



# UAE AML/CFT Regulations and Guidelines for the Real Estate Sector



THEMIS





The legal and regulatory structure across the UAE is comprised of federal civil, commercial, and criminal laws and regulations, together with various local civil and commercial legislative and regulatory frameworks in the financial and commercial free zones. There are various regulatory and supervisory authorities responsible for the implementation of laws and regulations.

Criminal legislation is under federal jurisdiction throughout the UAE, including in the financial and commercial free zones. Therefore, the crimes of money laundering, financing of terrorism, and financing of illegal organisations are covered under federal criminal statutes and the federal penal code. Likewise, federal legislation on the combating of these crimes is in force throughout the UAE, including in financial and commercial free zones. Their implementation and enforcement are the responsibility of the relevant regulatory and supervisory authorities in either the federal or local jurisdictions.

Below is a breakdown of key AML/CFT legislation within the UAE as it applies to DNFBPs (particularly real estate) and guidelines issued by authorities to help businesses implement regulation effectively.



## KEY LEGISLATION

### **Federal Decree-Law No. (20) of 2018 On Anti-Money Laundering and Combating the Financing of Terrorism and Financing of Illegal Organisations**

- Federal Decree-Law No. (20) of 2018 On Anti-Money Laundering and Combating the Financing of Terrorism and Financing of Illegal Organisations, referred to as the “AML-CFT Law” or “the Law”, aims to:
  - Combat money laundering practices;
  - Establish a legal framework that supports the authorities concerned with AML and crimes related to AML;
  - Counter the financing of terrorist operations and suspicious organisations.
- The Decree-Law defines a perpetrator of a money-laundering offence as any person who is aware that the money was derived from a crime, and intentionally commits one of the following acts:
  - Transferring or transporting proceeds of crime with intent to conceal or disguise its illicit origin;
  - Concealing or disguising the true nature, origin, location, way of disposition, movement or rights related to any proceeds or the ownership thereof;
  - Acquiring, possessing or using such proceeds;
  - Assisting the perpetrator of the predicate offence to escape punishment.
- The Law stipulates that money laundering is independent of the predicate crime and that the punishment of the person who has committed a predicate offence shall not protect him or her from being penalised for money laundering.



## **Cabinet Decision No. (10) of 2019 Concerning the Implementing Regulation of Decree Law No. (20) of 2018 (AML-CFT Law)**

- Cabinet Decision No. (10) Concerning AML-CFT Law outlines the obligations of financial institutions and DNFBPs for defining and mitigating risks, customer due diligence, reporting suspicious transactions, among other obligations and practices.
- The decision also clarifies policies, procedures, and internal measures for combating criminal activity. The decision also discusses identifying and assessing the risks of money laundering and the financing of terrorism, and the assessment of risks prior to the launch of products or technologies. It further addresses details pertaining to transparency, actual beneficiaries, maintaining the confidentiality of information of suspicious transactions, together with identifying the mandates and functions of the financial intelligence unit.
- It defines DNFBPs as anyone who conducts one or several of the commercial or professional activities defined in Article 3 of the Cabinet Decision, being anyone who is engaged in a provided list of business activities. Particular to real estate, this includes:
  - Broker and real estate agents when they conclude operations for the benefit of their customers with respect to the purchase and sale of real estate.



## **Cabinet Resolution No. (58) of 2020 Regulating the Beneficial Owner Procedures**

- Cabinet Resolution No. 58 of 2020 introduces the requirement for a beneficial ownership register in the UAE mainland and a minimum disclosure requirement for corporate entities incorporated in the mainland and in the non-financial free zones. Financial free zones and companies owned by the Federal Government and their subsidiaries are not covered by this UBO resolution. DNFBPs licensed and operating from Financial Free Zones should refer to the regulations governing beneficial ownership and control issued by their relevant financial free zone authority.
- DNFBPs (including real estate) in the UAE are obliged to identify customers, including the Beneficial Owners, beneficiaries, and controlling persons, whether permanent or walk-in, and whether a natural or legal person or Legal Arrangement, and to verify their identity using documents, data or information obtained from reliable and independent sources.





## **See here for a full list of laws and legislation relating to AML/CTF in the UAE, as listed by the Ministry of Justice. Key provisions affecting real estate include:**

- To identify, assess, understand risks (AML-CFT Law Article 16.1(a), AML-CFT Decision Article 4.1);
- To define the scope of and take necessary due diligence measures (AML-CFT Law Article 16.1(b), AML-CFT Decision Article 4.1(a) and 2);
- To appoint a compliance officer, with relevant qualification and expertise and in line with the requirements of the relevant Supervisory Authority (AML-CFT Decision Article 21, 44.12);
- To put in place adequate management and information systems, internal controls, policies, procedures to mitigate risks and monitor implementation (AML-CFT Law Article 16.1(d), AML-CFT Decision Article 4.2(a));
- To put in place indicators to identify suspicious transactions (AML-CFT Law Article 15, AML-CFT Decision Article 16);
- To report suspicious activity and cooperate with Competent Authorities (AML-CFT Law Article 9.1, 15, 30, AML-CFT Decision Article 13.2, 17.1, 20.2);
- To promptly apply directives of Competent Authorities for implementing UN Security Council decisions under Chapter 7 of the UN Convention for the Prohibition and Suppression of the FT and Proliferation (AML-CFT Law Article 16.1(e), AML-CFT Decision Article 60);
- To maintain adequate records (AML-CFT Law Article 16.1(f), AML-CFT Decision Article 7.2, 24).
- Conduct ongoing AML training for staff to ensure that employees have a clear understanding of the ML/FT risks that the real estate sector is exposed to and can exercise sound judgement, both when adhering to risk mitigation measures and when identifying suspicious transactions. ((AML-CFT Decision Articles 20.4-5, 21.4)).

## **ISSUED GUIDELINES**

### **AML/CTF Guidelines for DNFBPs**

- The AML/CTF Guidelines for DNFBPs provides guidance and assistance to supervised institutions that are DNFBPs to increase their understanding and boost performance of their statutory obligations under the legal and regulatory framework in force in the UAE.
- They are prepared as a joint effort between the Supervisory Authorities of the UAE and set out the minimum expectations of the Supervisory Authorities regarding the factors that should be taken into consideration by each of the supervised DNFBPs when identifying financial crime risks.
- These guidelines apply to all DNFBPs, and the members of their boards of directors, management, and employees, established or operating in the UAE and their respective financial and commercial free zones. This includes real estate agents and brokers.
- The guidelines are organised by the following themes:
  - Overview – including the UAE’s AML/CTF legislative and strategy framework;
  - Identification and assessment of ML/FT risks;
  - Mitigation of ML/FT risks;
  - AML/CTF compliance administration and reporting (including guidance on governance, suspicious transaction reporting, and record-keeping).







## Supplemental AML/CFT Guidance for the Real Estate Sector

- Supplemental Guidance for the Real Estate Sector provides additional, specific guidance to the real estate sector. It provides guidance on ML/FT typologies and risk factors as they relate to the real estate sector. It also provides a summary of DNFBPs' AML/CFT obligations, including customer due diligence (CDD), ongoing monitoring, and indicators of suspicious transactions in the real estate sector.

## AUTHORITIES AND SUPERVISION

### The Ministry of Economy

- The Ministry of Economy (MoE) supervises real estate professionals in the mainland and CFZs for compliance with AML/CFT obligations, and the FSRA and DFSA supervises them in the FFZs. The Ministry of Economy has issued guidelines for supervised entities describing their AML/CFT compliance obligations.



## The National Committee for Combating Money Laundering and the Financing of Terrorism and Illegal Organisations

- The National Committee for Combating Money Laundering and the Financing of Terrorism and Illegal Organisations (NAMLCFTC) is the primary body for policy making and issuing regulations to combat money laundering and terrorism financing in the UAE.
- NAMLCFTC prepares and develops a national strategy to combat financial crime, including coordinating with relevant authorities and international stakeholders.
- NAMLCFTC oversees the national risk assessment process. The UAE identifies and assesses the money laundering and terror financing risks it faces, in line with its obligations under the Financial Action Task Force Standards.





## Executive Office of Anti-Money Laundering and Counter Terrorism Financing

- The Executive Office of the Anti-Money Laundering and Counter Terrorism Financing (AML/CTF) was established in 2020 with the overarching objective to enable and better equip the UAE in building a strong and sustainable AML/CTF structure in the country.
- The Executive Office oversees the implementation of the UAE's National AML/CTF Strategy and National Action Plan (NAP), the program of reforms designed to strengthen the UAE's anti-financial crime system.
- The Executive Office's responsibilities include:
  - Improving national and international coordination and cooperation on AML/CTF issues at the policy and operational levels.
  - Tackling money laundering and terrorist financing threats by working with regional and international groups.
  - Actively increasing information sharing between law enforcement agencies, supervisors, and the private sector.
  - Exploring and enhancing legislation, in coordination with MOFAIC and relevant UAE entities, to further strengthen the UAE's current AML/CTF framework.

## Financial Intelligence Unit

- The Financial Intelligence Unit (FIU) is an independent authority to receive and investigate all reports submitted by financial institutions and other corporate establishments regarding suspected illicit financial activity. Regulated firms must report suspicious activity and transactions to the FIU via the UAE's goAML platform.

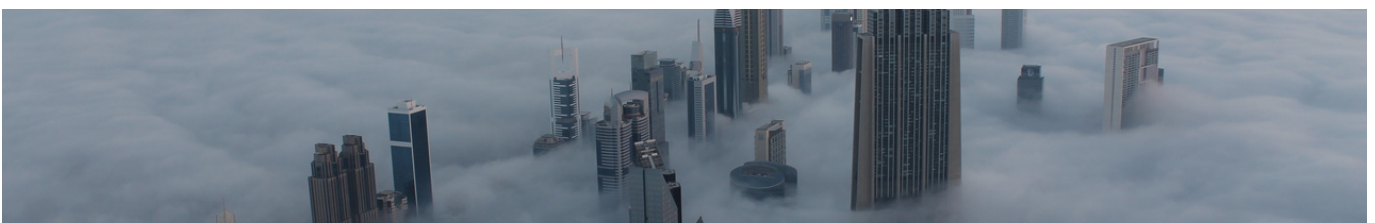
## The Central Bank of the UAE's AML/CFT Supervision Department

- The Central Bank of the UAE established a dedicated department in 2020 to handle all AML/CFT matters which the Banking Supervision Department previously handled. The Anti-Money Laundering and Combatting the Financing of Terrorism Supervision Department (AMLSD) serves three key objectives:
  - Examining Licensed Financial Institutions (LFIs);
  - Ensuring adherence to the UAE's AML/CFT legal and regulatory framework;
  - Identifying relevant threats, vulnerabilities, and emerging risks concerning the UAE's financial sector.
- Through AMLSD, the CBUAE coordinates closely with the UAE's National AML/CFT Committee to effectively implement the National Action Plan.

## International Coordination

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

- The United Nations – including the UN Office of Drugs and Crime (UNODC) and its Global Programme against Money Laundering (GPML).
- The Financial Action Task Force (FATF).
- The Middle East and North Africa Financial Action Task Force (MENAFATF).
- The Egmont Group of Financial Intelligence Units.
- Gulf Cooperation Council (GCC) Working Group on AML-CFT.





# Contact Us



**Nadia O'Shaughnessy**  
Head of Insight  
nos@wearethemis.com



**Sandeep Sroa**  
MLRO & Head of Business Development,  
MENA  
ss@wearethemis.com



**Get in touch**

## About Themis

Themis helps clients identify and manage their specific financial crime risks, through a combination of innovation, insight and intelligence.

Our cutting edge platform helps organisations understand these strategic threats through an ESG and socio-economic lens and protects their clients, suppliers and 3rd parties from criminal attacks or association. Founded, developed and delivered by financial crime subject matter experts.

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How we measure our impact



MENA: +971 (0) 58 526 8765  
info@wearethemis.com  
www.wearethemis.com

