



CONSULTATION PAPER

22 November 2022

**PROPOSED REGULATORY APPROACH
APPLICABLE TO THE STRATEGIC
COOPERATION AND INFORMATION
SHARING
AMONG UAE PUBLIC-PRIVATE
PARTNERSHIP
IN THE FRAMEWORK OF PREVENTING AND
FIGHTING MONEY LAUNDERING,
TERRORIST FINANCING AND THE
FINANCING OF THE PROLIFERATION OF
WEAPONS OF MASS DESTRUCTION**



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I. Preface

1.1 **Purpose of the Consultation Paper**: The UAE AML/CFT Public Private Partnership Committee (“PPPC”) is consulting on the introduction of a regulatory approach applicable to the strategic cooperation and information sharing among its Partners in the framework of preventing and fighting money laundering, terrorist financing and the financing of the proliferation of weapons of mass destruction.

1.2 The PPPC invites comments from Partners on the proposed regulatory approach.

Please note that all submissions received will be published and attributed to the respective respondents unless they expressly request the PPPC not to do so. As such, if respondents would like

(i) their whole submission or part of it (but not their identity), or

(ii) their identity along with their whole submission,

to be kept confidential, please expressly state so in the submission to the PPPC. The PPPC will only publish non-anonymous submissions. In addition, the PPPC reserves the right not to publish any submission received where the PPPC considers it not in the public interest to do so, such as where the submission appears to be libellous or offensive.

1.3 Please submit written comments, in accordance with the template provided in Annex C, through electronic submission at the earliest convenience but no later than **16 December 2022** by responding to the following email address: consultation@amlctf.gov.ae indicating in the subject line “*Consultation responses to introduction of regulatory approach re strategic cooperation and information sharing*”.

The Executive Office of Anti-Money Laundering and Counter Terrorism Financing
Mubadala Tower
23 Floor
Al Nahyan,
Abu Dhabi
UAE



II. Introduction and Background

1.1 UAE's anti-money laundering and countering the financing of terrorism ("UAE AML/CFT") defences have strengthened in recent years, through sharpened Money Laundering/Terrorism Financing/Proliferation Financing ("ML/TF/PF") risk awareness amongst Financial Institutions ("FIs") and Designated Non-Financial Businesses and Professions ("DNFBPs") as well as closer public-private partnership, to identify and disrupt criminal activities and networks.

1.2 In this context, the UAE AML/CFT Public Private Partnership Committee (the "PPPC") has been created pursuant to Administrative Decision No. (549) of 2021 on the establishment of a subcommittee on public private partnerships to combat money laundering and terrorism financing with the aim of detecting and disrupting criminal activities, reducing any harm done to the integrity of UAE's financial system by means of information and intelligence sharing between government agencies and private sector.

1.3 The PPPC is comprised of government agencies¹ and private sector representatives² and the main objectives of these participants are to:

- i. Create a platform for public and private sector to exchange information and share intelligence – that is, operational cooperation.
- ii. Enhance channels of communication to increase risk understanding and build capacities and share expertise – that is, strategic cooperation.

1.4 **Legal basis of this Consultation Paper:** To serve these goals, during its first meeting in August 2021, the PPPC agreed to create the Sharing Information Task Force (the "SITF") which was tasked to work on proposing the legislative framework to share information and intelligence between public and private sectors and ensure that proper governance is in place.

1.5 **Scope of the Consultation Paper:** As a result, the SITF has drafted the following provisions as regulatory approach in order to allow formal sharing of information and intelligence between public and private sectors with consideration given to confidentiality, data protection obligations and other rules.

1.6 During a SITF working group call-meeting, it has been agreed that, in the first/initial phase, only Strategic Information will be covered by these provisions.

¹ Members are the UAE's leading entities in the fight against financial crime as listed in the Annex A. This list of members is not exhaustive and can be amended from time to time.

² From the private sector, the PPPC has members from all the UAE's largest FIs, as well as key DNFBPs as listed in the Annex B. This list of members is not exhaustive and can be amended from time to time.

- 1.7 Sharing of operational information – which can be defined as information/intelligence on suspects in a criminal investigation (or prior to the opening of a formal criminal investigation) in the context of preventing and fighting money laundering, the financing of terrorism and the financing of the proliferation of weapons of mass destruction – is not covered under this initial phase.
- 1.8 Indeed, it's foreseen that progressively, the sharing of operational information among the Partners of the PPPC will be incorporated through an adequate legal framework and, if any, an information sharing agreement/charter signed by the Partners.
- 1.9 Notwithstanding the above, note that the exchange of operational information between Government Agencies and Private Sector is, in part, already covered by the filing of suspicious transactions/activities reports (STR/SAR) by the Private Sector to the FIU.

Question 1: Would you suggest to enact these provisions as a standalone law or to integrate them within the UAE Federal Decree Law on AML/CFT³? Please explain further your option.

Question 2: Would you suggest to add a provisions related to AML whistleblower into these provisions such as the US have done via the Anti-Money Laundering Act (AMLA) 31 U.S.C. § 5323 (a)(5) & (g) & (j)⁴ ? Please explain further your approach.

III. Proposed regulatory and legal framework approach

Section 1 – Definition and Interpretation

- *Government Agencies* refer to any UAE's leading regulatory authorities and law enforcement authorities in the fight against financial crime as listed in Annex 1. This list of agencies is not exhaustive and can be amended from time to time.
- *Operational Information* refers to information/intelligence on suspects in a criminal investigation (or prior to the opening of a formal criminal investigation) in the context of preventing and fighting money laundering, the financing of terrorism and the financing of the proliferation of weapons of mass destruction.
- *Partner(s)* refer to any member of the PPPC.
- *Person* refers to any employee, director, officer, representative, agent or consultant of a Partner.

³ Federal Decree No. 20 of 2018 on Anti-Money Laundering and Countering the Financing of Terrorism as amended from time to time

⁴ [Anti-Money Laundering Act \(AMLA\) | Whistleblower Protection Program \(whistleblowers.gov\)](https://www.whistleblowers.gov/)

- *Private Sector* refers to UAE's regulated financial institutions (FIs), as well as key designated non-financial businesses and professions (DNFBPs) as defined in the FATF Recommendation 22 and as listed in Annex 2. This list of members is not exhaustive and can be amended from time to time.
- *Strategic Information* refers to information and/or intelligence related to typologies, methods, trends, patterns, risk indicators, and aggregate feedback to suspicious transaction reports in the context of preventing and fighting money laundering, the financing of terrorism, and the financing of the proliferation of weapons of mass destruction. It may also include threat assessments and information regarding vulnerabilities of the jurisdiction and/or specific sectors that may be relevant to identifying, evaluating, and understanding risks.
- *UAE AML/CFT Public Private Partnership Committee (the "PPPC")* refers to the Public-Private Partnership Committee as created pursuant to Administrative Decision No. (549) of 2021 on the establishment of a subcommittee on public private partnerships to combat money laundering and terrorism financing and which comprises Government Agencies and Private Sector.

Question 3: What other definitions would you suggest to add within the section 1?

Section 2 – Strategic Cooperation and Information sharing among the Partners

1. A Partner, through its Person, may share any Strategic Information in connection with the purposes of preventing and fighting money laundering, the financing of terrorism, and the financing of the proliferation of weapons of mass destruction.

Other Government Agencies or entities of the Private Sector that are not listed in Section 1 may be consulted on a confidential basis for the purpose of sharing Strategic Information in the context of preventing and fighting money laundering, the financing of terrorism, and the financing of the proliferation of weapons of mass destruction.

2. Subsection (1) authorises the exchange of Strategic Information only in the context of cooperation aimed at helping identify, evaluate, and understand risks, threats, vulnerabilities, methods, trends, patterns and typologies at the jurisdictional level and/or in specific Private Sectors.
3. In principle, subsection (1) does not authorise any of person of the UAE state security service or intelligence agency to share information.

However, this does not affect the disclosures which such a person may make on a confidential basis and in accordance with service or agency disclosure arrangements to share its expertise to identify, evaluate and understand the risks in connection with preventing and fighting money laundering, the financing of terrorism, and the financing of the proliferation of weapons of mass destruction.

4. A disclosure of Strategic Information which is authorised or required in the context of preventing and fighting money laundering, the financing of terrorism, and the financing of the proliferation of weapons of mass destruction does not breach:
- a. an obligation of confidence owed by the Partner or the Person making the disclosure, or
 - b. any other restriction on the disclosure of Strategic Information.

This subsection is however subject to Section 4 (Restrictions on sharing and disclosure of Strategic Information).

Section 3 – Purpose and goal of Strategic Cooperation and Information sharing

Sharing Strategic Information among the Partners pursuant to Section 2 shall be used only for the following purposes:

- Analysing current, emerging and evolving typologies, threats, vulnerabilities, methods, trends and patterns in order to enhance the understanding of money laundering, terrorist financing, and the financing of the proliferation of weapons of mass destruction risks at the jurisdictional level and in specific Private Sectors,
- Improving the quality of suspicious transaction and activity reporting by Private Sector entities,
- Preparation of risk indicators and red flags in order to improve the detection by Private Sector entities of suspicious financial flows,
- Working jointly among the Partners of the PPPC on risk mitigation measures related to specific money laundering, terrorist financing, and the financing of the proliferation of weapons of mass destruction risks,
- Identifying gaps in the legal and regulatory frameworks considered necessary to enhance the efficiency and effectiveness of the system,
- Understanding Private Sector innovation and emerging technologies in connection with financial and non-financial products and services,
- Joint capacity building/training activities and provision of technical assistance.

Question 4: The PPPC seeks comments on the proposed provisions related to the purpose and goal of strategic cooperation and welcomes further suggestions on what should be the main objectives of a public-private partnership for the exchange of strategic information in the context of fighting money laundering, the financing of terrorism and financing of the proliferation of weapons of mass destruction.



Section 4 – Restrictions on sharing and disclosure of Strategic Information

1. General requirement

Unless otherwise stated, all Strategic Information exchanged among the Members or Partners of the Committee shall be considered confidential. Each Member or Partner is obligated to protect the security and confidentiality of Strategic Information shared among the Members or Partners of the Committee.

Each Member or Partner must take precautionary measures to protect the security and confidentiality of the Strategic Information shared among the Members or Partners of the committee.

2. Fit and Proper Criteria

Each Private Sector Partner shall ensure that it will be represented by one representative to participate in the PPPC meetings and in Strategic Information Sharing activities; and ensure that this representative has sufficient seniority and experience, competence and capability, honesty and integrity, fairness and ethical behaviour to participate in such meetings.

The identities of authorized Persons representing PPPC Partners shall remain confidential and treated as confidential information under this framework.

3. Restrictions on disclosures of particular types of information

Members or Partners are obligated to share and disclose Strategic Information, in a manner that does not conflict with the provisions contained in Federal Decree-Law No. 45 of 2021 regarding the Protection of Personal Data as well as in the relevant data protection law applicable to their entities.

Members or Partners are obligated not to disclose any personal or sensitive data of the suspects, specified entities, individual clients, or clients in the Private Sector, in contravention of the provisions of Federal Decree-Law No. 45 of 2021 regarding the Protection of Personal Data or the provisions of the relevant data protection law applicable to their entities.

4. No restrictions on further disclosure for published information

In the context of sharing Strategic Information, there is no restrictions on the further disclosure of information if the information is publicly available meaning that a Person has a reasonable basis to believe that the information is lawfully made available to the general public from: federal or emirates local governments records; widely distributed media; or disclosures to the general public that are required to be made by federal or emirates local law.



Question 5: The PPPC seeks comments on the proposed provisions related to the restrictions on sharing and disclosure of strategic information and welcomes suggestions to put in place measures to safeguard the confidentiality and appropriate use of the shared strategic information.

Section 5 – Responsibility for disclosure or unlawful sharing of Strategic Information

Whoever discloses information or participates in violating of the provisions set forth in Section 4 – Subsections 1 and 3 shall be considered as an offender of the crime of disclosing Strategic Information or unlawful sharing.

The offenses referred to the previous subparagraph shall not prejudice legal action or the right to claim any damages in respect of a violation of the provisions laid down above in Section 4 – Subsections 1 and 3.

Whoever discloses or unlawfully shares Strategic Information or participates to this offense or violates the provisions of Federal Decree-Law No. 45 of 2021 regarding the Protection of Personal Data or the provisions of the relevant data protection law applicable to their entities shall be sanctioned from the date of the initiation or commission of the crime

Section 6 - Digital Platform for Information Exchanges

The PPPC members will work jointly towards developing a digital platform to enable the secure and confidential exchange of Strategic Information (in the initial phase) and Operational Information (in the second phase) among Partners. Upon the establishment of such digital platform, all exchanges of documents involving Strategic Information (in the initial phase) and Operational Information (in the second phase) shall be conducted through it. In the meantime, all exchanges of documents shall be conducted by e-mail in accordance with the rules set forth in this framework.

Question 6: The PPPC seeks comments and suggestions on which entity should host this digital platform? Please explain further your option.

Question 7: The PPPC seeks feedback on the importance of such platform for the exchange of operational information and welcomes suggestions on (i) what should be the main objectives for this platform, (ii) what risks could arise from such tool and would need to be covered under a regulatory framework, (iii) and what should be the timeframe for the implementation of this platform?



Section 7 – Annual Reporting

On an annual basis, the PPPC, through its secretariat, will publish a report of the activities and outcomes of the PPPC to keep the public informed of its contributions to the prevention and fight against money laundering, terrorist financing, and the financing of the proliferation of weapons of mass destruction. The Government Agencies participating in the PPPC will work jointly in determining which activities and outcomes may be made public, considering national security interests and the protection of all PPPC members.

Question 8: The PPPC seeks general feedback on the proposed framework on strategic information sharing paradigm and welcomes suggestions to enhance these provisions



Annex A List of Government Agencies of the PPC

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|---|
| Central Bank of UAE |
| Ministry of Economy |
| Ministry of Interior |
| Ministry of Justice |
| Federal Public Prosecution |
| Abu Dhabi Public Prosecution |
| Dubai Public Prosecution |
| Ras Al Khaimah Public Prosecution |
| Ministry of Finance |
| Securities and Commodities Authority |
| Federal Authority for Identity, Citizenship, Customs & Port Security |
| Federal Tax Authority |
| Dubai Financial Services Authority |
| Abu Dhabi Global Market Financial Services Regulatory Authority |
| Financial Intelligence Unit |
| The Executive Office for Control and Non-Proliferation |
| The Executive Office of Anti-Money Laundering and Counter Terrorism Financing |



Annex B List of Private Sector members of the PPPC

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|--|
| Abu Dhabi Commercial Bank |
| First Abu Dhabi Bank |
| Standard Chartered Bank |
| Barclays |
| Hongkong and Shanghai Banking Corporation |
| Citibank |
| Emirates NBD |
| Mashreq Bank |
| Abu Dhabi Catalyst Partners |
| SHUAA Capital PSC |
| PRAXISIFM Secretaries Limited |
| Lulu Exchange |
| Al Ansari Exchange |
| Zurich International Life Limited (Dubai Branch) |
| Al Futtaim Finance Company |
| Waystone Compliance Solutions (formerly CCL Limited) |
| EFG Hermes |
| Corporate Service Providers Working Group |
| Real Estate international Union |
| Gold and jewelry group |
| Emirates Association of Lawyers and Jurists |
| Al Tamimi & Company |
| Backer McKenzie |
| Allen & Overy |
| KPMG |
| Association of Accountants and Auditors |



Annex C Template for responses to consultation paper

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| | |
|---|--|
| Consultation topic: | Proposed regulatory approach applicable to the strategic cooperation and information sharing among UAE public-private partnership in the framework of preventing and fighting money laundering, terrorist financing and the financing of the proliferation of weapons of mass destruction. |
| Name of the Partner: | |
| Contact number for any clarifications: | |
| Email address for any clarifications: | |
| Confidentiality | |
| I wish to keep the following confidential: | <i>(Please indicate any parts of your submission you would like to be kept confidential, or if you would like your identity to be kept confidential. Your contact information will not be published.)</i> |



General comments:

Question 1. Would you suggest to enact these provisions as a standalone law or to integrate them within the UAE Federal Decree Law on AML/CFT⁵? Please explain further your option.

<Please fill in your response to each question in the blank space below the question.>

Question 2. Would you suggest to add a provisions related to AML whistleblower into these provisions such as the US have done via the Anti-Money Laundering Act (AMLA) 31 U.S.C. § 5323 (a)(5) & (g) & (j)⁶? Please explain further your approach.

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