

## **CABINET OF MINISTERS RESOLUTION**

**No. (63) of 2022**

### **Concerning the Implementation of Federal Decree No. (9) of 2016 Ratifying the Agreement between the Government of the United Arab Emirates and the Government of the United States of America to Improve International Tax Compliance and to Implement the Foreign Account Tax Compliance Act (FATCA)**

Cabinet of Ministers

#### **Having reviewed:**

- The Constitution;
- Federal Law No. (1) of 1972 on the Competencies of Ministries and the Powers of Ministers, as amended;
- Federal Law No. (18) of 1981 Concerning the Organisation of Commercial Agencies, as amended;
- Federal Law No. (4) of 2000 Concerning the Emirates Securities and Commodities Authority, as amended;
- Federal Law No. (8) of 2004 Regarding Financial Free Zones;
- Federal Law No. (14) of 2016 on Administrative Violations and Penalties in the Federal Government;
- Federal Decree-Law No. (13) of 2016 establishing the Federal Tax Authority, as amended;
- Federal Decree-Law No. (14) of 2018 Concerning the Central Bank and the Organization of Financial Institutions and Activities, as amended;
- Federal Decree-Law No. (15) of 2018 Concerning the Collection of Revenues and Public 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 to Improve International Tax Compliance and to Implement the Foreign Account Tax Compliance Act (FATCA);

And based on the proposal of the Minister of Finance and the approval by the Cabinet of Ministers,

#### **Has Resolved:**

### **ARTICLE 1 DEFINITIONS**

1. For the purpose of implementing this Resolution, the following words and expressions shall have, unless

the context otherwise requires, the meanings respectively assigned thereto:

**State:** The United Arab Emirates.

**Competent Authority:** The Minister of Finance.

**U.S. Competent Authority:** The Secretary of the Treasury, or his delegate.

**Regulatory Authority:** The authority appointed pursuant to Article 3 of this Resolution.

**The Authority:** the Federal Tax Authority.

**Financial Institution:** As defined under Article 1(g) of the Agreement.

**Nonparticipating Financial Institution:** As defined under Article 1(p) of the Agreement.

**Reporting UAE Financial Institution:** As defined under Article 1(n) of the Agreement.

**Financial Free Zone:** A financial free zone established pursuant to the Federal Law No. (8) of 2004.

**Financial Free Zone Authority:** The authority appointed by the relevant Financial Free Zone to act as a Regulatory Authority in respect of 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 between the Government of the United Arab Emirates and the Government of the United States of America to Improve International Tax Compliance and to Implement the Foreign Account Tax Compliance Act (FATCA), entered into on June 17, 2015, ratified by Federal Decree No. (9) of 2016.

**FATCA:** For the purpose of this Resolution means the US Treasury Regulations issued under sections 1471 to 1474 of the US Internal Revenue Code (IRC), as amended and commonly referred to as the Foreign Account Tax Compliance Act.

**Code:** The US Internal Revenue Code (IRC), as amended.

**Decisions:** Means any decisions issued by the Competent Authority pursuant to Article 13 of this Resolution.

**Controlling Person:** As defined under Article 1(hh) of the Agreement.

**Account Holder:** As defined under Article 1(z) of the Agreement.

**Financial Account:** As defined under Article 1(q) of the Agreement.

**New Entity Account:** As defined under paragraph V of Annex I to the Agreement.

**New Individual Account:** As defined under paragraph III of Annex I to the Agreement.

**U.S. Reportable Account:** As defined under Article 1(y) of the Agreement.

**Annual Report:** Means the report filed in accordance with Sub-Clause (3)(a) of Article 5 of this Resolution.

**Nil Report:** Means the report filed in accordance with Sub-Clause (3)(b) of Article 5 of this Resolution.

**Self-Certification Form:** The form required to be collected and validated pursuant to Clause (3) of Article 5 of this Resolution establishing where an Account Holder or Controlling Person is resident for tax purposes.

2. To the extent that a specific provision of the Annexes to the Agreement is not referred to in this Resolution, this Resolution shall be interpreted having regard to the relevant provisions of the Annexes.

## **ARTICLE 2 OBJECTIVE OF THE RESOLUTION**

The objective of this Resolution is to implement the provisions of Agreement in the State.

## **ARTICLE 3 REGULATORY AUTHORITIES**

1. The following authorities shall each be appointed as the Regulatory Authority for the purposes of implementing the provisions of this Resolution and the Agreement:
  - (a) The Central Bank of the United Arab Emirates, in respect of a Financial Institution subject to its supervision under the applicable laws and regulations of the Central Bank;
  - (b) Securities & Commodities Authority, in respect of a Financial Institution subject to its supervision under applicable laws and regulations of the Securities & Commodities Authority;
  - (c) Financial Free Zone Authority;

(d) Ministry of Finance, in respect of a Financial Institution not otherwise regulated by any of the aforementioned Regulatory Authorities referred to in paragraphs (a) to (c) of this Clause.

2. Each Regulatory Authority shall, within its jurisdiction, carry out the following functions:

(a) In coordination with the Competent Authority, issue the necessary forms required to be filed for the purpose of ensuring compliance with the provisions of this Resolution, the Agreement, and any Decisions issued for its implementation;

(b) Collect the information and supporting documentation required to be submitted by a Financial Institution, Account Holder and/or Controlling Person pursuant to this Resolution, the Agreement, and any Decisions issued by the Competent Authority;

(c) Review the information and supporting documentation submitted by a Financial Institution, Account Holder and/or Controlling Person pursuant to this Resolution, the Agreement and any Decisions issued by the Competent Authority to ensure its completeness and accuracy;

(d) Provide the Competent Authority with such information, records and documents within its possession relating to a Financial Institution, Account Holder and, if applicable, Controlling Person, as may be requested by the Competent Authority for the purpose of implementing the provisions of this Resolution, the Agreement and any Decisions issued by the Competent Authority and in the form and within the period specified in such request;

(e) Undertake reviews and investigations as may be required to ensure compliance with the provisions of this Resolution, the Agreement and any Decisions issued by the Competent Authority;

(f) Undertake risk assessment and audit procedures as may be required to ensure compliance with the provisions of this Resolution, the Agreement and any Decisions issued by the Competent Authority;

(g) Request any information, records or documents for the purposes of ensuring compliance with the provisions of this Resolution, the Agreement and any Decisions issued by the Competent Authority from:

1) a Financial Institution;

2) an Account Holder and, if applicable, Controlling Person, either directly or indirectly (through the relevant Financial Institution),

(h) Impose and administer the administrative penalties stipulated under this Resolution;

- (i) Administer the procedures and mechanisms for grievances against administrative penalties in accordance with this Resolution;
- (j) Undertake any further functions or powers as required for the purposes of complying with this Resolution, the Agreement and any Decisions issued by the Competent Authority.

**ARTICLE 4**  
**FEDERAL TAX AUTHORITY FUNCTIONS**

1. In respect of the exercise of the functions of the Ministry of Finance as the Regulatory Authority under Sub-Clause 1 (d) of Article 3 of this Resolution, the Authority is delegated the functions set out in Sub-Clauses 2(f), 2(h), and 2(i) of Article 3 on behalf of the Ministry of Finance.
2. In exercising the functions delegated to it pursuant to Clause 1 of this Article, the Authority shall:
  - (a) provide the Competent Authority with such information, records and documents as may be requested by the Competent Authority in accordance with Sub-Clause 2 (d) of Article 3 of this Resolution;
  - (b) undertake the functions set out under Sub-Clauses (2)(b) and 2(c) of Article 3 of this Resolution.
3. The Federal Tax Authority may also undertake the functions set out under Sub-Clauses (2)(e), (2)(g), (2)(j) and (2)(k) of Article 3 of this Resolution.

**ARTICLE 5**  
**OBLIGATIONS OF FINANCIAL INSTITUTIONS**

**1. Due Diligence**

Each Reporting UAE Financial Institution shall apply the due diligence procedures contained in Annex I to the Agreement to identify U.S. Reportable Accounts and accounts held by Nonparticipating Financial Institutions.

**2. Self-Certification**

Each Reporting UAE Financial Institution shall collect and validate a Self-Certification Form for each New Individual Account and New Entity Account.

**3. Reporting Obligations**

- (a) Each Reporting UAE Financial Institution shall file in each calendar year an Annual Report setting out:

- 1) the information required pursuant to Article 2(2) of the Agreement, in relation to every U.S. Reportable Account that is maintained by the institution;
  - 2) the information required pursuant to Article 4(1)(b) of the Agreement;
  - 3) any other information as may be requested by the Regulatory Authority or the Authority, pursuant to this Resolution, the Agreement and any Decisions issued by the Competent Authority.
- (b) If during the calendar year in question, the Reporting UAE Financial Institution maintains no U.S. Reportable Accounts, the institution shall file a Nil Report in respect of that year.
- (c) Each Reporting UAE Financial Institution shall file the Annual Report specified in Sub-Clause (2)(a) of this Article and the Nil Report specified in Sub-Clause (2)(b) of this Article directly to the Competent Authority or indirectly to the Regulatory Authority in accordance with the reporting system, on the date and in the form and manner prescribed by the Competent Authority.
- (d) Each Reporting UAE Financial Institution shall provide any other information, records and documents, including information in respect of an Account Holder and, if applicable, a Controlling Person, as may be requested by the relevant Regulatory Authority, the Authority, or the Competent Authority, within the time period prescribed by them for the purposes of implementing the provisions of this Resolution, the Agreement and any Decisions issued by the Competent Authority.
- (e) Each Reporting UAE Financial Institution shall provide the Regulatory Authority or the Authority, or the Competent Authority any information, records or documents required to be submitted in accordance with this Resolution, the Agreement or any Decisions issued by the Competent Authority in a complete and accurate manner.

#### **4. Systems and Procedures**

- (a) Each Financial Institution shall retain all records and information collected and maintained pursuant to this Resolution, the Agreement and any Decisions issued by the Competent Authority for a period of at least six (6) years from the date of reporting the required records and information to the Regulatory Authority.
- (b) Each Reporting UAE Financial Institution shall:
- 1) establish and maintain arrangements designed to identify U.S. Reportable Accounts and accounts held by Nonparticipating Financial Institutions for the purposes of compliance with the requirements of this Resolution, the Agreement and any Decisions issued by the Competent

Authority;

- 2) retain records of the steps and measures undertaken and any evidence relied upon for the performance of the due diligence procedures undertaken in accordance with Annex I to the Agreement for a period of at least six (6) years, beginning with the end of the year in which such measures applied to any Financial Account.

## **5. Use of Third Parties**

A Reporting UAE Financial Institution may use a third party for the purpose of complying with the requirements under this Resolution, the Agreement and any Decisions issued by the Competent Authority, but compliance with all such requirements remains the responsibility of the Reporting UAE Financial Institution.

## **ARTICLE 6 POWERS OF INSPECTION AND INVESTIGATION**

In order to exercise any of the functions and powers stipulated in this Resolution, the relevant Regulatory Authority and the Authority may:

1. request any information or documentation from a Financial Institution for the purposes of ensuring compliance with any provision of this Resolution, the Agreement and any Decisions issued by the Competent Authority;
2. request any information from any Account Holder and any Controlling Person that has an account with the Financial Institution, including the account records and all other records related to information or statements submitted to this institution;
3. request the assistance of the Financial Institution in order to obtain the relevant information, records or documents of the Account Holder or, if applicable, the Controlling Person;
4. in the event of a suspicion that any of the administrative violations stipulated in this Resolution have occurred, enter the business premises of the Financial Institution for the purpose of examining the information, records or documents related to the suspected administrative violation;
5. view the original records and documents related to the suspected administrative violation and obtain copies of it/them;
6. request any information, documentation, or assistance from the Financial Institution, Account Holder or, if applicable, the Controlling Person, as may be necessary for the purpose of any administrative investigation to ensure compliance with any provision of this Resolution, the Agreement and any Decisions issued by the Competent Authority.

**ARTICLE 7**  
**ADMINISTRATIVE VIOLATIONS AND PENALTIES**

**1. Failure to Apply Due Diligence Requirements**

A Reporting UAE Financial Institution that fails to apply the due diligence procedures as set out in Clause (1) of Article 5 of this Resolution and described in detail in Annex I to the Agreement shall be subject to a fine of Dirhams (40,000) forty thousand in a calendar year.

**2. Failure to Collect or Validate Self-Certification Form**

A fine of Dirhams (1,000) one thousand shall be imposed on a Reporting UAE Financial Institution for every instance in which it opens a New Individual Account or New Entity Account without collecting a valid Self-Certification Form or without validating such Self-Certification Form.

**3. Failure to Submit Annual Report or Nil Report**

A Reporting UAE Financial Institution that fails to submit an Annual Report or a Nil Report in accordance with Clause 3 of Article 5 shall be subject to a fine of Dirhams (20,000) twenty thousand.

**4. Failure to Provide Complete and Accurate Information**

A Reporting UAE Financial Institution that fails to provide the information, records, or documents in a complete and accurate manner in accordance with sub-clause 3(e) of Article 5 of this Resolution shall be subject to the following fines:

- (a) Dirhams (5,000) five thousand for any instances where such failure occurs in an Annual Report or Nil Report in a calendar year.
- (b) A penalty not less than Dirhams (5,000) five thousand and not exceeding Dirhams (25,000) twenty-five thousand in respect of failure to provide information, records or documents pursuant to sub-clause 3(e) of Article 5 of this Resolution.
- (c) In addition to the fine imposed under Sub-Clause (a) of this Clause, a Reporting UAE Financial Institution that fails to correct the completeness or inaccuracy of the information provided in the filed Annual Report or Nil Report for a period of more than (30) business days from the date the said Reporting UAE Financial Institution is notified in writing of the violation under Sub-Clause (a) of this Clause in accordance with Article 8 of this Resolution shall be subject to a further fine of Dirhams (10,000) ten thousand.



(d) In addition to the fines imposed under Sub-Clauses (a) and (c) of this Clause, a Reporting UAE Financial Institution that fails to correct the completeness or inaccuracy of the information provided in the filed Annual Report or Nil Report for a period of more than (60) business days from the date the said Reporting UAE Financial Institution is notified in writing of the violation under Sub-Clause (a) of this Clause, in accordance with Article 8 of this Resolution shall be subject to a further fine of Dirhams (10,000) ten thousand.

#### **5. Circumvention**

A penalty in the amount of Dirhams (250,000) two hundred and fifty thousand shall be imposed in a calendar year on any Reporting UAE Financial Institution that adopts any practices with the intent to circumvent this Resolution, the Agreement or any Decisions issued by the Competent Authority.

#### **6. Failure to Comply with any other Requirements**

A Financial Institution that fails to comply with any other provisions of this Resolution, the Agreement or any Decisions issued by the Competent Authority shall be subject to a minimum fine of Dirhams (10,000) ten thousand to a maximum fine of Dirhams (30,000) thirty thousand.

#### **7. Other Administrative Sanctions**

The relevant Regulatory Authority or the Authority, in the event of imposing a fine on a UAE Financial Institution in accordance with the provisions of Clauses (1) to (6) of this Article in any calendar year, may impose on it, in addition to the fine, any of the following administrative sanction: suspension or withdrawal or non-renewal of the license issued to such institution.

### **ARTICLE 8**

#### **IMPOSITION OF FINES AND ADMINISTRATIVE SANCTIONS**

1. If the relevant Regulatory Authority or the Authority determines that any of the administrative violations stipulated in Article 7 of this Resolution have been committed in a calendar year and imposes the relevant administrative fine and any administrative sanction, if applicable, on the violator, it must notify the violator in writing of the following:

- (a) that the violator has committed an administrative violation;
- (b) the reasons for the imposition of the administrative violation;
- (c) the date of the administrative violation;
- (d) the amount of the fine imposed;
- (e) the date on which the payment of the fine is due, being not less than thirty (30) business days after

the issuance of the notice;

(f) Any administrative sanction imposed, if applicable and its duration.

2. The relevant Regulatory Authority or the Authority shall send the notification to the e-mail address of the violator registered with it. If for any reason it is not possible to obtain the violator's e-mail address, the notification shall be sent to the violator's mailing address registered with the relevant Regulatory Authority by virtue of a letter and acknowledgment of receipt.

## **ARTICLE 9 GRIEVANCE AND OBJECTION**

1. Any person upon whom a fine or an administrative sanction is imposed may file a grievance against it before the relevant Regulatory Authority that issued that penalty or the Authority, within twenty (20) business days of receiving the notification referred to in Clause (1) of Article 8 of this Resolution.
2. The grievance must be in writing and signed by the person upon whom the penalty was imposed or by his authorized representative, and must be based on one of the following grounds:
  - (a) the grievant did not commit the violation attributed to it;
  - (b) the administrative penalty imposed exceeds the limits prescribed under this Resolution;
  - (c) the administrative sanction imposed pursuant to Clause 7 of Article 7 of this Resolution is not proportionate to the violation in the circumstances.
3. The relevant Regulatory Authority or the Authority shall:
  - (a) Examine the grievance;
  - (b) Notify the grievant that:
    - 1) it has received the grievance;
    - 2) it shall issue its decision about it within the period as specified in the notification provided that it does not exceed sixty (60) business days from the date the grievance is filed.
  - (c) The notification referred to in sub-Clause (b) of this Clause 3 shall be sent to the email 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 relevant Regulatory Authority or the Authority may ask 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 come to it to hear its statements and confirm its defense.

5. The relevant Regulatory Authority or the Authority shall examine the grievance and issue its decision in writing to accept the grievance and make a determination in accordance with Clause (6) of this Article or reject or not accept the grievance, and inform the grievant of this decision which must be reasoned and written.
6. If the relevant Regulatory Authority or the Authority accepts the grievance it may decide any of the following:
  - (a) that the grievant did not commit the violation attributed to the grievant, it shall issue a decision cancelling the relevant fine and any imposed administrative sanction, if applicable, and inform the grievant of this decision in writing;
  - (b) the fine or the administrative sanction imposed is not appropriate to the violation and issue a decision specifying the appropriate amount of fine and administrative sanction, if applicable, to the violation;
  - (c) that the fine imposed exceeds the limit prescribed for the administrative violation attributed to the grievant in accordance with Article 7 of this Resolution, and issue a decision to reduce the fine as appropriate to the violation.
7. If the person subject to a fine or an administrative sanction submits its grievance after the deadline set out in Clause (1) of this Article has passed, then the relevant Regulatory Authority of the Authority, may issue a decision not to accept the grievance unless it determines that there are valid grounds for the grievant's delay in submitting the grievance.
8. The relevant Regulatory Authority or the Authority may issue any further decisions specifying any procedures or any forms required to be used for implementing any of the provisions stipulated in this Article.
9. The grievant may object to the decision issued under this Article before the competent court within thirty (30) business days from the date of being notified of such decision.

## **ARTICLE 10**

### **PAYMENT AND ENFORCEMENT OF ADMINISTRATIVE PENALTIES**

1. Subject to Clause (2) of this Article, a fine imposed under this Resolution must be paid before or on the date upon which the administrative fine is due pursuant to a notice issued under Clause (1) of Article 8 or Sub-Clause 6 of Article 9.

2. If the person upon whom a fine is imposed has filed a grievance under Article 9 of this Resolution, the fine shall be payable within fifteen (15) business days from the date the grievant is notified in writing of the grievance being rejected, not accepted or withdrawn.
3. If the violator does not initiate the payment of the fine within the requisite period, the notice issued under Clause (1) of Article 8, Clause 5, or Clause 6 of Article 9 shall be considered an Executory Deed. The relevant Regulatory Authority or the Authority may submit the Executory Deed to the enforcement judge at the competent court for enforceable execution.

**ARTICLE 11**  
**EXCHANGE OF INFORMATION**

1. The Competent Authority shall annually exchange information with the U.S. Competent Authority in respect of:
  - (a) each U.S. Reportable Account, under Article 2 of the Agreement;
  - (b) such other information as may be required under the Agreement,in accordance with the date, form, and manner prescribed under the Agreement and pursuant to any further international agreement, or similar international arrangement to which the State is a party.
2. For the purposes of ensuring compliance by the State in respect of its obligations under the Agreement, the Competent Authority shall be conferred the following functions and authorities:
  - (a) issue the necessary forms to be used for the purposes of implementation of this Resolution and the Agreement;
  - (b) prescribe the date, form, and manner by which information is reported by a Reporting UAE Financial Institution under this Resolution;
  - (c) receive and request the information required to be reported under this Resolution on the date, form, and manner prescribed by it;
  - (d) request the relevant Regulatory Authority or Reporting UAE Financial Institution to provide any such additional information and documentation for the purposes of implementing the provisions of this Resolution.
3. Each Regulatory Authority shall provide the Competent Authority with any further information as may be requested by the Competent Authority for the purposes of carrying out its functions under this Resolution,

the Agreement or any Decisions issued by the Competent Authority.

**ARTICLE 12**  
**COOPERATION BY OTHER GOVERNMENTAL AUTHORITIES**

All ministries and other governmental authorities, whether federal or local, shall:

- (a) cooperate with the Competent Authority, the Regulatory Authorities and the Authority as necessary to implement the provisions of this Resolution, the Agreement or any Decisions issued by the Competent Authority;
- (b) provide the Competent Authority, the Regulatory Authorities and the Authority with any data, information or documentation within its possession or control, as may be requested by any of the aforementioned authorities for the purposes of carrying out their functions under this Resolution, the Agreement or any Decisions issued by the Competent Authority.

**ARTICLE 13**  
**EXECUTIVE REGULATIONS**

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

**ARTICLE 14**  
**ENTRY INTO FORCE**

This Resolution shall be published in the Official Gazette and shall come into force on the day following the date of its issuance.

**The original copy has been signed by His Highness Sheikh Mohammed Bin Rashed Al Maktoum  
Prime Minister**

**Issued: by us on:**

**Date: 13 of Dhi Al-Hijja 1443 AH**

**Corresponding to: 12 July 2022 AD**