

30 June 2019

Guidance Note to DMCC Member Companies and DMCC Memberships that are Financial Institutions or DNFBPs in respect to UAE AML/CFT Law

The purpose of this Guidance Note is to advise all DMCC member companies and members of DMCC associations, memberships or clubs that are Financial Institutions (FIs) or Designated Non-Financial Bodies or Professions (DNFBPs) in respect to requirements under UAE AML/CFT law.

1. Recent Changes in AML/ CFT Law in the UAE

1.1 Federal Decree- Law No. (20) of 2018 on Anti-Money Laundering and Combatting the Financing of Terrorism and Financing of Illegal Organizations (the “Decree- law”) was published in December 2018, replacing all previous versions of this law. Cabinet Decision No. (10) of 2019 on the Executive Regulation of Federal Decree-Law No. (20) of 2018 on Anti-Money Laundering and Combatting the Financing of Terrorism and Financing of Illegal Organizations was published in February 2019, prescribing implementation regulations for the Decree- Law (the “Executive Regulation”).

English versions of the Decree- Law and the Executive Regulation may be found on the UAE Ministry of Finance website;

[<https://www.mof.gov.ae/en/lawsAndPolitics/govLaws/Pages/default.aspx>, and; <https://www.mof.gov.ae/en/lawsAndPolitics/CabinetResolutions/Pages/default.aspx> respectively]. “Decree- Law” and “Executive Regulation” together defined as “AML Laws”.

1.2 The AML Laws consolidate all existing UAE AML legislation and collate the core recommendations of Financial Action Task Force (“FATF”) into UAE law.

2. AML Laws also;

2.1 establish the National Anti-Money Laundering and Combating Financing of Terrorism Committee (the “National Committee”) which amongst other things, coordinates with competent authorities and provides guidance to Regulators (“Regulators”) in respect to compliance;

2.2 identify the appointment of Regulators for FIs and DNFBPs and non- profit associations and grants them specific responsibilities for supervising, monitoring and enforcing AML Laws; and

2.3 establish a re-constituted financial intelligence unit within the UAE Central Bank (“FIU”) for the reporting of suspicious transactions (“STRs”). FIU will receive and investigate all reports submitted regarding suspected illicit financial activity. It obliges FIs DNFBPs and competent authorities to make STRs.

3. Duties of Regulators

3.1 AML Laws designate that Regulators are empowered to supervise, monitor and ensure compliance, in particular:

- (i) carry out risk assessments of the possibility of occurrence of crimes in Financial Institutions, DNFBPs and non-profit associations;
- (ii) monitor and conduct physical inspections of Financial Institutions, DNFBPs and non-profit associations; and
- (iii) impose fines and other sanctions.

3.2 The Regulators have direct authority to take action against DMCCA or any of its member companies or members pursuant to AML Laws.

4. Role of Financial Institutions and DNFBPs under Executive Regulation

4.1 Financial Institutions and DNFBPs have the following responsibilities under the Executive Regulation:

- (i) implement compliance policies, controls and procedures;
- (ii) implement sanction rules that apply within UAE;
- (iii) evaluate risk, document risk assessment and mitigate risk;
- (iv) implement due diligence measures, in particular, know-your-client (KYC) and ultimate beneficial owner (UBO) on-boarding procedures; and
- (v) appoint a compliance officer to perform specific duties.

4.2 There is a direct obligation on Financial Institutions, DNFBPs and competent authorities to issue STRs unless subject to over-riding privilege or confidentiality restrictions.