



# The Central Bank Of The UAE'S AML/CFT Thematic Review Legal Persons and Arrangements

## ABSTRACT

This thematic review sets out the key findings and CBUAE's expectations for licensed financial institutions to effectively manage the AML/CFT risks associated with legal persons and arrangements.



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## 1. Glossary of Terms

CBUAE	Central Bank of the United Arab Emirates
CDD	Customer Due Diligence
LPA	Legal Persons and Arrangements
PF	Proliferation Financing
LFIs	Licensed Financial Institutions
AMLDD	Anti-Money Laundering Department
ML	Money Laundering
TF	Terrorism Financing
AMLCFT	Anti-Money Laundering and Counter Financing Terrorism
KYC	Know Your Customer

## 2. Background

The Central Bank of the UAE (“CBUAE”) Anti Money Laundering and Combatting the Financing of Terrorism Department’s (“AML/D”) risk-based-supervision approach and methodology includes the assessment of its licensed financial institution’s (“LFI”) Money Laundering/Terrorist Financing (“ML/TF”) risk profile through the collection and analysis of ML/TF risk indicators.

The AML/D assessed its LFIs’ exposure to ML/TF risks on a thematic basis, focusing on key ML/TF threats and vulnerabilities derived from the risks outlined in FATF’s 40 Recommendations, the UAE’s National Risk Assessment (“NRA”) and Topical Risk Assessments.

From the CBUAE’s sectorial risk assessments, LPA, amongst others, is identified as a high-risk area in the inherent risk parameters for the Banking and Exchange House sectors<sup>1</sup>. Subsequently, the CBUAE issued a specific guidance to LFIs on risks associated with LPA and the regulatory expectations around due diligence standards to effectively manage those risks.

Legal persons and Arrangements pose a significant risk to the economy when illicit individuals conceal or obscure their identity. These individuals are truly controlling, directing, or benefiting from the services or the products an LFI offers to its customers that are Legal Persons or Legal Arrangements, to launder money for proceeds of crime, engage in terrorist financing, evade United Nations or UAE sanctions, and threaten the integrity of the UAE’s financial system and the security of the State.

This review aims to assess at a thematic level, for selective LFIs based on their inherent risks, the AML/CFT controls specific to LPA in compliance with the CBUAE’s guidance. The review consisted of the issuance of a focused questionnaire to sixteen LFIs and follow-up interviews and discussions for selective institutions across the banking and exchange houses sectors.

Since the sample size was limited, the results should be viewed as representative at a thematic level drawing on the most common practices observed, noting that a fair proportion of LFIs in the United Arab Emirates (“UAE”) may in fact have stronger or more positive measures.

<sup>1</sup> The Guidance document “AML/CFT Guidance for Licensed Financial Institutions providing services to Legal Persons and Arrangements.pdf” was released by the central bank on June 2021.

### 3. Applicable Law

1. Decree Federal Law No. (20) of 2018 on Anti-Money Laundering and Combating the Financing of Terrorism and Illegal Organizations (“AML-CFT Law”).
2. Cabinet Decision No. (10) of 2019 concerning the Implementing Regulation of Decree Federal Law No. 20 of 2018 on Anti-Money Laundering and Combating the Financing of Terrorism and Illegal Organizations (“AML-CFT Decision”).
3. Cabinet Decision No. (58) of 2020 regulating the Beneficial Owner Procedures (“Cabinet Decision 58”)
4. All relevant Guidance issued by the Central Bank of the UAE

### 4. Vulnerabilities of Legal Persons and Arrangements

Legal persons and arrangements are attractive to participants in illicit finance—including money laundering (ML), the financing of terrorism (TF), and the financing of proliferation (PF)—because these entities offer the opportunity to transact anonymously, or nearly anonymously, through complex and/or opaque corporate structures. In addition, legal persons and arrangements offer an advantage to the unlawful individual. For example, with the LFIs, these individuals can open an account or carry out transactions other than their name. Moreover, there are many ways individuals can conceal their identity in Legal persons and arrangements—e.g., obscuring identity/beneficial ownership, obscuring the purpose of an account or transaction, or obscuring the source of funds or source of wealth, and many more. The recently released guidance<sup>1</sup> document provides more detailed guidelines on how the legal persons and arrangements can be abused to conceal illicit transactions from LFIs.

### 5. Thematic Review Findings



The purpose of this LPA thematic review is to highlight the common findings across the identified LFIs. In addition, these findings will provide more specific and targeted feedback to the sector.

The thematic review outcome is shared across the sectors so that the LFIs can benchmark themselves, make necessary changes to their AML/CFT policies around LPA, and enhance the related controls.

## 5.1. Policy and Procedures

The majority of the LFIs, that were part of the review, have a dedicated policy, or relevant sections in their AML/CFT policy that sets out the customer acceptance and due diligence requirements concerning LPAs for both new and existing customers. However, fewer LFIs, especially those that are relatively smaller in size and operations, are yet to fully incorporate the CBUAE's guidance requirements in their policies and procedures.

Additionally, it is identified that many LFIs do not validate at an operational level, the name, legal form, and LPA's Memorandum of Association from independent sources. Although, the majority of the LFIs have set clear procedural guidance around these requirements.

There is awareness among the LFIs to update their policy and procedure documents to fully unwrap the beneficial ownership structures and identify the percentage of ownership for each owner.

### **CBUAE GUIDELINES**

As per the CBUAE's guidance issued in June 2021, LFIs are expected to have policy and procedure documents that should cover the clear understanding of the LPA customer's due diligence at the time of onboarding and ongoing monitoring. The policy should also include conducting separate checks on the PEP relationship of LPA. In addition, LFI's are expected to validate the name, Legal Form, and Memorandum of Association LPA from reliable and independent sources.

## 5.2. Governance and Control

The thematic review indicates that the LFIs have understood and implemented critical controls including, identifying the sources of funds and source of wealth of the LPA customers, performing screening, and conducting transaction monitoring. Customers, whose UBOs are not-identifiable, are not on-boarded in most of the cases. The trade license is periodically checked for expiry by the LFIs. LFIs review the reports on the high-risk LPA customers to understand and evaluate any risk associated with the business activities of such customers.

### **CBUAE GUIDELINES**

CBUAE encourages the LFIs to put additional controls in place to consider the formation requirements and process of the LPA. Identification and reporting of beneficial owners, monitoring of any critical information (including beneficial ownership) changes, regularly check the annual financial reports of LPAs which they submit to the registering authority, and/or undergo routine audits, and provide the audit report to their registering authority.

## 5.3. ML/TF Risk Assessment

The thematic review indicated that the LFIs adopt a risk-based approach to risk rate legal persons and arrangements. Accordingly, the LPA is categorized by default as requiring EDD in case the:

- 1) Legal persons customer is wholly owned or controlled by PEPs; or
- 2) Non-Profit Organizations.

The LFIs also apply EDD measures on LPAs by default when the customer relationship is high or very high as defined by the LFIs.

The EDD measures are also applied when material financial crime related adverse news has been identified or the relationship has any potential direct or indirect sanctions nexus



involved. LFIs have implemented the on-boarding risk matrix to assess the customer before they start the customer relationship.

The clients are periodically risk assessed based on the risk categories as defined by the LFIs or on the trigger events.

### **CBUAE GUIDELINES**

LFI are encouraged to refer to CBUAE guidance, which includes three main components:

1. Conducting an enterprise risk assessment, as required by Article 4.1 of AML-CFT Decision.
2. Identifying and assessing the risks associated with specific customers.
3. Applying EDD and other preventive measures to customers that the LFI determines to be higher risk, as required by Article 4.2(b) of AML-CFT Decision, or to specific customer types, no matter their risk rating, as required by AML-CFT Decision.

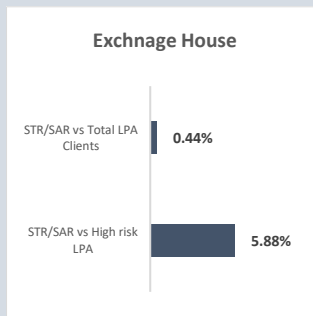
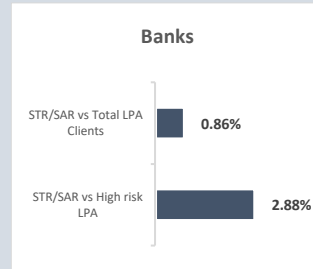
Other risk assessment considerations that are unique to legal persons and arrangement customers include :

1. The legal form of the customer, and the controls in place to ensure transparency;
2. The status of the beneficial owners and senior management. For example, if a beneficial owner or senior manager of a customer is a PEP, as defined in Article 15 of AML-CFT Decision, the customer may also need to be treated as PEP, depending on the extent of the PEP's ownership and control and his or her relationship to the other beneficial owners or managers.

## 5.4. Transaction Monitoring and Screening

The thematic review conducted on LPA's shows that the LFIs have demonstrated a clear understanding to screen the names of beneficial owners/directors/POA/Nominees/ Shareholder/Signatory of the LPA and are mandatorily screened against the UN and the local UAE list. The LFIs have adequate understanding of and compliance with mandatory and periodic screening of names of all BOs in the full ownership structure of LPAs. Furthermore, the thematic review indicates that LFIs conduct a periodic PEP reviews, perform EDD reviews for the full ownership structure, and monitor/screen daily transactions against international and local sanction lists. Additionally, LFIs conduct the EDD at the time of on-boarding, payments screening, and CDM monitoring processes for high-risk segments, particularly Dealers in Precious Metals and Stones. However, the review indicates that a few of the LFIs do not monitor all the related transactions and that dedicated transaction monitoring scenarios can be developed for LPA.

Based on the selected LFIs in thematic review



### CBUAE GUIDELINES

As per the guidances issued by CBUAE , when monitoring and evaluating transactions, the LFI should take into account all information that it has collected as part of CDD, including the identities of beneficial owners. Where possible, monitoring systems should also flag unusual behavior that may indicate that a legal persons customer's business has changed—for example, a first transfer to or from a high-risk jurisdiction, or a large transaction involving a new counterparty. LFIs should follow up on such transactions with the customer to discover whether the customer has changed its business model in such a way as to require a higher risk rating.



There are a few key risk red flags for LPA's that should be within transaction monitoring rules :

1. Monitor transactions that is occurring between two or more parties that are connected without an apparent business or trade rationale
2. Monitor business transactions that involves family members of one or more of the parties without a legitimate business rationale;
3. Transactions involving two legal persons with similar or identical directors, shareholders, or beneficial owners.
4. Repeated transaction between parties over a contracted period.

## 5.5. KYC Controls

The thematic review has shown that the LFIs have set clear policy and procedural requirements to capture the Natural Persons (individual) who controls the entity (such as its managing director) instead of a true beneficial owner when no individual meets the threshold by owning at least 25% of a legal persons.

However, a few LFIs do not capture the details provided by a legal persons who has a nominee on a contractual basis or based on a handshake agreement. In some instances, LFIs do not perform transaction analysis and PEP/adverse news screening of counterparties that are frequently transacted with or have large value transactions while conducting periodic refresh. A few of the LFIs do not mandatorily capture the information of a settlor, trustee, and the beneficiaries or identifiable class of beneficiaries, along with any other individual exercising ultimate effective control over the legal arrangement. Additionally, as a part of the CDD process, LFIs do not identify and capture the individual as a trustee.

A few of the LFIs do not include checks against the National Economic Register site for publically available information on LPA's, i.e., entity's license number, address, business activities, and the name of a manager.

### **CBUAE GUIDELINES**

The CBUAE guidance recommends that an LFI should not accept the LPA unless they clearly understand the individuals who in fact own and control the legal persons or legal arrangement otherwise LFI's should not accept the legal persons or legal arrangement as their customer. If such legal persons or legal arrangement has an existing business relationship with the LFI then it should be discontinued, pursuant to the incomplete CDD.

## 6. Annexure

### Banks response, represented in heat map

Questionnaire - For Thematic Review (Bank)		Bank1	Bank2	Bank3	Bank4	Bank5	Bank6	Bank7	Bank8	Bank9	Bank10	Bank11
LPATR 1	Do the LFI has a policy guidance that specifically covers 'Legal Persons and Arrangements' with respect to customer due diligence at the time of on-boarding as well as ongoing monitoring?	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
LPATR 2	Do you have existing direct or indirect LPA clients relationship who have sanctions exposure?	Yes	No	No	No	No	No	No	No	No	No	No
LPATR 3	Do the names of beneficial owner/director/POA/Nominees/ Share holder/Signatory of the legal person and arrangements are mandatory screened against the UN and local UAE list ?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
LPATR 4	Dose the LFI mandatory and periodically screen names of all BOs in full ownership structure of LPA ?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
LPATR 5	Do the LFI have AML/CFT policy and control in place to conduct separate checks on PEP relationship of LPA.	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
LPATR 6	Do the Automated Transaction Monitoring system monitor all the transactions performed by the Legal person?	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
LPATR 7	Do the LFI has dedicated scenarios for transactions related to LPA?	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
LPATR 8	Do LFI has implemented clear guidances and procedures for on-boarding staff to be able to identify LPAs?	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
LPATR 9	Do LFIs procedures adequately cover requirements to fully unwrap the beneficial ownership structures and identify percentage of ownerships for each of the owners?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
LPATR 10	Does LFI capture the Natural Person (individual) who controls the entity (such as its managing director) instead of a true beneficial owner when no individual meets the threshold by owning at least 25% of a legal person?	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
LPATR 11	Does the LFI capture the details provided by a legal person who has the nominee on contractual basis or based on a handshake agreement?	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	No	Yes
LPATR 12	Does the LFI identify and capture the complex ownership structure of the legal person and arrangements?	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
LPATR 13	Do your CDD/EDD checks include checking National Economic Register site ?	No	No	Yes	No	Yes	Yes	No	Yes	Yes	No	Yes
LPATR 14	For the legal arrangements, Do the LFI mandatorily capture the information of the settlor, the trustee, and the beneficiaries or identifiable class of beneficiaries, along with any other individual exercising ultimate effective control over the legal arrangement. And, as a part of the CDD process, identify and capture the individual as a Trustee?	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
LPATR 15	Do LFI capture and validate from reliable and independent sources the name [this may not apply for legal arrangements], Legal Form, and Memorandum of Association LPA ?	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
LPATR 16	Do LFI capture and validate from reliable and independent sources :											
LPATR 16.1	The name [this may not apply for legal arrangements], Legal Form, and Memorandum of Association LPA ?	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
LPATR 16.1	Headquarters' office address, or the principal place of business; in addition, if the legal person or arrangement is a foreign entity, the name and address of its legal representative in the State.	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
LPATR 16.1	Articles of Association or any similar documents, approved by the relevant authority within the State.	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
LPATR 16.1	Names of relevant persons holding senior management positions in the legal person or legal arrangement.	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
LPATR 17	Dose the LFI allow any exceptions in identifying the UBO where it is unable to identify or unwrap the full beneficial owner structure ?	No	No	No	No	No	No	No	No	No	No	No
LPATR 18	Does LFI perform the Risk-based approach to risk rate the Legal person and arrangements?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
LPATR 19	Do LFI apply EDD irrespective of their risk rating on customer types, 1) LPA with which the LFI proposes to enter into a correspondent relationship or 2) Legal person customers fully owned or controlled by PEPs or 3) Non-Profit Organizations?	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
LPATR 20	Do LFI perform periodic KYC checks which include transactions analysis for the period, and PEP/Adverse News screening of counter parties that are frequently transacted with or have large value transactions with?	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

### Exchange houses response, represented in heat map

Questionnaire - For Thematic Review (Exchange House)		Exchange House 1	Exchange House 2	Exchange House 3	Exchange House 4	Exchange House 5
LPATR 1	Do the LFI has a policy guidance that specifically covers 'Legal Persons and Arrangements' with respect to customer due diligence at the time of on-boarding as well as ongoing monitoring?	Yes	Yes	Yes	Yes	Yes
LPATR 2	Do you have existing direct or indirect LPA clients relationship who have sanctions exposure?	No	No	No	No	No
LPATR 3	Do the names of beneficial owner/director/POA/Nominees/ Share holder/Signatory of the legal person and arrangements are mandatory screened against the UN and local UAE list ?	Yes	Yes	Yes	Yes	Yes
LPATR 4	Dose the LFI mandatory and periodically screen names of all BOs in full ownership structure of LPA ?	Yes	Yes	Yes	Yes	Yes
LPATR 5	Do the LFI have AML/CFT policy and control in place to conduct separate checks on PEP relationship of LPA.	Yes	Yes	Yes	Yes	Yes
LPATR 6	Do the Automated Transaction Monitoring system monitor all the transactions performed by the Legal person?	Yes	Yes	Yes	Yes	Yes
LPATR 7	Do the LFI has dedicated scenarios for transactions related to LPA?	Yes	Yes	Yes	Yes	Yes
LPATR 8	Do LFI has implemented clear guidances and procedures for on-boarding staff to be able to identify LPAs?	Yes	Yes	Yes	Yes	Yes
LPATR 9	Do LFI's procedures adequately cover requirements to fully unwrap the beneficial ownership structures and identify percentage of ownerships for each of the owners?	Yes	Yes	Yes	Yes	Yes
LPATR 10	Does LFI capture the Natural Person (individual) who controls the entity (such as its managing director) instead of a true beneficial owner when no individual meets the threshold by owning at least 25% of a legal person?	Yes	Yes	Yes	Yes	Yes
LPATR 11	Does the LFI capture the details provided by a legal person who has the nominee on contractual basis or based on a handshake agreement?	Yes	Yes	No	Yes	No
LPATR 12	Does the LFI identify and capture the complex ownership structure of the legal person and arrangements?	Yes	Yes	Yes	Yes	Yes
LPATR 13	Do your CDD/EDD checks include checking National Economic Register site ?	Yes		Yes	No	Yes
LPATR 14	For the legal arrangements, Do the LFI mandatorily capture the information of the settlor, the trustee, and the beneficiaries or identifiable class of beneficiaries, along with any other individual exercising ultimate effective control over the legal arrangement. And, as a part of the CDD process, identify and capture the individual as a Trustee?	Yes		No		No
LPATR 15	Do LFI capture and validate from reliable and independent sources the name [this may not apply for legal arrangements], Legal Form, and Memorandum of Association LPA ?	Yes	Yes	Yes	Yes	Yes
LPATR 16	<b>Do LFI capture and validate from reliable and independent sources :</b>					
LPATR 16.1	The name [this may not apply for legal arrangements], Legal Form, and Memorandum of Association LPA ?	Yes	Yes	Yes	Yes	Yes
LPATR 16.1	Headquarters' office address, or the principal place of business; in addition, if the legal person or arrangement is a foreign entity, the name and address of its legal representative in the State.	Yes	Yes	Yes	Yes	Yes
LPATR 16.1	Articles of Association or any similar documents, approved by the relevant authority within the State.	Yes	Yes	Yes	Yes	Yes
LPATR 16.1	Names of relevant persons holding senior management positions in the legal person or legal arrangement.	Yes	Yes	Yes	Yes	Yes
LPATR 17	Dose the LFI allow any exceptions in identifying the UBO where it is unable to identify or unwrap the full beneficial owner structure ?	No	No	No	No	No
LPATR 18	Does LFI perform the Risk-based approach to risk rate the Legal person and arrangements?	Yes	Yes	Yes	Yes	Yes
LPATR 19	Do LFI apply EDD irrespective of their risk rating on customer types, 1) LPA with which the LFI proposes to enter into a correspondent relationship or 2) Legal person customers fully owned or controlled by PEPs or 3) Non-Profit Organizations?	Yes	Yes	Yes	Yes	Yes
LPATR 20	Do LFI perform periodic KYC checks which include transactions analysis for the period, and PEP/Adverse News screening of counter parties that are frequently transacted with or have large value transactions with?	Yes	Yes	Yes	Yes	Yes