

Cabinet Resolution No. (63) of 2022 Regarding Implementing the Provisions of Federal Decree No. (9) of 2016 Ratifying an Agreement between the Government of the United Arab Emirates and the Government of the United States of America for Improving the International Tax Compliance and the Implementation of the Foreign Account Tax Compliance Act (FATCA)

The Cabinet:

- Upon reviewing the Constitution;
- Federal Law No. (1) of 1972 Concerning the Competences of Ministries and the Powers of Ministers, and any amendments thereto;
- Federal Law No. (18) of 1981 Concerning the Organisation of Trade Agencies, and any amendments thereto;
- Federal Law No. (4) of 2000 Concerning the Emirates Securities and Commodities Authority and Market, and any amendments thereto;
- Federal Law No. (8) of 2004 Concerning the Financial Free Zones;
- Federal Law No. (14) of 2016 Concerning Administrative Violations and Sanctions in the Federal Government;
- Federal Law No. (13) of 2016 Establishing the Federal Tax Authority, and any amendments thereto;
- Federal Law by Decree No. (14) of 2018 Concerning the Central Bank and Regulation of Financial Institutions and Activities, and any amendments thereto;
- Federal Law by Decree No. (15) of 2018 Concerning the Collection of Public Revenues and Funds;
- Federal Decree No. (9) of 2016 Ratifying an Agreement between the Government of the United Arab Emirates and the Government of the United States of America for Improving the International Tax Compliance and the Implementation of FATCA;
- And based on the proposals and recommendations of the Minister of Finance and the approval of the Cabinet;

Has resolved:

Cabinet Resolution of 2022 Regarding Implementing the Provisions of Federal Decree of 2016 Ratifying an Agreement between the Government of the United Arab Emirates and the Government of the United States of America for Improving the International Tax Compliance and the Implementation of the Foreign Account Tax Compliance Act (FATCA)

Article (1)

Definitions

1. In applying the provisions of this Resolution, the following words and phrases shall have the meanings assigned thereto, unless the context otherwise requires:

- The State** : United Arab Emirates.
- The Competent Authority** : Minister of Finance.
- The Competent Authority in the United States** : The Secretary of the Treasury or his delegate.
- Regulatory Authority** : The Authority specified in Article (3) of this Resolution.
- FTA** : The Federal Tax Authority.
- Financial Institution** : Shall have the meaning specified in Clause (1/G) of Article (1) of the Agreement.
- Non-participating Financial Institution** : Shall have the meaning specified in Clause (1/I) of Article (1) of the Agreement.
- Reporting United Arab Emirates Financial Institution** : Shall have the meaning specified in Clause (1/N) of Article (1) of the Agreement.
- Financial Free Zone** : A financial free zone established under Federal Law No. (8) of 2004.
- Financial Free Zone Authority** : The authority authorized in the concerned Financial Free Zone to exercise the tasks of the Executive Authority in relation to a Financial Institution registered in the relevant Financial Free Zone for the purposes of implementing the provisions of this Resolution and the Agreement.

Agreement	:	The Agreement concluded between the Government of the United Arab Emirates and the Government of the United States of America for Improving the International Tax Compliance and the Implementation FATCA, ratified by Federal Decree No. (9) of 2016.
FATCA	:	The U.S. Treasury Regulations issued under Sections 1471 to 1474 of the External Revenue Code, also known as the Foreign Account Tax Compliance Act.
Internal Revenue Code	:	The U.S. Internal Revenue Code and its amendments.
Resolutions	:	Any resolutions issued by the Competent Authority by virtue of Article (13) of this Resolution.
Controlling Person	:	Shall have the meaning specified in Clause (1/HH) of Article (1) of the Agreement.
Account Holder	:	Shall have the meaning specified in Clause (1/Z) of Article (1) of the Agreement.
Financial Account	:	Shall have the meaning specified in Clause (1/Q) of Article (1) of the Agreement.
New Entity Account	:	Shall have the meaning specified in Clause (5) of Annex I of the Agreement. New Individual Account Shall have the meaning specified in Clause (3) of Annex I of the Agreement.
U.S. Reportable Account	:	Shall have the meaning specified in Clause (1/Y) of Article (1) of the Agreement.
Annual Report	:	The report submitted as per Clause (3/A) of Article (5) of this Resolution.
Nil Report:	:	The report submitted as per Clause (3/B) of Article (5) of this Resolution.

Self-Certification Form : The form to be collected and validated in accordance with Clause (3) of Article (5) of this Resolution to determine whether the Account Holder or the Controlling Person is a resident for tax purposes.

2. In the event that a specific provision of the Annexes to the Agreement is not referred to in this Resolution, this Resolution shall be interpreted taking into account the relevant provisions of the Annexes.

Article (2)

Resolution Objectives

This Resolution aims at applying the provisions of the Agreement in the State

Article (3)

Executive Authorities

1. Each of the following bodies shall be designated as a Regulatory Authority for the purposes of implementing the provisions of this Resolution and the Agreement:
 - a. The UAE Central Bank in relation to the Financial Institution that shall be subject to its supervision in accordance with the provisions of the applicable Laws and Regulations issued by the Central Bank.
 - b. Securities and Commodities Authority (SCA) in relation to the Financial Institution that shall be subject to its supervision in accordance with the provisions of the applicable Laws and Regulations issued by SCA.
 - c. Financial Free Zone Authority.
 - d. The Ministry of Finance in relation to any Financial Institution that is not subject to the supervision of any of the aforementioned Regulatory Authorities and referred to in Paragraphs (A) to (C) of this Clause.
2. The Regulatory Authorities, each within its jurisdiction, shall:
 - a. Issue forms that shall be filled in for the purposes of ensuring compliance with the provisions of this Resolution, the Agreement, and any resolutions issued in

- implementation thereof, in coordination with the Competent Authority.
- b. Collect the information and supporting documents to be submitted by the Financial Institution, Account Holder and/or Controlling Person in accordance with the provisions of this Resolution, the Agreement, and any resolutions issued by the Competent Authority.
 - c. Review the information and supporting documents to be submitted by the Financial Institution, Account Holder and/or Controlling Person, to insure they are complete and valid, in accordance with the provisions of this Resolution, the Agreement, and any resolutions issued by the Competent Authority.
 - d. Submit to the Competent Authority, upon its request, the information, records and documents in its possession relating to the Financial Institution and the Account Holder and - where applicable - the Controlling Person, in accordance with the form specified in such request and within the period specified therein, for the purposes of implementing the provisions of this Resolution, the Agreement and any resolutions issued by the Competent Authority.
 - e. Carry out the reviews and investigations that may be required to ensure compliance with the provisions of this Resolution, the Agreement and any decisions issued by the Competent Authority.
 - f. Take the necessary risk assessment and audit procedures to ensure compliance with the provisions of this Resolution, the Agreement and any resolutions issued by the Competent Authority.
 - g. Request any information, records, or documents for the purposes of ascertaining compliance with the provisions of this Resolution, the Agreement and any resolutions issued by the Competent Authority from:
 - 1. Financial Institution.
 - 2. the Account Holder and - where applicable - the Controlling Person, directly or indirectly (through the Competent Financial Institution).
 - h. Impose and implement prescribed administrative fines under this Resolution;
 - i. Manage the procedures and mechanisms for grievance against administrative fines in accordance with the provisions of this Resolution.

- j. Carry out any other tasks or powers necessary to implement the provisions of this Resolution, the Agreement and any resolutions issued by the Competent Authority.

Article (4)

Federal Tax Authority Tasks

1. With regard to the implementation of the tasks of the Ministry of Finance as a Regulatory Authority under Clause (1/D) of Article (3), the FTA is authorised to carry out the tasks specified in Clauses (2/F), (2/H) and (2/I) of Article (3) of this Resolution on behalf of the Ministry of Finance.
2. In order to carry out the tasks entrusted thereto under Clause (1) of this Article, the FTA shall:
 - a. Provide the Competent Authority with the information, records, and documents that it may request in accordance with Clause (2/D) of Article (3) of this Resolution.
 - b. Carry out the tasks specified in Clauses (2/B) and (2/C) of Article (3) of this Resolution.
3. The FTA may also carry out the tasks specified in clauses (2/E), (2/G), (2/J), and (2/K) of Article (3) of this Resolution.

Article (5)

Duties of Financial Institutions

1. Due Diligence

Each reporting UAE financial institution is required to apply the due diligence procedures stated in Annex I of the Agreement to identify the U.S. Reportable Accounts and the accounts held by Non-participating Financial Institutions.

2. Self-Certification Form

Each Reporting UAE Financial Institution is required to collect and validate the Self-Certification Form for each New Individual Account and each New Entity Account.

3. Reporting Duty

- a. Each Reporting UAE Financial Institution is required to prepare in each calendar year an annual report that includes:
 - 1) Information required in relation to each U.S. Reportable Account maintained by the Institution under Clause (2) of Article (2) of the Agreement.
 - 2) the information required under Clause (1/B) of Article (4) of the Agreement.
 - 3) Any other information required by the Regulatory Authority or the FTA under this Resolution and the Agreement and any resolutions issued by the Competent Authority.
- b. If a Reporting UAE Financial Institution during the concerned calendar year does not have any U.S. Reportable Accounts, it must provide a Nil Report in relation to that calendar year.
- c. Each Reporting UAE Financial Institution must submit the annual report specified in Clause (3/A) of this Article and the Nil Report specified in Clause (3/B) of this Article directly to the Competent Authority or through the Regulatory Authority in accordance with the reporting system and in accordance with the Model and Mechanism and within the period specified by the Competent Authority.
- d. Each Reporting UAE Financial Institution is required to provide any information, records and other documents, including information relating to the Account Holder, and - where applicable - the Controlling Person; and it may be required to do the same by the Competent Executive Authority, the FTA or the Competent Authority at the time specified thereby, for the purposes of implementing the provisions of this Resolution and the Agreement and any resolutions issued by the Competent Authority.
- e. Each Reporting UAE Financial Institution shall provide the Regulatory Authority, the FTA or the Competent Authority with the information, records or documents required to be submitted in accordance with the provisions of this Resolution, the Agreement or any resolutions issued by the Competent Authority, in a complete and correct manner.

4. Systems and Procedures

- a. Each financial institution is required to keep and maintain records and information collected pursuant to this Resolution, the Agreement and any resolutions issued by the Competent Authority, for a period not less than six (6) years as of the date on which such

records and information are reported to the Regulatory Authority.

b. Each Reporting UAE Financial Institution must:

- 1) Establish and maintain arrangements for identifying US Reportable Accounts and accounts held by Non-participating Financial Institutions, for the purposes of compliance with the requirements of this Resolution, the Agreement and any resolutions issued by the Competent Authority.
- 2) Keep records showing the steps and measures taken thereby and the evidence on which they relied on for the purposes of the due diligence procedures taken, in accordance with Annex I of the Agreement, for a period of at least six (6) years, starting as of the end of the year in which these procedures are applied to any Financial Account.

5. Use of Third Party

The Reporting UAE Financial Institution may use a third party for the purpose of compliance with the requirements stipulated in this Resolution, the Agreement and any resolutions issued by the Competent Authority. However, the responsibility to comply with all these requirements remains to fall on the reporting UAE financial institution.

Article (6)

Supervision and Investigation Authorities

In order to exercise any of the tasks and powers stipulated in this Resolution, the Competent Regulatory Authority and the FTA may:

1. Request any information or documents from the Financial Institution for the purpose of ensuring compliance with any provision of this Resolution, the Agreement and any resolutions issued by the Competent Authority.
2. Request any information from any Account Holder and any Controlling Person who has an account with the Financial Institution, including account records and all other records relating to information or statements made to that Financial Institution.
3. Request assistance from the Financial Institution to obtain information, records or documents related to the Account Holder or, as the case may be, the Controlling Person.
4. In the event that any of the administrative violations stipulated in this Resolution are

suspected to occur, the Headquarters of the Financial Institution shall be entered for the purposes of inspecting and auditing information, records or documents related to the suspected administrative violation.

5. Examine the records and original documents related to the suspected administrative violation and obtain copies thereof.
6. Request any information, documents or assistance from the Financial Institution, the Account Holder or, where applicable, the Controlling Person, as necessary, for the purpose of conducting any administrative investigation to ensure compliance with any provision of this Resolution, the Agreement, and any resolutions of the Competent Authority.

Article (7)

Administrative Violations and Sanctions

1. Failure to perform due diligence

A fine of forty thousand (40,000) AED shall be imposed on the Reporting UAE Financial Institution for each calendar year, if it does not meet the due diligence procedures stipulated in Clause (1) of Article (5) of this Resolution and in Annex I of the Agreement.

2. Failure to collect or validate the Self-Certification Form

A fine of one thousand (1,000) shall be imposed for each event of opening a New Individual Account or a New Entity Account, without collecting a correct and valid Self-Certification Form, or without validating the Self-Certification Form.

3. Failure to submit the annual report or Nil Report

A fine of twenty thousand (20,000) AED shall be imposed on the Reporting UAE Financial Institution if it does not submit the annual report or the Nil Report in accordance with the provisions of Clause (3) of Article (5) of this Resolution.

4. Failure to provide complete and correct information

If the Reporting UAE Financial Institution fails to provide the information, records, or documents in accordance with the provisions of Paragraph (E) of Clause (3) of Article (5) of this Resolution in a complete and correct manner, a fine shall be imposed on it as follows:

- a. Five thousand (5,000) AED for each case of failure that appears in the annual report or the Nil Report.

- b. A fine not less than five thousand (5,000) AED and not exceeding twenty-five thousand (25,000) AED, for failure to provide any information, records, or documents under Article (5/3/E) of this Resolution.
- c. In addition to the fine imposed under Paragraph (A) of this Clause, the Reporting UAE Financial Institution shall be subject to an additional fine of ten thousand (10,000) AED for its failure to remedy the shortfall, or to rectify incorrect information, which is provided in the annual report or in the Nil Report, for a period exceeding (30) thirty business days as of the date of being notified in writing of the violation stipulated in Paragraph (A) of this Clause in accordance with the provisions of Article (8) of this Resolution.
- d. In addition to the two fines imposed under Paragraphs (A) and (C) of this Clause, the Reporting UAE Financial Institution shall be subject to an additional fine of ten thousand (10,000) AED for its failure to remedy the shortfall, or to rectify incorrect information, which is provided in the annual report or in the Nil Report, for a period exceeding (60) thirty business days as of the date of being notified in writing of the violation stipulated in Paragraph (A) of this Clause in accordance with the provisions of Article (8) of this Resolution.

5. Fraud

A fine of two hundred and fifty thousand (250,000) AED shall be imposed on the Reporting UAE Financial Institution if, in any calendar year, it adopts any practices with the intent of fraud to evade the implementation of this Resolution, the Agreement or any resolutions issued by the Competent Authority.

6. Failure to comply with any other requirements

A financial fine ranging between ten thousand (10,000) and thirty thousand (30,000) AED shall be imposed on the Financial Institution in the event of violation of any other provision of this Resolution, the Agreement or any resolutions issued by the Competent Authority.

7. Other Administrative Sanctions

In the event of imposing a fine on the UAE Financial Institution in accordance with the provisions of Clauses (1) to (6) of this Article in any calendar year, the Competent Regulatory Authority or the FTA may impose thereon, in addition to the fine, any of the following

administrative sanctions: Suspension, withdrawal or non-renewal of the licence issued to this Institution.

Article (8)

Imposing Administrative Sanctions

1. If the Competent Regulatory Authority or FTA decides that any of the administrative violations stipulated in Article (7) of this Resolution have been committed and decide to impose on the violator the prescribed financial fine and any other administrative sanction, as the case may be, it must notify the violator in writing of the following:
 - a. That the violator has committed an administrative violation.
 - b. The reasons for imposing the administrative violation.
 - c. The date on which the administrative violation is committed.
 - d. Amount of the administrative fine imposed.
 - e. The date on which the fine is due, provided that it is not less than thirty (30) business days after the notification is issued.
 - f. any administrative sanction imposed, where applicable, and its duration.
2. The Competent Regulatory Authority or the FTA shall send the notification to the e-mail of the person who committed the administrative violation registered therewith. If it is not possible to obtain the e-mail of the violator for any reason, the notification shall be sent to his mailing address registered with the Competent Regulatory Authority by virtue of a letter with receipt acknowledgement.

Article (9)

Grievance and Appeal

1. A person who has been subject to a fine or an administrative sanction may file a grievance before the Regulatory Authority that issued said fine or before the FTA within twenty (20) business days as of receiving the notification referred to in Clause (1) of Article (8) of this Resolution.
2. The grievance shall be written and signed by the person against whom the resolution to impose the administrative fine has been issued, or by whomever is authorised thereby to

file the grievance on his behalf, provided that it shall be based on one of the following reasons:

- a. He has not committed the administrative violation attributed thereto.
 - b. The administrative fine imposed thereon for exceeding the limits stipulated in this Resolutions.
 - c. If the administrative sanction imposed in accordance with Clause (7) of Article (7) of this Resolution is not commensurate with the violation.
3. The Competent Regulatory Authority or the FTA shall:
- a. Consider the grievance.
 - b. Notify the Grievant of:
 - 1) Receipt of the grievance.
 - 2) That it will issue its decision within the period specified in the notification, provided that it does not exceed sixty (60) business days as of the date of filing the grievance.
 - c. Send the notification referred to in Paragraph (B) of this clause to the e-mail address specified by the Grievant in the grievance. If this address is not specified, the notification shall be sent in accordance with the provisions of Clause (2) of Article (8) of this Resolution.
4. The Competent Regulatory Authority or FTA shall request the Grievant to submit any additional documents or information that it deems necessary for deciding on the grievance, and for the same purpose, it may set a date for the Grievant to appear before it to hear his statements and confirm his pleas.
5. The Competent Regulatory Authority or the FTA shall consider the grievance and issue its decision to accept the grievance and take a decision in accordance with Clause (6) of this Article, or to reject it or not accept it and notify the Grievant thereof. Said decision must be substantiated and in writing.
6. If the Competent Regulatory Authority or the FTA accepts the grievance, it may decide any of the following:
- a. That the Grievant has not committed the violation attributed thereto, and it shall issue a decision to repeal the relevant financial fine and any other administrative sanction

- imposed thereon (if any) and inform him of this decision in writing.
- b. That the financial fine or administrative sanction imposed thereon is not commensurate with the violation, and it shall issue a decision determining the value of the financial fine and administrative sanction (if any) that are commensurate with the violation.
 - c. That the financial fine imposed thereon exceeds the maximum limit for the administrative violation attributed to the Grievant in accordance with Article (7) of this decision, and it shall issue a decision to reduce the value of the fine in a manner that is commensurate with the violation.
7. If the person, on which a financial fine or other administrative sanction has been imposed, submits his grievance after the expiry of the deadline set for filing a grievance in Clause (1) of this Article, the Competent Regulatory Authority or the FTA may decide to accept the grievance unless it determines that there are valid reasons for the Grievant's delay in submitting the grievance.
 8. The Competent Regulatory Authority or FTA shall specify any procedures or issue any forms necessary to implement any of the provisions stipulated in this Article.
 9. The Grievant may appeal the decision issued on the grievance in accordance with this Article before the competent court within thirty (30) business days as of the date of being notified of this decision.

Article (10)

Paying and Implementing Administrative Sanctions

1. Subject to Clause (2) of this Article, the financial fine prescribed under this Resolution must be paid within a period not exceeding the due date of the fine in accordance with the notification issued under Clause (1) of Article (8) of this Resolution or Clause (6) of Article (9) of this Resolution.
2. If the person subject to the financial fine files a grievance under Article (9) of this decision, the financial fine must be paid within fifteen (15) business days as of the date of notifying the Grievant in writing of the rejection, non-acceptance, or withdrawal of the grievance.
3. If the violator does not initiate payment of the financial fine within the period specified

for payment, the notification issued under Clause (1) of Article (8), or Clause (5) or (6) of Article (9) of this Resolution shall be considered as writ of execution. The Competent Regulatory Authority or the FTA may submit the writ of execution to the execution judge in the competent court to proceed with its forcible execution.

Article (11)

Information Exchange

1. The Competent Authority shall exchange information annually with the Competent Authority in the United States in relation to:
 - a. Each U.S. Reportable Account under Section 2 of the Agreement.
 - b. any other information that may be required under the Agreement.
 - c. According to the Model and Mechanism and for the period specified in the Agreement and pursuant to any other international agreement or similar international arrangement to which the State is a party.
2. For the purposes of assisting the State in complying with its obligations under the Agreement, the Competent Authority shall:
 - a. Issue the necessary forms to implement the provisions of this Resolution and the Agreement.
 - b. Specify the date, model, and mechanism for reporting the information that the Reporting UAE Financial Institution shall carry out in accordance with this Resolution.
 - c. Receive and request any information to be reported in accordance with this Resolution and in accordance with the Model and mechanism and for the period specified thereby.
 - d. Request the Competent Regulatory Authority or the Reporting UAE Financial Institution to provide any additional information or documents for the purposes of implementing the provisions of this Resolution.
3. Each Regulatory Authority must provide the Competent Authority with any additional information required by the Competent Authority for the purposes of carrying out its tasks under this Resolution, the Agreement or any resolutions issued by the Competent Authority.

Article (12)

Cooperation of Other Government Agencies

All ministries and other government authorities, federal or local, are required to:

- a. Cooperate with the Competent Authority, Regulatory Authorities, and the FTA to do what is necessary to implement the provisions of this Resolution, the Agreement or any resolutions issued by the Competent Authority.
- b. Submit to the Competent Authority, Regulatory Authorities, and the FTA any data, information, or documents in its possession or under its control; and they may also be required by any of the aforementioned authorities for the purposes of carrying out its tasks under this Resolution, the Agreement or any resolutions issued by the Competent Authority.

Article (13)

Executive Resolutions

The Competent Authority shall issue the resolutions necessary to implement this Resolution.

Article (14)

Resolution Publication and Entry into Force

This Resolution shall be published in the Official Gazette and shall enter into force as of the day following the date of its publication.

Mohammed Bin Rashid Al Maktoum

Prime Minister

Issued by Us:

On: 13 Dhul Hijja 1443 H

Corresponding to: 12 July 2022