no person is identified to be held liable. This deficiency is mitigated by the fact that most entities must

file audited financial statements to the authorities, which keep this information indefinitely in most cases (unless a limit is provided in the law, see for example in the DIFC), although it must be acknowledged that this does not cover underlying documentation. It is therefore recommended that the UAE ensures that accounting records are kept for at least five years after the date the entity ceases to exist in all cases. This recommendation also applies to the entities established in one of the free zones, except the ADGM, the DIFC and in certain circumstances the DMCC (see for details below).

Dubai International Financial Center (DIFC)

257. The 2016 report concluded (paragraphs 241 to 246) that general accounting record-keeping requirements in line with the standard were in place in the DIFC in respect of DIFC and foreign companies, partnerships and trusts. However, it also found that the types of underlying documents to be kept by DIFC legal entities were not specified (except for DIFC entities regulated under the DFSA Rulebook General Module, for financial services and other specified businesses). This lack of specificity could cause non-regulated DIFC entities to apply the requirement to keep underlying records unevenly. The 2016 report therefore recommended that further clarification be provided, whilst foreshadowing forthcoming legislative amendments which would specify the types of underlying documentation contemplated by the term “accounting records”.

258. In May 2017, DIFC Law No. 1 of 2017 introduced a new definition of “accounting records” into the existing laws in respect of companies, partnerships and foundations. It clarified that the term includes records and underlying documents such as cheques, invoices, contracts, ledgers, journal entries, work sheets and spread sheet supporting cost calculations. The definition is identical to that that was already used by the DFSA in respect of DIFC regulated entities. The definition has also carried over into the DIFC’s recently introduced laws governing companies, partnerships and foundations which entered into force in November 2018.¹³ The recommendation in the 2016 report has therefore been addressed. As the DIFC legislation is recent, the UAE should monitor the application of the more specific requirements in respect of underlying documentation to ensure the effectiveness of their application in practice (see Annex 1).

259. Otherwise, requirements in line with the standard in respect of accounting records and underlying documentation remain in place, as discussed in the 2016 report. Companies must cause yearly accounting reports to

13. ss. 3, 122-129 and 138 DIFC Companies Law No. 5 of 2018; ss. 3, 22 and 33, DIFC Foundations Law No. 3 of 2018; and DIFC Laws Amendment Law No. 8 of 2018, which amended the three partnership acts

be prepared for shareholders and filed with the ROC (s. 124, DIFC Companies Law). There is a general requirement for records to be kept for six years. Where an entity is dissolved, its appointed auditor is required to keep the files it has in respect of the entity for six years (s. 4.5, DFSA AML Rulebook) and the ROC also keeps accounting information filed for this duration (s. 49, DIFC Operating Law). Under the DIFC Operating Law, where a registered person is dissolved, the obligation of directors to maintain accounting records remains and may be enforced as if the person had not been dissolved. Fines up to USD 25 000 apply to entities that fail to keep records in accordance with the law.¹⁴ Trust service providers in respect of DIFC trusts and foreign trusts must maintain books and records sufficient to demonstrate adequate and orderly management of clients' affairs (Conduct of Business Rule 5.9.1).

260. As discussed in the 2016 report (paragraphs 247 to 253), the supervision of entities within the DIFC is shared between the DIFC Authority's ROC and the DFSA. Most entities must have their accounts audited (by a Registered Auditor, in the case of DIFC entities), except general and limited partnerships, of which there are very few registered. Entities supervised by the DFSA must provide an audit report to the DFSA within four months of their financial year. The DFSA reviews audit reports submitted to it and checks the presence and reliability of accounting records during onsite inspections on a risk basis. Furthermore, Registered Auditors are separately inspected and their audit files are reviewed. The DIFC ROC has an inspection programme in which it checks whether reliable accounting records are kept and audited (see element A.1). The ROC has encountered a good level of compliance with accounting record-keeping requirements in the review period. It applied one fine for failure to keep accounting records. Peers did not identify any specific issues obtaining accounting records and underlying documentation from the DIFC. Accounting information therefore appears to be available in practice in the DIFC.

Abu Dhabi Global Market (ADGM)

261. Under the Companies Regulations 2015, every company must keep accounting records in line with the standard, including underlying documentation (s. 375), for 10 years from the date they are made (s. 377(4)). Directors continue to bear this responsibility after a company is dissolved or struck off (s. 865(5)). Fines up to USD 15 000 apply to a company and all of its officers who contravene the accounting record-keeping requirements (s. 376), including the retention period.

14. Schedule 2, DIFC Companies Law No. 5 of 2018, Schedules 2, Limited Liability Partnership Law, Limited Partnership Law and General Partnership Law, and Schedule 3, DIFC Foundations Law No. 3 of 2018

262. The Limited Liability Partnerships Rules 2015 (s. 16) require LLPs to apply the accounting rules in the Companies Regulations. However, there is no explicit requirement for underlying documentation to be maintained. The UAE should clarify that all entities in the ADGM are consistently required to keep reliable accounting records, including underlying documentation, for a period of at least five years (see Annex 1).

263. Providers of trust services must keep accounting records for trusts for six years (s. 3.7.1, Conduct of Business Rules). Foreign companies and partnerships that seek to operate in the ADGM must maintain accounting records in line with the Companies Regulations under the Commercial Licensing Regulations 2015 (Conditions of License and Branch Registration) Rules 2018.

264. Under the Foundations Regulations 2017, adequate accounting records must be maintained in line with the standard (ss. 20, 47(1)) for 10 years from the date they were made (s. 21), or every councillor is punishable by a fine up to USD 15 000 (s. 20(2)).

265. The Registration Authority carries out a programme to encourage and supervise compliance with commercial legislation as discussed under element A.1. The Registration Authority has not yet begun to monitor whether underlying documentation is being kept but intends to do so in the near future. The filing of financial statements and accounts is monitored and accounting files will be checked in the course of onsite inspections going forward. The UAE reports that the vast majority of ADGM entities fall under the small companies regime (turnover under AED 13.5 million (approximately USD 3.7 million) and no more than 3 employees) and are therefore not required to file audited financial statements (only a balance sheet, s. 418). As the ADGM is a relatively new free zone it was noted that a small proportion of companies had been operating for over a year (such that full accounting records would not yet have been produced for most) and no EOI request was received in relation to this zone yet.

Dubai Multi Commodities Centre (DMCC)

266. Under the Company Regulations 2003, DMCC companies, including foreign or non-DMCC companies (“recognised companies”), must keep proper records of account with respect to all matters and sums relating to receipts and expenditures, sales and purchases of goods, and assets and liabilities of the company (s. 57). The DMCC Authority confirms that the requirements cover underlying records and this is reinforced by the federal law, as discussed above. Companies must also prepare a balance sheet and profit and loss account that will form part of the company’s financial statement (s. 58). Non-compliance with these requirements can be penalised with revocation or suspension of a licence as explained above under element A.1, and fines (according to the UAE, the fine of AED 5 000 (approximately USD 1 350) applicable to a failure to file audited financial statements or

audit confirmation under Schedule 1 of the DMCC Rules and Regulations). Section 81 provides that the Registrar has the ability to direct the period (not exceeding 10 years) for which records of a wound up company must be kept and that no responsibility rests on a company, liquidator or person to whom custody of records has been committed for failing to produce records after 10 years from a company's dissolution. Failure to comply with the Registrar's direction is an offence subject to fines.

267. The DMCC Authority's monitoring programme (discussed under element A.1) also covers accounting record-keeping obligations. The availability of information is confirmed in the EOI practice during the review period, as underlying accounting information was obtained and provided by the DMCC Authority.

Jebel Ali Free Zone (JAFZ)

268. The 2016 report found that while accounting information-keeping and filing obligations with adequate penalties were in place (paragraphs 254 to 258), with respect to underlying documentation they did not entirely satisfy the standard (noting that federal legislation, as discussed above, applied across the UAE and did require underlying documentation to be kept by free zone commercial entities). This led to a recommendation for the interaction between federal and free zone rules to be clarified.

269. With respect to FZCo and FZE, the Companies Implementing Regulations 2016 are now explicit that records for accounting purposes include transactional, financial and contractual documentation, as well as supporting documents and information, that is generated during the course of operation of a business (s. 48). All records must be maintained for six years. FZCo and FZE accounts must be audited by an approved auditor yearly (s. 51). PLC must prepare accounts and maintain records in accordance with UAE markets laws, and have these audited. Non-compliance can be punished by a fine up to AED 10 000 per day (approximately USD 2 700) (s. 14.10 JAFZ Rules).

270. Offshore companies must also maintain accounting information in line with the standard (ss. 58-61 OCR). Whilst the OCR makes no explicit reference to underlying documentation in line with the standard, the JAFZ Authority's Licensing Department has enacted a Record Keeping Policy No. 1 of 2018 that requires all companies to maintain accounting records in line with the standard. Further, the UAE notes that the federal law would fill any gap and that such records are kept in practice by registered agents (though the appointment of an approved agent is not mandatory if an office is maintained in the free zone). The JAFZA has been able to provide such records in the review period. Moreover, offshore companies must have their accounts audited by an approved auditor licensed by the Ministry of

Economy (ss. 63-67). Accounting records must be kept for 10 years. JAFZA companies that do not comply with these requirements are subject to a fine of AED 2 000 (approximately USD 540) (Schedule 3, OCR).

271. The JAFZA Inspection Department’s monitoring programme (discussed under element A.1) now also covers offshore companies’ accounting record-keeping obligations, under the Licensing Department’s Procedure for non-compliant companies discussed in element A.1 (the lack of governmental monitoring of these obligations was a concern in the 2016 report (paragraphs 262 to 263)). The level of non-compliance by onshore companies with the requirement to file audited accounts seems to be high, however: 4 484 out of 5 269 onshore companies were fined in 2018 for failing to submit an audited accounts report while the audit is the only form of control of the accuracy of the records kept by companies. This raises concerns about compliance with accounting record-keeping requirements generally. The UAE should supervise JAFZ entities’ compliance with their accounting record-keeping obligations and apply appropriate enforcement measures to ensure records are kept in line with the standard in all cases (see Annex 1).

Ras Al Khaimah Economic Zone (RAK EZ)

272. The Companies Regulations 2017 require all entities in the RAK EZ to maintain accounting records, including underlying documentation, for a period of at least six years (s. 71). The records should be sufficient to show and explain its transactions, disclose with reasonable accuracy its financial position, and enable annual accounts (i.e. financial statements) to be prepared. There is no further explanation of what is meant by the term “underlying documentation”, although entities in the RAK EZ would be expected to follow the guidance in the federal legislation (see above).

273. The annual accounts must be audited, after which the annual accounts and the auditor’s report must be submitted to the RAK EZ authorities (s. 73). The auditor must be registered with the RAK EZ authorities (s. 77), which would only be possible for auditors who are licensed by the UAE Ministry of Economy.

274. As set out in Section A.1.1 above, the RAK EZ authorities have a designated team to carry out compliance functions. This includes checking that all documentation is in order upon registration and renewal, as well as the carrying out of inspections to monitor compliance with RAK EZ rules and regulations and applicable federal rules. This includes compliance with accounting record keeping obligations. Non-compliance with providing audited annual accounts can lead to financial penalties and blocking of an entity’s license. In 2019, two companies received a fine of AED 2 500 (approximately USD 680) for not submitting their audited financial statement to the authorities, and were given three months to do so.

Ras Al Khaimah International Corporate Centre (RAK ICC)

275. The Business Companies Regulations 2018 require all entities in the RAK ICC to maintain accounting records, including underlying documentation, for a period of at least five years (s. 103). The records should be sufficient to show and explain its transactions, and enable its financial position to be determined with reasonable accuracy. The term “underlying documentation” is defined in accordance with the standard. Non-compliance with accounting record keeping obligations may result in a fine not exceeding AED 5 000 (EUR 1 360) (s. 103(7)).

276. There is, however, no requirement in the Regulations to prepare financial statements or to have the accounts audited. The accounts are also not required to be filed with the authorities.

277. While the accounting records should as a general rule be kept at the office of the company’s registered agent, the directors may determine otherwise.

278. The inspections by the authorities of registered agents, as described in Section A.1.1 above, also did not include verification of compliance regarding the keeping of accounting records of the companies. This means there is no monitoring taking place of the accounting record keeping obligations on companies in the RAK ICC. The UAE should implement a system of oversight to ensure that companies in the RAK ICC keep reliable accounting records, including underlying documentation, in practice.

Exchange of accounting information in practice

279. The 2016 report contained a recommendation for the UAE to monitor the availability of accounting information, and in particular underlying documentation, where this is requested by an EOI partner. The reason for this recommendation was that it was not clear that accounting information would have been available in all cases it was requested. In addition to the fact that more than 70% of the EOI requests were pending, the UAE’s main EOI partner had indicated that complete accounting information had not been exchanged in one single case.

280. In addition, it was concluded that it seemed likely that in many cases financial statements had been exchanged while the underlying documentation, where this was also requested, was not exchanged. This had as a background that there were also improvements to be made in the collaboration between the UAE Competent Authority and the local authorities, which were not used to dealing with EOI requests for tax purposes and may therefore had only provided partial information. This latter issue has been addressed (see under Section B.1 below).

281. The current statistics (see Section C.5 below) show that there is still a significant percentage of EOI requests pending (more than 30%), but this is significantly less than in the review period of the 2016 report. Peer input does not indicate specific issues in relation to accounting information. It may therefore be concluded that there are no specific issues with the availability of accounting information in the EOI practice, and the non-provision of accounting information in the pending cases is related to issues described under Section C.5 below.

A.3. Banking Information

Banking information and beneficial ownership information should be available for all account holders.

282. The 2016 report concluded that the legal and regulatory framework of the UAE ensured that all records pertaining to accounts as well as related financial and transactional information were available with banks and other financial institutions.

283. The EOIR standard now requires that beneficial ownership information (in addition to legal ownership) in respect of accountholders be available. It is largely required to be available under the legal obligations in the federal and financial free zone AML regimes, and this is ensured in practice through the banking supervisory authorities' compliance programmes. However, the shortcomings related to the scope of beneficial owners of bank accounts required to be identified, discussed in the AML overview and element A.1, carry over to this element, which therefore sees its rating downgraded to Largely Compliant.

284. The table of recommendations, determination and rating remains as follows:

Legal and Regulatory Framework		
Deficiencies identified	Underlying Factor	Recommendations
	The definition of "beneficial owner" in the relevant federal and free zone regimes is not always fully consistent with the international standard.	The UAE should ensure that its legal framework requires beneficial ownership information to be available for all bank accountholders in line with the standard.
Determination: The element is in place, but certain aspects of the legal implementation of the element need improvement		

Practical Implementation of the standard		
Deficiencies identified	Underlying Factor	Recommendations
	The 2018 AML Law, the AML By-Law and new AML Guidelines for Financial Institutions are only recent. Whilst they significantly strengthen the beneficial ownership obligations in respect of bank accounts in the federal territory and reinforce the existing regimes in the financial free zones, their effectiveness in practice remains untested to some extent.	The UAE should monitor the application of the new legislation in practice to ensure that beneficial ownership information on bank account holders is available in line with the standard in all cases.
Rating: Largely Compliant		

A.3.1. Record-keeping requirements

285. The UAE Central Bank is responsible for licensing and supervising all financial institutions operating within the UAE, including its free zones, except those institutions operating from within the two financial free zones. In the DIFC, the DFSA is the licensing and supervisory authority while in the ADGM this is the FSRA.

286. As at December 2018, 22 locally incorporated banks and 27 foreign banks were registered with the Central Bank of the UAE. In the DIFC, there were 5 locally incorporated banks and 27 foreign banks as at July 2019, while in the ADGM there were 3 locally incorporated banks and 7 foreign banks.

287. The 2016 report (see paragraphs 287-289) concluded that the obligations set out in Central Bank Circular 24/2000 ensured that records pertaining to accounts and account holders as well as related financial and transactional information were available with banks and other financial institutions supervised by the Central Bank. After the coming into force of the new AML framework, this Circular has been cancelled in June 2019 (Central Bank Board of Directors' Decision 59/4/2019). Instead, the UAE now fully relies on the obligations under the new AML framework. These obligations include that the customer (e.g. account holder) must always be identified (s. 8 AML By Law) and that records pertaining to the customer identification, financial transactions, account files and business correspondence be kept for at least five years from the date of termination of the business relationship or from the closing date of the account (s. 24 AML By Law). This ensures that records pertaining to bank accounts as well as their account holders is maintained. The UAE Central Bank has recently issued (23 June 2019) AML Guidelines for Financial Institutions that further detail and strengthen banks' CDD obligations under the new AML framework. As discussed in the AML

framework overview, adequate legal obligations are also in place for banks in the DIFC and ADGM to maintain complete records pertaining to bank accounts as well as to related financial and transactional information.

Beneficial ownership information on account holders

288. The standard as strengthened in 2016 specifically requires that beneficial ownership information be available in respect of all account holders. The legal requirements for banks and other financial institutions to keep beneficial ownership information can be found in the AML legislation, which is described and analysed in Section A.1 of this report.

289. The scope of the definition of “beneficial owner” in the old federal AML framework was sub-standard. It included the concept of “actual control” over a legal person or arrangement, but no further detail to guide financial institutions in their CDD tasks. Whilst more guidance about the concept and the methods for identification and verification of beneficial owners of customers was provided in the financial free zones, the ADGM presented definitional shortcomings during the review period (and still presents them under the post-2018 framework, albeit to a lesser extent than during the review period). This is likely to have caused sub-standard beneficial ownership information to be available for bank accounts in a number of cases, particularly considering that the federal jurisdiction, with by far the largest banking sector, also presented the biggest gaps.

290. As discussed below, however, the Central Bank has exercised a robust level of supervision on its banks, which may have counterbalanced the legal framework deficiencies to some extent. Peer input has not identified cases in which beneficial ownership information on a bank account holder was not provided in line with the standard because it was not available under the law.

291. Under the new federal AML framework, the requirements with respect to identifying the beneficial owner of a bank account align to a large extent with the international standard. However, some gaps remain, as outlined in Section A.1. This may still cause beneficial owners of bank account holders not to be identified in line with the standard in all cases. It is therefore recommended that the UAE ensures that its legal framework requires beneficial ownership information to be available for all bank account holders in line with the standard in all cases. Moreover, the 2018 AML Law, the AML By-Law and AML Guidelines for Financial Institutions are only recent. Whilst they significantly strengthen the beneficial ownership obligations in respect of bank accounts in the federal territory and reinforce the existing regimes in the financial free zones, their effectiveness in practice remains untested to some extent. The UAE should monitor the application of the new legislation in practice to ensure that beneficial ownership information on bank account holders is available in line with the standard.

Monitoring and enforcement to ensure the availability of banking information

Central Bank

292. The Banking Supervision Department (BSD) in the Central Bank is responsible for monitoring compliance with regulatory requirements by banks and other financial institutions. Its policy is set out in a comprehensive Supervision Manual, and has remained largely the same since the 2016 report until the end of 2018.

293. An examination plan is prepared annually and includes at least one full-fledged on-site inspection of each “systematically important” bank. These are basically all local banks, while other banks receive an on-site visit at least once every two years. Thematic inspections may also take place. In preparing the annual examination plan, consideration is given to findings during previous inspections, reporting by financial institutions (such as suspicious transaction reports) and any other available intelligence.

294. The full-fledged inspections are carried out by a team of 4-6 people. They will examine 12 main areas, including compliance with AML legislation. The examination team takes samples of customer files, which are selected on a risk basis, to verify whether sufficient identity, transactional and other relevant information is being kept. An examination report is drawn up by the BSD after the on-site, and any shortcomings must be addressed by the bank and actions must be reported within two months. This report is then reviewed by the BSD. Where shortcomings remain, enforcement actions may be taken. As was the case in the 2016 report, most enforcement actions in recent years did not relate to banks (mostly to money exchangers for regulatory violations).

295. Recently, the BSD has decided to change its approach from full-scope monitoring to risk-based monitoring. In this context and following the introduction of the new AML framework, the BSD is engaging third party service providers to conduct an assessment of compliance with AML obligations of all banks in 2019. The outcomes of this assessment will form the basis for AML supervision in the coming years. In addition, the Central Bank issued new AML Guidelines for Financial Institutions in June 2019 on the basis of the new AML framework.

Financial Free Zones of DIFC and ADGM

296. The DFSA and FSRA’s compliance programmes with respect to their banking institutions’ compliance with AML rules appear adequate, as outlined in Section A.1 of this report.

Availability of bank information in EOI practice

297. During the review period, more than 440 requests were sent by the UAE Competent Authority to the Central Bank. No requests for banking information related to banks operating in the ADGM were received in the review period, and only very few requests for banking information related to banks operating in the DIFC. Apart from general issues in relation to the EOI practice (see Section C.5), no issues related to the availability of banking information have been encountered.

298. In conclusion, the 2018 AML Law, AML By-Law and new AML Guidelines for Financial Institutions are only recent. Whilst they significantly strengthen the beneficial ownership obligations in respect of bank accounts in the federal territory and reinforce the existing regimes in the financial free zones, their effectiveness in practice remains untested to some extent. The UAE should monitor the application of the new legislation in practice to ensure that beneficial ownership information on bank accountholders is available in line with the standard in all cases.

Part B: Access to information

299. Sections B.1 and B.2 evaluate whether competent authorities have the power to obtain and provide information that is the subject of a request under an EOI arrangement from any person within their territorial jurisdiction who is in possession or control of such information, and whether rights and safeguards of taxpayers are compatible with effective EOI.

B.1. Competent authority’s ability to obtain and provide information

Competent authorities should have the power to obtain and provide information that is the subject of a request under an exchange of information arrangement from any person within their territorial jurisdiction who is in possession or control of such information (irrespective of any legal obligation on such person to maintain the secrecy of the information).

300. The UAE Competent Authority works very closely with other authorities to obtain information for EOI purposes. The 2016 report found that access powers are generally available to the authorities, although a couple of minor deficiencies were identified. Since then, more MOUs have been concluded between the UAE Competent Authority and other authorities, and MOUs are now in place with all authorities that regularly receive requests from the UAE Competent Authority to obtain information. However, no access powers and accompanying enforcement provisions have been identified in the Dubai Multi Commodities Centre (DMCC), which was not explicitly covered in the 2016 report. Although information was obtained by the DMCC authority in approximately 50 cases in relation to the review period, the UAE should clarify that access powers are available in the DMCC that can be used for EOIR purposes.

301. Another legal issue is that the scope of legal professional privilege in the federal regime and the Abu Dhabi General Market (ADGM) regime appears to extend beyond that provided for in the international standard, as it seems to cover more types of communication than only for the purposes of seeking and providing legal advice or use in legal proceedings. This has also not had any influence on obtaining information in practice.

302. Regarding the practice, the 2016 report contained three recommendations. Firstly, the UAE was recommended to monitor that its access and compulsory powers are effective in all cases where information must be obtained. This recommendation was made because in a significant number of cases received during the review period of the 2016 report not all information was obtained, and it was unclear whether access and compulsory powers could have been exercised in all cases where this would have been required.

303. In the current review period, the UAE received 1 419 EOI requests. While the practical process of obtaining information for EOI purposes seems adequate in principle, around 34% of the EOI requests from the review period are still pending, and in general the timeliness to respond could be improved (see C.5). One factor contributing to this could be the ineffective use of enforcement provisions, in particular because the authorities are still in a learning experience in this respect. While it is positive that they have taken a more active approach, the specific powers used have not always been effective and there have also been instances where no enforcement action was taken when only partial information was obtained. The UAE should continue to monitor that the available enforcement provisions are effectively used.

304. The second recommendation in the 2016 report related to practice, was for the UAE to ensure that the collaboration with the local authorities does not impede effective EOI. Following a training and awareness campaign, the understanding of the other authorities of the EOI framework and expectations has improved, and sound processes were established between the UAE Competent Authority and other authorities as well as within the other authorities.

305. Finally, a recommendation was made in the 2016 report related to the fact that there may be different entities with the same name in different free zones, and the information with respect to free zone entities was not centralised. As a result, the amount of specificity necessary to access information relating to free zone entities formed an impediment to effective EOI in some cases. This was mainly an issue in the Emirate of Dubai, as in the other Emirates there are only a handful of free zones. With the introduction of a central database for all Dubai free zone entities, this issue has been resolved.

306. The table of recommendations, determination and rating is as follows:

Legal and Regulatory Framework		
	Underlying Factor	Recommendations
Deficiencies identified	No access powers have been identified in the Dubai Multi Commodities Centre (DMCC).	The UAE should ensure that clear access powers, with accompanying enforcement provisions, are available in all instances.

Legal and Regulatory Framework		
	Underlying Factor	Recommendations
	The type of communication covered by legal professional privilege in the federal regime and the Abu Dhabi General Market (ADGM) regime appears to extend beyond that provided for in the international standards.	The UAE should ensure that the application of legal professional privilege does not limit or prevent it from responding to an EOI request.
Determination: The element is in place, but certain aspects of the legal implementation of the element need improvement		
Practical Implementation of the standard		
	Underlying Factor	Recommendations
Deficiencies identified	The UAE has taken a more active approach in using enforcement provisions, compared to the previous period reviewed, but they have not always been effective and there have also been instances where no enforcement action was taken when only partial information was obtained.	The UAE should continue to monitor that the available enforcement provisions are effectively used.
Rating: Largely Compliant		

B.1.1 and B.1.2 Ownership, identity, banking and accounting information

307. The UAE Ministry of Finance acts as the competent authority for tax information exchange, but reliance is placed on other authorities to provide and, if necessary, collect the information from persons within their jurisdiction. The 2016 report analysed the applicable legal framework and procedures for obtaining information for EOI purposes. With respect to the legal framework, it was recommended that the UAE specifies the process and procedures between the UAE Competent Authority and other relevant authorities in the UAE, including the free zones, and that the UAE clarifies that access powers are available in the Fujairah Free Zone. Since then, the Fujairah Free Zone Authority has issued Circular No. 4 of 2016 establishing clear access powers to obtain information from all entities within their jurisdiction, accompanied by the possibility to impose penalties in case of non-compliance. The issue is solved.

308. On the practical implementation, it was recommended in the 2016 report that the UAE ensures that the collaboration with the local authorities does not impede effective EOI, given the fact that these authorities were not

used to dealing with EOI requests for tax purposes and had little or no expertise in that area. In addition, an issue was raised with the fact that it had not in all cases been possible to identify the free zone in which an entity that was the subject of an EOI request, and that was identified by its name, was established. This had impeded effective EOI in some cases, as further information had to be asked from the requesting competent authority.

Access powers – legal framework

309. The 2016 report contains a comprehensive analysis of the legal basis for the UAE Competent Authority and other authorities to obtain information for EOI purposes. It concludes that the Council of Ministers Resolution No. 17 of 2012 (the Resolution):

- authorises the Ministry of Finance (as the UAE Competent Authority) to collect and exchange information for EOI purposes
- requires other authorities to co-operate and, where necessary, use their own access powers for the collection of information from persons within their jurisdiction.

310. This conclusion still stands. However, many of the authorities covered by this report have issued new legislation since the 2016 report, which means that the legal references to their access powers as contained in that report are no longer valid. In addition, the ADGM and DMCC were not explicitly covered by the 2016 report. An overview of the current legal provisions providing the authorities that are most relevant in an EOI context with access powers can be found in the following table.

Access powers and enforcement provisions in the UAE

	Main access power [B.1.1 and B.1.2]	Main enforcement provision(s) [B.1.4]
Central Bank	s. 97 Central Bank Law 2018	ss. 137 and 147 Central Bank Law 2018
Department of Economic Development of Dubai	s. 19 Law 13/2011 Regulating the Conduct of Economic Activities in the Emirate of Dubai	s. 29 Law 13/2011 Regulating the Conduct of Economic Activities in the Emirate of Dubai
Abu Dhabi Global Market (ADGM)	s. 910 Companies Regulations 2015 & s. 201 Financial Services and Markets Regulations 2015	s. 910 Companies Regulation 2015 & ss. 218 and 232-235 Financial Services and Markets Regulations 2015
Dubai International Financial Centre (DIFC)	s. 30 Operating Law 2018 & s. 73 Regulatory Law 2004	s. 30 Operating Law 2018 & s. 90 Regulatory Law 2004

	Main access power [B.1.1 and B.1.2]	Main enforcement provision(s) [B.1.4]
Dubai Multi Commodities Centre (DMCC)	-	-
Jebel Ali Free Zone	s. 8(3) Companies Implementing Regulations 2016 & s. 105 Offshore Companies Regulations 2018 & Policy “Exchange Information Mechanisms”, No. 5 of 2018	s. 109 Companies Implementing Regulations 2016 & violation 29 of the Jebel Ali Free Zone Rules 2017
Ras Al Khaimah Economic Zone (RAK EZ)	ss. 8 and 113 Companies Regulations 2017	s. 116 Companies Regulations 2017
Ras Al Khaimah International Corporate Centre (RAK ICC)	s. 264 Business Companies Regulations 2018	s. 263 Business Companies Regulations 2018

311. As reflected in this table, no access powers have been identified in the DMCC. While the DMCC Authority reported that in practice all requests for information have been complied with (the DMCC received 51 requests to obtain information in relation to the review period), this could become an issue in cases of non-compliance, as there is no legal rule to be enforced (the DMCC was not explicitly covered in the 2016 report).

312. In addition, it is not clear that information obtained from companies by the ADGM Authority may in all cases be provided to the Ministry of Finance for purposes of international exchange of information, since a duty of confidentiality applies in respect of this information (s. 912 ADGM Companies Regulations 2015) and it is not clear that any of the exceptions (s. 967) could be used. Finally, the process to obtain information from offshore companies in the JAFZ requires the official appointment of inspectors and the penalty for not complying with the inspector’s request to provide documents are then based on general rules issued by the JAFZ Authority rather than a specific penalty provision in the JAFZ Offshore Companies Regulations. This disconnection could lead to uncertainty about whether a penalty may be applied. While these issues have not had an influence on obtaining information by the ADGM (no requests were received) and JAFZ Authorities during the review period, the UAE should monitor whether the access powers and enforcement provisions in respect of companies in the ADGM and offshore companies in the JAFZ are effective (see Annex 1).

313. To complement the Resolution, the process and procedures have been specified in Memoranda of Understanding (MOUs) between the UAE Competent Authority and other authorities. The 2016 report noted that, given

the large number of potential other authorities that may receive requests, the UAE Competent Authority had focused its efforts on the authorities which receive a significant number of requests, but that they had omitted the Department of Economic Development of Dubai (Dubai DED) which at that time received approximately 20% of all requests.

314. The UAE Competent Authority has since concluded an MOU with the Dubai DED. In addition, MOUs were concluded with the Dubai Land Department and ADGM. A new MOU has also been signed with the RAK ICC, while the RAK EZ Authority confirms it continues its commitment to the terms and conditions of the MOU previously signed with the RAK Free Trade Zone Authority (a new MOU formalising this is expected to be signed shortly). This brings the total number of MOUs to eleven,¹⁵ covering between 65%-70% of all information collection requests sent by the UAE Competent Authority. The remainder of the requests are scattered over many different authorities, making it less essential to conclude an MOU with a specific process and specific procedures.

Obtaining information in practice

315. The UAE Competent Authority relies on other authorities to collect and provide the information requested in EOI requests and never contacts the entity concerned or the third party information holder directly. It also rarely has direct access to the requested information. The process as described in the 2016 report has remained largely the same.

316. Once the UAE Competent Authority has analysed the request and determined it can proceed with collecting the information, it identifies the authorit(y)(ies) which need(s) to be contacted in order to obtain the information. In many cases, more than one authority must be contacted as a combination of ownership, accounting and banking information is requested. The Competent Authority counts one request per domestic authority solicited to facilitate its follow-up work.

317. Requests from the UAE Competent Authority to the other authorities are generally sent electronically, and a 30-day deadline is given to provide the information. This deadline may be extended where necessary. Templates are used by the UAE Competent Authority to make the request. These only refer to the person on whom information is requested and the information that is asked to be provided.

15. These are with ADGM, the Central Bank, DIFC, DMCC Authority, Dubai Airport Free Zone Authority, Dubai DED, Dubai Land Department, Fujairah Free Zone Authority, JAFZ Authority, RAK ICC Authority and Umm Al Quwain Free Zone Authority.

Collaboration with other authorities – general

318. During the review period of the 2016 report, from 2012 to 2014, the collaboration between the UAE Competent Authority and the other authorities had just commenced and the level of understanding with those other authorities of what information they were expected to provide was low. In addition, there was no long-standing practice as the UAE only started to get organised in 2014. Also considering the amount of EOI requests received (more than 100 per year on average), it was recommended that the UAE ensures that the collaboration with the local authorities does not impede effective EOI.

319. Since 2014, the UAE Competent Authority has made great efforts in improving the collaboration with other authorities. In addition to the MOUs that have been concluded, all main relevant authorities have been engaged in either plenary or bilateral trainings and workshops organised by the UAE Competent Authority in order to explain the expectations and requirements under the international tax information exchange agreements.

320. The UAE Competent Authority also intensified its regular communication, following up more regularly on outstanding requests. An effort is made to send reminders every two weeks. With the authorities asked to process a larger volume of requests, quarterly reconciliation takes place to ensure all requests remain active.

321. A main contact has been established in all authorities which regularly receive requests. The authorities which process the largest volume of requests, the Central Bank and the Department of Economic Development of Dubai, have a dedicated team responsible for processing the requests coming from the UAE Competent Authority.

322. The measures taken by the UAE to improve the collaboration with the other authorities have resulted in the UAE Competent Authority obtaining information more quickly in the current review period covering EOI requests received from 1 April 2015 to 31 March 2018 (see C.5 for overall statistics), and the information obtained has been more complete.

Information on Free Zone entities

323. Information in respect of entities established in one of the UAE's free zones represents the largest group of information in EOI requests, with more than 560 requests sent by the UAE Competent Authority to a free zone authority in respect of EOI requests received during the review period (more than 40% of the total). This information typically includes both ownership and accounting information with respect to one or more entities. While the EOI request often also seeks banking information, this is obtained from the

Central Bank through a separate request from the UAE Competent Authority (see below under “Accessing banking information”).

324. The 2016 report noted that it had not in all cases been possible to identify the free zone in which an entity, which was the subject of an EOI request and that was identified by its name, was established. The amount of specificity needed had impeded effective EOI and it was recommended that the UAE ensures that information is accessible to its competent Authority in all cases where the name of the company has been clearly identified by the requesting jurisdiction.

325. This issue has been addressed. In most EOI requests, it is indicated in which Emirate the free zone entity is thought to have been established. If the name of the free zone is missing, a request is sent to all free zones in that Emirate to check whether an entity with that name has been established. This works well for the Emirates with only a handful of free zones as there the chances of two entities with the same name in different free zones is small.

326. Only the Emirate of Dubai has more than a few free zones. For a better overall co-ordination and collaboration, the Dubai Free Zone Council was established. One of its achievements is a central database of all entities established in any Dubai free zone, which was established in 2016 and has since been gradually filled. The UAE Competent Authority has been granted direct access to this database, which has greatly facilitated identifying the free zone in which an entity that is the subject of an EOI request, was established.

327. A lot of information on free zone entities is already in the possession of the relevant free zone authority (most notably ownership information and, in many cases, financial statements), in which cases the information is generally sent within the 30 day deadline (e.g. DIFC responded 27 requests for legal and beneficial ownership within 30 days, the DMCC Authority advises it received 45 requests on legal and beneficial ownership, other company information, audited financial statements and was able to obtain and answer them within 30 days).

328. However, most EOI requests include information which must be obtained from the entity itself. Such information can be underlying accounting documentation as well as information in respect of less recent years. In these cases, it often takes longer than the 30 day deadline to obtain the information. This is partly because the information must first be located and provided to the authorities by the entity’s owner(s), who generally resides abroad and may be difficult to reach. Nevertheless, in the free zones covered by this report, there have only been two cases where underlying documentation could not be obtained, and this was due to the fact that the entity was struck off following non-compliance with filing obligations (see also under

A.2) and not because the information was located outside of the UAE. In all other cases, the information was ultimately obtained or the process is still ongoing.

Information on entities in the federal UAE

329. Information in respect of entities established under the regime of the federal UAE was requested in approximately 200 cases in the review period. The requested information is generally the same as for entities established in a free zone, i.e. a mix of ownership, accounting and banking information. The UAE Competent Authority requests the Department of Economic Development (DED) of the Emirate in which the entity is established to collect the information (except the banking information). About 90% of the requests are directed to the Dubai DED, as the vast majority of entities are established in the Emirate of Dubai.

330. Similar to the free zone authorities, the DEDs already have a lot of information in their possession, and it is generally only underlying accounting documentation for which the DED must contact the entity. However, this does occur for most of the requests. In these cases, delays are regularly experienced because of initial unresponsiveness by the entity when requested to provide the information. See B.1.4 for information on the steps taken by the DEDs to address this.

331. The Ministry of Economy has set up a central repository which should, once filled, contain the information from all DEDs. This may further facilitate the process of obtaining information on entities in the federal UAE by the UAE Competent Authority.

Accessing banking information

332. Banking information is generally the fastest to obtain for the UAE Competent Authority. Most requests include comprehensive information: (i) account opening form, (ii) details of all beneficiaries of the bank account, (iii) other CDD information, (iv) bank account statements for a specified period, and (v) income statements. In total, more than 440 requests were sent to the Central Bank during the review period. Where the bank is identified, the request can be sent directly by the Central Bank to that bank. Where this is not the case, the Central Bank issues requests to all banks through its dedicated communication system asking whether any of them have the person who is the subject of the EOI request as an account holder. If so, the relevant bank is requested to provide the information.

333. Seeing an increase in requests, the Central Bank has established a dedicated team handling the requests comprising three people. This resulted

in a decrease in response time from 36 days in 2016 to 16 days in 2018. In 2018, the UAE Competent Authority and the Central Bank have also set up a shared folder to share information more efficiently.

334. No requests for banking information related to banks operating in the ADGM were received in the review period, and only very few requests related to banks operating in the DIFC. The contact in the DIFC is the Registrar of Companies, who co-ordinates with the DFSA (the financial regulator) to collect the information.

Conclusion

335. The high-level legal framework providing for access powers to obtain information for EOI purposes has been in place since 2012 with the introduction of the Resolution. This has been strengthened by the MOUs between the UAE Competent Authority and other authorities, which now cover 65%-70% of all information collection requests sent by the UAE Competent Authority, including all main authorities. The only issue found is that no access powers have been identified in the DMCC. While this has not seemed to have had an impact in practice, the UAE should ensure that clear access powers are available in all instances.

336. Regarding the practical implementation, sound processes have been established by the UAE Competent Authority and the authorities requested to collect information. Following an awareness and education campaign initiated by the UAE Competent Authority, there is now a clear understanding with the other authorities about what is expected of them. In addition, improvements were made in recent years to facilitate the collection of information, such as the introduction of a central database for all Dubai free zone entities and dedicated teams in the Central Bank and the Dubai DED to process requests from the UAE Competent Authority.

337. Overall, the process of obtaining information for EOI purposes seems fit for purpose and no major issues have been encountered in the review period in this respect.

B.1.3. Use of information gathering measures absent domestic tax interest

338. The information gathering powers of the authorities in the UAE that are involved in collecting information for EOI purposes are not subject to the requirement that they may only be exercised where there is a domestic tax interest (there are presently no domestic income taxes imposed by the UAE federal government, the Emirates or the free zone authorities).

B.1.4. Effective enforcement provisions to compel the production of information

339. The table in paragraph 310 above identifies the main enforcement provisions available to the authorities that are requested by the UAE Competent Authority to collect information for EOI purposes. No enforcement provisions have been identified in the DMCC, and the UAE should ensure that enforcement provisions are available in all instances.

340. In all cases where enforcement provisions are available, these include financial penalties for not providing the requested information. The authorities also often have the possibility to initiate and conduct an on-site inspection to collect the information.

341. The most dissuasive action may be to suspend the licence of an entity which does not comply with a request to provide information. Both the free zone authorities and the DEDs may decide to suspend or not renew the licence of an entity under their supervision in case of non-compliance with a request to provide information, which means that they cannot continue their activities.

The use of enforcement provisions in practice

342. The 2016 report noted that there had been no cases where information holders contested the authorities' power to demand information, and that information was provided when requested. However, it was also clear that not in all cases information was obtained, given the high number of pending EOI requests. It was recommended that the UAE monitor that its compulsory powers are effective in all cases where information must be obtained.

343. In respect of requests received in the review period, some of the authorities have used their compulsory powers. While financial penalties are available, these are generally not applied. Instead, authorities prefer to suspend the licence of the entity.

344. In respect of entities in the free zones, it has proven sufficient in most cases to only threaten with this sanction rather than actually imposing it. The entity would produce the information with the prospect of suspension of the licence. In one case, the RAK EZ authority launched an official inspection and was successful in collecting the underlying accounting documentation requested. On the other hand, the RAK ICC authority reported that in four cases a request for accounting information was only partially complied with, and no compulsory powers were used to compel the production of the remainder of the documentation.

345. Suspension of the licence has occurred in many cases in respect of entities falling under the supervision of the DEDs. Both the Abu Dhabi

DED and the Dubai DED have suspended licences. The Dubai DED, which receives around 90% of all requests from the UAE Competent Authority to DEDs, suspended almost 50 licences following non-compliance with a request for information related to EOI requests received in the review period. While in a number of cases the information was produced following the suspension, there are still 29 suspensions pending.

346. The Central Bank reported that it has not been necessary to apply any of their enforcement provisions in relation to information needed for EOI requests.

347. From the experience in relation to EOI requests received in the review period, it is clear that the authorities have taken a more active approach compared to the previous period reviewed (2012-14). Nevertheless, still around 30% of the EOI requests from the review period are pending, and in general the timeliness to respond could be improved (see C.5). One factor contributing to this could be the ineffective use of enforcement provisions.

348. There have been mixed results across the authorities. While the threat of licence suspension seems to work well for the free zone authorities, there have also been cases where not all information was obtained and ultimately no compulsory power was applied. The DEDs have used the instrument of licence suspension in many cases, but only in half of these cases this approach has been successful and the information was obtained.

349. It seems that with respect to the use of available enforcement provisions, the authorities are still in a learning process. While it is positive that a more active approach has been taken, the specific powers used have not always been effective and there have also been instances where no enforcement action was taken when only partial information was obtained. The UAE should continue to monitor that the available enforcement provisions are effectively used.

B.1.5. Secrecy provisions

Bank secrecy

350. The new Central Bank Law of 2018 contains a provision (s. 120(1)) similar to the previous law, requiring financial institutions to keep all data and information relating to customers' accounts confidential. However, in cases authorised by law, including international agreements, disclosure of this information is allowed (ss. 120(1) and 120(6)(f)).

351. Disclosure of confidential banking information is also allowed in the context of an EOI request with respect to banks in the DIFC (s. 37(5)(b) of the Law of Obligations, Law No. 5 of 2005). In the ADGM, it is not clear

that information obtained from financial institutions by the FSRA may in all cases be provided to the Ministry of Finance for purposes of international exchange of information, since a duty of confidentiality applies in respect of this information (s. 198 Financial Services and Markets Regulations 2015), and it is not clear that any of the exceptions (s. 199) could be used. The ADGM has not received any requests to provide information in an EOI context so far and the application of the legislation could not be tested.

352. More generally, and as stated above, the Resolution introduced an obligation on the relevant authorities to co-operate with the Ministry of Finance (in practice the UAE Competent Authority) in implementing the obligations of the UAE under international agreements providing for tax information exchange. The 2016 report noted that, in the view of the UAE authorities, this includes a requirement to lift the confidentiality of bank information where such information is requested under an EOI agreement. This is supported by the MOUs between the Ministry of Finance and the Central Bank, DIFC and ADGM (the three authorities supervising banks) respectively. Nevertheless, the UAE should monitor whether the access powers and enforcement provisions in respect of banks and other financial institutions supervised by the FSRA in the ADGM are effective (see Annex 1).

353. In the peer review period, no financial institution or financial regulator has refused to provide information on the basis of bank secrecy.

Professional secrecy

354. There are three regimes in respect of legal professional privilege in the UAE, i.e. a federal regime and separate regimes for lawyers operating in the DIFC or ADGM respectively. The 2016 report concluded that the scope of legal professional privilege in the DIFC was in accordance with the international standard. The 2016 report also concluded that the scope of legal professional privilege under the federal regime appeared to extend beyond that provided for in the international standards, as it may also apply to communications other than for the purpose of seeking or providing legal advice or use in legal proceedings. The conclusions still apply.

355. The legal professional privilege applicable in the ADGM was not covered by the 2016 report. A similar concern exists as with respect to the federal regime, as the term “privileged communication” includes communications from the provision of legal advice as well as from the relationship of lawyer and client as such, although it does not include a general duty of confidentiality (s. 298 Insolvency Regulations 2015).

356. While it is clear that in no case the scope of legal professional privilege extends to information that comes to the attention of lawyers when they

act in a different capacity, such as company directors or trustees, the type of communication covered in the federal regime and the ADGM regime appears to extend beyond that provided for in the international standards. The UAE should ensure that the application of legal professional privilege does not limit or prevent it from responding to an EOI request.

357. In the peer review period, no information holder claimed legal professional privilege or refused to provide information on the basis of any other secrecy obligation. In addition, no peer has indicated any issues in this regard.

B.2. Notification requirements, rights and safeguards

The rights and safeguards (e.g. notification, appeal rights) that apply to persons in the requested jurisdiction should be compatible with effective exchange of information.

358. The 2016 report found that there were no issues regarding notification requirements, appeal rights or any other rights or safeguards which may unduly prevent or delay effective information exchange. There has been no change in the relevant rules or practices since then.

359. The table of determination and rating therefore remains as follows:

Legal and Regulatory Framework
Determination: The element is in place
Practical Implementation of the standard
Rating: Compliant

B.2.1. Rights and safeguards should not unduly prevent or delay effective exchange of information

360. The UAE's domestic law does not require the UAE Competent Authority to notify the taxpayer of an EOI request, either before or after collecting and exchanging information. In addition, no other rights or safeguards, including appeal or judicial review rights, have been identified which may unduly prevent or delay effective exchange of information. Accordingly, peers did not raise any issues regarding rights and safeguards of persons in the UAE related to EOI requests made in the review period.

Part C: Exchanging information

361. Sections C.1 to C.5 evaluate the effectiveness of the UAE’s network of EOI mechanisms – whether these EOI mechanisms provide for exchange of the right scope of information, cover all the UAE’s relevant partners, whether there were adequate provisions to ensure the confidentiality of information received, whether the UAE’s network of EOI mechanisms respects the rights and safeguards of taxpayers and whether the UAE can provide the information requested in a timely manner.

C.1. Exchange of information mechanisms

Exchange of information mechanisms should provide for effective exchange of information.

362. The 2016 report found that the UAE’s international agreements had not been given full effect through domestic law because the extent of the authorities’ access powers had not been clearly specified in all cases (paragraphs 458 to 460). This recommendation was directly related to issues on the legal framework under element B.1 of the 2016 report (paragraph 412), where the process and procedures for obtaining and providing information have not been clearly specified in all cases. As described in Part B of the current report, these issues have now been addressed.

363. A recommendation was also made in the 2016 report (paragraphs 433 to 438) because the UAE had declined to provide information on the basis of the equivalent of Art. 26(3) of the OECD Model Tax Convention, while it had not been clearly established that this was appropriate in consultation with the requesting jurisdiction. It had been standard practice of the UAE Competent Authority to include a reference to Art. 26(3) in its responses, irrespective of whether certain information was not obtained. The 2016 report indicated that the UAE had abandoned this practice at the end of 2015, which had been confirmed by peers. This issue was also not raised by peers in this review and as discussed under element C.5, the UAE Competent Authority now routinely seeks to clarify requests with its exchange partners as necessary. This recommendation has therefore also been addressed.

364. The issues leading to recommendations under element C.1 in the 2016 report have been resolved. The table of recommendations, determination and rating is as follows:

Legal and Regulatory Framework
Determination: The element is in place
Practical Implementation of the standard
Rating: Compliant

C.1.1. Foreseeably relevant standard

365. Exchange of information mechanisms should allow for exchange of information on request where it is foreseeably relevant to the administration and enforcement of the domestic tax laws of the requesting jurisdiction. As at the cut-off date, the UAE has a network of 118 bilateral double taxation conventions (DTC), eight tax information exchange agreements (TIEA) and the Convention on Mutual Administrative Assistance in Tax Matters (MAC) covering 128 EOI partners. The UAE signed the MAC on 21 April 2017, deposited its instrument of ratification on 21 May 2018, and the MAC entered into force on 1 September 2018.

366. The 2016 report noted (paragraph 429) that six of the UAE’s older DTC – Austria, Indonesia, Malaysia, Mozambique, Thailand and Ukraine – limited the exchange of information to that necessary for carrying out the provisions of the agreement, not allowing for EOI for the administration or enforcement of the domestic tax laws of the Contracting States. Whilst an EOI relationship now exists with the three former DTC partners via the MAC, the latter three remain not fully consistent with the international standard. The UAE should work with relevant treaty partners to bring these agreements to the standard (see Annex 1). The 2016 report also noted that the EOI provisions in the DTC with Panama could be interpreted to narrow the “foreseeable relevance” standard. Panama is now a partner covered by the MAC.

367. The UAE interprets the “foreseeable relevance” standard in its treaties to cover group requests. No issues were raised by peers in this regard.

C.1.2. Provide for exchange of information in respect of all persons

368. For EOI to be effective, it is necessary that a jurisdiction’s obligation to provide information be not restricted by the residence or nationality of the person to whom the information relates or by the residence or nationality of the person in possession or control of the information requested. For this reason, the international standard envisages that EOI mechanisms must provide for EOI “with respect to all persons”. The 2016 report (paragraphs 439

to 442) explained how the UAE’s DTCs with Austria, Indonesia, Malaysia, Mozambique, Thailand and Ukraine may not allow EOI in respect of all persons. This is no longer the case with respect to the three former jurisdictions, which are signatories to the MAC. The UAE should work with relevant treaty partners to bring all of its EOI mechanisms to the standard (see Annex 1).

C.1.3. Obligation to exchange all types of information

369. As discussed in the 2016 report (paragraphs 443 to 444), the UAE’s legal framework does not restrict the access to and exchange of information held by financial institutions, nominees or persons acting in an agency or fiduciary capacity, or because it relates to ownership interests in a person.

C.1.4. Absence of domestic tax interest

370. EOI partners must be able to use their information gathering measures even though invoked solely to obtain and provide information to the requesting jurisdiction (i.e. there must be no “domestic tax interest” requirement). As discussed in the 2016 report (paragraphs 445 to 446), no domestic tax interest restrictions exist in the UAE’s legal framework. This remains the case in the current review period and peers raised no issues.

C.1.5. Absence of dual criminality principles

371. All of the UAE’s EOI mechanisms require the exchange of information regardless of whether the conduct under investigation, if committed in the UAE, would constitute a crime. No issues in respect of dual criminality were identified in the 2016 report and no such issues arose over the current review period.

C.1.6. Exchange information relating to both civil and criminal tax matters

372. As discussed in the 2016 report (paragraphs 449 to 451), all of the UAE’s EOI mechanisms provide for EOI in both civil and criminal matters. This remains the case.

C.1.7. Provide information in specific form requested

373. The 2016 report confirmed there are no restrictions in the UAE’s international or domestic legal framework preventing it from providing information in the form requested, so long as this is consistent with its own administrative practices. This is still the case.

C.1.8. Signed agreements should be in force

374. The 2016 report (paragraphs 455 to 456 and 461 to 469) discussed some delays in the UAE’s negotiation and signature of its eight TIEAs, causing dissatisfaction to a number of jurisdictions. It recommended the UAE monitor that the TIEAs signed as well as any future negotiated TIEAs are signed and ratified expeditiously. The UAE ratified all of its eight TIEAs (signed in 2015 and 2016) in November 2016. There have been no further requests from peers for the UAE to sign a TIEA.

375. The 2016 report also noted (paragraph 457) that a number of signed DTCs were not in force, but almost all of these had been signed recently. The ratification of any international treaty requires the deliberation and agreement of the seven emirates of the federation (Art. 47 of the Constitution). The UAE noted that ratification usually takes between six and eight months. The signed DTCs with Costa Rica (October 2017) and Uganda (June 2015) have not been ratified by the UAE. The signed DTCs with Angola (February 2018), Chad (September 2018), Mali (March 2018), San Marino (July 2018) have also not been ratified, albeit that these have been signed more recently. The UAE should ratify all of its EOI agreements expeditiously (see Annex 1).

C.1.9. Be given effect through domestic law

376. As discussed in the introduction to element C.1 and under element B.1, the UAE’s EOI mechanisms have not been given full effect through domestic law since information access powers seem to be lacking in the DMCC. The UAE should ensure that it has complete legislation enabling it to give full effect to its EOI agreements (see Annex 1).

C.2. Exchange of information mechanisms with all relevant partners

The jurisdiction’s network of information exchange mechanisms should cover all relevant partners.

377. The 2016 report recommended that the UAE should, expeditiously, enter into agreements for EOI (regardless of their form) with all relevant partners, meaning those partners who are interested in entering into an EOI agreement with it. As foreshadowed under element C.1.8, the background to this recommendation (paragraphs 461 to 469) was that a number of jurisdictions had experienced delays in negotiating and signing EOI agreements with the UAE, in particular the conclusion of TIEAs, and expressed their dissatisfaction. However, at the time of the 2016 report, these TIEAs had already been signed.

378. The UAE ratified these TIEAs in November 2016, and most of them are now in force. No jurisdictions have advised that the UAE has refused

to enter into negotiations or conclude an EOI agreement. Also, no delay in negotiating or signing such agreements were reported. As mentioned under element C.1.8, however, whilst no expressions of dissatisfaction have been received from the jurisdictions concerned, the ratification of a number of signed DTCs is delayed on the part of the UAE and the UAE should therefore seek to ratify all of its EOI agreements expeditiously (see Annex 1).

379. The UAE now has an extensive network of 118 DTCs, 8 TIEAs and the MAC (128 exchange partners as of the cut-off date). The UAE should in any case continue to develop its EOI network (see Annex 1). As no peer reported any issues related to the conclusion of EOI agreements, and the signed TIEAs were ratified by the UAE, the recommendation in the 2016 report is removed. The table of recommendations, determination and rating is as follows:

Legal and Regulatory Framework
Determination: The element is in place
Practical Implementation of the standard
Rating: Compliant

C.3. Confidentiality

The jurisdiction's information exchange mechanisms should have adequate provisions to ensure the confidentiality of information received.

C.3.1. Information received: disclosure, use and safeguards and

C.3.2 Confidentiality of other information

380. The 2016 report concluded (paragraphs 470 to 478) that the treaty provisions and statutory rules that apply to UAE officials with access to information received from EOI partners, and the practice in the UAE regarding the confidentiality and proper use of the information, were sound. The report therefore determined that the legal framework was in place and element C.3 was rated Compliant in practice. There have been no changes in substance that would affect the analysis in the 2016 report. Moreover, there have been no known instances in the UAE where information received by the Competent Authority from an EOI partner has been improperly disclosed. The UAE treats all information related to an exchange partner's EOI request as confidential and uses it only for purposes of obtaining the information in response to the request (the UAE has not made any requests itself). One exchange partner indicated that it requested to use information exchanged by the UAE for non-tax purposes in two cases, and after discussions were held, the UAE is now to provide a final response on this point.

381. The table of recommendations, determination and rating is as follows:

Legal and Regulatory Framework
Determination: The element is in place
Practical Implementation of the standard
Rating: Compliant

C.4. Rights and safeguards of taxpayers and third parties

The information exchange mechanisms should respect the rights and safeguards of taxpayers and third parties.

C.4.1. Exceptions to provide information

382. The 2016 report explained (paragraphs 479 to 481), as also described under element B.1 of this report, that the scope of legal professional privilege in the federal UAE Legal Profession Law (Art. 42) appeared broader than permitted by the standard. There has been no law change in this regard.

383. For purposes of the rules in the UAE’s DTCs (and also in the MAC and TIEAs) that protect information being provided where it constitutes a “professional secret” in respect of an attorney, the term “professional secret” would take its meaning from the UAE Legal Profession Law. Whilst this could prevent information held by lawyers being provided to requesting EOI partners in a manner inconsistent with the standard, the issue had not arisen in practice and this remains the case in the current review period.

384. The table of recommendations, determination and rating is as follows:

Legal and Regulatory Framework		
Deficiencies identified	Underlying Factor	Recommendations
	The definition of information subject to legal professional privilege in the UAE’s DTCs follows that of its domestic law, which is wider than the scope accepted under the international standard.	The UAE should ensure that the scope of legal professional privilege in its EOI mechanisms is consistent with the international standard.
Determination: The element is in place		
Practical Implementation of the standard		
Rating: Compliant		

C.5. Requesting and providing information in an effective manner

The jurisdiction should request and provide information under its network of agreements in an effective manner.

385. The UAE had limited organisational processes and resources to ensure complete and timely responses until 2014. However, it was already receiving a substantial amount of tax information requests before then, as it continued to establish itself as a regional trade and financial hub. The 2016 report, which reviewed the UAE's practice in responding to requests received during the period from 1 January 2012 to 31 December 2014, identified major issues pertaining to the lack of an organised process for handling requests, the fact that the EOI unit had only been recently established, and the difficulties experienced by exchange partners in communicating with the UAE authorities. The consequences of these issues were reflected in the report's statistics on the timeliness and completeness of responses, with a large majority of responses (71%) remaining outstanding and only a small proportion of responses (7%) provided within 90 days. As a result, the UAE was rated Non-Compliant under element C.5.

386. Since the last review period, the UAE authorities have progressively improved the EOI practice whilst also experiencing an important growth in EOI requests. The total number of requests received in the current review period increased fourfold in relation to the last review period (from 323 to 1 419) and the number of yearly requests increased eightfold between 2012 and 2017 (from 62 to 545).

387. Overall, the UAE has made a solid effort in responding to this challenge. The developments in its EOI practice span all aspects in respect of the handling of EOI requests, including organisational and human resources and processes, timeliness and completeness of responses, and communication with peers. As a result, significant improvements can be seen in the response times from year to year as well as in a reduction of the backlog of pending requests vis-à-vis the last review period. The improvements made are recognised by the peers, who have generally expressed satisfaction with the responses received from the UAE.

388. The complexity of the UAE's federal and free zone structure inevitably impacts its ability to consistently provide timely responses, and this must be acknowledged. For instance, the existence of multiple financial and commercial registration jurisdictions in the country has often required the UAE Competent Authority to issue requests for clarification and supplementary information to better enable the identification of the subject of a request and of the holder of the requested information among the various jurisdictions. The need for such additional correspondence with exchange partners appears

to have impacted the calculus of response times and of requests still pending. It is understood that a lack of response to the UAE's requests for clarification has, in some cases, impeded the UAE's further processing of requests (although the UAE was unable to quantify the impact of these cases on the overall timeliness figures). Moreover, peers indicate that partial responses were sent in many cases.

389. Nevertheless, the peer input is clear that there are many outstanding pieces of information and the statistics continue to show that it often takes a long time for responses to be received from the UAE (for instance, response times exceeded 90 days in most cases). Moreover, peers indicate in many cases that they do not receive status updates within 90 days in cases where no final or partial response is provided. This has inevitably impacted the effectiveness of the UAE's EOI practice and likely the ability of peers to carry out their tax investigations. The UAE was unable to identify a specific cause or source for the delays (e.g. a particular federal or free zone authority). Rather, the information provided by the UAE suggests that the occurrence of delays is spread across the EOI unit and the various authorities tasked with collecting information. The delays seem to be a function of the ability to handle the EOI workloads, and of the time that information holders take to supply information.

390. Whilst the UAE is considered to be on the right trajectory to have in place a fully adequate EOI apparatus (commensurate with the demands of exchange partners), the persistent delays suggest that this level of efficiency has not yet been attained. The effectiveness of the UAE's EOI in practice during the review period is therefore insufficient to justify a rating of Compliant or Largely Compliant, and the UAE is rated as Partially Compliant. The table of determinations and ratings is as follows:

Legal and Regulatory Framework		
This element involves issues of practice. Accordingly, no determination has been made.		
Practical Implementation of the standard		
	Underlying Factor	Recommendations
Deficiencies identified in the implementation of EOIR in practice	Despite the efforts made by the UAE authorities to improve the organisation and processes for EOI and the improvements in timeliness seen as a result, substantial delays and a significant backlog of pending requests remain. The EOI unit and local authorities therefore continue experiencing constraints in their ability to handle the EOI workload.	The UAE should continue with its efforts to improve the timeliness of responses, ensure that all relevant authorities are sufficiently equipped (both in terms of organisational resources and processes) to duly prioritise requests, and reduce the backlog of EOI cases on an urgent basis.

	As concerns communication with partners, although the UAE provides status updates when partial information is sent and upon request from peers, this does not happen in all cases, as required by the international standard, and partial information is also not always sent within 90 days.	The UAE should consistently provide status updates within 90 days in all cases where a full response is not possible.
Rating: Partially Compliant		

C.5.1. Timeliness of responses to requests for information

391. The UAE received 1 419 requests for information from over 50 jurisdictions in the review period (1 April 2015-31 March 2018). It did not decline any requests. The following table relates to these requests and gives an overview of the response times needed by the UAE to provide a final response, together with other relevant factors impacting the effectiveness of the UAE’s EOI practice during the review period.

Statistics on response times in the review period (1 April 2015-31 March 2018)

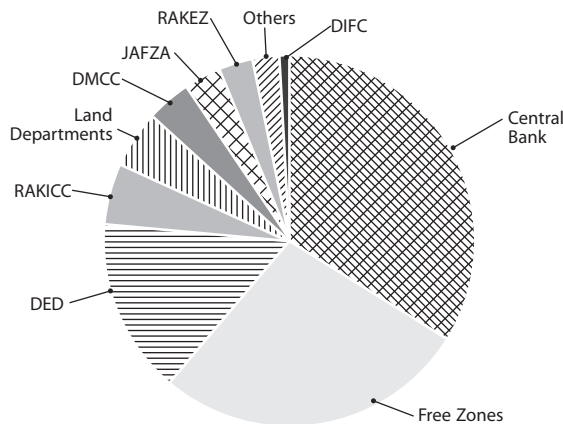
	1 April 2015-31 Mar 2016		1 April 2016-31 Mar 2017		1 April 2017-31 Mar 2018		Total	
	Num.	%	Num.	%	Num.	%	Num.	%
Total number of requests received [A+B+C+D+E]	396	100	478	100	545	100	1 419	100
Full response: ≤90 days	43	11	109	23	154	28	306	22
≤180 days (cumulative)	68	17	204	43	212	39	484	35
≤1 year (cumulative) [A]	96	24	244	51	270	50	610	43
>1 year [B]	164	41	97	20	69	13	330	23
Declined for valid reasons [C]	0	0	0	0	0	0	0	0
Number of requests for which status update should have been provided	353	-	369	-	391	-	1 113	-
Status update provided within 90 days (for outstanding cases with full information not provided within 90 days, responses provided > 90 days)	55	16	25	7	6	2	86	8
Requests withdrawn by requesting jurisdiction [D]	0	0	0	0	0	0	0	0
Failure to obtain and provide information requested	0	0	0	0	0	0	0	0
Requests still pending at date of review [E]	136	33	137	29	206	37	479	34

- Notes:* a. The UAE counts each request for information from a separate source as a separate request. Each record has its own “lifecycle” to count and track the processing time. For example, if a single request requires banking (Central Bank) and civil registry (Emirates Identity Authority) information, the request will be counted as two requests.
- b. The time periods in this table are counted from the date of receipt of the request to the date on which the final and complete response was issued.

392. As explained in the overview, the UAE has established itself as a trade and financial hub in the Middle East, with an economy focused on investment in airports, ports and services and a business environment connecting regional markets to the outside world. The UAE's EOI relationships with exchange partners are driven by these business relations, the presence of a large and diversified cohort of expatriates in the country, including their ownership of UAE businesses, and financial services relationships. India, accounts for three quarters of the requests received in the review period, due to a large representation of its residents and businesses in the UAE economy. Other main partners (by virtue of the numbers of exchanges with them) include Pakistan, Tunisia, France, Germany, Poland and other European jurisdictions.

393. The UAE receives requests for all types of information, including identity and financial information for individuals, and ownership, accounting, and banking information for legal entities and arrangements. There is a spread of requests across the federal authorities, the free zone authorities, and the Central Bank, as illustrated in the following table:

Division of requests per authorities, April 2015-March 2018



394. The 2016 report discussed shortcomings in the UAE's EOI practice during its review period (see for example paragraphs 487-492 and 503-518). The absence of a functioning EOI unit until the beginning of 2014 contributed to the bulk of requests received in 2012-13 not being processed until its establishment. Many requests were unacknowledged or unanswered and, if processed, they were often held up with various UAE authorities or with EOI partners following UAE requests for clarification. Once the EOI unit was established, it began to process the backlog of requests but this remained (and remains now) a work in progress. Peers also indicated a lack

of communication, as no status updates were provided. The 2016 report therefore recommended the UAE to continue with its efforts to fully establish its EOI unit, particularly increase its staffing, and to address the backlog urgently.

395. The UAE Competent Authority took various measures to address the recommendation and improve the timeliness of responses. The number of full time employees in the EOI unit was increased from five to nine to deal with the surge in EOI requests received. A series of meetings and workshops were held with the local authorities to encourage them to speed up information gathering, in particular for accounting records and underlying documentation. The timeliness of EOI processes has been more actively monitored. For instance, the EOI Register was developed to include more granular data about the status of requests throughout their lifecycle, which allowed for statistics to be produced and tracked on a monthly, weekly or daily basis. Key performance indicators (KPI), such as EOI unit and local authorities' average response times and the number of finalised backlog cases were introduced. The KPI are measured and monitored on a weekly basis by the Head of Unit through a spreadsheet based on the data retrieved from the EOI Register. Moreover, the practice of reconciling the status of EOI requests on an annual basis was introduced, and a risk committee is being established to deal with the remaining backlog. The UAE advises that many pending requests from outside the current review period have been closed over the last six months as a result of these measures.

396. The above statistics table reflects a clear overall improvement. There has been a substantial increase, in the review period, in the percentages of full responses provided within 90 days, 180 days, and one year. At the same time, the percentage of full responses provided after more than one year from the date of the request decreased substantially year by year (from 41% in 2015 to 13% in 2017). The percentage of cases pending as of the date of the review, compared with the 2016 report, more than halved: 71% as of the end of 2014 to 34% as of the end of the current review period (this does not necessarily account for the backlog of older requests, however). It is also noted that the UAE is awaiting responses to clarification requests in 63 of the 479 requests identified as pending (4% of total requests).

397. In parallel with these improvement trends in the percentages, the total number of requests received in the current review period quadrupled vis-à-vis the last review period. This means that in absolute terms, many more requests have been fully responded to by the UAE Competent Authority: 940 in the current review period in comparison with 94 in the last review period. This reflects a significant improvement in the UAE's EOI practice.

398. The UAE approaches requests on a record-by-record basis and continues to send the (potentially many) records sought in a request as partial

responses as they become available, which is a good practice. A steady decrease in the number of partial responses sent in the current review period (55 in 2015 to 6 in 2017) can be seen, although this could correlate to the increase in timely full responses. In any case, peer input confirms that partial responses were sent in many cases.

399. Regardless, 57% of the total requests in the review period were either responded to after more than one year, or remain pending. The UAE advises that where full responses were not provided within 90 days, this has related to many cases where (i) the Competent Authority has had to request clarifications for unique identifiers, such as passport numbers and dates of birth, in order to identify the correct subject and information holder, and (ii) longer time was required to obtain underlying documentation. One issue, according to the UAE, are cases where the subject of a request is identified only by name and there are multiple individuals or entities with the same name. The UAE attributes a number of its pending and more delayed cases to one particular exchange partner's unresponsiveness to these clarification requests. It notes that of the 63 clarifications requests made, around 90% were to that partner. The number of requests (measured by the UAE as the number of *records*) covered by these clarifications is likely to be higher than 63, although this could not be quantified. However, it seems unlikely that such clarification cases account for a meaningful majority of the delayed or pending requests.

400. All other requests are actioned by local authorities as the EOI unit does not contact directly any UAE individuals or entities (though it has the power to do so). The UAE advises that whilst local authorities are given 30 days to provide the information, they often take longer. The EOI unit sends reminders to the authorities with which an MOU is in place. The UAE reports that entities from whom local authorities need to seek information also create delays. Moreover, it appears that the EOI unit itself continues to face challenges actioning the load of ongoing requests that needs to be sent to the local authorities.

Conclusion

401. Although large improvements have been made and peers have expressed a general satisfaction with the UAE's responses, it is also clear that significant delays continued to be experienced by exchange partners (all of them, and not just the largest partner). It is understood, moreover, that the requests not fulfilled within 90 or 180 days do not relate to a particular type of information (e.g. identity information in respect of a specific type of entity) that could point to a more confined problem in the EOI practice. It appears, rather, that the delayed responses and the backlog are evenly spread across the totality of requests from various jurisdictions assigned to the various local authorities.

Communication with exchange partners and status updates

402. The 2016 report discussed certain difficulties faced by exchange partners in communicating with the UAE Competent Authority (paragraphs 508 to 518). A number of examples were given to demonstrate that there had been an overall lack of communication in many instances. One of these was the UAE's former practice of unilaterally closing cases on the basis of a provision equivalent to paragraph 26(3) of the OECD Model Tax Convention, where no precise explanation for declining to provide information was offered and dialogue could have helped in identifying possibilities to assist. The difficulties were mostly related to the period in which there was no EOI unit in place and no EOI requests were being processed, as well as to the start-up phase of the EOI unit.

403. The UAE has significantly improved communication with partners since the 2016 report and many peers indicate that communication with the UAE Competent Authority is easy. It appears that the improvements in the timeliness of responses in the current review period have been facilitated by this better communication with EOI partners. For instance, the UAE Competent Authority began to more systematically send records as partial responses as they were domestically obtained (with an indication that the remainder of the requested information is under processing). Previously, this was not indicated, leading to the assumption by the peers that only part of the information was available. The UAE also introduced more systematic clarifications and follow-ups with exchange partners. For instance, physical meetings have been set up with the largest exchange partner to prioritise, streamline and reach mutual understandings on the processing of EOI cases. Specific bilateral contacts are made where appropriate. Furthermore, the UAE Competent Authority began to reconcile closed and outstanding EOI requests with its main EOI partners to match their records and avoid losing track of requests.

404. Conference calls and face-to-face meetings continue to be organised, more generally, to discuss and improve co-operation with exchange partners. Acknowledgements are systematically sent upon the registration of a request. The contact details of the Competent Authority are available on the Global Forum's Competent Authorities secure website and on the Ministry of Finance's public website.

405. A remaining issue, confirmed by the peer input, is that status updates continue not to be systematically provided when no partial information is sent. Although updates are provided upon request, this does not happen in all cases, as required by the international standard, and partial information is also not always sent within 90 days. The UAE notes that it provides updates in the course of its quarterly conference calls with the larger exchange partners, but acknowledges this remains an issue for a number of other peers.

C.5.2. Organisational processes and resources

Organisation of the Competent Authority

406. The Ministry of Finance is the Competent Authority for EOI. Whilst a core team for EOI had been established following a Council of Ministers resolution in 2012, it did not have organised processes. From 2014, the EOI unit was established to effectively implement the international standard and the organisational structure, processes and resources to support EOI. The 2016 report noted that the EOI unit was still a work in progress. At the time, it comprised one Head of Unit, a legal officer, administrative support staff and two people handling EOI requests on a daily basis.

407. In the following years, nine more staff have been hired. There is also a legal advisor providing support to the unit. The EOI unit therefore currently comprises the Head of Unit, a legal advisor, one administrative staff, and eleven EOI staff, supported by the legal advisor. Of the new EOI staff, five persons were recruited in 2019 and started only very recently. Further recruitment is underway to increase the number of full-time staff. The EOI unit received extensive training on EOIR from the international organisation in 2014. More recently, staff have participated in various Global Forum EOIR, Automatic Exchange of Information, and BEPS trainings, as well as other international tax trainings. EOI unit staff hold advanced university degrees and have strong language skills, particularly English.

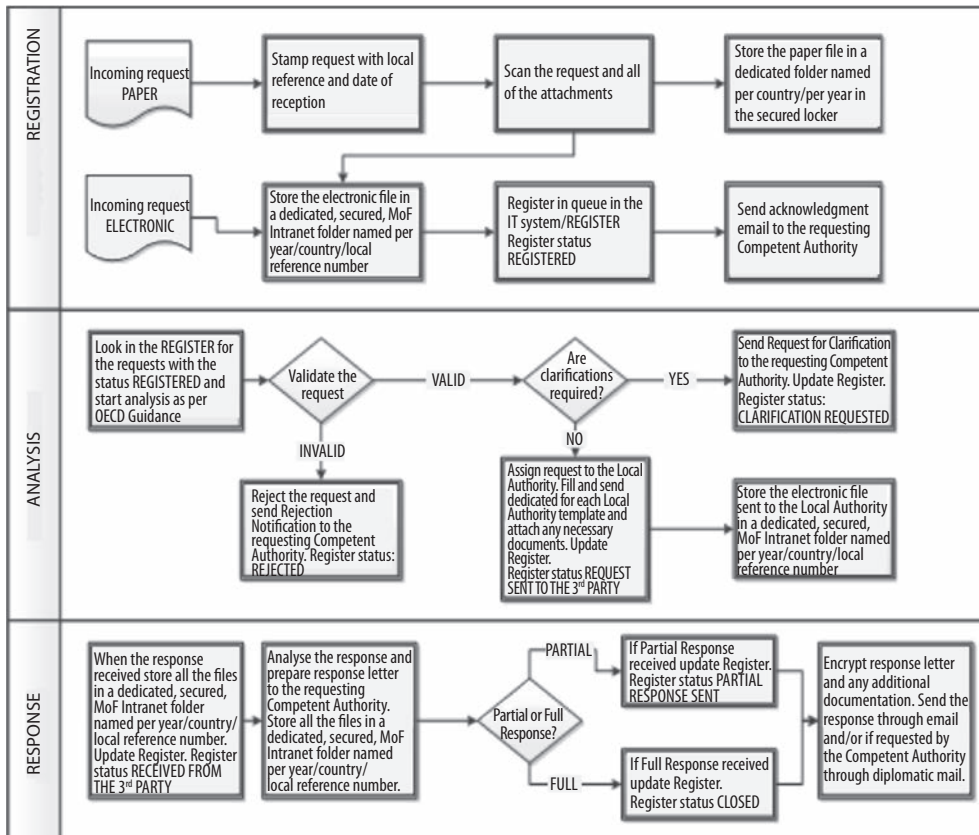
408. Other than the human resources, the organisation of the EOI unit has been completed. The UAE Competent Authority has a dedicated email address to conduct all communication with exchange partners. A comprehensive EOI Manual is in place and an XLS IT application is used for storing and tracking all EOI requests. Standardised letters, detailed flowcharts to aid the EOI unit's operational work, and statistical reports are used. The UAE advises that its EOI IT system is being further customised to its national circumstances in 2019. All received requests are registered and classified into dockets in order to disaggregate their contents by requesting country, date and typology. The registration system and all documents are hosted on the ministry's secure intranet. All paper requests are scanned and placed in the dedicated secure folders. Communications with other UAE authorities are carried out through secure email exchange. All responses are encrypted and sent electronically to partners and, if requested, through diplomatic mail. Each communication with other UAE authorities and response to a request must be approved by the Head of Unit.

409. There is a detailed written instruction and checklist for EOI unit staff for the validation of requests, covering whether an agreement is in place, whether the requesting party is an authorised competent authority, whether the taxes and time periods are covered, whether foreseeable relevance is

demonstrated, whether the request is in conformance with the laws and administrative practices of the requesting state, whether it has exhausted all domestic means, etc.

410. The following chart explains the flow of the EOI process:

EOI Process Flowchart



Conclusion

411. The UAE has improved its level of efficiency in terms of the organisational processes and systems to support EOI since the 2016 report. However, the EOI unit acknowledges that it continues to face challenges in handling the growing workload of requests. The UAE should monitor the level of staffing of the Competent Authority on an ongoing basis and ensure that it is commensurate with the requirements of handling the growing number of requests as well as the backlog of pending cases.

Outgoing requests

412. The 2016 ToR also addresses the quality of requests made: jurisdictions should have in place processes and resources to ensure their quality. The UAE did not send any requests in the review period. It may do so in the future, e.g. in the course of administering its new federal VAT regime. In such case, the same EOI Unit staff would handle outgoing requests and the UAE should monitor that it makes EOI requests in an effective manner (see Annex 1).

C.5.3. Unreasonable, disproportionate or unduly restrictive conditions for EOI

413. There are no factors or issues identified in the UAE that could unreasonably, disproportionately or unduly restrict effective EOI.

Conclusion

414. Ultimately, despite the progress made by the UAE authorities and the improvements in timeliness seen as a result, many EOI requests are still not responded to in a timely manner and a substantial backlog remains. The EOI unit and local authorities therefore continue experiencing constraints in their ability to handle the EOI workload. Under the international standard, jurisdictions are expected to provide information under their network of agreements in an effective manner. The UAE should continue with its efforts to improve the timeliness of responses, ensure that all relevant authorities are sufficiently equipped (both in terms of organisational resources and processes) to duly prioritise requests, and reduce the backlog of EOI cases on an urgent basis. The UAE should also consistently provide status updates within 90 days in all cases where a full response is not possible.

Annex 1. List of in-text recommendations

Regular in-text recommendations

The Global Forum may identify issues that have not had and are unlikely in the current circumstances to have more than a negligible impact on EOIR in practice. Nevertheless, there may be a concern that the circumstances may change and the relevance of the issue may increase. In these cases, a recommendation may be made; however, such recommendations should not be placed in the same box as more substantive recommendations. Rather, these recommendations can be mentioned in the text of the report. A list of such recommendations is reproduced below for convenience.

- General, paragraph 23: the UAE should address any gaps in relation to the 2016 ToR identified in one or more free zones taking into account that the same or similar gaps may exist in other free zones which are not explicitly covered in this report.
- Element A.1.1, paragraph 99: the UAE should clarify its legislation to ensure that legal ownership information is kept for all companies limited by guarantee in the RAK ICC that are not authorised to issue shares.
- Element A.1.4, paragraph 213: It is recommended that the UAE monitors whether identity information in respect of foreign trusts managed from the UAE is available.
- Element A.2.2, paragraph 258: As the DIFC legislation is recent, the UAE should monitor the application of the more specific requirements in respect of underlying documentation to ensure the effectiveness of their application in practice.
- Element A.2.2, paragraph 262: The UAE should clarify that all entities in the ADGM are consistently required to keep reliable accounting records, including underlying documentation, for a period of at least five years.

- Element A.2.1, paragraph 271: The UAE should supervise JAFZ entities' compliance with their accounting record-keeping obligations and apply appropriate enforcement measures to ensure records are kept in line with the standard in all cases.
- Element B.1.1, paragraph 312: the UAE should monitor whether the access powers and enforcement provisions in respect of companies in the ADGM and offshore companies in the JAFZ are effective.
- Element B.1.5, paragraph 352: the UAE should monitor whether the access powers and enforcement provisions in respect of banks and other financial institutions supervised by the FSRA in the ADGM are effective.
- Element C.1.1, paragraph 366: Whilst an EOI relationship now exists with the three former DTC partners via the MAC, the latter three remain not fully consistent with the international standard. The UAE should work with relevant treaty partners to bring these agreements to the standard.
- Element C.1.2, paragraph 368: The UAE should work with relevant treaty partners to bring all of its EOI mechanisms to the standard.
- Elements C.1.8, paragraph 375: The UAE should ratify all of its EOI agreements expeditiously.
- Element C.1.9, paragraph 376: The UAE should ensure that it has complete legislation enabling it to give full effect to its EOI agreements.
- Element C.2, paragraph 378: the UAE should therefore seek to ratify all of its EOI agreements expeditiously.
- Element C.2, paragraph 379: The UAE should in any case continue to develop its EOI network.
- Element C.5.2, paragraph 411: The UAE should monitor the level of staffing of the Competent Authority on an ongoing basis and ensure that it is commensurate with the requirements of handling the growing number of requests as well as the backlog of pending cases.
- Element C.5.2, paragraph 412: The UAE did not send any requests in the review period. It may do so in the future, e.g. in the course of administering its new federal VAT regime. In such case, the same EOI Unit staff would handle outgoing requests and the UAE should monitor that it makes EOI requests in an effective manner.

In-text recommendations covered by in-box recommendations

As explained in paragraph 23, this report analyses the frameworks of the four largest free zones (in terms of the number of entities registered and EOI requests received) as well as the two financial free zones, in addition to the framework of the federal UAE. The more substantive recommendations made in this report under element A.1, which are reflected in the box at the beginning of that element, consist of multiple deficiencies in multiple frameworks. Below follows an overview of the issues covered by these recommendations:

Element A.1 recommendation: “The UAE should ensure that its legal framework requires beneficial ownership information to be available for all relevant entities and arrangements in line with the standard in all cases.”

- Paragraph 145: the UAE should ensure that beneficial ownership information in line with the standard is required to be available for DIFC entities in all cases.
- Paragraph 147: There may be DIFC companies, however, which do not have a relationship with an AML obliged entity in the UAE. The UAE should ensure that such information is available in line with the standard for DIFC recognised companies in all cases.
- Paragraph 167: The UAE should ensure that beneficial ownership information is available for ADGM entities and arrangements in line with the standard in all cases, and in particular that only natural persons are recorded as beneficial owners in practice and that the “cascade approach” is incorporated in respect of all legal persons.
- Paragraph 204: The UAE should ensure that beneficial ownership information is available in line with the standard for DIFC recognised partnerships in all cases.
- Paragraph 207: The UAE should therefore ensure, as mentioned above in respect of companies, that beneficial ownership information is available for ADGM partnerships in line with the standard in all cases.
- Paragraph 219: The UAE should ensure that beneficial ownership information is kept for trusts in the DIFC in line with the standard in all cases.
- Paragraph 238: Whilst there are few foundations registered so far and this issue seems of low materiality, the UAE should ensure that beneficial ownership information in line with the standard is available for ADGM foundations in all cases.

Element A.1 recommendation: “The UAE should ensure that the new requirements to identify and verify beneficial owners of all relevant legal entities and arrangements are effectively implemented and that appropriate monitoring is carried out on the requirements to have beneficial ownership information available in all cases.”

- Paragraph 127: the UAE should ensure that the new requirements for companies in the federal zone to maintain and file up-to-date beneficial ownership information are effectively implemented and that appropriate monitoring is carried out on the requirements to have beneficial ownership information available in all cases.
- Paragraph 129: the UAE should ensure that appropriate monitoring is carried out on the requirements for banks and other service providers to have beneficial ownership information available in all cases under the new AML framework.
- Paragraph 146: The UAE should ensure that the new requirements for DIFC companies to maintain and file up-to-date beneficial ownership information are effectively implemented and that appropriate monitoring is carried out on the requirements to have beneficial ownership information available in all cases.
- Paragraph 152: The UAE should ensure that appropriate implementation and monitoring is conducted in relation to the DIFC requirements for beneficial ownership information to be available in all cases.
- Paragraph 169: As the ADGM’s AML monitoring and supervision function is relatively recent, the UAE should monitor this function to ensure that appropriate checks are performed regarding the beneficial ownership information that is required to be available with AML obliged entities.
- Paragraph 170: The UAE should ensure that appropriate implementation and monitoring is conducted on the ADGM requirements to have beneficial ownership information available in all cases.
- Paragraph 176: The UAE should ensure that appropriate monitoring is carried out on the requirements to have beneficial ownership available in all cases in the DMCC.
- Paragraph 179: The UAE should ensure that appropriate checks are performed regarding the beneficial ownership information that is required to be available in respect of JAFZ companies.
- Paragraph 183: the UAE should ensure that appropriate checks are performed regarding the beneficial ownership information that is

required to be available in respect of companies incorporated in the RAK EZ that do not have a bank account with a UAE bank.

- Paragraph 192: The UAE should ensure that appropriate monitoring is carried out on the requirements to have beneficial ownership available in all cases in the RAK ICC.
- Paragraph 200: The UAE should ensure that appropriate checks are performed regarding the beneficial ownership information that is required to be available in respect of partnerships established under the federal regime that have not engaged a UAE bank.
- Paragraph 226: The UAE should monitor the application of the requirements applicable in the ADGM to ensure that beneficial ownership information in respect of trusts and other legal arrangements is required to be available in line with the standard in all cases.
- Paragraph 235: as the Foundations Law and the new federal AML framework are recent, the UAE should monitor their application to ensure that information on foundations, as required under the ToR, is available in practice in all cases.
- Paragraph 238: as the regime for ADGM foundations is recent, the UAE should monitor its application and ensure the availability of ownership information on ADGM foundations in practice.

Annex 2. List of the UAE's EOI mechanisms

1. Bilateral international agreements for the exchange of information

	EOI partner	Type of agreement	Signature	Entry into force
1	Albania	DTC	13 March 2014	26 March 2015
2	Algeria	DTC	24 April 2001	25 June 2004
3	Andorra	DTC	28 July 2015	1 August 2017
4	Angola	DTC	8 February 2018	
5	Antigua and Barbuda	DTC	15 January 2017	
6	Argentina	DTC	3 November 2016	
7	Armenia	DTC	22 April 2002	11 January 2005
8	Austria	DTC	23 September 2003	23 September 2004
9	Azerbaijan	DTC	20 November 2006	12 June 2007
10	Bangladesh	DTC	17 January 2011	13 June 2011
11	Barbados	DTC	22 September 2014	18 February 2016
12	Belarus	DTC	27 February 2000	1 February 2001
13	Belgium	DTC	30 September 1996	22 December 2003
14	Belize	DTC	1 October 2015	24 October 2017
15	Benin	DTC	4 March 2013	
16	Bermuda	DTC	12 February 2015	
17	Bosnia and Herzegovina	DTC	18 September 2006	19 May 2009
18	Brunei Darussalam	DTC	21 May 2013	21 November 2014
19	Bulgaria	DTC	26 June 2007	16 November 2008
20	Burundi	DTC	6 February 2017	
21	Cameroon	DTC	13 July 2017	
22	Canada	DTC	9 June 2002	25 May 2004

	EOI partner	Type of agreement	Signature	Entry into force
23	Chad	DTC	4 September 2018	
24	China (People's Republic of)	DTC	1 July 1993	22 July 1994
25	Colombia	DTC	12 November 2017	
26	Comoros	DTC	26 March 2015	2 January 2018
27	Costa Rica	DTC	3 October 2017	
28	Croatia	DTC	13 July 2017	
29	Cyprus ^a	DTC	27 February 2011	17 March 2013
30	Czech Republic	DTC	30 September 1996	1 January 2005
31	Ecuador	DTC	9 November 2016	
32	Egypt	DTC	12 April 1994	16 July 1995
33	Equatorial Guinea	DTC	19 October 2016	
34	Estonia	DTC	20 April 2011	29 March 2012
35	Ethiopia	DTC	12 April 2015	
36	Fiji	DTC	2 September 2012	20 December 2013
37	Finland	DTC	12 March 1996	26 December 1997
38	France	DTC	19 July 1989	8 November 1994
39	Gambia	DTC	17 July 2015	
40	Georgia	DTC	24 November 2010	28 April 2011
41	Germany	DTC	1 July 2010	14 July 2011
42	Greece	DTC	18 January 2010	16 December 2014
	Protocol Amendment DTA	DTC	27 June 2013	16 December 2014
43	Guinea	DTC	13 November 2011	9 July 2014
44	Hong Kong (China)	DTC	11 December 2014	10 December 2015
45	Hungary	DTC	30 April 2013	4 October 2014
46	India	DTC	29 April 1992	15 September 1993
	India (Protocol)	DTC	27 March 2007	3 October 2007
	India (Protocol)	DTC	16 April 2012	12 March 2013
47	Iraq	DTC	3 October 2017	
48	Ireland	DTC	1 July 2010	19 July 2011
49	Indonesia	DTC	30 November 1995	1 June 1999
50	Italy	DTC	22 January 1995	5 October 1997
51	Japan	DTC	2 May 2013	24 December 2014
52	Jersey	DTC	20 April 2016	25 September 2017

	EOI partner	Type of agreement	Signature	Entry into force
53	Jordan	DTC	5 April 2016	10 January 2017
54	Kazakhstan	DTC	22 December 2008	27 November 2013
55	Kenya	DTC	21 November 2011	22 February 2017
56	Korea	DTC	22 September 2003	9 March 2005
57	Kosovo	DTC	20 May 2016	3 July 2017
58	Kyrgyzstan	DTC	7 December 2014	16 December 2015
59	Latvia	DTC	11 March 2012	11 June 2013
60	Lebanon	DTC	17 May 1998	23 March 1999
61	Libya	DTC	1 April 2013	
62	Liechtenstein	DTC	1 October 2015	24 February 2017
63	Lithuania	DTC	30 June 2013	19 December 2014
64	Luxembourg	DTC	20 November 2005	19 June 2009
	Luxembourg (Protocol Amendment)	DTC	26 October 2014	1 January 2016
65	Malaysia	DTC	28 November 1995	24 September 1996
66	Maldives	DTC	27 October 2017	
67	Mali	DTC	6 March 2018	
68	Malta	DTC	13 March 2006	13 September 2006
69	Mauritania	DTC	21 October 2015	
70	Mauritius	DTC	18 September 2006	25 September 2007
71	Mexico	DTC	20 November 2012	9 July 2014
72	Moldova	DTC	10 July 2017	26 July 2018
73	Mongolia	DTC	21 February 2001	24 February 2004
74	Montenegro	DTC	26 March 2012	11 February 2013
75	Morocco	DTC	9 February 1999	1 July 2000
76	Mozambique	DTC	24 September 2003	4 June 2004
77	Nigeria	DTC	18 January 2016	
78	Netherlands	DTC	8 May 2007	2 June 2010
79	New Zealand	DTC	24 September 2003	29 July 2004
80	North Macedonia	DTC	26 October 2015	7 February 2017
81	Pakistan	DTC	7 February 1993	20 November 2000
82	Palestinian Authority	DTC	24 September 2012	
83	Panama	DTC	13 October 2012	23 October 2013

	EOI partner	Type of agreement	Signature	Entry into force
84	Paraguay	DTC	16 January 2017	
85	Poland	DTC	31 January 1993	3 February 1994
	Poland Protocol Amendment	DTC	11 December 2013	1 May 2015
86	Portugal	DTC	17 January 2011	22 May 2012
87	Philippines	DTC	23 September 2003	2 October 2008
88	Romania	DTC	4 May 2015	11 December 2016
89	Russia	DTC	7 December 2011	23 June 2013
90	Rwanda	DTC	1 November 2017	
91	Saint Kitts and Nevis	DTC	24 November 2016	
92	San Marino	DTC	11 July 2018	
93	Saudi Arabia	DTC	23 May 2018	
94	Senegal	DTC	22 October 2015	2 July 2017
95	Serbia	DTC	13 January 2013	2 July 2013
96	Seychelles	DTC	19 September 2006	14 April 2007
97	Singapore	DTC	1 December 1995	18 July 1996
	Singapore Protocol Second Amendment	DTC	31 October 2014	13 March 2016
98	Slovak Republic	DTC	21 December 2015	1 April 2017
99	Slovenia	DTC	12 October 2016	29 September 2014
100	South Africa	DTC	23 November 2015	23 November 2016
101	Spain	DTC	5 March 2006	2 April 2007
102	Sri Lanka	DTC	24 September 2003	4 July 2004
103	Sudan	DTC	15 May 2001	6 June 2004
104	Switzerland	DTC	6 October 2011	21 October 2012
105	Syrian Arab Republic	DTC	26 January 2000	12 January 2002
106	Tajikistan	DTC	17 December 1995	27 March 2000
107	Thailand	DTC	1 March 2000	4 January 2001
108	Tunisia	DTC	10 April 1996	27 May 1997
109	Turkey	DTC	29 January 1993	29 January 1995
110	Turkmenistan	DTC	9 June 1998	30 December 2011
	Turkmenistan (Protocol Amendment)	DTC	15 March 2018	

	EOI partner	Type of agreement	Signature	Entry into force
111	Uganda	DTC	8 June 2015	
112	Ukraine	DTC	2003	9 March 2004
113	United Kingdom	DTC	12 April 2016	25 December 2016
114	Uruguay	DTC	10 October 2014	14 June 2016
115	Uzbekistan	DTC	26 October 2007	25 February 2011
116	Venezuela	DTC	11 December 2010	20 June 2011
117	Viet Nam	DTC	16 February 2009	12 April 2010
118	Yemen	DTC	13 February 2001	1 January 2004

	EOI partner	Type of agreement	Signature	Entry into force
1	Argentina	TIEA	5 February 2016	17 January 2017
2	Colombia	TIEA	9 February 2016	
3	Denmark	TIEA	4 November 2015	15 February 2017
4	Faroe Islands	TIEA	2 May 2016	
5	Finland	TIEA	27 March 2016	10 February 2017
6	Iceland	TIEA	12 April 2016	
7	Norway	TIEA	3 November 2015	15 February 2017
8	Sweden	TIEA	5 November 2015	8 February 2017

Notes: a. Note by Turkey: The information in this document with reference to “Cyprus” relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Turkey shall preserve its position concerning the “Cyprus issue”.

Note by all the European Union Member States of the OECD and the European Union: The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

2. Convention on Mutual Administrative Assistance in Tax Matters (as amended)

The Convention on Mutual Administrative Assistance in Tax Matters was developed jointly by the OECD and the Council of Europe in 1988 and amended in 2010 (the Multilateral Convention).¹⁶ The Multilateral Convention is the most comprehensive multilateral instrument available for all forms of tax co-operation to tackle tax evasion and avoidance, a top priority for all jurisdictions.

The original 1988 Convention was amended to respond to the call of the G20 at its April 2009 London Summit to align it to the international standard on exchange of information on request and to open it to all countries, in particular to ensure that developing countries could benefit from the new more transparent environment. The Multilateral Convention was opened for signature on 1 June 2011.

The Multilateral Convention was signed by the UAE on 21 April 2017 and entered into force on 1 September 2018. The UAE can exchange information with all other Parties to the Multilateral Convention.

The Multilateral Convention is in force in respect of the following jurisdictions: Albania, Andorra, Anguilla (extension by the United Kingdom), Antigua and Barbuda, Argentina, Aruba (extension by the Netherlands), Australia, Austria, Azerbaijan, Bahamas, Bahrain, Barbados, Belgium, Belize, Bermuda (extension by the United Kingdom), Brazil, British Virgin Islands (extension by the United Kingdom), Brunei Darussalam, Bulgaria, Cameroon, Canada, Cayman Islands (extension by the United Kingdom), Chile, China (People's Republic of), Colombia, Cook Islands, Costa Rica, Croatia, Curaçao (extension by the Netherlands), Cyprus, Czech Republic, Denmark, Dominica, El Salvador, Estonia, Faroe Islands (extension by Denmark), Finland, France, Georgia, Germany, Ghana, Gibraltar (extension by the United Kingdom), Greece, Greenland (extension by Denmark), Grenada, Guatemala, Guernsey (extension by the United Kingdom), Hong Kong (China) (extension by China), Hungary, Iceland, India, Indonesia, Ireland, Isle of Man (extension by the United Kingdom), Israel, Italy, Jamaica, Japan, Jersey (extension by the United Kingdom), Kazakhstan, Korea, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Macau (China) (extension by China), Malaysia, Malta, Marshall Islands, Mauritius, Mexico, Moldova, Monaco, Montserrat (extension by the

16. The amendments to the 1988 Convention were embodied into two separate instruments achieving the same purpose: the amended Convention (the Multilateral Convention) which integrates the amendments into a consolidated text, and the Protocol amending the 1988 Convention which sets out the amendments separately.

United Kingdom), Nauru, Netherlands, New Zealand, Nigeria, Niue, Norway, Pakistan, Panama, Peru, Poland, Portugal, Romania, Qatar, Russia, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Seychelles, Singapore, Sint Maarten (extension by the Netherlands), Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, Turks and Caicos Islands (extension by the United Kingdom), Uganda, Ukraine, United Arab Emirates, United Kingdom, Uruguay and Vanuatu.

In addition, the Multilateral Convention was signed by the following jurisdictions, where it is not yet in force: Armenia, Burkina Faso, Dominican Republic (entry into force on 1 December 2019), Ecuador (entry into force on 1 December 2019), Gabon, Kenya, Liberia, Mauritania, Morocco (entry into force on 1 September 2019), North Macedonia, Paraguay, Philippines, Serbia (entry into force on 1 December 2019), United States (the original 1988 Convention is in force since 1 April 1995, the amending Protocol was signed on 27 April 2010).

Annex 3. Methodology for the review

The reviews are based on the 2016 Terms of Reference and conducted in accordance with the 2016 Methodology for peer reviews and non-member reviews, as approved by the Global Forum in October 2015 and the 2016-21 Schedule of Reviews.

The evaluation is based on information available to the assessment team including the exchange of information arrangements signed, laws and regulations in force or effective as at 9 August 2019, the UAE's EOIR practice in respect of EOI requests made and received during the three year period from 1 April 2015-31 March 2018, the UAE's responses to the EOIR questionnaire, information supplied by partner jurisdictions, as well as information provided by the UAE authorities during the on-site visit that took place from 28-31 January 2019.

List of laws, regulations and other materials received

Federal UAE

Cabinet Resolution No. 38 of 2014 Concerning the Executive Regulation of the Federal Law No. 4 of 2002

Cabinet Resolution No. 10 of 2019 Concerning the Implementing Regulation of Federal Decree Law No. 20 of 2018 on Anti-Money Laundering, Combating the Financing of Terrorism and Financing of Illegal Organisations

Council of Ministers Resolution No. 17 of 2012

Federal Decree Law No. 20 of 2018 on Anti-Money Laundering, Combatting the Financing of Terrorism and Financing of Illegal Organisations

Federal Decree No. 8 of 2004

Federal Decree No. 35 of 2004

Federal Decree No. 15 of 2013

Federal Law No. 4 of 2002 Regarding Criminalisation of Money Laundering
Federal Law No. 18 of 1993 issuing the Transactions Law
Federal Law No. 2 of 2015 on Commercial Companies
Insolvency Regulations 2015
Central Bank Law
Central Bank Regulation Concerning Procedures for Anti-Money Laundering 24/2000
Central Bank Notice No. 2922/2008
Central Bank AML Guidance for Financial Institutions

ADGM

Beneficial Ownership and Control Regulations 2018
Limited Liability Partnerships Regulations 2015
Limited Liability Partnership Rules 2015
Cabinet Resolution No. 4 of 2013
Commercial Licensing Regulation 2015
Commercial Licensing Regulation 2015 (Conditions of Licence and Branch Registration) Rules 2018
Companies Regulations 2015
Conduct of Business Rules
Financial Services and Markets Regulations 2015
Foundations Regulations 2017
FSRA AML Rulebook
FSRA General Glossary
Law No. 4 of 2013
Application of English Law Regulations 2015

DIFC

Laws Amendment Law No. 8 of 2018
Law No. 1 of 2017
Companies Law No. 2 of 2009

Companies Law No. 5 of 2018
DFSA Conduct of Business Module
DFSA Rulebook AML Module
DFSA Rulebook General Module
Foundations Law
General Partnership Law
Investment Trust Law No. 5 of 2006
Limited Liability Partnership Law
Limited Partnership Law
Operating Law
Regulatory Law
Trusts Law No. 4 of 2018
Ultimate Beneficial Owner Regulations

DMCC

AML Policy and Process 2016
DMCC Authority Free Zone Rules and Regulations
Company Regulations 2003
Ultimate Beneficial Ownership Declaration Form

JAFZ

Implementing Regulations 1/92
Implementing Regulations 1/99
Companies Implementing Regulations 2016
Licensing Department's Procedure for non-compliant companies
Offshore Companies Regulations 2003
Offshore Companies Regulations 2018
Record Keeping Policy No. 1 of 2018
Ultimate Beneficial Owner Policy No. 2 of 2018

RAK EZ

RAK EZ Companies Regulations 2017

RAK ICC

AML Policy

RAK ICC Business Companies Regulations 2018

Authorities interviewed during on-site visit

UAE Ministry of Finance

UAE Federal Tax Authority

UAE Ministry of Economy

UAE Central Bank

Department of Economic Development of Abu Dhabi

Department of Economic Development of Dubai

General Authority of Islamic Affairs and Endowments

Abu Dhabi Global Market

Dubai International Financial Centre Authority

Dubai International Financial Centre Financial Services Authority

Dubai Multi Commodities Centre

Jebel Ali Free Zone Authority

Ras Al Khaimah Economic Zone Authority

Ras Al Khaimah International Corporate Centre

Current and previous review(s)

This report is the 5th review of the UAE conducted by the Global Forum. In 2012 the Global Forum evaluated the UAE against the 2010 ToR for the legal implementation of the EOIR standard (2012 Phase 1 report). This was followed by a supplementary Phase 1 report in 2014, which allowed the UAE to proceed to the Phase 2 review under the 2010 Methodology. This Phase 2 review, evaluating the UAE's implementation of the EOIR Standard in practice, was carried out in 2016 (the 2016 report). The 2016 report concluded that the UAE was rated Partially Compliant overall. Finally, the UAE underwent a Fast-Track review in 2017, which included a provisional assessment of the

UAE’s legal framework and practice. The Fast-Track report concluded it was likely that the overall rating for the UAE would be upgraded to Largely Compliant if evaluated against the 2010 ToR. Whilst the outcomes of the Fast-Track review were adopted by the Global Forum, the Fast-Track report and individual ratings per element were not published.

Summary of reviews

Review	Assessment team	Period under review	Legal Framework as of	Adoption by Global Forum
Round 1 Phase 1	Mr Daniel Ruffi, Deputy Head of Mutual Administrative Legal Assistance, Division for International Affairs, Federal Tax Administration, Switzerland; Ms Idris Fidela, Clarke, Director, Financial Services Regulatory Commission, Saint Kitts and Nevis; and Mr Sanjeev Sharma from the Global Forum Secretariat	n.a.	April 2012	June 2012
Round 1 Supplementary to Phase 1	Mr Daniel Ruffi, Deputy Head of Mutual Administrative Legal Assistance, Division for International Affairs, Swiss Federal Tax Administration, Switzerland; Ms Heidi-Lynn Sutton, Financial Services Regulatory Commission, Saint Kitts and Nevis; and Mr Mikkel Thunnissen from the Global Forum Secretariat	n.a.	February 2014	April 2014
Round 1 Phase 2	Mr Daniel Ruffi, Deputy Head of Mutual Administrative Legal Assistance, Division for International Affairs, Swiss Federal Tax Administration, Switzerland; Ms Heidi-Lynn Sutton, Financial Services Regulatory Commission, Saint Kitts and Nevis; and Mr Andrew Auerbach, Mr Mikkel Thunnissen, and Mr Yusef Alyusef of the Global Forum Secretariat	1 January 2012 to 31 December 2014	May 2016	July 2016
Round 2	Mr Julian Ainley, Exchange of Information Policy Team Leader, Business, Assets and International, Her Majesty’s Revenue and Customs, United Kingdom; Mr Patrick Brunhart, Deputy Director of the Office for International Financial Affairs, Liechtenstein; and Mr Lloyd Garrochinho and Mr Mikkel Thunnissen from the Global Forum Secretariat	1 April 2015 to 31 March 2018	August 2019	8 November 2019

Annex 4. UAE’s response to the review report¹⁷

The UAE has not provided a response to the review.

17. This Annex presents the UAE’s response to the review report and shall not be deemed to represent the Global Forum’s views.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

The OECD is a unique forum where governments work together to address the economic, social and environmental challenges of globalisation. The OECD is also at the forefront of efforts to understand and to help governments respond to new developments and concerns, such as corporate governance, the information economy and the challenges of an ageing population. The Organisation provides a setting where governments can compare policy experiences, seek answers to common problems, identify good practice and work to co-ordinate domestic and international policies.

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GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE
OF INFORMATION FOR TAX PURPOSES

**Peer Review Report on the Exchange of Information
on Request UNITED ARAB EMIRATES 2019 (Second Round)**

The Global Forum on Transparency and Exchange of Information for Tax Purposes is a multilateral framework for tax transparency and information sharing, within which over 150 jurisdictions participate on an equal footing.

The Global Forum monitors and peer reviews the implementation of international standard of exchange of information on request (EOIR) and automatic exchange of information. The EOIR provides for international exchange on request of foreseeably relevant information for the administration or enforcement of the domestic tax laws of a requesting party. All Global Forum members have agreed to have their implementation of the EOIR standard be assessed by peer review. In addition, non-members that are relevant to the Global Forum's work are also subject to review. The legal and regulatory framework of each jurisdiction is assessed as is the implementation of the EOIR framework in practice. The final result is a rating for each of the essential elements and an overall rating.

The first round of reviews was conducted from 2010 to 2016. The Global Forum has agreed that all members and relevant non-members should be subject to a second round of review starting in 2016, to ensure continued compliance with and implementation of the EOIR standard. Whereas the first round of reviews was generally conducted as separate reviews for Phase 1 (review of the legal framework) and Phase 2 (review of EOIR in practice), the EOIR reviews commencing in 2016 combine both Phase 1 and Phase 2 aspects into one review. Final review reports are published and reviewed jurisdictions are expected to follow up on any recommendations made. The ultimate goal is to help jurisdictions to effectively implement the international standards of transparency and exchange of information for tax purposes.

This report contains the 2019 Peer Review Report on the Exchange of Information on Request of the United Arab Emirates.

Consult this publication on line at <https://doi.org/10.1787/78bb1919-en>.

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