# KSA & UAE – compare and contrast



*The Kingdom of Saudi Arabia (KSA) and the United Arab Emirates (UAE) - political and economic heavy-weights in the Middle East, while they have much in common are also distinguished by their anti-money laundering/combating the financing of terrorism (AML/CFT) regimes and the risks they face, primarily due to the UAEs' greater exposure to the international financial system.* ***Paul Cochrane*** *conducts a review in parallel from Beirut.*

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## Size and composition

Neighbouring Saudi Arabia and the UAE are stalwart allies of the West, both having a strong international standing due to their economic and political clout derived from oil exports. But at a jurisdictional level, the two countries operate differently. Saudi Arabia is an absolute kingdom ruled by the Al Saud family, with a population of 33.5 million, of which 10.74 million are expatriates, while the UAE is a federal system of seven (Dubai, Abu Dhabi, Fujairah, Ras al Khaimah, Al Ain, Ajman and Sharjah), with a population of 9.4 million, of which the overwhelming majority - 8.4 million - are expatriates.

The UAE has been a lot more open to global business and trade than Saudi Arabia, particularly Dubai, which has diversified its economy away from oil over the past two decades.

## Western influence

"From my perspective they are very different in terms of the ML risks they face. The UAE is a regional financial hub and Saudi Arabia is not. Dubai has a lot of inherent risks and exposure to flows within the region and globally, and has an open business environment, with free trade zones a challenge for regulators," said Katherine Bauer, the Blumenstein-Katz Family fellow at The Washington Institute for Near East Policy, and a former official at the US Treasury Department. Indicative is a "lot more focus on AML within the UAE than Saudi Arabia by foreign banks," said Tashfin Shafique, managing partner and founder of London-based Emerge Consultants, which advises clients on governance, risk and compliance globally.

"Saudi Arabia is more reactive than proactive, which is a clear difference with the UAE due to its exposure to the West," he added. The distinction is evident, he said, in the amount of AML/CFT training and private sector initiatives underway in the UAE, which has been pushed by global banks on one hand and, on the other, at the government level, to address the phenomenon of de-risking by correspondent banks over the past four years.

International risk has driven improvements in the UAEs' AML regime since 2013. "They realised they needed to know more about inflows of capital, related domestic threats, and security, but also to face reputational risks, so there has been upward pressure on the regulator to address that," said Bauer.

## UAE – multiple authorities

The UAE has a federal system, with overall decisions stemming from Abu Dhabi, while each Emirate has its own judiciary. Commercial bank licensing is federated, with licences issued by the Central Bank of the UAE, in Abu Dhabi.

Under the federal system, numerous government entities are involved in AML enforcement and regulation, led by the Anti-Money Laundering and Suspicious Cases Unit (AMLSCU) – the financial intelligence unit of the Central Bank of the UAE, the National Anti-Money Laundering Committee, the Anti-Money Laundering and Suspicious Cases Unit, the Emirates Securities and Commodities Authority, the Insurance Authority UAE, and the Financial Services Regulatory Authority of the Abu Dhabi Global Market Free Zone. Prosecutions are handled by the UAE Public Prosecution Service. The AMLSCU, after analysing suspicious transactions reports (STRs), refers cases to the UAE Public Prosecution Service.

The UAE central bank is primarily responsible for overseeing banks in the UAE, except in the Dubai International Financial Centre (DIFC), where the regulatory authority is the Dubai Financial Services Authority (DFSA) and in the Abu Dhabi Global Market (ADGM), where the regulatory authority is the Financial Service Regulatory Authority (FSRA).

"The DFSA has adopted a regulatory approach modelled, at least in part, on the Financial Services Authority in the UK," said Ali Zbeeb, managing partner of Zbeeb Law & Associates, in Beirut, Lebanon. "A bank operating in the DIFC will be subject to civil liability under the various DIFC laws, regulatory liability in respect of the applicable DIFC laws, such as the Market Law and the Regulatory Law, plus the provisions of the DFSA Rulebook. Depending on the relevant customer documentation, a bank in the DIFC may also be exposed to civil liability under the laws of the UAE outside the DIFC. Finally, there may be occasions when a bank in the DIFC would be exposed to criminal liability such as under the UAE Federal Penal Code."

The central bank is the main regulator of the banking sector, while the two largest Emirates (Abu Dhabi and Dubai) have security services with anti-money laundering units, that work with federal regulatory bodies and law enforcement.

"There's a more complicated regulatory and law enforcement structure, and exposure to risk, compared to Saudi Arabia," said Bauer.

The UAEs' 45 free trade zones add to the complexity. There are a further 29 free trade zones in Dubai, with more than US$97 billions' worth of goods traded a year, according to Shafique. "Trade based money laundering [TBML] is a risk in free zones, and connections between free zones, the regulators and banks are not always being made," he said.

The UAE is to be evaluated by the Financial Action Task Force (FATF) in late 2019, and has taken pre-emptive steps by issuing *Federal Law No. 20 of 2018 on Anti-Money Laundering, Combating the Financing of Terrorism and Financing of Illegal Organisations*, which provides greater investigative powers, including for the federal Public Prosecution Service, such as obtaining and investigating third party data and records from other agencies, institutions and businesses. The law also raises fines for ML and TF, from UAE Dirhams AED300,000 (US$81,600) to AED50 million (US$13.6 million) with compulsory liquidation if related to terrorism financing; streamlines procedures to freeze ML/TF suspected funds; and criminalises breaches of UN Security Council Resolutions on economic sanctions and terrorism. The DIFC's AML laws have also been amended to reflect these changes in federal anti-money laundering legislation. [1]

## Saudi central

In Saudi Arabia, AML oversight underwent changes in 2017, just before FATF's team arrived in the kingdom to carry out a mutual evaluation report. The Saudi Arabia Financial Intelligence Unit (SAFIU) was shifted from the Ministry of Interior to a new ministry, the State Security Presidency, and in late 2017, comprehensive revisions of the kingdom's *Anti Money Laundering Law and Law on Terrorism Crimes and Financing* were adopted, including higher levels of regulatory control on financial institutions and Designated Non-Financial Businesses and Professions (DNFBPs). This included penalties of a three-to-15-year prison sentence or a fine of up to Saudi Riyals 7 million (US$1.87 million). [2]

The top AML/CFT regulator in the country is the Saudi Arabian Monetary Authority (SAMA) – which has supervisory authority over the banking sector, but "when it comes to the control over SAFIU, the ministry of interior has the upper hand since SAFIU was established and operates under the ministry," said Zbeeb.

## Recent evaluation

FATF's Mutual Evaluation Report, released in September 2018 [3], gave the kingdom a pass in technical compliance, but noted some serious shortcomings in practical implementation and SAFIU's capabilities. The report noted that SAFIU is "not conducting sophisticated financial analysis", with analysts having to do manual searches of databases due to a lack of "adequate IT systems for investigations". FATF's verdict on Saudi Arabia was that it complied fully with four recommendations, was largely compliant with 26, and partially compliant with 15. The kingdom was rated compliant or largely compliant with eight of its 16 core and key recommendations. The findings are likely to have contributed to Saudi Arabia's inclusion on the European Commission's proposed list of third countries with serious deficiencies in their AML/CFT frameworks, published on 13 February. [4]

The lack of dovetailing with FATF guidance is perhaps not a surprise, said Bauer: "Saudi law enforcement uses a lot of financial intelligence despite the weaknesses of the FIU, but tends to focus on intelligence cooperation over legal cooperation, so not in the way [FATF] standards dictate."

The FATF report stated that while there was strong cooperation between government agencies, SAFIU needed to bolster its capabilities, particularly in suspicious transactions reports (STRs) and analysis. "Saudi Arabia has not been good at reporting or encouraging to report through the FIU, and FATF said they'd not seen many STRs reported compared to the UAE," said Shafique.

In terrorist financing, overseen by the kingdom's General Intelligence Presidency, which utilises SAIFU reports, FATF noted that there had been more than 1,700 terrorist financing investigations since 2013.

## Naming the culprits

However, the kingdom does not publicise enforcement actions. "The FATF report highlights the lack of transparency in targeted financial sanctions in Saudi Arabia. Across the Gulf the idea of publicising the actions in compliance with FATF standards is a barrier," said Bauer.

With so many expatriate workers, both countries have in recent years increased oversight of money services businesses (MSBs) and alternative remittance systems, with remittances from Saudi Arabia estimated at US$38 billion, and over US$19 billion from the UAE, in 2017, according to World Bank figures. "They have similar risks with such large expatriate populations and the remittances associated with that, with challenges to regulate MSBs," said Bauer.

## MSBs

In updating the AML and CFT regulations, SAMA adopted FATF recommendations on MSBs to follow global practice, according to Zbeeb. FATF notes "a requirement for international providers to operate through a partnership with one of seven Saudi-licensed banks", ending the issuance of licences to standalone operators, and "the creation of over 730 remittance centres across Saudi Arabia".

In the UAE, "MSBs have judiciously adhered to all international, specifically US, financial regulations to maintain clean compliance sheets to avoid any anomalies, in line with Law No. 20 enacted in 2018, which replaced the 2002 Law," said Zbeeb.

## Terrorist financing

Countering terrorism and extremism has been a challenge in both countries for decades. Notably, 15 of the 19 members of Al Qaeda who attacked the USA on 11 September 2001 came from Saudi Arabia, while two were Emiratis. In the years since, both countries have come under the spotlight for weak counter terrorism controls and enforcement, but external pressure, especially from the USA, has improved CFT and cooperation, with a Terrorist Financing Targeting Centre (TFTC) established in 2017, co-chaired by Saudi Arabia and the USA, with other members being Bahrain, Qatar, Kuwait and Oman. The organisation sanctions individuals and organisations suspected of involvement in terrorism

Terrorist financing threats differ between the UAE and Saudi Arabia, primarily due to Saudi Arabia's larger population, with, for instance, an estimated 1,500 to 2,000 Saudis having fought with the Islamic State in Syria and Iraq, compared to 15 from the UAE, according to a 2015 report by King's College London's International Centre for the Study of Radicalisation and Political Violence. [5]

Due to the threats of domestic terrorism and returning foreign fighters, Karasik said the Saudi kingdom has increasingly cracked down on terrorist financing. "Individual support networks for terrorist groups has been shut down fairly well, but what reports speak of is continued leakage. The idea of a bureaucracy supportive of this [turning a blind eye to terrorist funding] no longer exists," he said.

## Iran – sanctions

When it comes to implementing the renewed sanctions which the USA imposed on Iran in 2018, Saudi Arabia is not overly affected as it has had minimal ties with Tehran since the Islamic Revolution in 1979, and is actively working to contain Iran within the Middle East.

The UAE is in a more difficult position, with the Emirates, especially Dubai, having been a major hub for Iranian trade.

"The UAE has strong relations with the USA, and elements in the US government don't want to push [the Emirates] too hard because of the nature of the historical and cultural relationship between parts of UAE and Iran, so the pressure to make the UAE adhere to these rules is subject to bureaucratic infighting. Of course, increasingly, the Emirates themselves are not listening to Washington DC, and distancing themselves from the Trump administration," said Karasik.

## Criminal property

It is not just Iranians who are utilising the UAEs' more open economic environment. The UAE attracts capital, licit and illicit, from the Middle East, Central and Southeast Asia, and Sub-Saharan Africa, compounded by the ease of buying real estate. "The UAE has a lot more risks than Saudi Arabia. They have people come in with bagfuls of cash, which doesn't happen in Saudi Arabia, as Dubai has more of a pull factor, to buy a property or live there. There needs to be stricter controls, for example, into how people are using the cash they bring in," said Shafique.

With the UAE economy slowing down, such risks could increase as it becomes harder to balance the need for economic growth with regulatory compliance. "Given the economic situation, the phenomenon of laundering through property purchases becomes more pressing, as banks may look the other way on cash deposits," said Karasik.

## In prospect

Looking ahead, the UAEs' AML regime will come under particular scrutiny from international experts with FATF's mutual evaluation, while Saudi Arabia, following its evaluation report, is expected to set up a management action plan (MAP) in 2019 to address weaknesses. "Saudi Arabia will need to go through it [the mutual evaluation report] point by point, and be more proactive to reduce risks going forward," said Shafique.

The kingdom's anti-corruption drive, controversially ordered by Crown Prince Mohamad bin Salman in November 2017, which saw the high-profile detainment of 11 princes and dozens of businessmen, may also be renewed. Anti-corruption is a key part of the kingdom's Vision 2030 policy of economic diversification, "so it will be interesting to see if it makes it into the regulatory structure for AML and CFT," said Bauer.

## Notes

1. http://dfsa.complinet.com/net_file_store/new_rulebooks/r/e/Regulatory_Law_Amendment_Law_No._6_of_2018.pdf
2. http://www.sama.gov.sa/en-US/Laws/BankingRules/B and E AML CTF Rules Final 3rd Update.pdf
3. http://www.fatf-gafi.org/media/fatf/documents/reports/mer/MER-Saudi-Arabia-2018.pdf
4. http://europa.eu/rapid/press-release_IP-19-781_en.htm
5. https://icsr.info/2015/01/26/foreign-fighter-total-syriairaq-now-exceeds-20000-surpasses-afghanistan-conflict-1980s

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