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United Arab Emirates

White Collar Crime

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This country-specific Q&A provides an overview of white collar crime laws and regulations applicable in United Arab Emirates.

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United Arab Emirates: White Collar Crime

1. What are the key financial crime offences applicable to companies and their directors and officers? (E.g. Fraud, money laundering, false accounting, tax evasion, market abuse, corruption, sanctions.) Please explain the governing laws or regulations.

The above crimes (relating to money) are contained within the Federal Decree Law No. 31 of 2021 (otherwise known as the 'Penal Code'), which applies to all crimes and penalties in the UAE.

Notwithstanding, there are specific Federal Decrees which authorities in the UAE follow in relation to particular financial crimes. They include:

- Federal Decree-Law No. 28 of 2022: introduced to overhaul the pre-existing tax procedures of the UAE.
- Federal Decree-Law No. 20 of 2018 on Anti-Money Laundering, Combating the Financing of Terrorism and Financing of Illegal Organization: introduced to ensure the UAE complied with the international standards relating to combatting anti-money laundering and the financing of terrorism.

Article 2 of this Decree-Law sets out the definition of a perpetrator of the crime of Money-Laundering as- Any person having the knowledge that the funds are proceeds of a felony or a misdemeanour, and who wilfully commits any of the following acts:

- a. Transferring or moving proceeds or conducting any transaction with the aim of concealing or disguising their illegal source;
- b. Concealing or disguising the true nature, source, or location of the proceeds, as well as the method involving their disposition, their movement, ownership or relevant rights;
- c. Acquiring, possessing or using the proceeds upon receipt;
- d. Assisting the perpetrator of the predicate offence to escape punishment.

Punishment: Pursuant to Article 22 of this Decree-Law, any person who attempts to commit or indeed commits any of the above acts may be sentenced up to 10 years imprisonment depending on the severity of the offence. Alternatively, a fine of between AED 100,000-5,000,000 may be imposed.

Furthermore, a temporary imprisonment sentence and/or a fine of no less than AED 300,000 and no more than AED 10,000,000 shall be applied if the perpetrator commits Money Laundering Crime in any of the following situations:

1. If he abuses his influence or the power granted to him by his employment or profession or professional activities;
2. If the crime is committed through a Non-Profit Organisation;
3. If the crime is committed through an organized crime group.
4. In case of recidivism.

Article 14 of this Decree-Law further confirms that financial institutions, designated non-financial businesses and non-profit organisations will face any of the following penalties if found to have violated the same:

1. Financial penalties ranging between AED 50,000-AED 5,000,000 for each violation;
2. Banning of the perpetrator/s from working in the sector for a period of time (to be determined by a supervisory authority);
3. Restricting the powers of Managers, Board of Directors or the executive management team;
4. Suspending managers, board of directors and the executive management team;
5. Suspending or restricting the activity of the profession (to be determined by the supervisory authority); and
6. Cancel the license of the business.

Under Article 29 of this Decree-Law, any expat who commits any money laundering offence or an act relating to the financing of terrorism must be deported from the UAE.

Tax evasion is governed by Federal Decree-Law No. 28 of 2022 on Tax Procedures.

This Decree-Law discusses the requirements placed upon those in tax-related professions, such as accounting.

Article 25, Tax Crimes and Penalties of this Decree-Law confirms that an individual will be deemed to have committed tax evasion in the following circumstances:

- a. Deliberately failing to settle any payable tax;

- b. Deliberately understating the actual value of his business or his revenues or failing to consolidate his related businesses, with the intent of remaining below the relevant registration threshold, tax rate or other tax thresholds;
- c. Deliberately imposing and collecting amounts as tax without being registered;
- d. Deliberately decreasing the due tax; and
- e. Deliberately committing or omitting any other act which may constitute tax evasion under this Decree-Law.

Punishment: Any person who is guilty of tax evasion will be subject to a penalty ranging from a fine or imprisonment (depending upon the severity of the offence). However, it should be noted the penalty will not exceed three times the amount of evaded tax.

Conversely, a prison sentence and/or a fine of no more than AED 1,000,000 will be imposed on anyone who deliberately provides false information, data and incorrect documents to the Authority. The same penalties shall apply for anyone who hinders the Authority from performing their duties, together with destroying or concealing relevant documents.

Market abuse (otherwise known as market manipulation) is governed by Federal Law No. 4 of 2000 Concerning the Securities and Commodities Authority and Market. The following punishments will be applicable to directors if found guilty of market abuse offences:

- a. Providing false information, statements or data that can affect the market value of a specific security and therefore influence an investor's decision of whether to purchase a particular stock or not.

Punishment: Any person found to have breached this regulation may be imprisoned for a period of 3 months – 3 years; and/or face a fine of between AED 100,000- AED 1,000,000.

- b. The use of insider information by a director of a company to purchase or sell securities from their respective company. (this includes the use of confidential information to achieve personal monetary gain or to spread rumours regarding the selling or buying of securities)

Punishment: Any person found to have breached this regulation may be imprisoned for a period of 3 months – 3 years; and/or face a fine of between AED 100,000-AED 1,000,000.

The Chairman/Chairwoman of a company and any members of the Board of Directors of which securities are

listed in a market that is licensed in the UAE may also face imprisonment of up to 3 years; and/or a fine of between AED 100,000- AED 1,000,000.

Whilst **fraudulent** offences are wide-ranging, the below examples provide a brief insight into the punishments for such offences in the UAE:

- a. Article 451 of the UAE Federal Penal Code: whoever succeeds (fraudulently) in appropriating, for them or others, movable property, a written instrument (including signatures), cancellation, destruction or amendments thereof intended to deceive a victim. This includes the use of false names or capacity.

Punishment: Imprisonment of up to 2 years and/or a fine of up to AED 20,000.

- b. Article 346 of Federal Decree-Law No. 32 of 2021 on Commercial Companies: providing false information (including company documents or shares/bonds) in contrary to the law.

Punishment: Imprisonment of between 6 months-3 years; and/or a fine of between AED 200,000-AED 1,000,000.

- c. Article 349 of Federal Decree-Law No. 32 of 2021 on Commercial Contracts: concealing the true financial position of the company. Any Manager, Board Member, Auditor, or Liquidator who deliberately provides false statements in the balance sheet, in the profits and losses account or in a financial report, or omits material facts in such documents for the purpose of concealing the true financial position of the company.

Punishment: Imprisonment of between 6 months-3 years; and/or a fine of between AED 100,000-AED 500,000.

Corruption is a serious crime in the UAE and offenders can face up to 5 years imprisonment.

- a. Under the Penal Code, associates and agents to corruption-related offences can also be held liable.
- b. A legal person will be liable for an offence committed by representatives, directors or agents of the company acting on their behalf or in a way which benefits the company.

Those who have open knowledge of any corruption may be punished should they fail to report it to the relevant authorities.

2. Can corporates be held criminally liable? If yes,

how is this determined/attributed?

Yes, corporates can be held criminally liable for crimes committed by their representatives, directors, or agents when acting on behalf of or in the name of the corporation. This liability is attributed to the company if the actions were within the scope of their authority and intended to benefit the corporation. However, corporate liability does not absolve the individuals involved from personal criminal responsibility; they can still be personally punished under the law with the prescribed penalties.

3. What are the commonly prosecuted offences personally applicable to company directors and officers?

Commonly prosecuted offences personally applicable to company directors and officers include:

- Fraud and Breach of Trust.
- Deliberately providing false or misleading information in the company's memorandum of association, articles of incorporation, share or bond subscription prospectuses, or other company documents.
- Manipulating the company's financial statements, such as balance sheets or profit and loss accounts, to conceal the true financial position of the company.
- Disclosure or exploitation of confidential company information (trade secrets) without authorization.
- Engaging in acts that intentionally harm the company's operations or reputation.

4. Who are the lead prosecuting authorities which investigate and prosecute financial crime and what are their responsibilities?

The primary authorities responsible for investigating and prosecuting financial crime in the UAE are:

- **Public Prosecution (PP)**: the main authority responsible for overseeing the investigation and prosecution of all criminal offences, including financial crime.
- **Securities and Commodities Authority (SCA)**: Investigates financial crimes related to public joint stock companies and the financial markets. Once their investigation is concluded, they refer the case to the Public Prosecution for further prosecution. These authorities are

responsible for ensuring that financial crimes are thoroughly investigated and prosecuted according to UAE law.

- **Central Bank of the UAE (CBUAE)**: Inspects licensed financial institutions and the companies they own or their subsidiaries to ensure their financial soundness and compliance with the UAE laws. It ensures that these institution comply with anti-money laundering (AML) and counter-terrorism financing (CTF) laws. The Central Bank has the authority to require any person suspected of engaging in unlicensed financial activities to provide all information, documents, and records related to those activities and to seize them. The Central Bank employees have the authority to summon any person during the inspection process at a time and place determined by them to provide information, data, documents, or records related to the inspection.
- **Local Police Departments**: Investigate financial crimes at the initial stage, gather evidence, and refer the case to the Public Prosecution.

5. Which courts hear cases of financial crime? Are they determined by tribunals, judges or juries?

Financial crimes in the UAE are typically heard before the Criminal Courts of the particular Emirate in which the offence has taken place (known as the Court of First Instance). The Courts are divided into the following:

- a. Major Felonies Courts (which hear offences punishable by death or life imprisonment);
- b. Minor Felonies Courts (which hear offences punishable by imprisonment for sentences ranging between 3-15 years); and
- c. Misdemeanours Courts (which hear minor offences or wrongdoings – namely those crimes punishable by imprisonment and sentences of less than 3 years; or a fine).

6. How do the authorities initiate an investigation? (E.g. Are raids common, are there compulsory document production or evidence taking powers?)

Financial institutions and other entities (e.g. lawyers, real estate agents, accountants) are required to report any suspicious transactions to the UAE's Anti-Money Laundering and Suspicious Cases Unit (AMLSCU), which

is part of the Central Bank. These reports trigger investigations.

Investigations can also begin following a formal complaint by a victim, whistleblower, or another party. Individuals may lodge a complaint directly with law enforcement agencies, the Public Prosecution or regulator authorities such as the Central Bank or DFSA.

Although raids are uncommon in white collar crime, a raid will take place if there is sufficient evidence available to the authorities to initiate a raid and they determine that a raid is necessary in order to gather further information.

Upon an investigation taking place, the investigator/authorities can oblige the individual to provide relevant documentation / records.

7. What powers do the authorities have to conduct interviews?

Police Officers and Public Prosecutors: Have the authority to issue arrest warrants to compel suspects to attend interviews if necessary.

Public Prosecutors Only: Can issue written orders requiring witnesses to attend interviews. If a witness fails to comply with the order, the Public Prosecutor can issue an arrest warrant to enforce attendance.

8. What rights do interviewees have regarding the interview process? (E.g. Is there a right to be represented by a lawyer at an interview? Is there an absolute or qualified right to silence? Is there a right to pre-interview disclosure? Are interviews recorded or transcribed?)

In the UAE, interviewees have specific rights concerning the interview process. While there is no right to have a lawyer present during police interviews, defendants are entitled to have a lawyer accompany them during interviews conducted by the Public Prosecution, although the Public Prosecutor may restrict this right if deemed necessary for the investigation. There is no absolute right to silence, but interviewees are generally informed of their rights before the interview. There is no formal right to pre-interview disclosure of evidence; however, lawyers can access case files during Public Prosecution interviews, subject to limitations. Interviews are transcribed and signed by both the interviewee and the Public Prosecutor to ensure accuracy and maintain a record of the proceedings.

9. Do some or all the laws or regulations governing financial crime have extraterritorial effect so as to catch conduct of nationals or companies operating overseas?

While UAE laws generally do not have extraterritorial effect, there are specific circumstances where they apply to actions taken outside the country. For example, under Article 69 of the Federal Decree-Law No. 34 of 2021 Concerning Combatting Rumours and Cybercrimes, this Decree-Law can apply extraterritorially in the following cases:

- If the crime involves an electronic information system, information network, website, or information technology means that are private or belong to one of the state institutions.
- If the crime was prepared, planned, directed, supervised, or funded within the state.
- If the crime affects the security of the state internally or externally, or any of its interests, or causes harm to any of its citizens or residents.
- If the perpetrator of the crime is found in the state after the crime was committed and has not been extradited.

10. Do the authorities commonly cooperate with foreign authorities? If so, under what arrangements?

Authorities of the UAE commonly cooperate with foreign authorities. The sources of these cooperations would generally be via a multilateral treaty, a bilateral treaty with the requesting country, or under Federal Law No. 39 of 2006 Concerning International Judicial Cooperation in Criminal Matters in the absence of a treaty.

11. What are the rules regarding legal professional privilege? What, if any, material is protected from production or seizure by financial crime authorities?

The doctrine of 'without prejudice' regarding communications does not exist in the UAE. Parties have the right to use any document which may support their position. The concept of privilege between a client and their lawyer (commonly known in other jurisdictions as 'attorney-client privilege'), however, is a fundamental requirement. In the UAE, this is known as legal professional privilege and any communications between a client and their legal representative cannot be disclosed

without the client's permission. This includes legal advice, documents and communications prepared for the purposes of litigation, and any work product material created by the lawyer in the course of advising or representing the client.

Under Article 45(1) of the Federal Decree-Law No. 34 of 2022 Regulating the Legal Profession and Legal Consultation Profession reads that a lawyer is prohibited from:

- a. *Disclosing any confidential information entrusted to them, whether orally, in writing, via email, through technology, or by any other means, or information learned through their profession, unless the disclosure is necessary to prevent the commission of a crime that endangers human life or safety or causes significant harm to property, or if required by the laws in force in the state.*
- b. *Mentioning personal matters that harm adversaries, agents, or witnesses, or defame their reputation, honour, or dignity, unless necessary for the defence of the client's interests.*
- c. *Disclosing any information about cases they are entrusted with or any confidential information entrusted to them.*

The Ministry of Justice, Ministerial Resolution No. 666 of 2015 of the Code of Ethics & Professional Conduct of the Legal Profession in the UAE further states: "*such information is to be kept confidential regardless of whether the representation is advisory/non-contentious or contentious in nature.*"

Unlike jurisdictions where disclosure requires the release of all documents to an opposing party (regardless of whether the documents support or adversely affect their position), the UAE does not adopt this approach unless the party is expressly told to release a specific document via a Court Order.

12. What rights do companies and individuals have in relation to privacy or data protection in the context of a financial crime investigation?

The Federal Data Protection Law (Federal Decree-Law No. 45 of 2021) Concerning the Protection of Personal Data relates to the privacy of individuals in the UAE. This Decree-Law outlines the general obligations of companies to secure personal data and maintain confidentiality. Pursuant to Article 4 of this Decree-Law, it is an offence to process personal data without the

consent of its owner. However, there are isolated instances where disclosure does not require consent of the owner:

- a. If the processing of the data is necessary to protect public interest.
- b. If the processing of the data is related to personal data which has become available and known to all by an act of the data subject.
- c. If the processing of the data is necessary to initiate any procedures of legal claim or defence of rights or is related to judicial or security procedures.
- d. If the processing of the data is necessary for purposes of occupational or preventive medicine in order to assess the employees' ability to work, performing medical diagnosis, providing health or social care, treatment or health insurance services, managing health or social care systems and services in accordance with the legislation in force in the State.
- e. If the processing of the data is necessary to protect public health, including protection from existing diseases and epidemics, or for the purposes of ensuring the safety and quality of healthcare, medicines, drugs and medical devices, in accordance with the legislation in force in the State.
- f. If the processing of the data is necessary for archival purposes or for scientific, historical and statistical studies in accordance with the legislation in force in the State.
- g. If the processing of the data is necessary to protect the interests of the data subject.
- h. If the processing of the data is necessary for the purposes of the controller or data subject carrying out their obligations and exercising their legally established rights in the field of employment, social security or laws concerned with social protection, to the extent permitted by such laws.
- i. If the processing of the data is necessary to perform a contract to which the data subject is a party, or to take measures at the request of the data subject with the aim of concluding, amending or terminating a contract.
- j. If the processing of the data is necessary to fulfil specific obligations stipulated in other laws in force in the State for the controller.
- k. Any other cases set out in the Executive Regulations of this Decree by law.

Additionally, the following data protection laws are also in effect in the UAE:

- Federal Law No. 15 of 2020 on Consumer Protection: consumer details are prohibited from being shared for marketing purposes.
- Federal Law No. 2 of 2019 Concerning the Use

of Information and Communication Technology (ICT) in Health Fields: the protection of health data and the regulation of healthcare IT systems in the UAE and in freezones.

- Federal Law No. 6 of 2010 on Credit Information (amended): the protection of credit information.
- Federal Decree-Law No. 34 of 2021 on Combatting Rumours and Cybercrimes: law on combatting rumours and cybercrimes in the UAE.

13. Is there a doctrine of successor criminal liability? For instance in mergers and acquisitions?

The general principle under UAE law, is that criminal liability is personal meaning criminal liability cannot be inherited and is attached to the individual or legal entity that committed the offence. For example, if a CEO was to commit a crime, he/she would either be personally liable (or even prosecuted); as would a company if it were to commit the offence.

In the instance of a merger, the company resulting from the merger shall be liable for all the liabilities of the merged companies, in accordance with Article 293 of the Federal Decree-Law No. 32 of 2021 Concerning Commercial Companies. Equally, a company, the subject of an acquisition, will retain any pre-existing liabilities.

14. What factors must prosecuting authorities consider when deciding whether to charge?

In the UAE, the decision to charge is at the discretion of the public prosecution. However, while there are no legally mandated factors that must be considered, in practice, the public prosecution may take into account the sufficiency of the evidence, the seriousness of the offence, the public interest, and the likelihood of securing a conviction before deciding whether to proceed with charges.

15. What is the evidential standard required to secure conviction?

In order to secure a conviction in a criminal case, the prosecution must prove its case to the standard beyond reasonable doubt.

16. Is there a statute of limitations for criminal matters? If so, are there any exceptions?

The limitation periods for criminal actions in the UAE is as follows, as per Article 21 of the Federal Decree-Law No. 38 of 2022 Promulgating the Criminal Procedures Law (the 'Criminal Procedural Law'):

- 20 years for felonies (excluding offences of Qisas, blood money, or offences punishable by death or life imprisonment);
- 5 years for misdemeanour cases; and
- 1 year for minor offences.

The limitation period starts from the date the crime was committed. Conversely, the limitation period for criminal convictions as per Article 320 of the Criminal Procedural Law is as follows:

- 30 years for felonies (excluding offences of Qisas, blood money, or offences punishable by death or life imprisonment);
- 7 years for misdemeanour cases; and
- 2 years for minor offences.

Nonetheless, the Penal Code affirms that no time limitations shall apply to crimes which:

- Threaten the national security of the UAE (Article 227);
- Involve embezzlement and damage to public funds (Article 270);
- Involve positions held in public office (such as bribery/corruption) (Article 286); and
- Relate to any related civil action.

17. Are there any mechanisms commonly used to resolve financial crime issues falling short of a prosecution? (E.g. Deferred prosecution agreements, non-prosecution agreements, civil recovery orders, etc.) If yes, what factors are relevant and what approvals are required by the court?

Yes, the UAE legal system allows for several mechanisms to resolve financial crime issues without proceeding to full prosecution. Common methods include settlements where the victim withdraws the complaint after reaching an agreement with the defendant. Such settlements often require notarisation to be valid. For certain crimes, like breach of trust, this approach is frequently used. Additionally, plea bargaining is another mechanism which will be dealt with in Q18 below.

18. Is there a mechanism for plea bargaining?

Plea bargains are only available for certain types of offences, including both misdemeanours and felonies. It is at the discretion of the Public Prosecutor whether a plea bargain is offered to the alleged offender (i.e. a settlement), or instead the case proceeds directly to a criminal trial. However, of course, the final decision lies with the Court, and the Court must be satisfied with both the procedure followed and the contents of any agreement between the alleged offender (and their defence) and the prosecution.

Articles 360-375 of the Criminal Procedural Law outline the legal framework for plea-bargaining in the UAE. It is fair to argue that such a framework is designed to avoid unnecessary litigation for parties given the cost implications and the time-consuming nature of investigations and the resulting Court procedures.

Nonetheless, Article 361 of the Criminal Procedural Law expressly states that plea bargains will not be offered to any alleged offender involved in:

- a. Qisas and blood money offences;
- b. Criminal offences affecting the national security of the UAE;
- c. Criminal offences described in the Juvenile Delinquents and Vagrant Law;
- d. Criminal offences for which the law does not allow reduced sentences;
- e. Specific offences to which the Public Prosecution applies the provisions of the criminal order; and
- f. Offences that are inseparably associated with an offence to which the plea bargaining process is not applicable.

19. Is there any requirement or benefit to Is there any obligation to disclose discovered misconduct to prosecuting authorities, or any benefit to making a voluntary disclosure? Is there an established route or official guidance for making such disclosures? a corporate for voluntary disclosure to a prosecuting authority? Is there any guidance?

Under the Penal Code, all individuals are obligated to report criminal conduct. Notwithstanding, this is easier said than done, particularly if it involves an employee disclosing information relating to an employer and their misconduct.

With the exception of the Dubai International Financial Centre (DIFC) and the Abu Dhabi Global Market (ADGM), there are no laws or frameworks in effect in the UAE which govern whistleblowing or the protection of the same.

The DIFC Operating Law offers protection to those who whistle blow and conduct business in the DIFC. In summation, a whistleblower in the DIFC will be protected if they report misconduct to the auditor of the DIFC entity, the DIFC entity itself (i.e. a person of authority, such as a director) or the DIFC Registrar of Companies. By way of protection, if voluntary whistleblowing is made in good faith, the whistleblower cannot be dismissed by the employer or be the subject of any legal action taken by the employer (such as an alleged breach of contract).

The Dubai Financial Services Authority (DFSA) (the body which regulates companies in the DIFC) has also enforced special exemption regulations and ultimately enhanced protection for whistleblowers who report misconduct either to the above listed individuals or to local law enforcement. Under the provisions of the DFSA, should the company be DFSA regulated, it is compulsory for the identity of the whistleblower to remain confidential and exempt from any employment related sanctions as a result of their disclosure.

The ADGM has also introduced its own whistleblowing regulations for ADGM entities. Although no specific framework exists under these regulations, the ADGM does emphasise that any whistleblowers who make a report of misconduct in good faith should have their identity protected and the subject of any conversations shall remain confidential. Moreover, the importance of companies having internal procedures in place for staff to disclose concerns is recommended.

The following regulations are also in effect in the UAE for those who voluntarily come forward with information:

- Article 232 of the Penal Code: any person/s who conspires to commit a crime shall be exempt from the relevant punishments if they take the initiative to report the conspiracy and/or the participants to the appropriate authorities before any of the crimes have been committed.
- Article 457 of the Penal Code: an offender will be exempt from penalties if they take the initiative to inform the judicial or administrative authorities of the crime from which the proceeds have resulted and of the persons who committed such crime before it is discovered.
- Article 61 of the Federal Decree-Law on Countering Rumours and Cybercrimes: upon the request of the

Attorney General, the Court may use its discretion to reduce any punishment imposed on a potential offender or exempt them completely if they have provided information to the judicial or administrative authorities relating to any crimes of the UAE's national security, and this information further leads to the arrest of other perpetrators.

- Article 22(6) of the Federal Decree-Law on Anti-Money Laundering, Combating the Financing of Terrorism and Financing of Illegal Organizations: the Court, at the request of the Public Prosecutor, may use its discretion to set aside or alleviate the sentence of any perpetrator should they provide the judicial or administrative authorities with information relating to a money laundering or financing terrorism offence and the information leads to the arrest of perpetrators or the seizing of the proceeds.

- If the prescribed penalty for the felony is death, it may be reduced to life imprisonment or temporary imprisonment.
- If the prescribed penalty for the felony is life imprisonment, it may be reduced to temporary imprisonment or imprisonment for not less than six months.
- If the prescribed penalty for the felony is temporary imprisonment, it may be reduced to imprisonment for not less than three months

20. What rules or guidelines determine sentencing? Are there any leniency or discount policies? If so, how are these applied?

In the UAE, sentencing is governed by the Federal Penal Code (Federal Law No 31 of 2021). The legal provision related to the respective crime draws the general sentencing guidelines. The court generally has the discretion in aggravating, reducing, or exempting punishment based on specific circumstances;

Aggravation applies if the crime:

- involves a vile motive.
- involves exploitation of a vulnerable victim
- involves brutal methods or mutilating the victim
- is committed by a public official abusing their power

Where an aggravating circumstance is present in a crime the court can impose various penalties in accordance with the crime. However, there are instances where the court may lower or exempt the defendant from the punishment. These are in cases where mitigating circumstances exist. Mitigating circumstances, are either the defendant's youth, the commission of the crime for non-malicious reasons, or committing the crime due to serious provocation from the victim without justification. Mitigation excuses have an effect on all types of crimes, while mitigation circumstances only have an effect on misdemeanours.

The effect of a mitigation excuse varies in felonies and misdemeanours, in felonies:

In misdemeanours:

- If the penalty has a specific minimum limit, the court is not bound by it in determining the penalty.
- If the penalty is both imprisonment and a fine, the court may impose only one of the two penalties.
- If the penalty is imprisonment without a specific minimum limit, the court may impose a fine instead.

As for mitigation circumstances in misdemeanours, if the court finds in a misdemeanour that the circumstances of the crime or the offender warrant leniency, it may reduce the penalty.

If both a mitigating circumstance and a mitigating excuse are present in a misdemeanour, the court may grant judicial pardon to the defendant.

If aggravating circumstances are combined with mitigating excuses or mitigation circumstances in a single crime, the court first applies the aggravating circumstances, then the mitigating excuses, and finally the mitigating circumstances.

21. In relation to corporate liability, how are compliance procedures evaluated by the financial crime authorities and how can businesses best protect themselves?

In the UAE, prosecuting authorities evaluate compliance procedures as part of their investigation into potential financial crimes or regulator breaches. Major compliance requirements have been established in the UAE for businesses to adhere to.

Non-compliance with the mandatory corporate compliance requirements can result in severe penalties, including fines, imprisonment; and loss of business licenses and permits (or deportation if expats are involved in the offence). The penalties vary depending on

the type of violation and the severity of the breach.

Businesses should follow these mandatory requirements to ensure a secure and safe business environment. In order to protect themselves, businesses should establish comprehensive compliance policies and procedures, conduct and keep proper record keeping, regularly monitor and audit practices, provide employees with training and awareness programs on compliance policies and ethical standards.

22. What penalties do the courts typically impose on individuals and corporates in relation to the key offences listed at Q1?

Depending on the nature and severity of the offence, individuals found guilty can face imprisonment, fines, or both (and deportation if an expat is to commit any crimes in the UAE). The length of imprisonment can range from a few months to several years, depending on the circumstances of each case. Companies can also be subject to huge fines and may have their operations suspended or license revoked.

Individuals convicted of offences relating to fraud may be ordered to compensate their victims.

23. What rights of appeal are there?

Both the defendant and the public prosecution have the right to appeal a court's decision. The public prosecution can appeal if they consider the sentence to be too lenient. The appeal is heard by the Court of Appeal, and its judgment can be further appealed before the relevant Court of Cassation.

24. How active are the authorities in tackling financial crime?

In recent years, UAE authorities have significantly intensified their efforts to combat financial crime in line with global standards. The legal framework is frequently updated to keep pace with emerging financial crime trends such as financial crime relating to digital assets and AI-related offences. The UAE actively collaborates with international bodies such as the Financial Action Task Force (FATF) INTERPOL, and other global financial crime prevention organisations. Authorities continue to enhance digital infrastructures and strengthen cross-border cooperation. These measures reflect the UAE's commitment to maintaining its reputation as a secure

financial hub.

25. In the last 5 years, have you seen any trends or focus on particular types of offences, sectors and/or industries?

Over the past five years, UAE authorities have concentrated their efforts on combating money laundering. This focus culminated in the UAE's removal from the Financial Action Task Force's (FATF) grey list in February 2023.

26. Have there been any landmark or notable cases, investigations or developments in the past year?

One of the most significant cases in the past year involved the Money Laundering Court at Dubai Courts, which convicted a 30-member gang and seven companies for laundering 32 million AED in an online scam. The members received a combined 96 years of imprisonment and will be deported after serving their sentences. The court-imposed fines exceeding 32 million AED and ordered the confiscation of assets used in the crime.

27. Are there any pending or proposed changes to the legal, regulatory and/or enforcement framework?

Proposals for new or amended legal, regulatory, or enforcement frameworks in the UAE are typically kept confidential until the relevant authorities decide to make them public for consultation. At present, no specific changes have been publicly announced.

28. Are there any gaps or areas for improvement in the financial crime legal framework?

As cryptocurrency grows, as do its regulations, the UAE is required to introduce robust regulations to address associated risks, such as money laundering and fraud. Increasing public awareness and introducing whistleblower protections that encourage reporting of financial crime could improve the detection and prevention of financial crime. Introducing innovative enforcement methods, for investigators who face difficulties in questioning/prosecuting individuals who reside outside of the UAE. All the above suggestions would further strengthen the UAE's efforts in combatting financial crime.

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