

**Cabinet Resolution No. 93 of 2021  
Implementing Certain Provisions of the Multilateral Administrative Agreement  
for Automatic Exchange of Information**

The Cabinet

- Upon perusal of the Constitution;
- Federal Law No. (1) of 1972 Concerning Jurisdictions of Ministries and Powers of Ministers, as amended;
- Federal Law No. (8) of 2004 Concerning Financial Free Zones;
- Federal Law No. (14) of 2016 on the Administrative Violations and Penalties in the Federal Government;
- Federal Decree-Law No. (15) of 2018 Concerning the Collection of Revenues and Public Funds.
- Federal Decree No. (48) of 2018 Ratifying the Multilateral Administrative Agreement for Automatic Exchange of Information; and
- Cabinet Resolution No. (17) of 2012 Concerning Collection and Exchange of Information for Implementing International Tax Agreements;
- Cabinet Resolution No. 5/11 of 2020 Concerning Implementing Certain Provisions of the Multilateral Administrative Agreement for Automatic Exchange of Information; and

Resolved

**ARTICLE 1: DEFINITIONS**

- 1 For the purpose of implementing this Resolution, the following words and expressions shall have, unless the context provides otherwise, the meanings respectively assigned –thereto:

<b>State:</b>	The United Arab Emirates
<b>The Agreement:</b>	The Multilateral Administrative Agreement for Automatic Exchange of Information ratified by Federal Decree No. 48 of 2018.
<b>Common Reporting Standard:</b>	The Standard for Automatic Exchange of Financial Account Information issued by the OECD.
<b>Competent Authority:</b>	Ministry of Finance.
<b>Regulatory Authorities:</b>	The authorities identified in Article 3 of the Resolution.
<b>Financial Institution:</b>	The financial institution as defined in the regulations issued by the Regulatory Authority.
<b>Account Holder:</b>	The account holder as defined in the regulations issued by the Regulatory Authority.
<b>Controlling Person:</b>	The controlling person as defined in the regulations issued by the Regulatory Authority.

**ARTICLE 2: SCOPE OF APPLICATION**

- 1 This Resolution shall apply to -
  - (a) the Reporting Financial Institution; and
  - (b) the Account Holder and, if applicable, the Controlling Person with a Reportable Account maintained by the financial authority.

**ARTICLE 3: REGULATORY AUTHORITIES**

- 1 The following authorities shall each be appointed as the Regulatory Authority for the purposes of implementing the provisions of the Agreement and the Common Reporting Standard ("**Regulatory Authority**"):
  - (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 appointed by the relevant Financial Free Zone as a Regulatory Authority in respect of a Financial Institution registered in the relevant Financial Free Zone;
  - (d) Ministry of Finance in respect of any Financial Institution not otherwise regulated by any of the aforementioned Regulatory Authorities.
- 2 Each Regulatory Authority shall, within its jurisdiction, carry out the following functions:
  - (a) Issue the necessary regulations, guidelines and due diligence procedures for the implementation of the provisions of the Agreement, the Common Reporting Standard, and this Resolution, in coordination with the Competent Authority;
  - (b) Issue the necessary forms required to be filed for the purpose of ensuring compliance with the provisions of the Agreement, the Common Reporting Standard, and this Resolution, in coordination with the Competent Authority;
  - (c) Collect the information and supporting documentation required to be submitted by a Reporting Financial Institution, Account Holder and/or Controlling Person pursuant to the Agreement, the Common Reporting Standard, this Resolution, and any other rules or regulations issued in respect thereof in the State;
  - (d) Review the information and supporting documentation filed pursuant to the Agreement, the Common Reporting Standard, this Resolution and any other rules or regulations issued in respect thereof in the State to ensure its completeness and accuracy;
  - (e) Provide the Competent Authority with such information, documents and records within its possession relating to a Financial Institution, Account Holder and Controlling Person, as may be requested by it and in the form and within the period specified in the request;
  - (f) Undertake reviews and investigations as may be required to ensure compliance with the provisions of the Agreement, the Common Reporting Standard, this Resolution, and any other rules or regulations issued in respect thereof in the State, and in accordance with the guidelines issued by the Competent Authority;
  - (g) Undertake risk assessment and audit procedures as may be required to ensure compliance with the provisions of the Agreement, the Common Reporting Standard, this Resolution, and any other rules or regulations issued in respect thereof in the State, and in accordance with the guidelines issued by the Competent Authority;

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- (h) Request any information or documentation as may be reasonably required from a Financial Institution, Account Holder and, if applicable, Controlling Person, for the purposes of ensuring compliance with the provisions of the Agreement, the Common Reporting Standard, this Resolution and any other rules, resolutions and regulations issued in implementation thereof in the State.
  - (i) Impose the administrative penalties stipulated under this Resolution;
  - (j) Administer the procedures and mechanisms for appeals against administrative penalties in accordance with this Resolution;
  - (k) Exercise any other powers and functions as may be required to implement, and ensure compliance with the Agreement, the Common Reporting Standard, this Resolution and any other rules, resolutions and regulations issued in respect thereof in the State; and
  - (l) Undertake any further functions or powers as may reasonably be required for the purposes of assisting the State in complying with its obligations under any international agreement or similar instrument relating to the Common Reporting Standard.
- 3 In respect of the exercise of the authorities of the Ministry of Finance as the Regulatory Authority under sub-clause 1(d) of this Article, the Federal Tax Authority is delegated to exercise the authorities set out in sub-clauses 2(g), 2(i), and 2(j) of this Article and shall also, along with the Ministry of Finance, be delegated to exercise the authorities set out under sub-clauses 2(c), 2(d), 2(e), 2(f), 2(h), 2(k), and 2(l) of this Article.

### ARTICLE 4: REPORTING AND RECORD KEEPING OBLIGATIONS

- 1 Each Reporting Financial Institution shall collect and report either directly to the Competent Authority or indirectly to the Regulatory Authority the information required to be reported under the Agreement, the Common Reporting Standard, this Resolution, and any other rules, resolutions, and regulations issued in respect thereof in the State in accordance with the reporting system stipulated by the Competent Authority for this purpose on the dates prescribed by the Competent Authority.
- 2 Every Reporting Financial Institution must file an information return with the relevant Regulatory Authority containing the information described under the rules and regulations issued by its respective Regulatory Authority pursuant to the Agreement, the Common Reporting Standard, and this Resolution on or before the date specified by the relevant Regulatory Authority ("**Report on Reportable Account Information**").
- 3 If a Reporting Financial Institution applies the due diligence procedures as described in the Common Reporting Standard and the regulations issued by its respective Regulatory Authority in respect thereof, in accordance with sub-clause (a) of Clause 2 of Article 3 of this Resolution, in a calendar year and no Financial Account is identified as a Reportable Account, the Reporting Financial Institution shall file with the relevant Regulatory Authority an information return, which provides that it maintains no such Reportable Account in respect of that year on or before the date specified by the Competent Authority ("**Nil Return**").
- 4 A Reporting Financial Institution shall establish and implement the necessary systems and internal procedures to enable it to comply with the requirements of this Resolution and any further rules and procedures issued by its respective Regulatory Authority or the Minister of Finance pursuant to this Resolution.
- 5 A Reporting Financial Institution shall keep records of the steps and measures undertaken and any evidence relied upon for the performance of the due diligence procedures undertaken by it for the purposes of compliance with this Resolution, any resolutions, rules and regulations issued by the relevant Regulatory Authority or the Minister of Finance pursuant to this Resolution.
- 6 A Reporting Financial Institution shall retain all records and information collected and maintained pursuant to this Resolution, including all evidence relied upon under Clause 5 of this Article, for a period of at least five (5) years from the date of reporting the required information to the Regulatory Authority.

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- 7 A Reporting Financial Institution shall provide any other information, documentation and records as may reasonably be requested by the relevant Regulatory Authority and the Competent Authority within the time period prescribed by them for the purposes of implementing the provisions of this Resolution and any other rules or procedures issued in respect thereof, including information in respect of an Account Holder and, if applicable, a Controlling Person.

### **ARTICLE 5: ADMINISTRATIVE VIOLATIONS AND PENALTIES**

- 1 The following provisions shall apply to the violation of providing false or incorrect Self Certification
- (a) A fine in the amount of Dirhams (20,000) twenty thousand shall be imposed on any Account Holder or Controlling Person, as the case may be, if the self-certification or any supporting documents submitted by such Account Holder or Controlling Person to the Reporting Financial Institution contains any inaccurate or incorrect information and the Account Holder or Controlling Persons knows or should have known that the information provided is inaccurate or incorrect.
  - (b) On finding of the violation provided for in paragraph (a) of this Clause, the Reporting Financial Institution shall, within not later than (30) thirty days from finding the violation, notify its relevant Regulatory Authority of the violation and of all the information available to it on the identity, address and place of residence of the violator.
  - (c) The relevant Regulatory Authority shall, within (30) thirty days from the date of the notice referred to in paragraph (b) of this Clause, notify the violating Account Holder or Controlling Person, as the case may be, of the amount of the fine and require them to pay the fine within not later than thirty (30) days from receipt of the notice.
- 2 A fine in the amount of Dirhams (1,000) one thousand shall be imposed on any Reporting Financial Institution who opens an Account to an Account Holder or Controlling Person (as applicable) without obtaining a valid self-certification and/or failing to validate such self –certification.
- 3 The following fines shall be imposed for failure to Report:
- (a) A fine in the amount of Dirhams 50,000 shall be imposed on a Reporting Financial Institution that fails to submit the Report on Reportable Account Information to the relevant Regulatory Authority in accordance with the form, manner and on the date specified by the Competent Authority. A fine of AED 1000 shall apply for every day the failure continues up to a maximum amount of AED 100,000.
  - (b) A fine in the amount of Dirhams 10,000 shall be imposed on a Reporting Financial Institution that fails to submit the Nil Report in accordance with the timeframe stipulated by the relevant Regulatory Authority. A fine of AED 1000 shall apply for every day the failure continues up to a maximum amount of AED 30,000.
- 4 The following provisions shall apply to the violation of providing Complete and Accurate Information:
- (a) A Reporting Financial Institution that fails to report any information that is required to be reported under this Resolution, and under any other applicable laws and regulations issued in the State relation to the Common Reporting Standard, in a complete and accurate manner, shall be subject to a minimum fine of Dirhams 5,000, to a maximum fine of Dirhams 25,000 for each instance of a filed report in which such failure occurs in a reporting year (“Reporting Year”).
  - (b) A Reporting Financial Institution that commits the violation under paragraph (a) of this Clause in the Reporting Year immediately following the Reporting Year in which this violation was committed shall be subject to a minimum fine of Dirhams 10,000 to a maximum fine of AED 50,000.
  - (c) A Reporting Financial Institution that commits the violation set out under paragraph (a) of this Clause in any further successive Reporting Year(s) following the Reporting Year specified under paragraph (b) of this Clause shall be subject to a minimum fine of Dirhams 60,000 to a maximum fine of AED 100,000.

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- 5 A Reporting Financial Institution that fails to apply the due diligence as described in the Common Reporting Standard and the regulations issued by its respective Regulatory Authority in respect thereof in accordance with sub-clause (a) of Clause (2) of Article (3) of this Resolution shall be subject to a fine of Dirhams 40,000.
- 6 The following fines shall be imposed for violation of non-compliance with this Resolution or any of the laws or regulations related to the Common Reporting Standard in the State:
  - (a) A Reporting Financial Institution that otherwise fails to comply with any other provision of the provisions of this Resolution or any other applicable laws and regulations issued in the State in relation to the Common Reporting Standard shall be subject to a minimum fine of Dirhams 10,000 to a maximum fine of Dirhams 30,000.
  - (b) A penalty in the amount of AED 250,000 shall be imposed on any Reporting Financial Institution that commits any offense in violation of any other provision of the provisions of this Resolution or any other applicable laws and regulations issued in the State in relation to the Common Reporting Standard, or adopts any practices in respect thereof, with the intent to circumvent this Resolution or such laws and regulations.
- 7 **Other Administrative Penalties**
  - (a) In the event the Reporting Financial Institution commits any of the violations stated in Clauses (1) to (6) of this Article, the relevant Regulatory Authority may take any other supplementary penalties as it may deem to be necessary including the suspension, withdrawal, or non-renewal of the license issued to the violator, for the purposes of ensuring compliance with this Resolution and any other applicable laws and regulations issued in the State in relation to the Common Reporting Standard.
  - (b) The relevant Regulatory Authority shall notify the Reporting Financial Institution of the administrative penalty taken in pursuant to paragraph (a) of this Clause, and the timeframe in which such penalty must be taken.

### **ARTICLE 6: NOTICE AND ENFORCEMENT OF PENALTIES**

- 1 If the relevant Regulatory Authority determines that the Account Holder, the Controlling Person, or the Reporting Financial Institution has committed any of the administrative violations stipulated in Article (5) of this Resolution and imposes the relevant administrative penalties, it must notify the violator in writing of the following:
  - (a) the violator has committed an administrative violation with a precise description of such violation;
  - (b) The date of the administrative violation;
  - (c) The reasons for imposing the administrative penalty;
  - (d) The amount of the administrative penalty imposed.
- 2 The relevant Regulatory 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 his e-mail address, the notification shall be sent to his mailing address registered with the relevant Regulatory Authority by virtue of a letter and acknowledgment of receipt.
- 3 The violator must pay the amount of the determined administrative penalty within a period of thirty (30) business days from the date of receiving the notification in accordance with the provisions of Clause (2) of this Article.
- 4 If the violator appeals against the imposition of the penalty or against its amount and his appeal is not accepted or is rejected, the violator must then pay the penalty amount within fifteen (15) business days from the date

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he is notified that the appeal was rejected or not accepted.

- 5 The Central Bank of the United Arab Emirates may assign the banks licensed by it to collect the fines specified in Clause (1) of Article 5 of this Resolution and transfer the monies to the bank account specified by the Central Bank for this purpose.
- 6 If the violator does not initiate the payment of the administrative fine within the period specified for payment under this Resolution, the notification issued by the relevant Regulatory Authority under Clause 1 of this Article shall be considered an Executionary Deed. The relevant Regulatory Authority shall submit the Executionary Deed to the enforcement judge at the competent court for enforceable execution.

### **ARTICLE 7: APPEAL AGAINST THE ADMINISTRATIVE PENALTY**

- 1 A person upon whom an administrative penalty is imposed may appeal against it before the Regulatory Authority that issued that penalty within twenty (20) working days of receiving the notification referred to in Clause (2) of Article 6 of this Resolution.
- 2 The appeal must be in writing and signed by the person upon whom the penalty was imposed or by his authorized representative, provided that it is based on one of the following grounds:
  - (a) he did not commit the violation attributed to him.
  - (b) the administrative penalty imposed is not proportionate to the violation.
  - (c) the administrative penalty imposed exceeds the limit determined for the administrative violation attributed to him in accordance with the provisions of this Resolution.
- 3 The relevant Regulatory Authority shall examine the appeal and notify the appellant that it has received the appeal and that it shall issue its decision about it within the period specified in the notification, provided that it does not exceed sixty (60) business days from the date of that notification. This notification shall be sent to the email address specified by the appellant in his appeal. If this address is not specified, the notification shall be sent in accordance with the provisions of Clause (2) of Article 6 of this Resolution.
- 4 The relevant Regulatory Authority may ask the appellant to submit any additional documents or information that it deems necessary for deciding on the appeal, and for the same purpose, it may set a date for the appellant to come to it to hear his statements and confirm his defenses.
- 5 The relevant Regulatory Authority shall issue its decision either:
  - (a) to accept the appeal and revoke the fine; or
  - (b) to amend the fine; or
  - (c) to reject or not accept the appeal.
- 6 If the person subject to the administrative fine submits his appeal after its deadline has passed, then the relevant Regulatory Authority shall issue a decision not to accept the appeal unless it decides that there are serious reasons that prevented the appellant from submitting the appeal within the deadline.
- 7 The relevant Regulatory Authority may issue a decision specifying any procedures or any forms for implementing any of the provisions stipulated in this Article.

### **ARTICLE 8: POWERS OF INSPECTION AND INVESTIGATION**

In order to exercise the functions stipulated in this Resolution, the Competent Authority may:

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- 1 request any information from any Account Holder and any Controlling Person who has an account with the Reporting Financial Institution or the Reporting Financial Institution, including the account records and all other records related to information or statements submitted to this Financial Institution.
- 2 request the assistance of the Reporting Financial Institution in order to obtain the relevant information or records of the Account Holder or, if applicable, the Controlling Person.
- 3 In the event of the suspicion that any of the administrative violations stipulated in this Resolution has occurred, enter the premises of the Reporting Financial Institution for the purposes of examining and checking documents and information related to the suspected administrative violation.
- 4 view the original records and documents related to the suspected administrative violation and obtaining copies of it/them.
- 5 request any information, data or documents from the Account Holder or, if applicable, from the Controlling Person or the Reporting Financial Institution to ensure its correctness and completeness and the extent of their commitment to implementing the provisions of the Agreement, the Common Reporting Standard, and this Resolution.

### **ARTICLE 9: EXCHANGE OF INFORMATION**

- 1 The Competent Authority shall annually exchange information with a foreign Competent Authority in respect of each Reportable Account in accordance with the form, time, and manner prescribed under the Agreement and pursuant to any further international agreement, treaty or similar international arrangement to which the State is a party and is related to the Common Reporting Standard.
- 2 For the purposes of ensuring compliance by the State in respect of its obligations under the Agreement or any international agreement, treaty or similar international arrangement to which the State is a party and is related to the Common Reporting Standard, the Competent Authority shall be conferred the following functions and authorities:
  - (a) to issue the necessary forms to be used for the purposes of implementation of this Resolution;
  - (b) to prescribe the dates and manner by which information is reported by a Reporting Financial Institution under this Resolution;
  - (c) to receive and request the information required to be reported under this Resolution in the form and within the dates prescribed by it;
  - (d) to request the relevant Regulatory Authority or Reporting Financial Institution to provide any such additional information and documentation as shall be reasonably required by it for the purposes of implementing the provisions of this Resolution;

### **ARTICLE 10: INTERPRETATION OF THE PROVISIONS OF THIS RESOLUTION**

The interpretation of any provision of this Resolution shall be in accordance with the explanations of the Common Reporting Standard issued by the OECD and any update thereto.

### **ARTICLE 11: EXECUTIVE REGULATIONS**

The Minister of Finance shall issue the resolutions, guidelines and procedures required for implementing any provision of this Resolution.

**ARTICLE 12: REPEAL**

Cabinet Resolution No. (5/11) of 2020 Concerning Implementing Certain Provisions of the Multilateral Administrative Agreement for Automatic Exchange of Information is hereby repealed by this Resolution. Any provision that is contrary to the provisions of this Resolution shall also be repealed.

**ARTICLE 13: PUBLICATION AND EFFECTIVE DATE**

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

The original document is signed by His Highness Sheikh

Mohammed Bin Rashid Al Maktoum

The Prime Minister

Issued by us:

On: 3/ Rabi' I /1443H.

Corresponding to: 10/October/2021