



DFSA Outreach Anti-Money Laundering and Combating Terrorist Financing

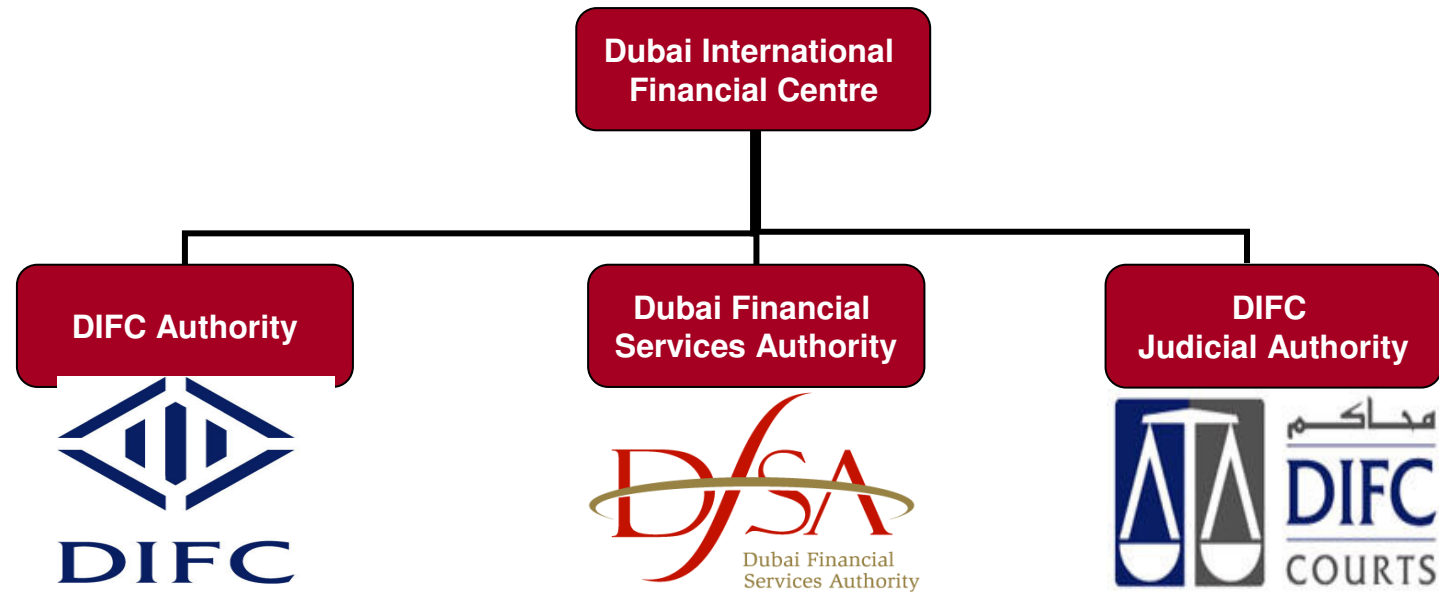
June 17 2008

**Bryan Stirewalt
Director, Supervision**

Agenda

- Overview of the DIFC's AML/CFT Regime and Legal Affairs Update
- Global AML/CFT Current Events in the Financial Sector
- Regional and Local Current Events with the DFSA and in the Region
- DFSA Expectations for Compliance Officers and Money Laundering Reporting Officers
- Future Communications.

About the DFSA



Provide overall direction for the development and marketing of the DIFC.

Independent integrated Regulatory Authority with risk-based regulations on par with International Standards.

Independent and final DIFC Court modeled on superior common law court.

Hierarchy of Laws

Constitutional

UAE Constitution

Federal

UAE Federal Law No.8 of 2004

Federal Decree No.35 of 2004

Cabinet Resolutions

*Implementing Regulations of Federal Law No. 8
of 2004 Concerning Financial Free Zones 31*

October 2007

Dubai

Dubai Law No.9 of 2004

Dubai Law No.12 of 2004

DIFC

DIFC Laws

DIFC Regulations & DFSA Rules.

DFSA AML / CTF Regime

- **Regime for Authorised Entities and Persons**
 - ✓ UAE Federal laws
 - ✓ DIFC Regulatory Law
 - ✓ DFSA Rulebook
 - Authorised Firms
 - Ancillary Service Providers
 - Authorised Market Institutions.

DIFC AML / CTF Regime

- **Regime for Designated Non-Financial Services and Professionals**
 - ✓ DIFCA AML Commission and Team
 - ✓ Applications for ...
 - Real estate agents
 - Dealers in precious metals and stones
 - Dealers in high value goods
 - Non-ASP lawyers, accountants, auditors
 - Non DFSA regulated trust service providers.

Enforcement Update

- ✓ **Article 73 – Power to Obtain Information**
- ✓ **Article 80 – Power to Obtain Information for Investigation**



Supervision Powers

- Enter premises (Reg Law 73(1)(a))
 - Procure information or documents (73(1)(a)(b) Reg Law)
- Inspect and copy docs (73(2) Reg Law)
- Requirement to provide a report (Art 73 Reg Law)
- Impose restrictions on business (Art 75 Reg Law)
- Restrictions on Dealing with Property (Art 76 Reg Law).

Investigation Powers

- Enter premises (REG law 80(1)(a))
- Inspect and copy documents (80(1)(a))
- Procure information or documents (80(1)(b)(c))
- Answer questions under oath (80(1)(d))
- Give assistance (80(1)(e))
- Court Injunction and Search Warrant (84)
- Assist other regulators and agencies.

Article 73 Regulatory Law

- (1) The DFSA may require an Authorised Firm, Authorised Market Institution, Ancillary Service Provider, Fund, Auditor or any director officer, employee or agent of such person by written notice to:
- (2) The DFSA may enter premises
- (3) The DFSA may exercise its powers in respect of any person within, or outside of, the DIFC
- (4) The Court may make a requirement, in respect of a person, who is outside the jurisdiction of the DIFC.

Article 80 Regulatory Law - 1

1. Where the DFSA considers that a person is or may be able to give information or produce a document which is or may be relevant to an investigation, it may:
 - a) Enter premises to inspect or copy docs;
 - b) Require such person to give, or procure the giving of, specified information **in such form as it may reasonably require**;
 - c) Require such person to produce, or procure the production of specified documents;
 - d) Answer questions under Oath.

Article 80 Regulatory Law - 2

- The DFSA may require production of information by the end of a reasonable time and at a place specified in the notice;
- The DFSA may exercise its powers in respect of any person within, or outside of, the DIFC;
- The information or documents are admissible as evidence in proceedings;
- Disclosure shall not be made to law enforcement agencies for the purpose of criminal proceedings unless:
 - The DFSA is required by law or Court order; or
 - The person consents.

Article 73 Notice Preamble

For the purposes of ensuring compliance with Article 36 of the Markets Law (DIFC Law No. 12 of 2004) and in accordance with the requirements of Article 73(1) of the Regulatory Law (DIFC Law No. 1 of 2004), you are hereby required to give and produce, or procure the production of, the following information, documents, records or items described below to the DFSA by delivering them to Stephen Glynn at the offices of the DFSA on Level 13, The Gate Building, DIFC at or before 1500 hrs on Monday 5 May 2008.

Article 80 Preamble

- The DFSA considers that you may be able to give information or produce a document which is or may be relevant to an investigation.
- In accordance with the requirements of Articles 80(1)(b), 80(1)(c) and 80(4) of the Regulatory Law, you are hereby required to give, or procure the giving of the specified information or documents as set out hereunder to the DFSA by delivering such information and documents to Stephen Glynn at Level 13, The Gate, Dubai International Financial Centre, Dubai no later than 12:00 pm on Tuesday 17 June 2008.

Examples

1. Any and all Client files of [name of company];
2. Any and all communications, including e-mails, between [name of company], its employees, agents and consultants and the Clients referred to in 1 above;
3. Any and all records, including trading records and transaction logs, of all transactions executed by [name of company] or the clients referred to in 1 above;
4. Evidence of the location and terminals on which transactions and trading have been logged for, by and on behalf of the Clients referred to in 1 above;
5. The names, address and contact details, including mobile phone numbers and e-mail addresses of all employees, agents and consultants of [name of company].

Examples

1. Records of all instructions and communications, including electronic, digital, analogue in soft or hard copy, received or given by ???? to buy or sell shares on from 1 January 2008 to the date of this Notice;
2. All communications, including but not limited to voice recordings, e-mails, letters, correspondence, file notes of meetings, between ??? and any other party relating to trading by ??? in the shares of ??? on or about 1 March 2008;
3. The compliance manual or risk mitigation strategy dealing with the trading of securities on Authorised Market Institutions in effect on June 2007.

Dos and Don'ts

Do

- Comply with the notice;
- Seek clarification if needed;
- Draft a written response setting out how you have complied and/or not complied with the notice;
- Tabulate disclosures as per the notice request;
- Provide written explanations if necessary;
- Deliver documents in person;
- Provide hard copy documents!
- Soft copies will be specifically requested;
- Wait for a receipt.

Dos and Don'ts

Don't

- Courier documents or information;
- Send information via e-mail;
- Deliver information or documents without a covering letter detailing your response;
- Be late in complying with requirements;
- Be afraid to ask questions.

Consultative Paper No. 55

- Conducting ongoing due diligence in respect of business relationships
- Use of findings, guidance, directives, resolutions and sanctions issued by United Nations and other relevant authorities or bodies
- Harmonise relevant requirements that apply across all authorised entities
- Flexibility in timing of customer due diligence.

Global Trends and Current Events

- Trade Finance
- Automated Systems for AML/CFT
- International Lists
- Politically Exposed Persons (PEPs)

Current Events in the Region

- International convergence
- STR statistics and trends.

International Convergence

- Middle East financial markets are increasingly backed by solid and improving AML/CTF regimes
- MENA FATF Evaluations
 - More formalisation and uniformity amongst regulatory bodies
 - More transparency and statistics (two-way communication)
 - Non-financial, non-regulated areas are exposed.

STR Statistics and Trends

- 28 STRs filed with AMLSCU/DFSA (since 2004) – 5 year-to-date in 2008
- STR themes ...
 - Reluctance to provide complete and meaningful identification documents before account opening
 - Inconsistent, contradicting information
 - Same-day, cross-border transfer and request for reversal
 - Database check on prospective client.

Firm-Specific Issues

- Basic Responsibilities of the Compliance & MLRO Officers
- Annual AML Report ...
- Reviews and Reports Need to Focus on Substance More Than Form.

Basic Responsibilities of the Compliance & MLRO Officers

- Creating compliance culture ...
 - ✓ Responsibilities for effectiveness of policies, procedures, systems, controls
 - ✓ Independence, seniority, experience, staffing, access to education
 - ✓ Staff training and typologies
 - ✓ Compliance testing, internal and external points of contact
 - ✓ Reporting of Suspicious Transaction Reports.

Annual AML Report ...

- Comprehensive review, including KYC and analysis of STRs
- Assessments of ...
 - overall AML/CFT compliance;
 - quality of policies, procedures, and practices;
 - external inputs to regime;
 - internal and external STRs; and
 - other appropriate information.

Annual AML Report ...

- An Authorised Firm's Governing Body or Senior Management must ...
 - assess the MLRO report;
 - take action, as necessary;
 - record their assessment review and actions to be taken in writing; and,
 - send a copy of the review to the DFSA.

Reviews and Reports Need to Focus on Substance More Than Form ...

- Countering money launderers and potential financiers of terrorism is a serious risk, not simply an annual “to do list” item
- The annual report is to the board of directors, with a copy to the DFSA, not vice-versa
- Risk reviews clearly highlight which firms take this seriously and which firms are checking a box.

Thank You



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