



Middle East and North Africa  
Financial Action Task Force

# 1<sup>st</sup> Enhanced Follow-Up Report for United Arab Emirates

## TC Re- Rating Request

### Anti-Money Laundering and Combating the Financing of Terrorism

November 2021

United Arab Emirates

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*This document contains the 1<sup>st</sup> Enhanced FUR for the United Arab Emirates, which includes a TC re rating for (5) recommendations. This report reflects UAE's efforts, since the adoption of the MER in April 2020. The 33<sup>rd</sup> MENAFATF plenary has adopted this report provided that UAE remains in the Enhanced FU process and submits its 2<sup>nd</sup> Enhanced FUR in the 34<sup>th</sup> plenary meeting in May 2022.*

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**First Enhanced Follow-up Report for the United Arab Emirates with a TC re rating request for some Recommendations**

First: Introduction:

1. The UAE was assessed jointly by the FATF and MENAFATF, according to the 40 recommendations adopted by the FATF in 2012, and the methodology adopted in 2013 and any subsequent amendments. The report was approved at the FATF plenary meeting in February 2020, which was held in Paris, the French Republic, and was also approved - by passing<sup>1</sup> - by MENAFATF in April 2020. Based on the assessment ratings, and in accordance with the procedures of ME process, the FATF plenary meeting decided in February 2020 that the United Arab Emirates should be subject to enhanced follow-up (EFUR).
2. This report analyzes the efforts of the United Arab Emirates in addressing the deficiencies referred to in the MER in the recommendations that the country requested to reassessment thereof, which are the recommendations (6, 7, 19 and 25), and Recommendation 15, which was amended by the FATF after the onsite visit and adoption the MER. This report is considered the first EFUR for the UAE and does not address the efforts exerted by the country in the effectiveness area.

Second: Results of the MER:

3. In accordance with the MER that included the analysis for the level of Technical Compliance with the 40 Recommendations, the UAE has obtained a rating of (Compliant) in 11 Recommendations; a rating of (Largely Compliant) in 23 Recommendations; a rating of (Partially Compliant) in 6 Recommendations, as follow:

**Table (1): Technical Compliance Ratings as per the MER**

R. 1	R. 2	R. 3	R. 4	R. 5	R. 6	R. 7	R. 8	R. 9	R. 10
PC	LC	LC	LC	LC	PC	PC	LC	C	LC
R. 11	R. 12	R. 13	R. 14	R. 15	R. 16	R. 17	R. 18	R. 19	R. 20
LC	LC	C	LC	LC	C	LC	LC	PC	C
R. 21	R. 22	R. 23	R. 24	R. 25	R. 26	R. 27	R. 28	R. 29	R. 30
LC	LC	LC	LC	PC	C	C	LC	PC	C
R. 31	R. 32	R. 33	R. 34	R. 35	R. 36	R. 37	R. 38	R. 39	R. 40
C	C	LC	LC	LC	C	LC	LC	C	LC

- Note: There are four Possible ratings for Technical Compliance (Compliant, Largely Compliant, Partially Compliant, Non-Compliant)
  - Reference: UAE's MER 2020 [Mutual-Evaluation-Report-United-Arab-Emirates-2020.pdf \(fatf-gafi.org\)](https://www.fatf-gafi.org/Media/Default/~/media/Files/Publications/2020/MER/MER-2020-United-Arab-Emirates.pdf)
4. In coordination with the MENAFATF Secretariat, Mr. Kamal Abu Al-Nasr - in his capacity as an expert at the Special Investigation Commission - the Republic of Lebanon, analyzed the compliance of the United Arab Emirates in R.6, 7, 19 and 25, where the secretariat analyzed recommendation 15 after the 32<sup>nd</sup> Plenary.

<sup>1</sup>According to MENAFATF's procedures in light of the Corona pandemic.

Third: Overview on the achieved progress in implementing the Recommendations requested for re-rating:

A. Recommendations requested for re rating:

5. This section of the report reviews an analysis of the efforts made by the United Arab Emirates to comply with the requirements of the recommendations in which it had obtained a rating of (Partially Compliant), which are recommendations (6, 7, 19 and 25).
  - **Recommendation 6 - targeted financial sanctions related to terrorism & terrorist financing (PC)**
6. According to what was stated in the MER, the obligation to freeze - in the resolution on implementing the Security Council resolution - does not apply specifically to the local list (1373). There is no clear definition for “listed person in the list” of which freezing measures are applied thereupon, whilst freezing indicates the funds linked to proliferation financing and not terrorism financing. It is not clear if the newly established system is functioning “without delay”
7. To address the shortcomings, the United Arab Emirates, after adopting the MER, issued Cabinet Resolution No. 74 of 2020 replacing Resolution No. 20 of 2019 concerning the system of terrorist list and the implementation of Security Council resolutions related to prevention and suppression of terrorism and its financing, and preventing and stopping proliferation and its financing. According to Article (1) of the same resolution, local lists were defined as lists of terrorism issued by the Cabinet (the local list). According to the same article, the term “listed” means persons and entities listed by the Cabinet in the local lists. Classification criteria in Article 3 are commensurate with the criteria mentioned in Resolution 1373 and includes any person or organization, as well as any organization owned or controlled by a terrorist person or organization, directly or indirectly, and any person or organization that acts on behalf of or at the direction of any terrorist person or organization.
8. Article 15 of the same Resolution, also, stipulates that: "Any person (natural or legal) must, without delay and without prior notice, freeze funds according to the sanctions list and local lists (not limited to those that can be used in an agreement related to terrorism and its financing). The freezing procedures include funds that can be used in agreement(s) related to terrorism and its financing, As well, funds, completely controlled, in whole or partially, directly or indirectly owned by the Listed, or funds owned or controlled, in whole or partially, directly or indirectly by a person or organization acting on behalf of the listed, or operating as per its directions Funds gained or generated from funds referred to in this Article.
9. The State has provided a workflow that shows the mechanism for receiving updates from; the Security Council regarding the UN lists and the Cabinet regarding the local list, and how to circulate the same without delay to all authorities concerned with the implementation thereof to take the necessary measures within 24 hours. It was stated that there are no match cases whether against the local or the UN lists.
10. Conclusion: From the above analysis, it appears that UAE has addressed all of the shortcomings mentioned in the MER regarding Recommendation 6, as shown in the analysis above.

11. According to the above and since all shortcomings are corrected/addressed, the level of compliance is "Compliant".
- **Recommendation 7 (Targeted financial sanctions related to proliferation) (PC):**
12. According to what was stated in the MER, a number of obligations refer to the "sanctions list" that do not include Resolution No. 2231 as defined in the resolution. As a result, there is no obligation under Resolution 2231 to freeze funds or other assets owned by the designated person or entity, in whole or jointly with others, or in which they control directly or indirectly, on behalf of or at the directions of the designated persons or entities. The report indicated a limit in the procedures related to the ongoing seizure (prohibition) imposed on the availability of funds, and that there are restrictions in the procedures known to the public for submitting requests to de-listing from the list, de-freezing funds and accessing frozen funds, and restrictions in the freezing procedures which do not prevent the designated person or entity from making payments due under contract(s) concluded prior to the listing of that person or entity, and it is not clear if the newly established system will operate without delay.
13. To address the shortcomings, the United Arab Emirates, after adopting the MER, issued Cabinet Resolution No. 74 of 2020 replacing Resolution No. 20 of 2019 related to the system of terrorist list and the implementation of Security Council resolutions related to preventing and suppressing terrorism and its financing, and preventing and stopping proliferation and its financing, According to Article (1), the "relevant Security Council resolutions" include "all current and future Security Council resolutions related to stopping the proliferation and its financing, including resolution 2231 (2015) and any subsequent decisions." The aforementioned resolution included binding procedures, as Article 15 thereof stipulated that any person must, without delay and without prior notice, freeze funds according to the sanctions list and local lists (not limited to those that can be used in an agreement related to terrorism and its financing), and the freeze included the Funds, completely controlled, in whole or partially, directly or indirectly owned by the Listed, or funds owned or controlled, in whole or partially, directly or indirectly by a person or organization acting on behalf of the listed, or operating at its directions, and the funds acquired or resulting from the funds referred to. The same article stipulates that it is prohibited for any person (natural or legal) to make funds available or provide financial services, in whole or in part, directly or indirectly, to any listed person or organization, except with permission from the Office<sup>2</sup>.
14. According to Article 13 of the same resolution, "the office shall indicate the procedures for submitting requests for de-listing from sanctions list on its official website in order to guide the listed person about submitting a petition request to the Ombudsman or the focal point directly when the listed person wishes to lift their names from the list." The website provided a chart dealing with the procedures for de-listing of individuals and entities from the unified Security Council sanctions list, and another chart showing the procedures for de-listing of those listed in implementation of Resolution 1730.

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<sup>2</sup> According to Article (1) of Cabinet decision No. (74) of 2020, the office was defined as the "Executive Office of the Committee for Goods Subject to Import and Export Control".

15. According to Article (16) of the Cabinet resolution No. 74 of 2020, “The application of the freeze order pursuant to Security Council Resolutions 1718 (2006) and 2231 (2015) shall not prevent the addition of interest, profits, or any payments due under contracts, agreements or obligations agreed upon prior to the date of submission to the suspended (frozen) accounts as per the provisions of the previously referred to resolutions, provided that these payments are subject to immediate freezing, and the office shall be notified thereof. By virtue of Article 17 of the same resolution, the listed is allowed to receive any payouts pursuant to an agreement with the listed prior the listing on the list., as per the conditions stipulated for under the same article.
16. In accordance with Article 11 of the resolution, the Office, for the purposes of implementing the provisions of this resolution, circulates the updated Sanctions List and the Local List on the website of the Office without delay. Article 21 obliges FIs and DNFBPs to register on the office’s website with the aim of receiving notifications related to the new listing, re-listing, updating or lifting thereof issued by the Security Council, the sanctions committee, or the cabinet. "The state has provided procedures that include (updating the lists, freezing, and notification in case the names match). The state provided a chart showing the mechanism for receiving updates from the Security Council with regard to the UN lists and the Cabinet regarding the local list and how to circulate them without delay to all “concerned with implementation” agencies to take the necessary measures within 24 hours. There were no match cases for listed names, whether with relation to local or UN lists.
17. Conclusion: From the above analysis, it appears that UAE has addressed most of the shortcomings mentioned in the MER regarding Recommendation 7.
18. According to the above and since all shortcomings are corrected/addressed, the level of compliance in R.7 is "Compliant".
  - **Recommendation 19 (High-Risk Countries) (Partially Compliant):**
19. According to the MER, there are still some deficiencies with regard to the requirements for taking countermeasures as well as proportionate measures, as the legal basis for applying countermeasures is limited, and the countermeasures specified in the guidelines are mostly limited to normal due diligence measures. There is no sufficient mechanism to report FIs of the deficiencies in AML/CFT systems in other countries.
20. To address the shortcomings, the NAMLCFTC issued a decision in its meeting minutes No. (3/2020), which included the adoption of the list of high-risk countries in ML, TF and PF according to the FATF statement, as well as the adoption of enhanced due diligence measures according to FATF and countermeasures included in the Explanatory Note to Recommendation 19. The committee's website [www.namlcftc.gov.ae/ar](http://www.namlcftc.gov.ae/ar) has been published so as to allow direct access to the Financial Action Group's website, which includes a list of high-risk countries and a list of the country that is subject to enhanced monitoring, and according to the aforementioned website, FIs must refer to the explanatory note to Recommendation 19 regarding countermeasures with a link provided.
21. Conclusion It appears from the above analysis that the committee has approved a list of high-risk countries (according to what was published on the FATF's website), and adopted countermeasures received according to the explanatory note to Recommendation 19 with a link thereto on the committee's website. However, it did not appear that what is published on the website is considered

a binding means for FIs, and it has not been shown that the authorities are obligated to continuously follow up on changes to the lists of non-compliant countries. It was not clear how the committee's decision to adopt countermeasures was reflected in Recommendation 19 through a binding legal instrument, and it was also not clear what binding countermeasures could be taken and whether they were commensurate with the levels of risk. Nor was it found that the state has an adequate mechanism to ensure that FIs are informed about vulnerabilities in the AML/CFT system in other countries.

22. According to the above, and since the shortcomings are moderate, the level of compliance in R19 is "PC".

– **Recommendation 25 (Transparency and BOs of Legal Arrangements) (Partially Compliant)**

23. According to what was stated in the MER, the AML/CFT law and its executive regulations does not apply to endowments. The endowment certificate does not include all the required information, and there is no requirement for the endowment to keep basic information about other regulated agents and service providers for the endowment. There is no direct requirement that the authorities keep information about the endowment (waqf) for a period of 5 years after the cessation of dealing therewith. There is no obligation for Waqfs to ensure all information are updated.

24. There are no requirements related to the trust fund (except for those established in the Dubai International Center) that require the trustees to disclose their status to the FIs and DNFBPs, when acting on behalf of the trust, and there are no similar requirements for endowments. Endowments do not automatically provide the relevant authorities with all the information according to C.25.5. It is also not clear whether the procedure that will be imposed upon failure to implement the obligations depends on the severity of the violation or does not clearly indicate which penalty will be imposed and under what conditions, and the penalties for failure to meet the obligations in relation to the Waqf are not considered sufficiently dissuasive.

25. To address the deficiencies, all concerned authorities with the management of endowments in the United Arab Emirates issued similar administrative decisions regarding meeting the requirements related to endowments, which are summarized in the General Authority of Islamic Affairs and Endowments' Resolution No. 310/2020 and Administrative Decision No. 12/2020 issued by the Board of Directors of the Jafari Endowments Charitable Trust in Dubai, Administrative Decision No. 22/2020 issued by the Endowments and Minors Affairs Foundation - Dubai Government, Administrative Decision No. 53/2020 issued by the Awqaf Department - Government of Sharjah, and Resolution No. 1/2020 issued by the Board of Directors of the Jafari Endowments Charitable Trust - Sharjah.

26. Articles 1, 2, 3 and 4 of the decisions mentioned above require the Principal of Waqf, or whoever manages the Waqf, must identify the identity of the Waqf owner, or waqf property, or whomever assumes similar positions, as well as layers and beneficiaries be it nominal or in capacity thereof, as well as each natural or legal person practicing actual and ultimate control over the waqf. Maintaining the basic information of supervised intermediaries and service providers of the endowment, including investment advisors, managers, accountants and tax advisors for five years, and updating them when any amendment or change occurs thereto, and making them available to the concerned authorities and LEAs upon request and without delay, including information of the UBOs of the Waqf, the place of residence of the principal, the Waqf funds that are kept or managed by the FIs or DNFBPs that are

linked to the Waqf with a business relationship or performing a occasional transaction in the Waqf's account.

27. Conclusion The above analysis reveals that the UAE has addressed most of the deficiencies referred to in the MER regarding Recommendation 25, but there is no legal requirement to require trustees of trust funds in relation to the ADGM to disclose their status to FIs and DNFBPs, upon establishing a business relationship or perform an occasional transaction that exceeds the specified threshold. The Materiality of the deficiency in relation to the ADGM is considered low given the absence of a trust fund sector established in the ADGM and given that trust fund service providers are required to obtain a license and comply to the AML/CFT requirements. The UAE has issued a number of decisions to clarify the obligations of the endowment administrator or whoever manages the endowment (waqf). No new information was provided on penalties for failure to meet endowment obligations, and no penalties imposed when competent authorities failed to obtain timely access to endowment information, but the remaining shortcomings in C.25.7 and 25.8 are minor, given that the new requirements regarding the endowment became in force.
28. According to the above and since the remaining shortcomings are minor, the rating of compliance in R.25 is "Largely Compliant".

**B. Amended recommendations after onsite visit and adoption of the MER<sup>3</sup>:**

29. This section of the report reviews the analysis of efforts made by the UAE to comply with the requirements of Recommendation "15", which was amended after the onsite visit of the UAE mutual evaluation process.<sup>4</sup>
- Recommendation 15 (New Technologies) (LC)<sup>5</sup>:
30. According to the MER, Recommendation 15 was rated as "LC", and after analyzing the new information provided by the country, it became clear that C.15.1 and C.15.2 were not affected by any issues that would amend the country's compliance rating with these criterion, The United Arab Emirates has taken several measures to meet the new requirements of Recommendation 15, through SCA and ADGM obligating all licensed persons who conduct regulated activities related to VAs to obtain a license. The Central Bank Law (Article 64) states that it is prohibited to engage in or promote financial activities without a license. It is clear that the license is granted to institutions established in the country only to practice activities that require a license, and it is not permissible for anyone who is licensed from a third country or has a place of business in that country to practice its activities in the UAE, bearing in mind that the licensing requirements to provide VAs are limited to the legal person and does not extend to include natural persons (C.15.4a). It should be noted that the DFSA, including the DIFC, do not license the VAs activity and prevent its practice in their area of competence.
31. "Supervisory Authorities (CBUAE, ADGM, and SCA) have measures to prevent criminals or their associates from holding, or being the BO of, a significant or controlling interest, or holding a

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<sup>3</sup> Recommendation 15 was amended by FATF after the onsite visit to assess AML/CFT system in the UAE.

<sup>4</sup>The report (without recommendation 15) was adopted at the 32nd plenary held from June 6-8, 2021, with quality and consistency procedures taken after adoption, and it was decided to suspend publication of the report after the adoption of the analysis of recommendation (15) and include the new analysis in the same report, and then one report will be published once quality and consistency procedures are taken and Recommendation (15) is adopted.

<sup>5</sup>The analysis of this recommendation was based on the information provided by the authorities on 15/07/2021, which is valid until December 2020 (6 months before the Plenary meeting referred to above) which is the deadline for submitting information to re-rate this recommendation.

management function in a VASP, however, it was not clear whether the mentioned authorities actually implement these measures before and after granting the license to VASPs (C.15.4 b).

32. The CBUAE has the power to inspect the premise of any person suspected of engaging in any of the financial activities without a license. Each of DFSA, including DIFC, the CBUAE, ADGM and SCA have recently taken a number of measures to identify VASPs without a license similar to those mentioned in the guidelines issued by FATF. However, there are no written measures in this respect (except for those issued by CBUAE) (15.5). The ADGM has a plan to carry out proactive and reactive supervision and oversight for each virtual asset company, and it is not clear for all the regulatory authorities, especially the CBUAE, the criteria adopted in classifying companies in order to target them on the basis of the RBA (15.6a).
33. SCA has the power to carry out oversight and supervision over VASPs, including the power to impose sanctions and administrative penalties on senior officials who have been proven responsible for the violation, the same applies to ADGM, which has powers to impose sanctions on VASPs that has identified their activities. As for CBUAE, it has the powers to carry out supervision over licensed FIs and to impose sanctions upon violating FIs, but it is unclear whether it has the powers to impose sanctions on VASPs who fail to comply with the AML/CFT requirements (C.15.6b and C.15.8). On the other hand, ADGM has issued a guideline on "Regulating the activities of VAs in ADGM", and the guide defines the approach of the FSRA with regard to regulating the use of VAs (C.15.7). Although there is no explicit legal basis allowing supervisors to exchange information with counterparts. However, national legislation related to international cooperation allows competent authorities to provide international cooperation regarding VASPs (C.15.11).
34. **Conclusion:** It is clear from the above analysis that the UAE has taken some steps to meet the new requirements of Recommendation 15, and it remains to fulfill most of the requirements of the criteria of this recommendation, especially criterion 15.1 in terms of fully identifying and assessing the ML/TF risks that may arise from new technologies. and criterion 15.3 in terms of identifying and assessing risks emerging from the activities of VAs and the activities or operations of VASPs, applying a risk-based approach to ensure that measures to prevent or mitigate ML/TF are commensurate with the risks (which should be identified) and require VASPs to identify and assess and manage ML/TF risks, and that all regulatory authorities (except for the SCA) identify the activities of the VA referred to in the FATF glossary, and that they determine whether the natural persons (if they are allowed to practice the activity) the legal persons are subject to the instructions of the regulatory authorities regarding the identification, assessment, management and mitigation of the related risks.
35. And criterion 15.4 in terms of finding texts that clarify whether a natural person is required to be registered or licensed or not in order to engage in the activity of VASPs, and in terms of implementing measures to prevent criminals or their associates from holding or being the BO of a significant or controlling interest or holding a management function in a VASP. and criterion 15.5 in terms of establishing written measures (excluding the Central Bank) to identify and apply appropriate sanctions to persons who engage in the activities of VASPs without a license. and criterion 15.6 in terms of subjecting VASPs to regulation and risk-based supervision by the Central Bank, and the latter defining the activities of VASPs according to the definition of the FATF.
36. And criterion 15.7 in terms of the central bank establishing guidelines, and that all authorities and regulators provide feedback to assist VASPs in applying AML/CFT requirements. and criterion 15.8

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in terms of ensuring that there is a range of sanctions available to the Central Bank to deal with VASPs and their senior management in the event of failure to comply with the AML/CFT requirements. and criterion 15.9 in terms of requiring VASPs to comply with recommendations 10 to 21. and criterion 15.10 in terms of ensuring that the communication mechanism, reporting obligations and monitoring requirements apply to VASPs. and criterion 15.11 in terms of establishing texts that allow rapid international cooperation in relation to ML, predicate offenses and TF related to VAs.

37. According to the above, and since the shortcomings are moderate, the level of compliance in R.15 is “PC”.

### Fourth: Conclusion

38. The expert and the secretariat - after analyzing the information provided by the UAE authorities, accompanied with a request to reassess 5 recommendations that were assessed “PC” in the Mutual Evaluation Report reached the following:

- Recommendations requested by UAE for re rating:
  - Upgrade the compliance rating in (R.6 and 7) from “PC” to “C”
  - Upgrade the rating from “PC” to “LC” for Recommendations 25.
  - Recommendation (19) remains “PC”
- Amended Recommendations after onsite and adoption of the MER:
  - Downgrade the rating from “LC” to “PC” in Recommendation 15

39. Compliance ratings after re rating can be summarized as follow:

Table (2): Reassessment of the Technical Compliance ratings

R. 1	R. 2	R. 3	R. 4	R. 5	R. 6	R. 7	R. 8	R. 9	R. 10
PC	LC	LC	LC	LC	C	C	LC	C	LC
R. 11	R. 12	R. 13	R. 14	R. 15	R. 16	R. 17	R. 18	R. 19	R. 20
LC	LC	C	LC	PC	C	LC	LC	PC	C
R. 21	R. 22	R. 23	R. 24	R. 25	R. 26	R. 27	R. 28	R. 29	R. 30
LC	L	LC	LC	LC	C	C	LC	PC	C
R. 31	R. 32	R. 33	R. 34	R. 35	R. 36	R. 37	R. 38	R. 39	R. 40
C	C	LC	LC	LC	C	LC	LC	C	LC

\* There are four Possible ratings for Technical Compliance (Compliant, Largely Compliant, Partially Compliant, Non-Compliant)

40. UAE was rated “C” in (13) Recommendations, “LC” in (23) Recommendations and “PC” in (4) Recommendations. As a result of the analysis of the TC re rating request, and in accordance with MENAFATF's procedures in place, UAE remains in the Enhanced Follow-Up process, with the second Enhanced Follow-Up Report to be submitted to the 34th Plenary meeting in April/May 2021.