

Regulatory Update

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Middle East Edition

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1.0 DIFC AND DFSA LATEST DEVELOPMENTS

1.1 DIFC Becomes Region's First Fully Accredited Member of Global Privacy Assembly

The Dubai International Finance Centre (“DIFC”) has been accredited as a member of the Global Privacy Assembly (“GPA”) following the introduction and enactment of the Data Protection Law No.5 of 2020 (“DPL”). The DIFC joins the international group of more than 130 leading global Information and Privacy Authorities and Commissioners, led by the UK’s Information Commissioner’s Office (“ICO”), to shape future privacy best practices.

To assess your firm’s compliance and for tips on how to get started with the DIFC Data Protection Law, you can view our checklist [here](#).

1.2 DIFC Authority’s Board of Directors Appointed

His Highness Sheikh Maktoum bin Mohammed bin Rashid Al Maktoum has issued Directive No.5 of 2020 to appoint the DIFC Authority’s Board of Directors. The Board will sit for a two-year term and will play an instrumental role in meeting the DIFC’s strategic objective to drive the future of finance, and consolidate its position in the Middle East, Africa and South Asia (“MEASA”) as the region’s leading global financial centre. The Board is led by His Excellency Essa Kazim as Governor of the DIFC, and is joined by Hesham Abdulla Al Qassim, Abdulla Jasim bin Kalban, Abdullah Salim Al Turifi, Khalfan Juma Belhoul, Ahmad Hassan bin Al Shaikh and Salem Ali Al Sharhan.

1.3 DFSA to Host Second RegTech Live Event

The Dubai Financial Services Authority (“DFSA”) will host the virtual event “RegTech Live: Driving Compliance through Innovation” on the 10th and 11th of November 2020, in partnership with the DIFC Authority. The event will cover risk management through automation, the impact of COVID-19 on regulatory compliance, digital transformation, and mitigation of risks in payments. Providers of RegTech initiatives will be demonstrating the market’s current solutions and the event also aims to foster innovation in the DIFC, in line with the National Innovation Strategy.

To register for day one of the event, click [here](#); to register for day two, click [here](#).

Further information

If you have any questions or concerns regarding these DFSA and DIFC developments and requirements, please contact Jade Ashpole.

2.0 ADGM AND FSRA LATEST DEVELOPMENTS

2.1 State of Sustainable Finance Report Showcases Significant Progress Achieved Across MENA

The Abu Dhabi Global Market (“ADGM”) published a “State of Sustainable Finance” report, which underscores the UAE’s contribution to the Sustainability Agenda through its various sustainable finance practices. Achievements were noted from both the private and public sectors in their contributions to enhance the stability of the country’s economy through their sustainable finance practices. Some of the particularly notable efforts from the Middle East and North Africa (“MENA”) include the region’s first ever green real estate investments trust in the ADGM, plans for the Green Bond Hub Programme which will issue green bonds and sukuk, and the “Master plan” for capital markets to achieve sustainable goals. In addition, the ADGM Academy will be offering a “Certificate in Sustainable Finance” and Majid Al Futtaim intends to issue USD\$ 1.2 billion green sukuk for the development of green infrastructure.

The full report can be found [here](#).

2.2 ADGM Publishes Consultation Paper on Amendments to Application of English Law Regulations 2015

The ADGM has issued Consultation Paper No.4 of 2020 on the “Proposed Amendments to Application of English Law Regulations 2015” to update the 47 English statutes relied upon within the ADGM, including the Insurance Act 2015, Trustee Act 1925, Bills of Exchange Act 1882 and the Limited Partnership Act 1907.

This paper will be of interest to all entities working in the ADGM. Firms who reference ADGM statutes within their policy framework should read through the proposed changes and make the necessary amendments once finalised.

The paper and its supporting documents can be found [here](#). Comments are welcome by the 15th November 2020 by emailing: consultation@adgm.com.

2.3 ADGM and Companies House Gibraltar Partner to Bolster Respective Registration Functions

The ADGM and Companies House Gibraltar (“CHG”) have entered into a statement of co-operation to develop a robust knowledge exchange and augmentation of their respective registration functions. The statement of cooperation aims to unite the institutions to develop their respective registry functions in line with international best practice. Amongst other initiatives, the relationship will allow for an exchange of knowledge through delegate attendance to respective public events, as well as offering secondment opportunities.

2.4 RA Commences Public Consultation on Proposed ADGM Company Service Providers’ Framework

The Registration Authority (“RA”) of the ADGM has issued Consultation Paper No.5 of 2020 on the “Proposed introduction of a framework for the regulation of company service providers in the ADGM (CSP Framework)”. The paper seeks to address the risks and challenges resulting from the increased demand for Special Purpose Vehicles (“SPV”) in the ADGM, particularly to those entities that do not have a direct connection to the UAE. The paper seeks to create a proportionate and balanced Company Service Providers’ (“CSP”) framework.

Under the proposed CSP framework, entities without a direct connection to the UAE who want to set up and operate an SPV or foundation in the ADGM, will be required to appoint a CSP unless the SPV is exempt. Obligations will be imposed on CSPs based in the ADGM, such as adhering to new regulatory requirements, a new controlled activity of “Providing Company Services” and a requirement for CSPs that hold or control client money to comply with the client money rules.

The proposed framework will:

- require ‘non-exempt’ SPVs and foundations to appoint an ADGM-based CSP
- facilitate the Registrar’s access to corporate registers and simplify the process of serving documents by empowering CSPs to accept service on behalf of the ‘non-exempt’ SPVs and foundations
- impose appropriate penalties and enhance the Registrar’s striking off powers under the Companies’ Regulations

The proposed exempt SPVs and Foundations include:

- entities that are exempt from obtaining a commercial licence under the Commercial Licensing Regulations 2015
- ADGM-incorporated operational parent entities with a physical presence in the ADGM
- persons authorised to provide financial services in the UAE
- companies that can demonstrate that they have substantial assets, turnover and employees in the UAE, as well as adequate governance policies and procedures

This paper will be of particular interest to individuals, advisors, organisations and investors that have a presence in the ADGM.

The paper and its supporting documents can be found [here](#). Comments are welcome by the 24th November 2020 by emailing: consultation@adgm.com.

Further information

For any questions or concerns regarding the ADGM or FSRA, please contact [Peter Aswad](#).

3.0 MIDDLE EAST REGULATORY UPDATES

3.1 UAE Merges Insurance Authority with Central Bank

The UAE Insurance Authority has been merged with the Central Bank of the UAE to raise the efficiency of the insurance sector and allow competition in the local financial markets. The decision will transfer all the powers of the UAE Securities and Commodities Authority (“SCA”) to the local stock markets. The SCA will maintain regulation and oversight function for the local markets.

4.0 INTERNATIONAL UPDATES

4.1 FATF Issues an Update to “The FATF Recommendations”

The Financial Action Task Force (“FATF”) updated its guidance on the “International Standards on Combating Money Laundering and the Financing of Terrorist and Proliferation: The FATF Recommendations”. The recommendations now require countries, financial institutions and Designated Non-Financial Business and Professions (“DNFBPs”) to identify and assess the risks of potential breaches, non-implementation or evasion of the targeted financial sanctions related to proliferation financing, and to take action to mitigate these risks. Further changes include an updated reference to counter proliferation financing in the context of national co-operation and co-ordination and a new interpretive note that sets out the inter-agency framework to promote domestic co-operation, co-ordination and information exchange.

Firms should assess sanction risk and the risk of breaches, non-implementation and evasion.

4.2 FATF Updates the “Grey List”

The FATF has released an update to its jurisdiction “Grey list” subject to its call for action earlier in the year. Due to the pandemic, the “Grey list” jurisdictions provided the option to report progress at a later date. Albania, Botswana, Cambodia, Ghana, Mauritius, Pakistan, and Zimbabwe reported in line with their original commitment whereas Barbados, Jamaica, Myanmar, Nicaragua, Panama and Uganda opted to report at a later date. Iceland and Mongolia are no longer subject to increased monitoring by the FATF.

Firms should apply a suitable level of due diligence to any jurisdictions that fall within the “Grey list”, subject to the FATF’s published findings, which can be found [here](#).

4.3 Update to the UN Sanction List

The United Nations (“UN”) has advised the Committee for Goods and Material Subjected to Import and Export of further names to be added to the UAE Terrorist list.

Firms should screen their databases for the new additions, the updated list can be found [here](#).

Further information

For any questions or concerns regarding these updates, please contact [Jade Ashpole](#).

5.0 ENFORCEMENT ACTION

5.1 Coral Holdings Limited’s ADGM Commercial Licence Revoked

The ADGM Registration Authority has taken regulatory action against Coral Holdings Limited (“CHL”) for failing to comply with the ADGM’s commercial legislation. It was found that CHL:

- failed to maintain a UAE resident authorised signatory (contrary to Rule 6(d) of the Commercial Licensing Regulations (Conditions of Licence and Branch Registration) Rules 2019 and Article 35(3) of Cabinet Decision No. (10) of 2019 Concerning the Implementing Regulation of Decree Law No. (20) of 2018 on

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

- failed to maintain adequate company registers (contrary to Section 118(1) and Section 153 (1) of the Companies Regulations 2015)
- failed to maintain record of the beneficial owners (contrary to Section 2(1) of the Beneficial Ownership and Control Regulations 2018)
- overall failed to adhere to relevant ADGM laws, rules and regulations (contrary to Rule 6(b) of the Commercial Licensing Regulations (Conditions of Licensing and Branch Registration) Rules 2019) due to these breaches

In addition to this, CHL failed to conduct any controlled activity for more than 12 months, which was in contravention to the conditions of its licence, causing the ADGM Registration Authority to cancel CHL's licence. You can find the final notice [here](#).

Firms should:

- seek professional advice when setting up in a new jurisdiction to ensure clarity on the applicable laws, rules and regulations in that region
- understand the requirements for maintaining adequate registers and records

5.2 Goldman Sachs International Fined £96.6m for Risk Management Failures in Connection with 1MDB

The Financial Conduct Authority (“FCA”) and the Prudential Regulation Authority (“PRA”) in the United Kingdom have fined Goldman Sachs International (“GSI”) for risk management failures and its role in three fundraising transactions with regards to its relationship with 1Malaysia Development Berhad (“1MDB”). The state owned development company 1MDB has been at the centre of a billion-dollar embezzlement allegation, in which three bond transactions between 2012-2013, with a value of USD6.5 billion, were signed off by Goldman Sachs Group Inc (“GSG”) and booked to GSI. The transactions involved clients and counterparties in jurisdictions associated with higher financial crime risk. GSI was found to have failed to:

- assess and manage the high-risk profile of the 1MDB transactions
- sufficiently address the risk on a holistic basis
- address allegations of bribery and misconduct between 2013-2015

Firms should:

- assess with due skill, care and diligence the risk factors that arise in every transaction on a holistic basis, for example by looking at other relevant risk factors and circumstances
- where concerns are raised, assess and manage the risk with suitable concern
- report suspicious transactions and activity to the UAE Financial Intelligence Unit, where appropriate
- exercise due skill, care and diligence when managing allegations of bribery and misconduct
- record in sufficient detail the assessment and management of risk associated with bond transactions as part of the Business AML Risk Assessment

5.3 200 Law Firms Suspended in the UAE for Failing to Comply with AML Procedures

The Ministry of Justice has ordered 200 law firms within the UAE to cease practising for one month following findings of substandard Anti-Money Laundering (“AML”) procedures. The law firms have been directed to review their suspicious activity reporting processes, record keeping, policies and client interactions and they must ensure that their AML procedures are compliant with Federal Decree 20 of 2018, and related executive regulations and ministerial decisions. Fines for money laundering crimes can range from Dh50,000 to Dh5 million and further penalties may include temporary suspensions and cancellations of licences.

Further information

If you have any questions or concerns regarding enforcement action, please contact [Jade Ashpole](#).

ABOUT CCL

CCL has been providing a comprehensive range of regulatory compliance services to firms in the financial services industry since 1988, with offices in London, Dubai, Abu Dhabi, and Mumbai. We combine a long history and extensive experience in financial services compliance with the expertise of a team of practitioners that includes former regulators, senior compliance professionals, lawyers and accountants.

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- Senior Management & The Board
- Finance Induction
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If you wish to discuss how CCL can assist you with any of the issues raised in this Regulatory Update, please contact us the details below:

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This Regulatory Update provides information about the consultative documents and publications issued by various regulators which are still current, proposed changes to the Rules and Guidance set out in Handbooks, actual changes to Rules and Guidance that have occurred in the months leading up to the update and other matters of relevance to regulated firms. This Regulatory Update is intended to provide general summarised guidance only, and no action should be taken in reliance on it without specific reference to the regulators' document referred to.