DUBAI'S ROLE IN FACILITATING CORRUPTION AND GLOBAL ILLICIT FINANCIAL FLOWS

MATTHEW T. PAGE AND JODI VITTORI, EDITORS

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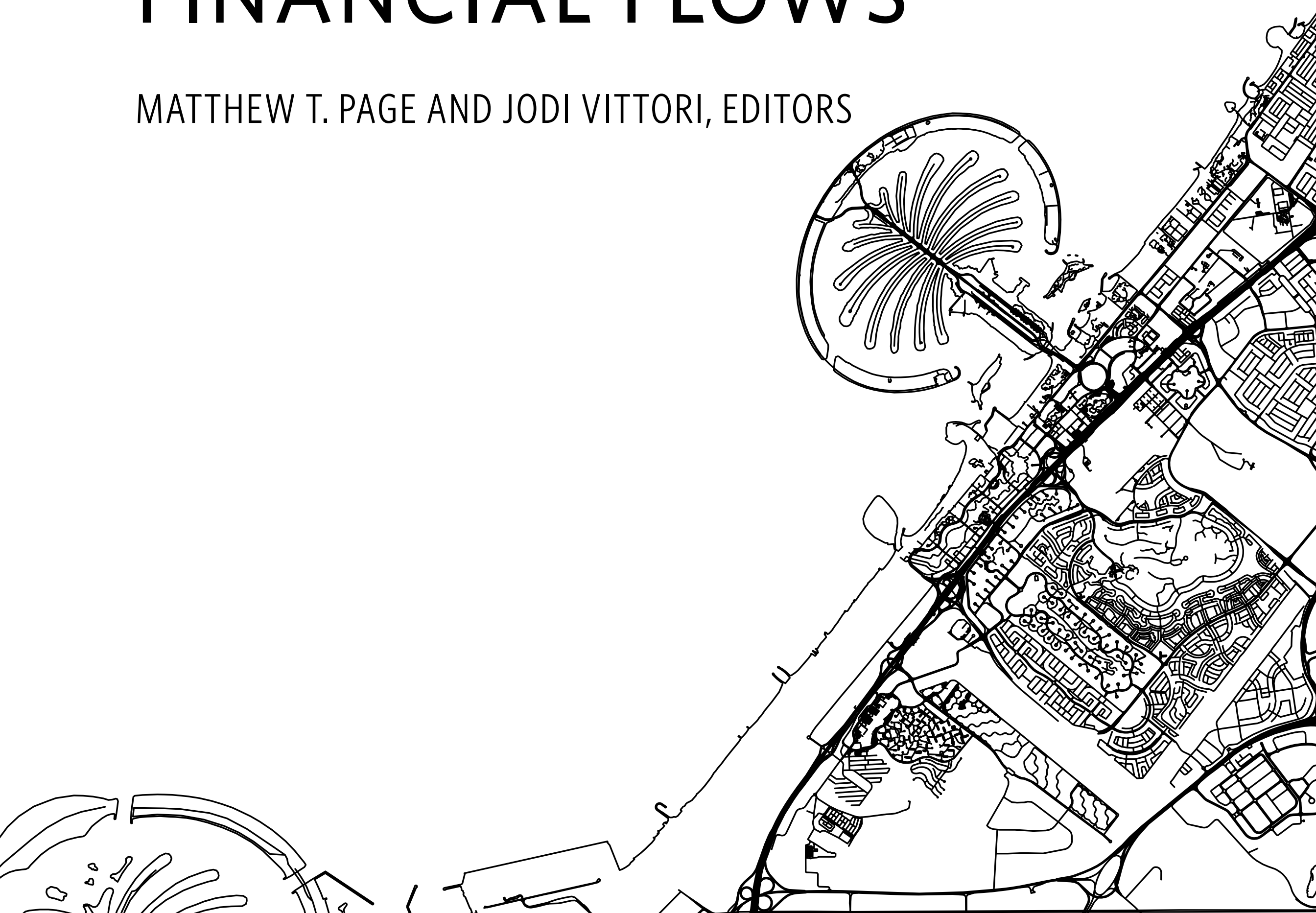

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This publication can be downloaded at no cost at CarnegieEndowment.org.

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ABBREVIATIONS

ADAA	Abu Dhabi Audit and Accountability Authority
AML	anti–money laundering
AML/CTF	anti–money laundering and counterterrorism finance (law)
ASGM	artisanal and small-scale gold mining
ATFC	Afghanistan Threat Finance Cell (United States)
CTF	counterterrorism finance
DAB	Da Afghanistan Bank
DGD	Dubai Good Delivery standard
DIFC	Dubai International Finance Centre
DMCC	Dubai Multi Commodities Centre
DNFBP	designated nonfinancial business professions
DRC	Democratic Republic of Congo
EU	European Union
FARA	Foreign Agent Registration Act (United States)
FATF	Financial Action Task Force
FBI	Federal Bureau of Investigation (United States)
FIU	Financial Intelligence Unit
GCC	Gulf Cooperation Council

ICGLR	International Conference of the Great Lakes Region
JAFZA	Jebel Ali Free Zone
MENAFATF	Middle East and North Africa Financial Action Task Force
MLO	Money Laundering Operation (Altaf Khanani)
MOI	Ministry of Interior (UAE)
OCCRP	Organized Crime and Corruption Reporting Project
OECD	Organisation for Economic Co-operation and Development
OFAC	Office of Foreign Assets Control, Department of Treasury (United States)
PEP	politically exposed person
SAI	State Audit Institution (UAE)
SCB	Standard Chartered Bank
TBML	trade-based money laundering
UAE	United Arab Emirates
UNCAC	United Nations Convention Against Corruption
UNODC	United Nations Office on Drugs and Crime
UNTOC	United Nations Convention Against Transnational Organized Crime
VAT	value-added tax
WCO	World Customs Organization

Note: This report uses the term "free zone," as defined in the International Convention on the Simplification and Harmonisation of Customs Procedures (also known as the Revised Kyoto Convention). A free zone is "a part of the territory where any goods introduced are generally regarded, insofar as import duties and taxes are concerned, as being outside the customs territory." The broad category of free zones includes, but is not limited to, free trade zones, commercial free zones, financial free zones, export processing zones, and some industrial parks.

According to the Financial Action Task Force (FATF) 2020 evaluation on the United Arab Emirates (UAE), the UAE has twenty-nine commercial free zones and two financial free zones. These are specific subsets of free zones and do not constitute the number of free *trade* zones in the UAE. As noted in this report, the UAE has approximately forty-five free trade zones—of which about thirty are located in Dubai.

It is difficult to determine the exact number of free zones (including free trade zones), as there is no comprehensive official list. See the appendix for a list of all known Emirati free zones.

SUMMARY

A TWENTY-FIRST-CENTURY CITY, Dubai is a global financial center, a shopper's paradise, and an oasis for the world's well-to-do. While the vast majority of financial, business, and real estate transactions in Dubai are not associated with illegal activity, part of what underpins Dubai's prosperity is a steady stream of illicit proceeds borne from corruption and crime. The wealth has helped to fuel the emirate's booming real estate market; enrich its bankers, moneychangers, and business elites; and turn Dubai into a major gold trading hub. Meanwhile, both Emirati leaders and the international community continue to turn a blind eye to the problematic behaviors, administrative loopholes, and weak enforcement practices that make Dubai a globally attractive destination for dirty money.

Corrupt and criminal actors from around the world operate through or from Dubai.

As leaders in Washington and several other Western capitals reassess their strategies and relationships in the Gulf to reflect changing geopolitical realities, new economic imperatives, and growing divergences with regional partners on a range of policy issues, there is a fleeting opportunity to elevate and address widespread concerns about Dubai's role in enabling global corruption and its many destabilizing effects. But doing so will require a fine understanding of why and how corruption has become such a central element of Dubai's political economy. It will also require anticorruption practitioners to recognize that traditional—and largely punitive—policy instruments will not succeed absent a more affirmative and sustained effort by Emirati leaders to ensure that Dubai's economy remains competitive and attractive over the long term.

MAJOR AREAS OF CONCERN

- Corrupt and criminal actors from around the world operate through or from Dubai. Afghan warlords, Russian mobsters, Nigerian kleptocrats, European money launderers, Iranian sanctions-busters, and East African gold smugglers, all find Dubai a conducive place to operate.

- Dubai's property market is a magnet for tainted money. Built to attract foreign buyers, the emirate is dominated by towers of upscale flats and man-made islands studded with luxury villas. Property developers and real estate agents accept huge sums from politically exposed persons—individuals entrusted with a prominent public function, as well as their families and associates—and other suspicious buyers. Even individuals targeted by international sanctions use Dubai property to launder money due to weak regulations and lax enforcement.

- Now one of the world's largest gold hubs, Dubai is also a place to launder artisanally mined gold, especially from conflict-prone parts of East and Central Africa. Opaque business practices and regulatory loopholes allow this laundered gold to enter world markets on a massive scale.

- With approximately thirty free trade zones, Dubai is a haven for trade-based money laundering. Operating with minimal regulatory oversight or customs enforcement, these zones allow businesses to disguise the proceeds of crime via the over- and under-invoicing of goods, multiple invoicing, and falsifying of other trade documentation. Many migrant workers are also treated as commodities in Dubai through the kafala system, an exploitative migrant labor scheme that shares some characteristics with human trafficking.

- The central government of the United Arab Emirates (UAE), Dubai officials, and Emirati law enforcement agencies largely possess the technical knowledge and capacity to tackle these challenges. Emirati regulators, officials, and law enforcement agents are aware of how Dubai is being used as a conduit for illicit financial transactions. This is a feature, not a bug, of Dubai's political economy.

- What happens in Dubai—and the UAE—matters because both are strategically important to the United States, United Kingdom (UK), and other countries. The UAE is one of Washington's and London's key security and trading partners in the region. Dubai, in particular, has close historical and commercial ties to neighboring Iran. Moreover, many of the illicit activities outlined in this report have strategic consequences for the United States and UK insofar as they exacerbate conflict, transnational organized crime, terrorism, and poor governance in countries all around the world.

THORNY ANTICORRUPTION AND ORGANIZED CRIME CHALLENGES

Dubai is just one of many criminal facilitation nodes throughout the world, but addressing the emirate's problematic role presents anticorruption and law enforcement practitioners and policymakers with particularly complex and delicate challenges.

Foremost among these challenges is the huge scope and sophistication of illicit financial flows and global facilitation networks that terminate in or transit through Dubai. These problematic linkages intersect with a range of other regional and functional policy concerns. Secretive and standoffish, Dubai often rebuffs outside attempts to discern whether kleptocrats and criminals are buying property or laundering money through the emirate. International law enforcement agencies find it especially difficult to acquire information and solicit cooperation from Emirati authorities. In its April 2020 report on the UAE, the intergovernmental Financial Action Task Force (FATF) specifically called out Dubai for its limited number of money laundering prosecutions and convictions. As a result, the FATF has placed the emirate under a year-long observation to ensure that it fully implements recently passed anti–money laundering legislation, actively works to dismantle international money laundering networks, and improves formal cross-border cooperation on criminal cases.[1] With this charge, policymakers and practitioners cannot overlook Dubai's failure to take the remedial policy and enforcement steps needed to stem illicit financial flows.

Dubai is just one of many criminal facilitation nodes throughout the world, but addressing the emirate's problematic role presents anticorruption and law enforcement practitioners and policymakers with particularly complex and delicate challenges.

Other major challenges are the emirate's highly personalized institutions and lack of mechanisms to hold elites accountable. Although kleptocrats and criminals are similarly active and able to exploit lax regulations in the United States, the UK, and many other European countries, they face significantly more scrutiny from law enforcement, media, and civil society in those countries than they do in Dubai. The emirate does not uphold open elections, a free press, a vigorous civil society, and the right to peaceful protest. Absent domestic and international pressure, Emirati elites are free to resist reforms that endanger their vested interests or their preferred political economic vision for Dubai and the UAE overall. Until international policymakers and practitioners intensify their efforts to incentivize and pressure Emirati decisionmakers to make reforms and crack down on illicit financial flows through the emirate, Dubai will remain a challenge to anticorruption and anticrime efforts globally.

Finally, calling Dubai out on its prominent role in facilitating illicit financial flows bumps up against competing strategic policy priorities important to Western decisionmakers.

The UAE is a stable and reliable regional ally of the United States, the UK, and other European countries. The Emirati government has long enjoyed a special friendship with Washington—one that transcends political party lines. A former U.S. ambassador to the UAE has remarked, "It was well known that if you needed something done in the Middle East, the Emiratis would do it."[2] From a political-military standpoint, the UAE has publicly supported the U.S. government's hard-line policy toward Iran. Anticorruption advocates and law enforcement practitioners must acknowledge the genuine importance of these close strategic ties and take them into account when dealing with Western policymakers who look at the UAE with a broader spectrum of priorities in mind.

WAYS AHEAD

Incremental reforms are feasible, realistic, and in the strategic interest of Emirati leaders and their international partners. Dubai's role as a facilitator of corruption is unsustainable over the long term because it is predicated on continued international tolerance of the emirate's permissive attitude toward many types of illicit activities. Being placed under observation by the FATF is an important signal that international scrutiny and pressure on Dubai's activities will only increase. Moreover, the emirate will remain disproportionately vulnerable to external shocks like the 2008 global financial crisis, when not only legitimate business, real estate, travel, and finance markets suffered but also criminal enterprises. The emirate could immediately begin weaning itself off illicit financial flows by enforcing existing laws more effectively and transparently. Dubai could also tighten regulation of the real estate, gold, and banking sectors; liberalize labor laws; tackle trade-based money laundering; and deepen cooperation with international law enforcement.

Being placed under observation by the FATF (Financial Action Task Force) is an important signal that international scrutiny and pressure on Dubai's activities will only increase.

Western policymakers can also play a role in encouraging and pressuring the Dubai government and the UAE to implement reforms, striking a balance between their anticorruption concerns and other strategic priorities. Potential actions could include U.S., UK, and European policymakers imposing travel and financial sanctions on facilitators of UAE-based crime and corruption. They could also focus more on soft power issues, such as the lack of human rights, democracy, and good governance in Dubai and the UAE overall, rather than concentrating almost solely on terrorism finance and anti-Iran activities. As part of this effort, security engagement and assistance can be conditioned on needed reforms. Further, given the lack of journalistic and civil society freedom in the UAE, Western governments could increase their support for external independent journalists, civil society groups, and anticorruption and human rights researchers reporting on Dubai.

Nonstate entities could also contribute to such efforts. International organizations, including the United Nations and the Bretton Woods institutions, could take a harder look at Dubai's role in facilitating illicit financial flows and consider adding the emirate to various blacklists in line with the FATF's recent findings. International organizations, civil society groups, and Western governments could also distance themselves from Dubai's reputation laundering efforts, such as by avoiding counterproductive or mixed messages when participating in events that burnish Dubai's anticorruption, human rights, or conflict prevention credentials.

These international actors would need to work together to craft a coherent and coordinated set of incentives and disincentives—the so-called carrots and sticks—that would influence Emirati leaders' decisionmaking calculus. If Dubai's role as a global hub for illicit financial flows begins to have real-world reputational consequences—skewing how Western governments and multinational corporations engage with the UAE—then Dubai leaders' willingness to embrace reforms and rein in the problematic activities described in this report will increase over time.

CHAPTER 1

INTRODUCTION

JODI VITTORI

IN 2014, A BUSINESSMAN MADE a routine call from the fancy neighborhood of Clifton in Karachi, Pakistan. He was checking with his assistant, Yasir, on the status of his real estate investment in Dubai's Al Khail Gate, an upscale community of apartments and townhomes close to several international schools, malls, and recreation centers.[3] The conversation was the normal sort of back and forth on building permissions, the escrow account, advertising, and sales numbers. But, in actuality, the call was anything but ordinary: the businessman was Dawood Ibrahim, a transnational criminal with a net worth of about $6.7 billion and, at the time, India's most wanted man.[4]

Tapes of Ibrahim's conversation caused quite a stir in India when they were released in April 2018. Many believe he was the mastermind behind a spree of terrorist bombings in Mumbai in 1993 that killed over 250 people and injured 1,400.[5] The U.S. Federal Bureau of Investigation continues to investigate his criminal enterprise known as D-Company, which reportedly operates from India, Pakistan, and the United Arab Emirates (UAE).[6] He also is on the United Nations Security Council's al-Qaeda sanctions list for his support of and participation in activities linked to al-Qaeda and the Taliban.[7]

The tapes highlight the unique and often underappreciated role that Dubai plays in various illicit activities throughout the world, despite its being renowned as an international banking center, a global trade hub, and a stable polity in an otherwise unstable region. While the vast majority of transactions involving Dubai are not associated with corruption or criminal activity, criminals and kleptocrats frequently launder or stash illicit proceeds in Dubai—often via high-end real estate purchases. Dubai's many free trade zones and globally connected financial institutions are also exploited to conduct trade-based money laundering. Likewise, gold of dubious providence can be brought into Dubai relatively easily and then be processed and reexported. And unlike many major banking locales, Dubai is not just a waystation for money but also an investment destination in itself.

Relatedly, Dubai offers neutral territory for many illegal and quasi-legal groups. Dubai's royal family upholds an exceptional balancing act: the emirate absorbs the financial proceeds from crime and conflict worldwide, while its middle-class and more privileged residents continue to enjoy largely safe streets and good living conditions. (Dubai's response to the new coronavirus outbreak has thus far been rigorous—perhaps even draconian.)[8] Terrorist attacks are rare, and the emirate has weathered upheavals like the Arab Spring with little protest, let alone the violent demonstrations, regime changes, and civil wars that have affected other countries in the region. This peace is due at least in part to the robust security and surveillance apparatus built by the Emirati state at the expense of residents' civil liberties.[9]

Dubai offers neutral territory for many illegal and quasi-legal groups.

Various leaked documents—from the Panama Papers to Angola's Luanda Leaks documents to Dubai's own property registry—demonstrate that Dubai is a place where many people associated with criminal activity feel free to settle down with their families, manage their networks, and engage in smuggling and money laundering.[10] Moreover, the emirate offers its residents a luxurious lifestyle and amenities—shopping, dining, nightlife—on par with other global top city destinations, including London, New York, and Paris. While Dubai has undertaken various reforms to bring the operations of trade and financial institutions more closely in line with international standards, significant loopholes continue to enable criminal activity.

Of course, numerous other countries also offer havens for illicit gains and luxurious lifestyles. For example, the United Kingdom (UK) and United States are well-known hubs for money laundering. Their robust real estate markets present plenty of opportunities to invest or launder money and/or settle down. But in these countries, criminals and kleptocrats have to maintain a degree of anonymity and take significant pains to hide the sources of their funds in case of a law enforcement investigation. Meanwhile, strong, often transnational networks of civil society and media aggressively seek to expose malfeasance and lobby their governments to make needed reforms. Further, unlike the UAE, many other key banking, trade, and real estate hubs, including the United States, UK, and other European countries, are gradually introducing and strengthening measures to combat illicit activity, thus making these hubs less attractive to criminals and kleptocrats.

Dubai therefore enjoys a comparative advantage over these other locations. Emirati authorities ask far fewer—and more perfunctory—questions about the provenance of goods or money involved in a range of trade, finance, and real estate transactions. The likelihood that a foreigner's financial activities would be scrutinized is low. Institutional weaknesses, especially a lack of standardization among various free trade zones, facilitate regulatory arbitrage for those seeking to exploit anti–money laundering loopholes.

These lapses in administrative oversight are compounded by law enforcement shortcomings. As Chapter 7 describes, governments asking Dubai for law enforcement cooperation to catch and prosecute international criminals or freeze their finances confront a byzantine system in which their requests often do not reach the relevant officials. And even when they do, some requests go unanswered. While Dubai has assisted with several investigations related to terrorism finance and organized crime, some international law enforcement officials consider Dubai—and the UAE writ large—to be a difficult partner. As the FATF recently noted for the UAE overall, "While the UAE has a sound legislative basis for international cooperation, it has provided mutual legal assistance (MLA) and extradition to a minimal extent considering its exposure to foreign predicate offenses and associated proceeds of crime"—though the report goes on to note that informal cooperation is often better than formal cooperation.[11]

This is not to say that Dubai lacks the capacity to cooperate or implement internal reforms. Emirati authorities have employed robust measures to extinguish internal dissent—for example, effectively outlawing criticism of the government by civil society groups and local media and swiftly cracking down on protests. More rigorous law enforcement efforts are possible as well as necessary given Dubai's broad and deepening connections to international financial markets. No longer just a regional entrepôt, Dubai is a truly global trade and investment hub and an attractive residential and deal-making destination for some of the world's most wealthy and powerful people. These linkages are not problematic per se but rather represent the conduits through which illicit money can flow.

DUBAI'S GLOBAL LINKAGES

Even in an age of globalized cities, Dubai stands out due to its considerable financial and strategic influence and how quickly it achieved such importance. Though Dubai became a free port in the early twentieth century, well into the 1980s it was still not obvious to the astute observer that the city would eventually become a global hub of business and finance.[12] After all, Dubai only had 59,000 people according to its first census in 1968.[13] It only allowed offshore banking institutions starting in 1975 and had no significant history of banking up until the 1990s. Put simply, Dubai lacks the long and storied financial history found in the cities of London, New York, Tokyo, or other global banking centers.[14]

Nor does Dubai possess a natural harbor location with fresh water and ready supplies like Mumbai or Singapore. The Dubai Creek was barely navigable even by sailing vessels until dredging operations began in the 1950s, and it did not have significant berthing capabilities until the 1980s.[15] But today, Dubai has the largest man-made harbor in the world and the biggest port in the Middle East. And although Dubai did not set up its first free trade zone (at the port of Jebel Ali) until 1979, now there are about thirty zones in the emirate.[16] A free trade zone is a special area in which foreign companies can import and export materials and manufacture goods without being subject to the same national rules and taxes.

Likewise, Dubai did not build its first airport until the 1960s, and Emirates Air was only a four-aircraft airline when it started operations in 1985.[17] But the Dubai emir chose to build an international airline—and the airport and cargo facilities to go with it—at breakneck speed starting in 1991.[18] As a result, in 2015, Dubai International Airport overtook London's Heathrow Airport as the world's busiest airport for international travelers.[19] As a booming tourist destination, Dubai has gone from having 42 hotels with 4,600 rooms and 400,000 visitors in 1985 to over 700 hotels with 100,000 rooms and almost 16 million visitors in 2018.[20] It was only in 2002 that Dubai allowed foreigners to buy real estate under certain conditions, but today, it has a user-friendly real estate system with minimal residency requirements: a property investment of only $272,000 or more comes with a two-year visa for the purchasers and their family members. Some business visas are even cheaper.[21] Given this, it is easy to understand how Dubai has rapidly become an attractive location for property and business investments.

Even in an age of globalized cities, Dubai stands out due to its considerable financial and strategic influence and how quickly it achieved such importance.

Such investments have helped expand Dubai's regional and international economic ties. Its connections to neighboring Iran, for example, are durable and long-standing even amid periodic Western sanctions. During the Iran-Iraq War in the 1980s, Dubai had leaned toward Iran and had served as a major transit point for war materiel headed there.[22] By 2010, following waves of Iranian migration—especially after the 1978–1979 Iranian Revolution—nearly 10,000 Iranian businesses were based there and Iranians outnumbered local Emiratis in the UAE three to one.[23] This shift precipitated about $15 billion in capital flight to Dubai in 2007 alone and cemented the emirate's position as Iran's largest trading partner.[24] By 2011, Iran accounted for about one-quarter of total exports from the UAE, despite a 2007 threat by the United States to cut off UAE-based firms from the U.S. financial sector if they continued to facilitate sanctions busting.[25]

Asia—especially the Indian subcontinent—also has a long history of commerce with Dubai. Indians are heavily involved with trading pearls, which, until the 1930s, were the primary export for the Arabian Gulf. At the same time, because Dubai's inhabitants generally saw real estate investing and shop keeping as undesirable occupations, migrant Indians took over this niche.[26] By 2010, about 1 million Indians were living in Dubai, and they continue to be a large backbone of its economy, especially the skilled worker class and the construction sector.[27]

Also notable is Dubai's thriving trade relationship with China. While Dubai-China trade flows are not necessarily suspicious, they could be exploited by the trade-based money laundering schemes described in Chapter 3. In 2014, an estimated 70 percent of all manufactured goods that left China by sea initially docked in Dubai.[28] That same year, there were 300,000 Chinese residents in Dubai, along with 4,200 Chinese companies registered in the UAE.[29] Especially prominent is Dragon Mart, an emporium of almost 4,000 vendors that handles retail and wholesale customers. In fact, many traders in places like Africa actually travel to Dubai to place orders for Chinese goods rather than travel to China.[30]

Today, Dubai has the largest man-made harbor in the world and the biggest port in the Middle East.

Looking west, Dubai's personal and financial ties to Russia and other European countries have also deepened in recent years. In 2016, the Russian Business Council Middle East and Africa estimated that 100,000 Russians were residing in Dubai and noted that they have historically been the highest spenders in the annual Dubai Shopping Festival.[31] In 2018, Europe accounted for 19 percent of Dubai's non-oil trade, making it second after Asia.[32] Unfortunately, as Russian organized crime expert Mark Galeotti notes, "Dubai has become something of a hub and haven for gangsters from Russia and other post-Soviet countries."[33]

Dubai also enjoys significant financial and trade relations with sub-Saharan Africa. According to the Dubai Chamber of Commerce and Industry, during the period 2011–2018, cumulative non-oil trade between Dubai and countries in Africa amounted to $252 billion, and the UAE ranks among the top ten sources of foreign direct investment in sub-Saharan Africa.[34] It is a major trade hub between Africa and the rest of the world.

Just as quickly as its legal trade and financial flows have grown, so too has Dubai's role as a global node for illicit and dubious activities. Dubai's earliest links to criminal activity related to smuggling, especially of gold and slaves. Smuggling became an important driver of the economy.[35] Saif al-Ghurair, a member of one of the leading merchant families, has described how he smuggled stolen ammunition and gold in the 1940s and 1950s, often by transporting gold to India via special vests worn under his clothing.[36] In 1958, the emir at the time, Sheikh Rashid bin Saeed Al Maktoum, in discussions with the British Foreign Office, acknowledged the importance of smuggling to the city's economic health. Dubai also allowed the smuggling of hashish and opium from Iran and later Afghanistan; though today, Dubai advertises a zero tolerance policy on drug trafficking and often publicizes drug busts.[37]

Since its independence in 1971, Dubai's role as a node for a variety of illicit activities has grown. For instance, Liberian dictator Charles Taylor used Dubai as a supply base and place to buy weapons. And a famous Russian smuggler, Viktor Bout, used Sharjah, a city northeast of Dubai, as a base of operations for his worldwide fleet of aircraft. The Taliban and al-Qaeda reportedly moved gold out of Afghanistan and through Dubai, sometimes on Bout's aircraft.[38] Until 2004, Dubai was used to help smuggle nuclear parts to Iran and Libya as part of Pakistani nuclear scientist Abdul Qadeer Khan's clandestine nuclear weapons programs.[39] Indeed, even before the September 11, 2001, terrorist attacks, the United States was concerned about money laundering and illicit financial flows through Dubai banks—a concern that only heightened after the attacks.[40]

Just as quickly as its legal trade and financial flows have grown, so too has Dubai's role as a global node for illicit and dubious activities.

The links between terrorism finance and Dubai brought the city into the spotlight in the early 2000s, forcing it to institute anti–money laundering and counterterrorism finance initiatives. However, numerous loopholes remain, evidenced by a leaked database of Dubai property and residency data comprising 54,000 addresses and 129,000 owners from 181 countries. The database includes crime bosses, sanctioned individuals, and politicians allegedly living well beyond their means.[41]

Despite well-publicized reforms, the anecdotes in Table 1 indicate that Dubai remains a globally attractive locale for a range of illicit and smuggling activities. The cases also highlight some of the tensions between Dubai's need to meet and maintain international standards—such as in the enforcement of sanctions—and the potential economic distress from enforcing these standards and cutting long-established, profitable ties.

TABLE 1

EXAMPLES OF ILLICIT FINANCIAL FLOWS ASSOCIATED WITH DUBAI

IRAN

Kambiz Mahmoud Rostamian	In 2017, the U.S. Department of the Treasury sanctioned Rostamian for helping to buy materials for Iran's ballistic missile program using a Dubai-based company. He also owns five properties in Dubai worth $2.7 million.[42]
Hossein Pournaghshband	In 2016, the U.S. Department of the Treasury sanctioned Pournaghshband for helping Iran procure materials for its ballistic missile program. He used his Dubai-based firms to buy them from Hong Kong and mainland China.[43]
Beneathco DMCC	In January 2020, the U.S. Department of the Treasury sanctioned this petrochemical company in Dubai for helping Iran's state oil company hide the origin of petroleum products transiting through the UAE.[44]

INDIA, AFGHANISTAN, AND PAKISTAN

Altaf Khanani	U.S. and Australian police arrested Khanani—a Pakistani national—in Panama in 2015. His operation reportedly laundered $14 billion annually for al-Qaeda, the Taliban, Mexican drug dealers, and Hezbollah.[45] In 2017, he pled guilty in a U.S. court to conspiracy to commit money laundering; thirteen other charges were dropped in return for his cooperation.[46]
Sherkhan Farnood	Ahead of Afghanistan's 2009 presidential election, $600 million was removed from the country's banks by various elites and transported to Dubai, according to a leaked diplomatic cable.[47] Farnood—a co-founder of Kabul Bank—facilitated bank fraud totaling almost $1 billion (see Chapter 9).
Taliban	In 2018, the *Washington Post* noted that senior Taliban officials reportedly make frequent trips to Dubai. One U.S. official noted that—when pressed on Taliban presence there—UAE officials would say "it's complicated."[48]

EUROPE AND RUSSIA

Kamchibek Kolbayev	The United States sanctioned Kolbayev in 2012 for his ties to The Brothers' Circle, an organized crime group. He has overseen various criminal activities in Central Asia and used the northern heroin smuggling route to bring drugs from Afghanistan into Russia and Europe.[49] He is still linked to an apartment in Dubai Marina, according to the U.S. Department of the Treasury.[50]
Carousel Scandal	Partly run by Imran Yakub Ahmed, the Carousel scheme defrauded the UK, Italian, and German governments of value-added tax (VAT) proceeds during the 1990s and 2000s. Ahmed received a suspended sentence from an Italian court in 2017 for tax fraud linked to the Carousel scheme, and his firm is now being investigated in Germany over a $220 million fraud. Ahmed—who denies all wrongdoing—reportedly owns two floors in the Burj Khalifa.[51]
Sanjay Shah	UK authorities raided Shah's hedge fund—Solo Capital—in 2016 and closed it down.[52] Shah is also being investigated in Belgium, Denmark, Germany, Norway, the UK, and the United States for tax fraud.[53] The Danish prosecution involves a $1.8 billion fraud conducted from 2012 to 2015.[54] Shah now lives in Dubai and, as of 2014, owned six properties worth $56 million.[55] He denies all of the fraud charges, and there is no suggestion of wrongdoing regarding his purchases.[56]

SUB-SAHARAN AFRICA

Dan Etete	Currently standing trial in Italy for bribery and embezzlement, former petroleum minister Etete has allegedly laundered significant sums through Dubai—including $21.5 million through the UAE-registered money-changing firm, Gunes General Trading.[57] According to leaked records, Etete has lived in Dubai's luxurious Emirates Hills development since at least 2015.[58] Etete denies all wrongdoing.
Kaloti Precious Metals	In 2012, Kaloti Precious Metals—the largest gold refinery in Dubai—reportedly purchased 44 tons of gold from Sudan and then sold it to a Swiss refiner, despite U.S. sanctions on Sudanese gold.[59] The company denies any impropriety.[60] Much of the gold allegedly came from mines in North Darfur overseen by Mohamed Hamdan Dagolo ("Hemeti"), Sudan's de facto leader since the April 2019 overthrow of former president Omar al-Bashir.[61]

Isabel dos Santos	Dos Santos—the daughter of Angola's former president—allegedly used her connections and position as head of the state oil company to amass a fortune worth over $2 billion, according to the Luanda Leaks investigation.[62] Of that sum, dos Santos allegedly deposited over $57 million in a shell company owned by a Dubai-based friend and, as of June 2019, had moved to the emirate, according to a Maltese commercial register.[63] In January 2020, Angolan authorities charged her with corruption; she denies all charges, however, claiming that the leaks and allegations are politically motivated.[64]
Al-Shabaab	Significant quantities of charcoal are smuggled into Dubai, enriching the Somali terrorist group al-Shabaab and contributing to deforestation in the Horn of Africa.[65] The United Nations (UN) banned charcoal exports from Somalia in 2012, but it remains a $150 million per year industry for criminals who reportedly bribe Emirati officials for false certificates of origin for the charcoal.

LATIN AMERICA

Venezuelan gold	Gold flows between Venezuela and Dubai appear to have an illicit dimension. In 2018 and 2019, Venezuela's Central Bank improperly sold 73.2 tons of gold to two UAE-based companies.[66] In January 2019, 3 tons of gold drawn from central bank reserves was sold in the UAE, providing the Maduro regime with needed foreign exchange. Gold has also been transshipped to Dubai via Aruba, according to investigative reports.[67]
Ezio Benjamin and Hassein Eduardo Figueroa Gomez	Mexican narco-criminals sanctioned since 2012 under the United States' Foreign Narcotics Kingpin Designation Act, this father and son have used Dubai as an operating base. Though Ezio is in a U.S. prison, Hassein still uses Cypriot companies registered at a Dubai address to conduct activities.[68]

DUBAI'S DARKER SIDE ILLUMINATED

Taken together, the following chapters illustrate Dubai's unique role in facilitating criminal and corrupt activity. Each chapter explores a particular vulnerability in Dubai's legislative and regulatory systems and trade, business, and financial operations. In Chapter 2, Kristian Ulrichsen outlines Dubai's political economy. Unlike Abu Dhabi, Dubai has relatively little oil. Its oil production peaked in 1991, and as a result, the Maktoum royal family moved quickly to diversify its economy away from oil into trade, banking, real estate, and tourism.

These diversification efforts yielded rapid economic growth until the emirate's real estate bubble burst in 2008, forcing it to seek a bailout from its richer neighbor, Abu Dhabi.

In Chapter 3, Lakshmi Kumar examines the part that Dubai's complex legislative and regulatory environment plays in enabling trade-related illicit activity. Dubai's leadership both promotes commerce and finance within the emirate and oversees compliance with national and international standards. This dual role has led to a high degree of regulatory state capture. Meanwhile, each free trade zone has its own commercial regulations, and the Central Bank, the Dubai Financial Services Authority, and Dubai Customs have limited oversight roles. Thus, the definitions and requirements for documenting and verifying corporate beneficial ownership information are not standardized across each zone. Likewise, this weak oversight makes it relatively easy to repack and relabel products transferred through Dubai's free trade zones, further facilitating trade-based money laundering. This complex structure creates many loopholes and opportunities for regulatory arbitrage ripe for criminal organizations to exploit.

In Chapter 4, Shawn Blore and Marcena Hunter highlight the weaknesses in Dubai's oversight of gold commodity trading. The Dubai Multi Commodities Centre is both the chief promoter and regulator of Dubai's gold and minerals trade. Responsible sourcing rules for gold are voluntary, and only three of the eleven gold refineries in the UAE officially follow them. Gold is remarkably easy to import through Dubai customs, and once the appropriate paperwork is acquired, a gold trader is free to sell it in the city's gold souks. The gold is nominally conflict free, but almost half of it is imported from countries the Organisation for Economic Co-operation and Development has flagged as potentially conflict-affected or at high risk. Once processed through Dubai, the gold makes its way to the world's leading gold hubs, such as India and Switzerland, or is reexported as jewelry to places such as India, Iran, and Iraq, where gold is often part of money laundering or conflict-driven financial schemes.

In Chapter 5, Peter Kirechu examines Dubai's anti–money laundering and counterterrorism finance legislation and regulations. In particular, he focuses on Dubai's weak oversight of nontraditional financial service providers—such as lawyers, real estate brokers, and precious metal dealers—who help facilitate the illicit activities of criminals and kleptocrats. After highlighting the weaknesses in Dubai's prior efforts to comply with the intergovernmental Financial Action Task Force's standards for fighting money laundering and illicit financial flows, Kirechu assesses whether the emirate's recent legislative reforms, especially laws passed in 2018, will have any effect. The outcome may largely depend on whether Dubai and the UAE as a whole standardize their anti–money laundering and counterterrorism finance standards and regulations across their free zones.

In Chapter 6, Peter Kirechu and Jodi Vittori assess Dubai's real estate market and associated money laundering. Most Dubai real estate investments are legitimate but a significant and growing number are not. In 2018, the Center for Advanced Defense Studies (now known as C4ADS) identified forty-four Dubai-based luxury properties directly associated with seven individuals sanctioned by the United States or European Union member states. The sanctions were imposed for a range of illicit activity, including conflict financing, narcotics and weapons trafficking, terrorism financing, or grand corruption. The Organized Crime and Corruption Reporting Project, run by a global network of media centers and investigative journalists, has also linked multiple property holdings in Dubai to politically exposed persons, their family members, and business associates from a diverse set of countries, including Pakistan, Russia, South Africa, and Thailand.

In Chapter 7, Karen Greenaway evaluates the law enforcement capabilities of Dubai and the UAE. While the emirate's agencies appear well-trained overall, they may not have the investigative techniques needed to combat money laundering, corruption, and organized crime—in part due to their lack of relevant training and limited cooperation with investigative units globally. International cooperation is further hampered by the alleged misuse of INTERPOL Red Notices (for a wanted person) and by Emirati authorities' use of torture, which delegitimizes any resulting testimony in most Western courts. Finally, the UAE's complex web of federal and local law enforcement jurisdictions, as well as Dubai's opaque command and control structure for policing and internal security, make international cooperation with investigators and other specialists trying at best. Further, despite Emirati commitments to various international and bilateral institutions and treaties, there has been little political will in either Dubai or the UAE writ large to effectively partner with foreign law enforcement on tackling illicit financial flows.

In Chapter 8, Mustafa Qadri assesses Dubai's kafala system, whereby foreign nationals—especially low-wage and semi-skilled workers—must be sponsored by an Emirati national to reside and work in Dubai. This system shares characteristics with human trafficking—an illicit activity of growing international concern—and has led to abusive and exploitative working conditions. Despite recent reforms, these problems continue to some extent. One reason is that the Emirati government's focus on sex trafficking has drawn attention away from labor exploitation. And another reason is that the kafala system is part of a social contract between Emirati leaders and its citizens. Businesses are often owned by Emirati citizens but managed by migrant workers on behalf of the sponsor, generating extensive wealth and social standing for citizens. This has become part of the bargain between the government and its citizens: citizens will have few rights but will be compensated with the opportunity to monetize their citizenship. Because of this bargain, labor and human rights reforms for noncitizens will continue to face considerable opposition from Emirati citizens.

In Chapter 9, Brian George examines the various financial and criminal linkages between Afghanistan and Dubai, arguing that these linkages—and Dubai's lax policies—have contributed to Afghanistan's continued instability. For example, prior to being convicted of fraud in 2013, Sherkhan Farnood, an Afghan powerbroker, successfully laundered millions of dollars for the Taliban, warlords, corrupt political leaders, and narco-traffickers. He did so by leveraging, among other tools, his Dubai-based trading company, an informal money transfer system (hawala) established between Afghanistan and Dubai in 1998, and a banking license. Much of the laundered money was invested in Dubai's real estate sector or passed through to other banking locales around the world. Through Kabul Bank, co-founded by Farnood, Afghan politicians and warlords bought extensive portions of Dubai's famous man-made Palm Jumeirah island. When the bank almost collapsed in 2010, many feared the fragile state's economy and society would follow.

Finally, in Chapter 10, Jodi Vittori and Matthew Page offer recommendations to help anticorruption practitioners, policymakers, and international organizations prevent illicit financial flows from transiting through or being absorbed by Dubai. Advancing reform in Dubai will necessitate reducing Dubai's economic dependence on illicit financial flows, which accounts for its leaders' deep-seated resistance to reform. The emirate can wean itself off of illicit financial flows by enforcing existing laws more effectively and transparently; tightening and standardizing laws and regulations on real estate, gold, trade, and banking; and improving cooperation with international law enforcement. The international community—including governments, international institutions, and civil society—can provide the incentives by increasing its scrutiny of Dubai and those who operate there and by limiting Dubai's opportunities for primping its reputation.

CHAPTER 2

THE POLITICAL ECONOMY OF DUBAI

KRISTIAN COATES ULRICHSEN

DUBAI'S HISTORICAL TRAJECTORY AND idiosyncratic political economy help explain its prominent role in facilitating international financial flows. The most populous emirate of the UAE, Dubai enjoys a symbiotic relationship with Abu Dhabi, the country's political and petroleum powerhouse. However, because of Dubai's mercantilist history, its relative political autonomy, and its emergence as a global commercial hub, the emirate has long resisted periodic attempts by the federal government in Abu Dhabi to impose greater cohesion in national policymaking.

After peaking at 410,000 barrels per day in 1991, its [Dubai's] oil production fell sharply. As a result, Dubai became an early proponent of economic diversification, especially of construction and real estate.

Ruled since 2006 by septuagenarian Sheikh Mohammed bin Rashid Al Maktoum, Dubai has evolved from a regional trade hub into an aspirant global city. Unlike Abu Dhabi—which possesses over 90 percent of the UAE's oil and gas reserves—Dubai is a post-oil state. After peaking at 410,000 barrels per day in 1991, its oil production fell sharply. As a result, Dubai became an early proponent of economic diversification, especially of construction and real estate.[69] In 2000, Dubai ambitiously set a target to grow its gross domestic product to $30 billion by 2010, only to achieve it by 2005.[70] Dubai was booming.

Nevertheless, the real estate crash precipitated by the 2008 global financial crisis left Dubai more than $120 billion in debt, necessitating a $20 billion bailout from Abu Dhabi to meet its immediate financial obligations. The debt crisis weakened Dubai's political economy, shifting the balance of power in the UAE firmly toward Abu Dhabi in the 2010s. Unfortunately, the crisis also created space for less legitimate financial flows, which Dubai came to rely on to sustain its economy.

HISTORICAL OVERVIEW

Dubai was first populated in the eighteenth century but remained a small fishing village until the early 1830s, when the Al Bu Falasah section of the Bani Yas tribal confederation seceded to Dubai after disagreeing with the Al Bu Falah section about succession. Led by Maktoum bin Buti, the Al Bu Falasah settled in Dubai in 1833 and established the ruling dynasty that bears his name.[71]

Initially dependent on Abu Dhabi, the early rulers of Dubai lived a somewhat precarious existence. On several occasions, they were nearly dragged into a wider regional conflict between the Bani Yas in Abu Dhabi and the powerful Qawasim rulers in neighboring Sharjah. But by the early 1900s, Dubai's economic importance had begun to grow. It was declared a free port in 1901 and subsequently received a major boost in 1903 when a string of Persian and Arab merchants migrated to the city from the Persian port of Lingah. Alienated by the Tehran government's new regulations and higher taxation, the merchants brought their businesses and trading networks, which extended to India and beyond.[72]

For most of the seventy years that followed the 1903 influx, Dubai, rather than Abu Dhabi, was the region's economic and commercial mainstay. Over the following decades, Dubai's merchants and rulers derived their wealth from the fishing and pearling industries, as well as the trading of general goods across the eastern coast of Africa and the western coast of India. Even at this early stage, and in anticipation of its later geoeconomic role, Dubai's rulers positioned the emirate as a transit center for regional trade and the reexport of goods to and from the Arabian Peninsula, Persia, and India.[73] Successive Maktoum rulers in the early/mid-twentieth century continued to attract trade and business activity by reducing import and export taxes and placing merchants in senior government positions.[74] Major infrastructural developments during the long rule (1958–1990) of Sheikh Rashid bin Saeed Al Maktoum, the father of current ruler Mohammed bin Rashid, included dredging of the Dubai Creek in the late 1950s and construction of the Jebel Ali port and free trade zone in the 1970s. These actions cemented Dubai's preeminent regional status as a trade hub.[75]

FEDERAL-EMIRATE AND ABU DHABI-DUBAI RELATIONS AT INDEPENDENCE

On December 2, 1971, Dubai and five of the other so-called Trucial States—named by the British government—joined to create the UAE. This occurred two days after the British terminated treaties that protected each individual sheikhdom and as the British government withdrew its forces from all remaining positions east of the Suez Canal. (The seventh emirate, Ras al-Khaimah, initially remained outside the UAE, in the hope of discovering oil, but joined the federation in February 1972 after failing to do so.) The UAE came together after three years of on-off negotiations that at one point included the rulers of Bahrain and Qatar in a proposed nine-member Union of Arab Emirates. Bahrain and Qatar went their own way and declared independence in August and September 1971, respectively, and Sheikh Rashid briefly entertained the prospect that Dubai might also go it alone.[76]

From the beginning, power and authority in the UAE were shared between the federal and emirate levels and apportioned among the seven emirates based largely on population size. The discovery of enormous oil reserves in Abu Dhabi in the 1960s was followed by the ousting of its lackluster long-standing ruler—Sheikh Shakhbut bin Sultan al-Nahyan—by his dynamic younger brother, Sheikh Zayed bin Sultan, in 1966. Sheikh Zayed immediately accelerated the development of Abu Dhabi's oil resources and used the surging income to modernize not only his emirate but also the five poorer "northern emirates" as well. His largesse and his conviction that the Trucial States must stick together meant that Sheikh Zayed was the natural choice as the inaugural president of the UAE, a position he held for thirty-three years until his death in 2004. His eldest son, Sheikh Khalifa bin Zayed, succeeded him as UAE president and ruler of Abu Dhabi.[77]

From the beginning, power and authority in the UAE were shared between the federal and emirate levels and apportioned among the seven emirates based largely on population size.

Dubai is represented at the federal level by its ruler, who has—by convention—held the position of vice president and prime minister of the UAE since 1971. He also sits on the seven-member Federal Supreme Council of rulers. While each council member has a single vote and procedural matters are decided by a simple majority, substantive issues require both Abu Dhabi and Dubai to agree.[78] In addition to this effective veto over council decisionmaking, Abu Dhabi and Dubai also hold eight seats each in the forty-member Federal National Council; Sharjah and Ras al-Khaimah have six seats each, and the small emirates of Ajman, Fujairah, and Umm al-Quwain each have four. At independence in 1971, Dubai also received three prominent cabinet posts: defense, finance, and economy and industry. Abu Dhabi controls six cabinet posts, including foreign affairs and interior.[79]

The provisional constitution drafted in 1971 (made permanent in 1996) also established the separation of powers between federal and emirate institutions. It gave the federal government responsibility for nineteen issues—including foreign affairs, defense, finances, education, and health—while also allowing each emirate to exercise sovereignty over issues not under federal jurisdiction.[80] This effectively allowed Abu Dhabi to retain control over its own oil and gas reserves.

Much of the UAE's first two decades of governing focused on resolving lingering pre-1971 issues among rulers who were unaccustomed to sharing power in a centralized manner. One rift that persisted throughout the 1970s was over the degree of federal power and oversight: Dubai favored a looser arrangement, while Abu Dhabi supported closer integration. The disagreement led to a three-year constitutional crisis between 1976 and 1979, during which Abu Dhabi's ruler threatened to resign as president of the UAE.[81] Even after the constitutional impasse was resolved, it took another two decades to fully integrate other governing areas into the federal government. For example, the complete military unification of pre-1971 emirate forces did not occur until 1996, when the Dubai Defense Force and the Ras al-Khaimah National Guard were incorporated into the Union Defense Force.[82]

DUBAI AND ABU DHABI IN THE 2000S

A feature of Dubai policymaking in the early 2000s was its unilateralism. Decisions often were taken with little or no deference to the federal government in Abu Dhabi, which, among other effects, undermined attempts to craft a coherent UAE foreign policy. This was evident, for example, in Abu Dhabi's negotiations with the U.S. government on a "123" nuclear agreement that would secure U.S. support for the UAE's civil nuclear energy program. Officials in Washington expressed unease about Dubai's rapidly expanding reexport trade with Iran, which represented a loophole in the tightening noose of international sanctions. Abu Dhabi's push for U.S. congressional approval of its nuclear plans exposed the sensitivity of such commercial ties, especially given the possibility that illicit trade in dual-use material could bypass or erode the sanctions regime on Iran.[83]

The bursting of the real estate bubble in 2008 dealt a blow to both its economy as well as its [Dubai's] political prowess.

When Mohammed bin Rashid became Dubai's ruler in January 2006—after the sudden death of his older brother, Sheikh Maktoum bin Rashid Al Maktoum—he also succeeded Maktoum as vice president and prime minister of the UAE. Over the following two years of Mohammed bin Rashid's federal premiership, Dubai briefly became more influential at the national level.

Economic growth was another feature of Dubai in the early 2000s. The emirate gained worldwide attention for its spectacular mega projects, including the Palm Islands and the luxurious Burj Al Arab hotel. Also during this period, Dubai relaxed a law that prohibited foreigners from purchasing real estate. Allowing them to buy properties in designated areas, without requiring residency as originally mandated, contributed to the rapid expansion of the real estate market in the mid-2000s. But the bursting of the real estate bubble in 2008 dealt a blow to both its economy as well as its political prowess.[84]

Dubai's liquidity and credit soon dried up, leading to a major debt crisis. In November 2009, the global holding company, Dubai World, requested a repayment standstill and a debt restructuring. The announcement came to symbolize the severity of the financial hit, as the emirate's debts rose to more than 100 percent of the gross domestic product. Dubai raised money to meet its financial obligations by selling $10 billion worth of bonds to the UAE Central Bank (based in Abu Dhabi) in February 2009 and then securing a $10 billion loan from two state-owned Abu Dhabi banks in November 2009.[85] Whether there was a quid pro quo for Abu Dhabi's financial support is unclear, but in January 2010, the tallest building in the world—known throughout its construction phase as Burj Dubai—was suddenly renamed Burj Khalifa (after Abu Dhabi's ruler) on the day of its grand opening.

The 2008 real estate market collapse reverberated across the economic landscape of Dubai. More than $300 billion in projects were scaled back, put on hold, or canceled.[86] While the emirate's government remained solvent, government-related entities, such as Dubai World and the property developer Nakheel, borrowed heavily to finance their activity. Dubai World's requests for government assistance illustrate a key feature of the emirate's political economy, namely the opaque nature of the ties among key stakeholders in the ruling family and the local business community. While the government announced that its Dubai Financial Support Fund would oversee the restructuring of $26 billion of Dubai World debt, it stunned financial analysts and investors by stating that it would not guarantee the debt itself. Many creditors assumed that it would do so given that Dubai World is wholly owned by the government.[87]

After 2008, Abu Dhabi wielded greater influence due to its economic leverage and the rise of Crown Prince Mohammed bin Zayed Al Nahyan, its assertive leader. Khalifa bin Zayed, Abu Dhabi's ruler and the president of the UAE, had gradually withdrawn from public life due to ill health. Mohammed bin Zayed had worked closely with Mohammed bin Rashid in their capacities as deputy commander-in-chief of the UAE's armed forces and defense minister, respectively. The two were known as the pioneers of the modern development of Abu Dhabi and Dubai, but it was Mohammed bin Zayed who came to dominate decision-making in Abu Dhabi (and across the UAE) through his take-no-chances, security-first response to the 2011 Arab uprisings.

Although there was virtually no unrest, or even threat of trouble, within the UAE itself, Mohammed bin Zayed constructed a sophisticated surveillance state and engaged in a campaign to push back against Islamist opposition—perceived and actual—across a broad swath of the Middle East and North Africa. Much of this regional campaign was undertaken in close coordination with Saudi Arabia, and the June 2018 launch of a Saudi-Emirati Coordination Council became a symbol of the new center of gravity. The crown princes of Abu Dhabi and Saudi Arabia, Mohammed bin Zayed and Mohammed bin Salman, were made council co-chairs, while Mohammed bin Rashid—who, unlike Mohammed bin Zayed, actually holds senior federal positions (UAE vice president and prime minister)—was nowhere to be seen at the inaugural meeting.[88]

DUBAI'S POLITICAL-ECONOMIC NEXUS

Dubai's ruling family remains the emirate's central decisionmaking authority, although this is sometimes hard to discern due to the different hats worn by Mohammed bin Rashid as the ruler of Dubai and the UAE's prime minister and vice president. Indeed, Mohammed bin Rashid's decisions often emanate from the prime minister's office (located in Dubai) rather than from the Dubai Royal Court itself.

Mohammed bin Rashid has been the dominant figure in Dubai since the 1980s—despite only becoming its ruler in 2006—and he continues to be the man most closely associated with the visionary development of the emirate. During the boom years in the early 2000s, his inner circle included nonmembers of the ruling family, but since the 2008 financial crisis, its members have mostly been key family members such as his uncle and sons (see Figure 1).[89] His policymaking style includes playing key functionaries against each other to generate a competitive rivalry in project development and execution.

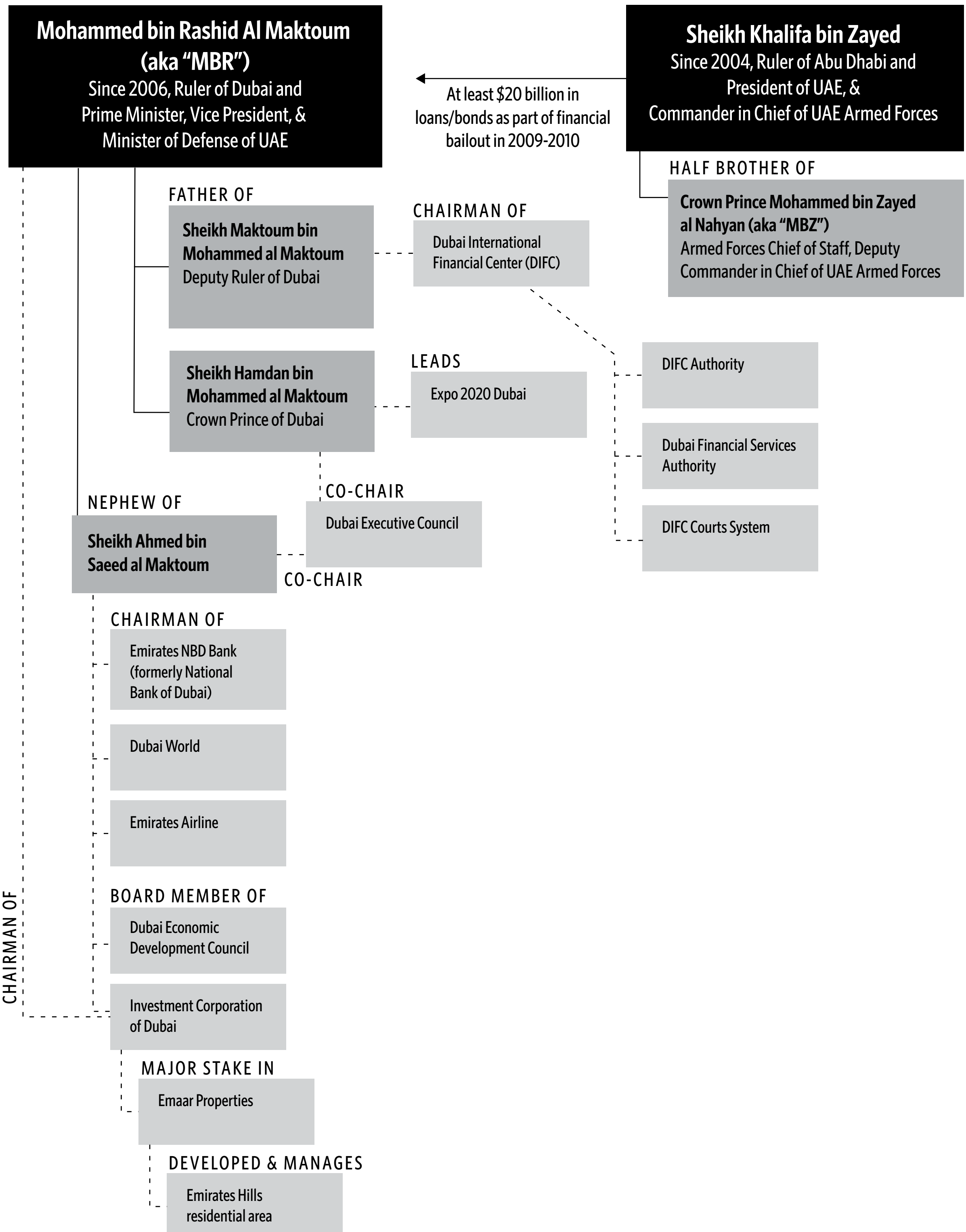
Although nine years younger, Mohammed bin Rashid's uncle, Sheikh Ahmed bin Saeed Al Maktoum, was appointed the chairman of Emirates Airline in 1985 and later given additional senior roles that placed him at the forefront of Dubai's 2008 postcrisis financial rehabilitation. In November 2010, he became the chairman of Dubai World, a year after the company's inability to service its debts discredited its previous leadership.[90] Eight months later, Mohammed bin Rashid appointed him chairman of Emirates NBD, the largest bank in the UAE and one of the largest investors in Dubai World.[91] And in 2013, Mohammed bin Rashid entrusted him to lead the successful campaign to win the hosting rights to Expo 2020. Ahmed bin Saeed also now sits on the boards of the Investment Corporation of Dubai (the investment arm of the Dubai government) and the Dubai Executive Council's Economic Development Committee.

Dubai's ruling family remains the emirate's central decisionmaking authority.

As they came of age, two of Mohammed bin Rashid's sons—Crown Prince Sheikh Hamdan bin Mohammed Al Maktoum and Deputy Ruler Sheikh Maktoum bin Mohammed Al Maktoum—assumed greater policymaking authority. Sheikh Hamdan's major appointments have placed him at the helm of Dubai's economic development. These positions include chairman of the Dubai Executive Council and co-leader (with Ahmed bin Saeed) of Expo 2020 Dubai. Sheikh Maktoum has been entrusted with chairing a new governing board for the flagship Dubai International Financial Centre (DIFC) and with supervising

Figure 1

UAE/DUBAI POWER PLAYERS AND INSTITUTIONAL LINKS[92]



and coordinating the three so-called independent authorities affiliated with the DIFC: the DIFC Authority, the Dubai Financial Services Authority, and the DIFC Courts.

A March 2015 interview with Mohammed Alabbar, the founder and chairman of Emaar Properties—one of the largest real estate developers in the world—best exemplifies the cross-cutting nature of political and economic relationships in Dubai and the blurred lines between the public and private sectors. Emaar is considered a private company, yet it was originally founded with state funding. The Investment Corporation of Dubai, the government's investment arm chaired by Mohammed bin Rashid, holds a 29 percent stake in Emaar. Alabbar stated that "I do not do anything without me talking to HH [His Highness], he is the man who gave me unimaginable opportunities, and he gave me a chance to be who I am. And to trust me."[93] Alabbar's comments indicated that though some of the top policymaking figures changed after the financial crisis, the style of Mohammed bin Rashid's decisionmaking remains broadly similar. In a 2006 interview, the head of a subsidiary of Dubai World also noted that whenever he passed on a request to the head of Dubai World, he got "an answer within thirty minutes. . . . Here [in Dubai] they are much more forward thinking, dynamic, and a lot more trusty."[94]

LOOKING AHEAD

Expo 2020 Dubai—with the slogan "Connecting Minds, Creating the Future"—will now run from October 2021 to March 2022 (delayed one year due to the coronavirus pandemic). Although part of the UAE's fiftieth anniversary celebrations, the expo comes at a moment of renewed economic and geopolitical uncertainty. The expo may become a focal point for critics of the UAE since the country's muscular approach to foreign policy has generated a degree of regional unease and its participation alongside Saudi Arabia in the Yemen war has drawn criticism—including some pushback from the U.S. Congress.

Awarding of the expo to Dubai in November 2013 seemed to symbolize the emirate's return to economic good health, but growth has slowed in the wake of the UAE boycott of Qatar and the spike in regional tension with Iran.

Awarding of the expo to Dubai in November 2013 seemed to symbolize the emirate's return to economic good health, but growth has slowed in the wake of the UAE boycott of Qatar and the spike in regional tension with Iran. Economic growth slowed from 3.1 percent in 2017 to 1.9 percent in 2018, which is the weakest return since 2010. The finance, mining, and manufacturing sectors performed especially badly.[95] The UAE's participation in the Saudi-led blockade of Qatar (ongoing since June 2017) meant the loss of a significant trade and investment partner and the sudden severance of political ties. And consequently, both Dubai's economy and its reputation as a place to do business unencumbered by political or geopolitical considerations have suffered. Likewise, a spate of maritime attacks on tanker shipping near the Strait of Hormuz in May and June 2019—allegedly masterminded by Iran—has raised the specter of an asymmetric regional conflict, which dramatically increases the risk of doing business in and with Dubai.[96]

What does Dubai's increasingly precarious economic and geopolitical position mean for international policymakers engaging with the emirate and the UAE? First, they must keep in mind that federal government officials in Abu Dhabi may not necessarily speak for government officials in Dubai. Second, the degree of pressure that the federal government and/or emirate authorities in Abu Dhabi can exert on Dubai depends greatly on internal political dynamics and power relationships within the UAE. Lastly, because Dubai's authorities view the forthcoming Expo 2020 as a global platform to showcase their brand, they will be keen to minimize international criticism of their shortcomings.

CHAPTER 3

DUBAI: FREE TRADE OR FREE-FOR-ALL?

LAKSHMI KUMAR

DUBAI'S LAX REGULATORY CLIMATE facilitates illicit financial and commercial activity—particularly trade-based money laundering (TBML)—via the emirate's many free trade zones. The emirate's ambivalence toward unregulated financial dealings and illicit trade is long-standing and deeply entrenched. Unlike other sharia-based legal systems, Dubai's civil legal frameworks provide insufficient anti–money laundering regulation and oversight—a reflection of the emirate's long history as a freewheeling regional trading center.[97] As a result, Dubai is now one of the most conducive places in the world to undertake TBML.

The emirate's ambivalence toward unregulated financial dealings and illicit trade is long-standing and deeply entrenched.

A PERMISSIVE LEGAL AND REGULATORY LANDSCAPE

Throughout the 1960s, Dubai fed India's large appetite for gold; the emirate imported, at its peak in 1968, 580 tons of gold from Beirut, London, and Zurich. Also during this time, Dubai served as a commercial hub for both smuggling and reexport trade schemes—known as round-tripping—involving a range of goods.[98] Further, the emirate capitalized on the regions' conflicts, especially those in Lebanon by welcoming displaced businesses and trade flows. Dubai positioned itself to take over Lebanon as the region's financial center and to serve as a neutral zone where Indian and Pakistani businessmen could meet.[99] A. Q. Khan, the architect behind Pakistan's nuclear program, carried out his two-decade-long proliferation financing scheme through Dubai and through an Indian contact based out of the emirate.[100]

By the 1980s, Dubai's laissez faire attitude to financial transparency had opened the door to some of the world's most wanted criminals and allowed their activities and wealth to flourish unchecked. For example, Dawood Ibrahim, a Pakistan-based Indian gangster and formerly India's most wanted man, and Viktor Bout, a notorious Russian arms dealer, were able to carry out their operations from Dubai without interference.[101]

In the 2000s, Dubai has been implicated in fueling conflict in the Democratic Republic of Congo through its role in international gold trade.[102] It has also been involved in large-scale money laundering operations related to Azerbaijan's oil industry and in embezzlement schemes, such as Russia's Magnitsky scandal, named after a murdered accountant who uncovered the embezzlement of $230 million from Russian state coffers.[103]

Dubai's governance architecture is underpinned by the deep and pervasive influence of the ruling royal family. An International Monetary Fund report from May 2011 depicted the extent of the family's personal control over major firms and investment vehicles active in Dubai (see Figure 2).[104] For instance, the family directly appoints the board members of the Dubai Financial Services Authority. This control is highly problematic, given that a well-documented risk to good governance is regulatory capture by state or private interests. When state leaders control the regulatory apparatus, this raises the risk of their being complicit in illicit financial activities and reduces the regulator's capacity to carry out its functions without state approval.[105] For example, Wall Street Exchange—one of the largest remitters in the Middle East and wholly owned by the UAE government and headquartered in Dubai—was recognized as a key conduit for the billion dollar money laundering operation run by Altaf Khanani. For over two decades, he helped the Taliban, Hezbollah, and other transnational groups move their money through Dubai and finance their operations.[106]

When state leaders control the regulatory apparatus, this raises the risk of their being complicit in illicit financial activities and reduces the regulator's capacity to carry out its functions without state approval.

DUBAI'S FREE TRADE ZONES

What makes Dubai a particularly attractive destination for illicit financial flows are its roughly thirty free trade zones, where many of the country's laws do not apply. These zones have separate commercial and labor laws and, in the case of the Dubai International

Financial Centre (DIFC), a separate court system based on English common law.[107] Dubai's legal enclaves have since been duplicated in other parts of the UAE and in Astana, Kazakhstan.

The UAE boasts about forty-five free trade zones and two financial free zones (the DIFC and Abu Dhabi Global Market). (See the appendix for a list of the total known free zones in the UAE.) Approximately thirty of the free trade zones are located in Dubai and are vital to its economy, accounting for 41 percent of Dubai's total trade.[108] Data show that Dubai's free trade zones generated a combined total of $118 billion in trade value in 2017.[109] The Jebel Ali Free Zone (JAFZA)—established in 1985—accounts for almost 32 percent of the total foreign direct investment flowing into the UAE and for roughly 24 percent of Dubai's annual gross domestic product.[110] In 2015, JAFZA alone generated trade worth $87.6 billion.[111] And these numbers have grown each year since, according to data published by the government. In 2019, JAFZA reportedly accounted for 70 percent of all trade value and 97 percent of all trade volume generated by Dubai's free trade zones.[112]

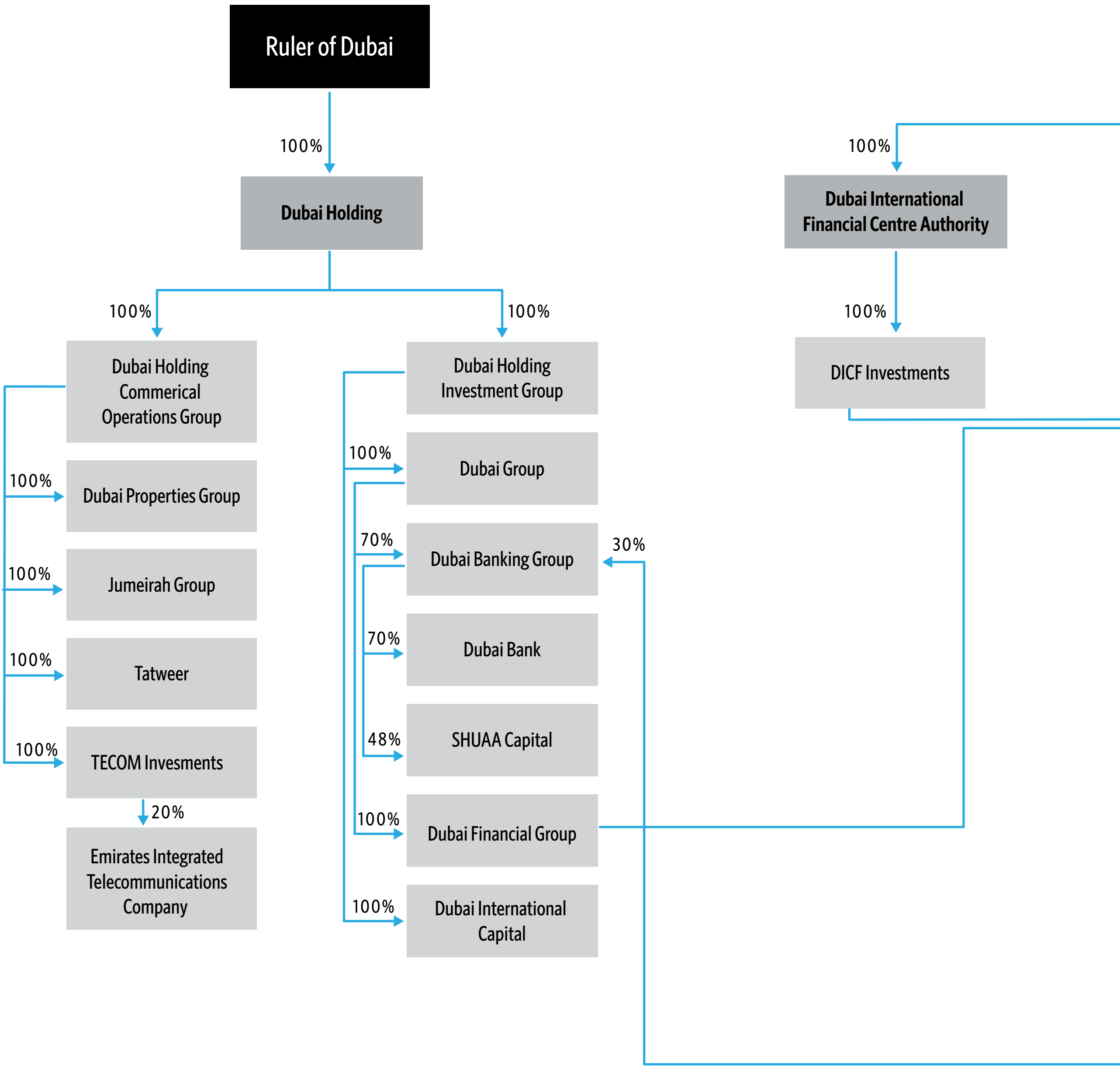
Each free trade zone has its own separate commercial regulations, labor laws, and property laws, and each zone is supervised by an independent regulatory authority.

To keep the juggernaut of Dubai's economy moving forward, these zones have a unique regulatory regime that provides both an express route to trade facilitation and investment and a fertile environment for a myriad of illegal activities, including gold smuggling, arms trafficking, round-tripping, and trade misinvoicing.[113] The free trade zones permit 100 percent foreign ownership and repatriation of capital and profits and have no corporate, personal, or customs tax. In addition, there are no restrictions on the recruitment of foreign national labor, all documentation can be done in English, and all regulatory and licensing needs can be fulfilled within the zone.[114] Finally, all employment contracts are sponsored through the relevant free trade zone and not through the employer.[115]

Most striking of all, however, is that each free trade zone has its own separate commercial regulations, labor laws, and property laws, and each zone is supervised by an independent regulatory authority.[116] For instance, separate commercial laws apply to the Dubai Development Authority, DIFC, JAFZA, and Dubai International Airport Free Zone.[117] UAE administrative and commercial regulations are applicable only to the Dubai Healthcare City Free Zone.[118] The UAE therefore has to contend with a bewildering patchwork of forty-five different sets of laws and regulations. The UAE's Central Bank, in particular, has to issue many similar but distinct circulars to each zone.[119]

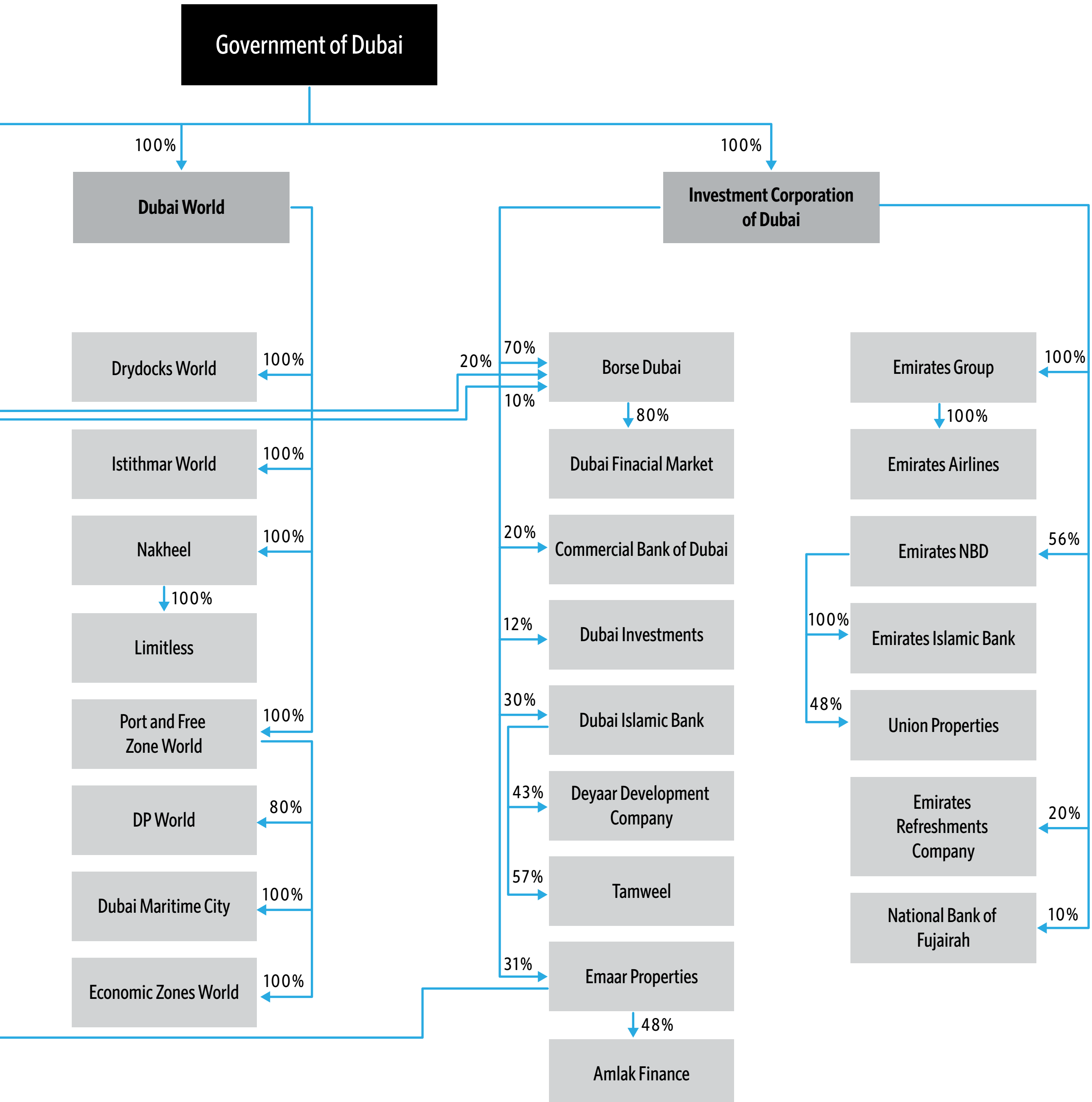
This complex arrangement presents significant hurdles for international standard-setting bodies such as the Financial Action Task Force (FATF), which, during its 2008 evaluation

FIGURE 2
DUBAI STATE AND ELITE OWNERSHIP OF KEY COMMERCIAL ENTITIES



SOURCE: "UAE: Selected Issues and Statistical Appendix," International Monetary Fund, May 2011, 4, https://www.imf.org/external/pubs/ft/scr/2011/cr11112.pdf.

NOTE: The graphic illustrates a simplified ownership hierarchy. The percentages indicate what stake the entity one step up in the tree owns of that entity.



Government of Dubai
100%
100%
Dubai World
Investment Corporation of Dubai
Drydocks World
100%
20%
70%
Borse Dubai
10%
80%
Dubai Finacial Market
Emirates Group
100%
100%
Emirates Airlines
Istithmar World
100%
Nakheel
100%
100%
Limitless
20%
Commercial Bank of Dubai
Emirates NBD
56%
100%
Emirates Islamic Bank
12%
Dubai Investments
48%
Union Properties
30%
Dubai Islamic Bank
Port and Free Zone World
100%
DP World
80%
43%
Deyaar Development Company
Emirates Refreshments Company
20%
Dubai Maritime City
100%
57%
Tamweel
National Bank of Fujairah
10%
Economic Zones World
100%
31%
Emaar Properties
48%
Amlak Finance

of the UAE, could only conduct a "rudimentary sampling of their [free trade zones] laws and procedures."[120] The FATF also flagged significant difficulties in its 2020 evaluation, which noted that the complexity of different company registries and rules has led to "regulatory arbitrage."[121] Furthermore, the primary mandate of the independent authorities in the free trade zones appears to be geared more toward enhancing trade facilitation than overseeing financial flows and curbing illicit activity. With no national watchdog operating in the zones, opportunities for regulatory arbitrage abound.

The laws on beneficial ownership transparency within the free trade zones illustrate another danger of this complicated and overcrowded regulatory architecture. Beneficial ownership information is the bedrock of financial transparency and is meant to deter the entry of illicit actors into the market. However, instead of adopting one definition of beneficial ownership, which would create a consolidated approach toward anti–money laundering (AML) enforcement, each free trade zone uses drastically different language to define a beneficial owner. Beyond mere definitions, the quality of guidance provided on how to meet the standards varies widely. For example, the Dubai Development Authority issued a two-page circular in June 2019 that defines an ultimate beneficial owner as "an individual who ultimately owns or controls 25% or more of a Business Partner, whether directly as a shareholder, or indirectly via control of companies, other entities or structures that control the Business Partner."[122]

By contrast, the DIFC—via a lengthy 2018 regulation—provides a more exhaustive definition of the ultimate beneficial owner:

> A natural person (other than a person acting solely in the capacity of a professional adviser or professional manager) who: (a) in relation to a company, owns or controls (directly or indirectly): (i) shares or other Ownership Interests in the Registered Person of at least the Relevant Percentage; (ii) voting rights in the Registered Person of at least the Relevant Percentage; or (iii) the right to appoint or remove the majority of the Directors of the Registered Person; (b) in relation to a partnership, has the legal right to exercise, or actually exercises, significant control or influence over the activities of the partnership; or (c) in relation to a foundation or a Non Profit Incorporated Organisation, has the legal right to exercise, or actually exercises, significant control or influence over the activities of the Governing Body, person or other arrangement administering the property or carrying out the objects of the foundation or the Non Profit Incorporated Organisation.[123]

Additionally, the DIFC regulation allows the registration of nominee directors.[124] Nominee directors are individuals with no other connection to a firm who serve as professional proxies for a company's actual controlling interests. Many grand corruption schemes involve the use of nominee directors, according to a World Bank study.[125] The Dubai Development

Authority's circular is silent on whether nominee directors are permitted within the zone and requires no such disclosure of nominee arrangements.[126] On JAFZA's website, none of the forms that commercial entities must complete to be licensed or registered mention beneficial ownership.[127]

Having multiple definitions of beneficial ownership needlessly complicates the regulatory framework in which free trade zones operate. Differences such as this, especially when combined with a multitude of separate, applicable laws, clearly limit the Central Bank's ability to carry out its appointed role across Dubai's thirty free trade zones.[128] The problems the Central Bank and Dubai Customs have had in implementing anti–money laundering norms are well-documented.[129] However, there does not appear to be any movement toward rationalizing the regulatory framework to ensure a more cohesive approach to oversight and supervision.[130] This is unfortunate because the environment provides significant opportunities for regulatory arbitrage and for groups—including al-Qaeda, the Taliban, Lone Wolves, D-Company, Comanchero motorcycle gangs, and Mexican drug cartels—to use Dubai as a conduit for their money laundering, smuggling, and terrorism financing operations.[131]

Having multiple definitions of beneficial ownership needlessly complicates the regulatory framework in which free trade zones operate.

In addition, there appears to be little political will to create appropriate mechanisms for customs inspections, information sharing, and anti–money laundering, and anti–terrorism financing supervision.[132] Although the UAE now requires that free trade zones share information with the country's Financial Intelligence Unit and Central Bank, the continuous stream of reporting on the scale of ongoing illicit activity indicates that this measure exists merely on paper.

The lack of regulatory and customs enforcement within free trade zones is not unique to Dubai, and interest in finding more effective ways to address the loopholes has grown over the last decade. The World Customs Organization (WCO), the FATF, and the Organisation for Economic Co-operation and Development (OECD) have all produced studies identifying the risks and have recommended necessary changes.[133] Data from the most recent one—a 2019 WCO study—show that the main risk factors within free trade zones are insufficient customs controls; the ease of setting up companies, which undermines a robust compliance culture; and the insufficient integration of information technology systems by governmental agencies. OECD and FATF studies echo these same concerns. While the lack of enforcement is clearly a global issue, the misuse and weak governance of free trade zones is a particular problem in Dubai, given the outsized role the zones play in contributing to the emirate's economy and its long-standing reputation as a refuge for illicit money.

TRADE-BASED MONEY LAUNDERING AND DUBAI

The FATF defines TBML as "the process of disguising the proceeds of crime and moving value through the use of trade transactions in an attempt to legitimise their illicit origins."[134] TBML methods include over- and under-invoicing of goods, multiple invoicing of goods, over- and under-shipments of goods, and false description of goods.[135]

Factors that increase the risk or likelihood of TBML include less restrictive customs environments, large amounts of paperwork, lack of data, and ports with limited regulation.[136] Free trade zones, in particular, pose a high risk for TBML because they are designed to have more relaxed regulatory environments to attract businesses. Until very recently, Dubai's free trade zones required little or no ownership information, and even with the recent changes in laws, the tangled regulatory environment leaves ample space for abuses to occur.

The absence of adequate customs controls in Dubai's free trade zones means that goods shipped there undergo "various economic operations such as transshipment, assembly, manufacturing, processing, warehousing, repackaging and re-labelling."[137] Of these operations, repackaging is a common method used by illicit actors to manipulate the country of origin or destination.[138] Other tools used to mask the origin, and which have been observed in Dubai's free trade zones, include third party payments and cash and other bearer-negotiable instruments such as a check or promissory note.[139]

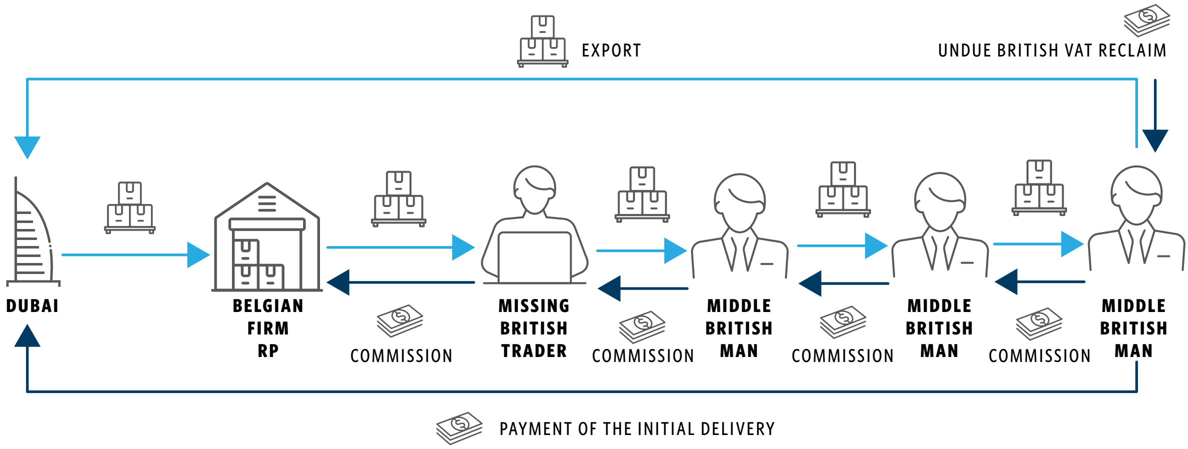
Free trade zones, in particular, pose a high risk for TBML because they are designed to have more relaxed regulatory environments to attract businesses.

According to documentation, illicit actors in Dubai have also created fake invoices through anonymous Dubai companies. Cash-based economies, such as Iraq, need U.S. dollars to finance imports. Once the U.S. dollars are acquired, they are used to buy smuggled goods, guns, or drugs or to facilitate money laundering and terrorist activity.[140] According to the U.S. Department of State's International Narcotics Control Strategy Report on the UAE, TBML apparently occurs through commodities that are used as collateral in transactions conducted via hawala (informal money-transferring services), or other trading companies.[141]

Although free trade zones are at a heightened risk for TBML, other significant avenues warrant attention as well. For example, Dubai has played a central role in helping launder the proceeds of value-added tax (VAT) carousel fraud through its banks (see Figure 3). VAT carousel fraud is also called missing trader fraud and occurs when a business imports goods VAT-free from overseas and then sells the goods to domestic buyers, charging them VAT. The sellers then disappear, taking the VAT without paying the appropriate taxes to the country of origin, such as the United Kingdom (UK).[142] A major VAT scheme—active from

FIGURE 3

A VAT CAROUSEL FRAUD USING DUBAI'S BANKING SYSTEM



SOURCE: Adapted from FATF, "Money Laundering Vulnerabilities of Free Trade Zones," FATF and OECD, March 2010, 25, https://www.fatf-gafi.org/media/fatf/documents/reports/ML%20vulnerabilities%20of%20Free%20Trade%20Zones.pdf.

2005 to 2016—cost the UK government an estimated $20.6 billion in tax revenues.[143] This money was routed through Dubai's banks.

Perpetrators similarly exploited the European Union's carbon credits system and cost the EU around $5.4 billion between 2008 and 2009. Individuals behind the carbon credits scam laundered their illicit proceeds in Dubai by purchasing luxury real estate.[144]

Although the FATF has acknowledged the size, scale, and importance of the problem, there has been little progress in establishing clear international standards to address TBML.[145] According to the FATF, this is largely due to the complexity and varied nature of TBML, which includes:

- The enormous volume of trade flows, which obscures individual transactions and provides abundant opportunity for criminal organizations to transfer value across borders;
- The complexity associated with (often multiple) foreign exchange transactions and recourse to diverse financing arrangements;
- The additional complexity that can arise from the practice of commingling illicit funds with the cash flows of legitimate businesses;
- The limited recourse to verification procedures or programs to exchange customs data between countries; and

- The limited resources that most customs agencies have available to detect illegal trade transactions.[146]

All these stumbling blocks have prevented an international consensus from emerging. Nevertheless, the Wolfsberg Group and some national governments, including in Singapore and the UK, have started issuing guidance on matters related to TBML and trade finance.[147] The thrust of such regulatory approaches has been to keep the banking sector at the forefront. However, open account trades constitute 80 percent of all global trade, meaning the buyer and seller have agreed to the terms beforehand and the bank is unaware of the underlying reason for the payment.[148] National customs agencies must therefore take a central role in overseeing these transactions.

In 2016, the Dubai Financial Services Authority—the DIFC's financial services regulatory authority responsible for regulating banking and related financial services—issued trade finance guidelines. But this regulatory move is puzzling because the DIFC is a *financial free* zone, which is different from a *free trade* zone, so unless trade transactions within Dubai's free trade zones are routed through financial institutions in the DIFC, it is unclear what impact these guidelines would have on TBML.[149]

POLICY AND REGULATORY REMEDIES

Despite these myriad issues, several steps could help strengthen the regulatory environment to combat TBML, both globally and in Dubai in particular. To create a truly robust mechanism, UN bodies and the World Trade Organization must first agree on which agencies should take the lead in tackling TBML. They must also design a robust reporting framework that will spread out supervisory responsibilities across market participants, such as forwarding agents, shipping agents, clearing agents, importers, exporters, and other relevant actors. Doing so will help reduce the risk of TBML.

To create a truly robust mechanism, UN bodies and the World Trade Organization must first agree on which agencies should take the lead in tackling TBML.

National governments should also create more detailed and transparent centralized databases that provide beneficial ownership information—as well as financial histories of the legal entities/arrangements involved in the trade transaction—to customs agents, departments of commerce, the Financial Intelligence Unit, and the Central Bank. This will help prevent legal entities/arrangements from being used to commit contract fraud and trade misinvoicing and to establish trade channels.

Customs departments should be fully included in the FATF National Risk Assessment. Currently, customs departments partially engage in this assessment process to flush out bulk cash smuggling and other money laundering offenses identified by the FATF. This, however, does not fully address the entire gamut of money laundering risks that often vary depending on industry sector and destination. Banks also need better training to fully understand TBML- and customs-related risks. They need to know more about the products traded and shipping routes, and they need access to other detailed records that cover the commerce side of transactions.

CHAPTER 4

DUBAI'S PROBLEMATIC GOLD TRADE

SHAWN BLORE AND MARCENA HUNTER

AMONG THE WORLD'S MAJOR gold trading hubs, Dubai is a relatively new player. Yet it is savvy enough to pursue previously untapped markets and ambitious enough to frequently cut corners to bring gold to the market. The UAE's share of world gold trade in 2018 is evidence of just how successful this strategy has become.[150] As late as 1996, the UAE did not even appear among the world's top one hundred gold-importing countries. Two decades later, the UAE ranked among the top four, above Hong Kong and the United States (see Table 2).

Of the eleven gold refineries in the UAE, the majority are located in Dubai. This accords with the Dubai Multi Commodities Centre's (DMCC) own statistics, which show that Dubai is responsible for about 80 percent of the total UAE gold imports and exports (measured either by volume or value).[151]

LAUNDERING ARTISANAL GOLD

What is most problematic about the UAE's strategy is where it gets its gold. Other major gold hubs source the bulk of their gold from relatively few countries, typically either other gold hubs or other major gold-producing nations. According to UN Comtrade data, for example, in 2016 the United Kingdom (UK) imported about 1,208 tons of gold from just six countries (listed in descending order): Switzerland, Canada, South Africa, Hong Kong, Australia, and the United States.

TABLE 2

IMPORTED GOLD BY THE UAE IN 2018, BY WEIGHT

Rank	Reporting Entity	Weight (kilograms)	Trade Value	Unit Value (per gram)
1	Switzerland	2,248,611	$63,321,203,855	$28.16
2	China	1,121,317	$45,805,882,835	$40.85
3	India	945,060	$31,756,390,865	$33.60
4	United Arab Emirates	923,247	$27,672,052,091	$29.97
5	China, Hong Kong SAR	665,575	$23,627,497,773	$35.50
6	United Kingdom	629,049	$25,564,378,411	$40.64
7	Singapore	338,389	$13,514,112,543	$39.94
8	Turkey	299,556	$11,300,396,230	$37.72
9	USA	232,441	$9,641,469,104	$41.48
10	Italy	158,703	$4,056,681,077	$25.56

SOURCE: UN Comtrade Database, accessed April 17, 2020, https://comtrade.un.org/data/; data reflects the gold classified under HS Commodity Code 7108.

By contrast, in 2016, the UAE imported gold from more than one hundred countries, mainly located in Africa, South America, or South Asia. Less likely to be engaged in traditional large-scale gold mining, many of these countries are better known for artisanal and small-scale gold mining (ASGM). Characterized by low capital inputs, the use of traditional technologies, heavy demand for labor, and poor or absent government regulation, ASGM is nonetheless an important source of income for the rural communities.

Yet in some parts of the world—notably the Democratic Republic of Congo, Sudan, and Venezuela—ASGM gold is sometimes taxed by, or otherwise used to benefit, illegal armed groups conducting insurgencies or is implicated in gross human rights violations. For this reason, ASGM gold is sometimes characterized as a conflict mineral. Even in countries that are not afflicted by civil conflict or atrocities, ASGM is often impacted by weak or nonexistent government oversight, illegal exportation, and smuggling.

For these reasons, gold is subject to many different—and often overlapping—sourcing, chain of custody, and due diligence standards.[152] The specific elements of these standards vary, but all of them require that—at a minimum—those countries sourcing ASGM gold be able to determine whether the gold originated in a conflict-affected or high-risk country or is otherwise associated with gross human rights violations. Some tighter standards add additional criteria, such as the absence of child labor, holding of a legitimate mining title, and proof of legal export. Given the difficulties in assuring the clean origins of ASGM gold, reputable refiners tend to avoid it altogether.

In practice, Dubai follows few, if any, of these standards. ASGM gold hand carried into Dubai is almost always sold in the emirate's gold souk—a compact area of a few city blocks where hundreds of small dealers compete to buy and sell gold in all its myriad forms—rather than by major refineries. Officially, the DMCC requires gold dealers operating in the emirate to have a written due diligence policy that aligns with standards of the Organisation for Economic Co-operation and Development (OECD), but there is little or no enforcement of this requirement.[153] Dealers buying gold to sell in the souk require only a single document—a UAE customs form—that proves the gold was legally declared to customs officials upon arrival at an Emirati airport. The form does not require information about the gold's origin.[154] These dealers therefore accept gold originating from any country, regardless of the production circumstances, no questions asked.[155] They habitually record their purchases of ASGM gold as "scrap," a practice that even some refineries have exhibited.[156] This accounting sleight of hand completed, souk dealers can then sell this gold to DMCC buyers or UAE refineries, having sufficiently clouded its origins to satisfy their auditing requirements.[157]

ASGM [artisanal and small-scale gold mining] gold hand carried into Dubai is almost always sold in the emirate's gold souk rather than by major refineries.

This lack of due diligence and Dubai's efforts to cater to ASGM producers helps explain the UAE's rapid rise as a major global gold hub. Far from competing with the traditional gold centers, Dubai does what other hubs will not—or legally cannot—do. It accepts ASGM gold from producer countries that—because of OECD and other standards—more respectable hubs avoid. An analysis of the UAE's imports in 2016 showed that at least 46 percent of its gold supply came from countries that would be "red-flagged" by the OECD as being conflict-affected or high-risk countries had their country of origin been recorded rather than the country through which the gold transited. For example, gold from the Democratic Republic of Congo (DRC) and South Sudan are both commonly trafficked through Uganda, thus disguising its origins and resulting in it being considered Ugandan gold from a regulatory standpoint.

The process of reselling ASGM gold freely exported from red-flagged sources to Dubai jewelers and refiners (via the emirate's bustling souk) essentially launders illicit ASGM gold into a refined product that is acceptable to the world's most reputable gold hubs. As shown in Table 3, Switzerland and India imported a total of more than 200 tons or just over $8 billion in UAE gold doré in 2016.

TABLE 3

GOLD EXPORTED BY THE UAE IN 2016, BY WEIGHT

Rank	Reporting Entity	Weight (kilograms)	Trade Value	Unit Value (per gram)
1	Switzerland	148,423	$5,922,940,937	$39.91
2	India	59,548	$2,136,789,719	$35.88
3	Turkey	42,952	$1,444,004,799	$33.62
4	Bangladesh	42,808	$306,054,164	$7.15
5	Morocco	39,714	$1,089,176	$0.03

SOURCE: UN Comtrade Database, accessed April 17, 2020, https://comtrade.un.org/data/; data reflects the gold classified under HS Commodity Code 7108.

A second and comparably large portion of UAE gold is exported as jewelry, often to developed countries where conflict minerals laws should be more rigorously enforced. As shown in Table 4, the UAE exported just over 323 tons of gold jewelry worth some $11.5 billion in 2016. Most of this jewelry went to Iraq and India, but almost $500 million worth of jewelry made its way to the United States and a total of nearly $700 million worth made its way to Italy, the UK, and Germany—countries with legislation regulating the import of gold from conflict-affected countries.

In summary, the UAE imported over 971 tons of gold worth some $32 billion in 2016, and nearly half of this gold came from red-flagged sources. It also exported 846 tons (jewelry and gold combined) worth $28 billion—much of it to countries that would have been prevented from directly purchasing this problematic gold because of domestic laws (for example, the United States' Dodd-Frank Act and the EU Conflict Minerals Regulation) or other

TABLE 4
GOLD JEWELRY EXPORTED BY THE UAE IN 2016, BY WEIGHT

Rank	Destination	Weight (kilograms)	Trade Value	Unit Value (per gram)	% of Total Weight
1	Iraq	79,459	$2,600,224,360	$32.72	25%
2	India	53,292	$1,600,353,586	$30.03	16%
3	Iran	19,815	$594,195,871	$29.99	6%
6	Italy	13,136	$354,293,022	$26.97	4%
11	USA	8,553	$468,594,559	$54.79	3%
17	Switzerland	4,648	$530,450,196	$114.12	1%
19	UK	3,585	$211,440,949	$58.98	1%
20	Afghanistan	3,030	$100,422,757	$33.13	1%
24	Germany	1,590	$52,963,233	$33.31	0.5%
27	Canada	1,478	$38,962,628	$26.34	0.5%

SOURCE: UN Comtrade Database, accessed April 17, 2020, https://comtrade.un.org/data/; data reflects gold jewelry classified under HS Commodity Code 711319.

standards (for example, those set by the OECD and London Bullion Market Association). These statistics make clear that Dubai is a conducive place for laundering ASGM gold.

THE DMCC: IS IT A SERIOUS WATCHDOG?

Established in 2002, the DMCC is Dubai's quasi-private regulatory body for precious metals and gems. A fundamental challenge to the DMCC is its dual role of regulating the sector and promoting and facilitating trade. There is an inherent conflict of interest when efforts to increase trade involve relaxing regulation.

The DMCC established the Dubai Good Delivery (DGD) standard in 2012 and the DMCC Rules for Risk Based Due Diligence in the Gold and Precious Metals Supply Chain in 2016. These actions brought the DMCC's standards closer in line with the core principles of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals From Conflict-Affected and High-Risk Areas. The DGD standard includes technical standards for gold purity and now also a requirement for the responsible sourcing of gold in accordance with the DMCC rules.[158] Refineries wishing to achieve or retain DGD status must pass a periodic audit and publish a public assurance report.

Unfortunately, the DMCC's [Dubai Multi Commodities Centre's] sourcing and due diligence requirements are entirely voluntary and thus easily ignored.

Unfortunately, the DMCC's sourcing and due diligence requirements are entirely voluntary and thus easily ignored. Only three of eleven refineries in the UAE have made themselves DGD compliant. The other eight refineries operate without any independent check on their sourcing. Yet these noncertified refineries all claim on their websites to adhere to DGD or OECD due diligence rules on sourcing; many also post compliance reports by auditors of some stripe purportedly showing their compliance (in Table 5, these are labeled as self-certified).

Given this patchwork of standards and the dubious practice of self-certification, the rigor of local audit processes remains questionable. In 2013, a whistleblower alleged that his then employer—international auditing firm Ernst and Young—colluded with Kaloti Jewelry International and the DMCC to conceal the sourcing of gold from high-risk or unknown sources.[159] Under newly revised rules, Kaloti Jewelry International subsequently passed that audit but was later removed from the DGD list in 2015.[160] The firm has strongly denied media reports about these allegations, asserting that they are "full of contradictions and inaccuracies" and rejects "any implication relating to regulatory non-compliance in the gold trade."[161] Nevertheless, in April 2020, a UK judge awarded almost $11 million in compensation to the whistleblower, finding that his former firm had breached its professional duties in its handling of the 2013 audit of Kaloti Jewelry International; Ernst and Young says it will appeal the ruling.[162]

Dubai-based refineries also frequently trade with each other, creating yet another loophole in global supply chains. This self-regulation appears to satisfy their customers. This is perhaps because, with one exception, the noncertified refineries all make it clear that they do not source mined gold.[163] All of their gold, they claim, comes from jewelry, scrap, and sources within Dubai. But this likely means that these refineries only buy gold through the souk—of which most is considered laundered. For these refineries' buyers, though, the claim appears to be enough. The identity of these buyers—for example, which firms in India or Switzerland purchase from which Dubai refineries—remains a mystery.

These problematic practices therefore beg the question: does the DMCC give false legitimacy to gold flowing through the jurisdiction from high-risk sources?

TABLE 5
GOLD REFINERIES IN THE UAE

Refiner	Location	Current Accreditation	Former Accreditation
Al Etihad Gold Refinery	Dubai	Dubai Good Delivery	Not available
International Precious Metal Refiners	Sharjah	Dubai Good Delivery	Not available
Emirates Gold	Dubai	Dubai Good Delivery	Limited assurance report up to 2018
Dijllah Gold	Sharjah	Self-certified	Removed from Dubai Good Delivery status in 2018
Gold Standard	Dubai	Self-certified	Not available
Gulf Gold Refinery	Sharjah	Self-certified	Removed from Market Deliverable Brand status in 2017
Istanbul Gold Refinery Precious Metals (Dubai)	Dubai	Self-certified	Not available
Kaloti Precious Metals	Dubai	Self-certified	Removed from Dubai Good Delivery status in 2015
Al Ghurair Gold Refinery	Dubai	Self-certified	Removed from Dubai Good Delivery status in 2010
VGR Gold Refinery	Sharjah	Self-certified	Not available
Fujairah Gold	Fujairah	Self-certified	Removed from Market Deliverable Brand status in 2019

SOURCES: DMCC, Dubai Good Delivery Status List, https://www.dmcc.ae/application/files/4915/8729/0026/DGD_List-_Gold_Alphabetical_-Final-16-04-2020_Version_22.pdf, accessed April 18, 2020; DMCC, Market Deliverable Brand Status List, https://www.dmcc.ae/application/files/5215/7795/6905/MDB_list_-_Gold_Alphabetical_-_Final-V7.pdf, accessed April 18, 2020.

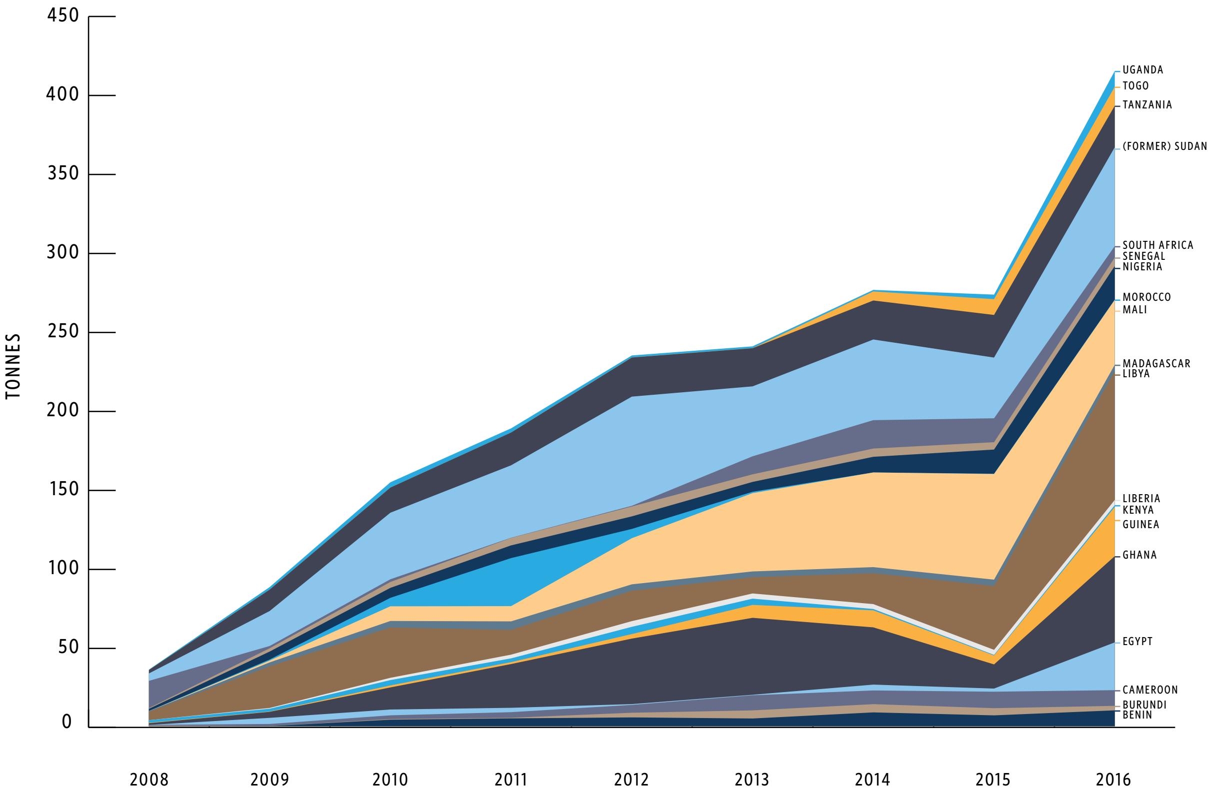
FLY BY NIGHT: HOW GOLD IS SMUGGLED INTO DUBAI

Figure 4 shows the cumulative contribution of the most significant African sources of the UAE's gold imports from 2008 to 2016.[164] Particularly notable—in addition to the vast growth in volumes of UAE-bound gold—is the lack of any geographic pattern. Gold travels to Dubai from all regions of Africa—basically from anywhere with an airport. Gold bound for the UAE travels overwhelmingly by air.[165] Most of this gold is hand carried by individual couriers, who usually carry 2–20 kilograms, with 10 kilograms being a typical parcel.[166]

Dubai airport is now the world's busiest by passenger volume. Many, if not most, African capitals are serviced by direct flights to the UAE. Even better, these flights are often under five hours in duration and generally cost less than $500, meaning a gold courier can reach Dubai in a single day's travel for the cost of approximately 10–12 grams of gold. The UAE's geographical position and extensive air links to Africa are one of Dubai's legitimate competitive advantages in the gold trade.

FIGURE 4

CUMULATIVE UAE-REPORTED GOLD IMPORTS FROM AFRICAN COUNTRIES



SOURCE: Marcena Hunter, "Pulling at Golden Webs: Combating Criminal Consortia in the African Artisanal and Small-Scale Gold Mining and Trade Sector," ENACT, April 2019, 11, https://enact-africa.s3.amazonaws.com/site/uploads/2019-04-24-pulling-the-golden-webs-research-paper.pdf.

The UAE's laissez-faire customs process is a second, somewhat less legitimate, competitive advantage. As noted above, most gold is hand carried to the UAE by air. Gold couriers, like other air passengers, are subject to security screening, including x-rays, which make gold ingots exceedingly obvious. Given this, African nations that serve as export points for gold would seem to be in a position to enforce their export laws and regulations, particularly those pertaining to royalties. And yet the opposite appears to be the case.

Figure 5 compares the volumes of gold legally declared and exported from the eleven nations of the International Conference on the Great Lakes Region (ICGLR) (blue columns) with the volumes of gold arriving in the UAE from these same nations (red columns).[167] According to the results shown, the price of gold quadrupled between 2003 and 2011 from some $12 per gram to over $50 per gram, and the volume of gold imported to the UAE (red columns) shot up in tandem from some 4 tons in 2003 to more than 28 tons in 2011. Mysteriously, however, gold legally declared and exported from these same countries declined precipitously year over year during that same period.

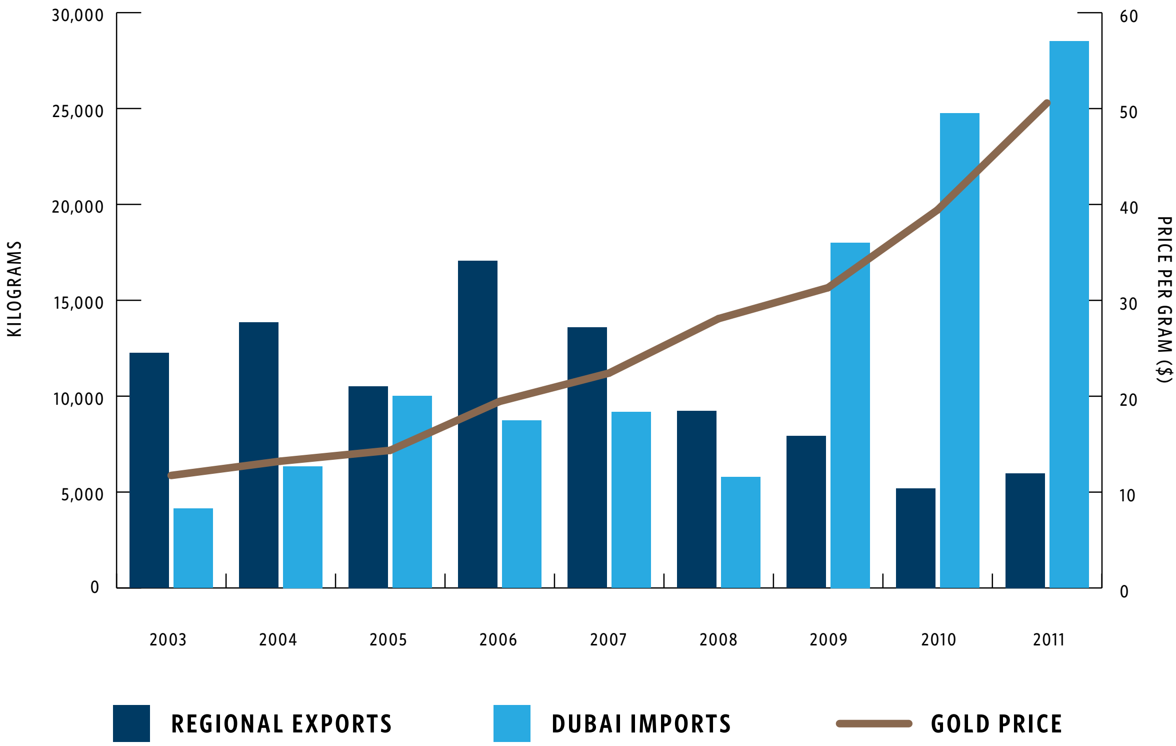
The difference between the blue and red columns—in other words, the volume of gold legally exported and the volume of gold arriving in Dubai—represents the volume of gold smuggled from these nations to Dubai. In 2011, the difference amounted to some 22.5 tons, or $1.1 billion dollars in smuggled gold. Assuming an export royalty rate of just 2 percent, this represents a tax loss to these countries of about $22.5 million per year.

This figure illustrates African exporters' increasing expertise at evading export controls. While techniques vary from one country to another, the need to pass gold through airport x-ray machines depends on some sort of arrangement with the airport security staff at the exporting airport. Several gold couriers who regularly make the trip from Bunia in the DRC to Entebbe in Uganda and then on to Dubai informed the author that these arrangements are put in place beforehand by the courier's boss, who deals with officials at a higher level than frontline airport security staff. The couriers reported that x-ray machines at Entebbe airport have indeed detected their gold, but the gold was subsequently passed on to a supervisor who then facilitated the couriers' passage (and the gold) through to the airport departure lounge.[168] These couriers were not privy to the details of whatever financial arrangements might have been made to facilitate this passage.[169]

Once past security and on the plane, all need for deception is past. On arrival in the UAE, couriers declare their gold to customs authorities (there is no tax) and fill out and sign a gold import form, listing, among other things, an unverified self-reported claim about the gold's country of origin. Sometimes couriers are asked to show their boarding pass as proof of the gold's origin, but this is rare.[170] Form in hand, couriers are free to sell the gold wherever they want in Dubai or elsewhere in the UAE. Typically, the gold is sold in the Dubai gold souk. As noted above, souk dealers record these purchases as scrap gold, which provides a suitable paper trail for selling this gold on to one of Dubai's gold refineries.

FIGURE 5

ICGLR NATIONS' GOLD EXPORTS VERSUS UAE GOLD IMPORTS



SOURCE: Shawn Blore, "Contraband Gold in the Great Lakes Region In-region Cross-Border Gold Flows Versus Out-Region Smuggling," Partnership Africa Canada, May 2015.

DUBAI: A SMUGGLER'S GATEWAY?

Dubai's role as a financial center and its lax regulation of the gold trade, favorable geographic position between Asia and Africa, and access to free trade zones have all contributed to Dubai's growing reputation as a node of corruption. This is evidenced by the increasing crossover of smuggling, gold laundering, and TBML activities involving Africa and Dubai. Gold is smuggled to Dubai, and the profits are used to purchase goods for import to Africa (often after being misinvoiced) and then sold for a profit, creating double the opportunity to raise illicit funds. Globalization is exacerbating the problem, as many countries are struggling to update regulations in line with the exponential growth of global trade.

Meanwhile, free trade zones help criminal actors take advantage of the regulatory loopholes. A 2010 FATF study identified a number of endemic weaknesses that make free trade zones vulnerable to money laundering, including relaxed oversight, lack of transparency, absence of trade data, and limited systems integration.[171] Dubai's gold-oriented free trade zones are thriving; in 2018, the DMCC welcomed 1,868 new companies to its zone, marking a 12 percent growth.[172] Gold traders use the hawala system extensively for the purposes of TBML.[173] The hawala system is a centuries-old informal financial system that allows money to transit countries without currency actually moving, usually by linking money flows with the import and export of goods. A combination of loosely regulated gold imports, poor oversight of free trade zones, trade misinvoicing, and the flow of currency via informal systems like hawala are a boon to trade-based money laundering networks.

The hawala system is a centuries-old informal financial system that allows money to transit countries without currency actually moving, usually by linking money flows with the import and export of goods.

Dubai's illicit and licit traders alike also enjoy favorable tax rates. In 2017, the UAE levied a 5 percent value-added tax on gold and diamonds at the wholesale level. However, after gold traders subsequently had their worst months ever—reported sales fell 30 to 40 percent from the year before—the UAE rolled back the tax in 2018, restoring Dubai as a leader in global gold trading.[174]

NEGATIVE IMPACTS OF THE ILLEGAL GOLD TRADE

Numerous harmful impacts stem from the illegal gold trade, which is heavily facilitated by how easy it is to launder gold through Dubai. In particular, protection economies—where the state, businesses, community actors, and organized crime are all interlinked and use corruption and violence to secure illicit rents—are especially problematic. They undermine the rule of law, stability, and security. Corruption is nearly ubiquitous in the ASGM space, but violence can also be found, often in some combination with corruption.

Unsurprisingly, corruption at the highest levels inflicts the most damage to governance and rule of law. Politicians may use proceeds of gold-related corruption to fortify political patronage, thereby securing power and the ability to continue to profit from the gold trade. For example, in Zimbabwe, the benefits of ASGM are not just enjoyed by high-level members of Zimbabwe's ruling party but are also allocated to its core supporters. The result is a mutually beneficial relationship, with politicians seeking to gain the support of AGSM operators. This prevents members of the opposition party from engaging in the ASGM sector. This has a particularly strong impact in Zimbabwe, where gold is an important sector of the economy and few comparable alternative livelihoods exist, forcing individuals to support the ruling party in order to eke out a livelihood. High rates of corruption enable actors to exploit the gold sector with impunity and make it difficult for interventions, such as those aimed at formalization, to penetrate the ASGM sector.[175]

There is also evidence of gold being sold either indirectly or directly via Dubai, contributing to insecurity and conflict in Africa. This benefits conflict actors in the region, many of whom are increasingly profit-motivated rather than ideologically driven. Persistent insecurity spurred on by these armed groups enables them to continue to profit from illegal activities—including the illicit gold trade—unimpeded. Thus, because it is easy for conflict actors to move gold to and find buyers in Dubai, the trade continues to contribute to insecurity and conflict. For example, there is evidence of direct illicit gold trade between Sudan and the DRC and Dubai. In the DRC, numerous reports by the UN Group of Experts find that ASGM provides the most significant and continual financial benefit to DRC-based armed groups and organized criminal networks. They have also identified the central players responsible for the organized smuggling of Congolese gold to Dubai. But these players continue to export gold without the imposition of administrative or legal sanctions by either the exporting countries or Dubai.[176]

The UAE's lax due diligence policies have also made Dubai the destination of choice for African exporters looking to launder conflict gold.

Likewise, since 2011, ASGM has been closely linked to conflict and competition for illicit rents in the Darfur region of Sudan. In 2016, the UN Group of Experts estimated that the Jebel Amir mines—Darfur's largest gold field—were yielding 8,571 kilograms of gold per year, valued at $422 million. Today, the gold mines are controlled by Mohamed Hamdan Dagolo ("Hemeti"), deputy chairman of Sudan's ruling Sovereignty Council. Investigative journalists found that a minimum of 57 tons of gold were exported from Sudan to Dubai during 2012. The mined gold was reportedly classified as scrap gold to disguise the high-risk source of the mineral.[177]

POLICY AND ENFORCEMENT REMEDIES

Dubai is entitled to be a major world gold hub. The emirate's ideal geographical location, excellent access via air, and competitive marketplace allow its gold dealers to offer higher prices and faster turnarounds—to the benefit of both buyers and sellers.

However, Dubai's role in the global gold trade is problematic due to Emirati authorities' lackadaisical approach toward traders' due diligence and responsible sourcing obligations. Without requiring any kind of export license or certificate of origin for hand carried parcels, the UAE has essentially allowed gold smugglers to try and avoid legitimate government royalties or export taxes. As a direct result, smuggling of African gold has become the norm, not the exception, depriving African nations of millions of dollars of needed revenue.

The UAE's lax due diligence policies have also made Dubai the destination of choice for African exporters looking to launder conflict gold. These include armed groups from the

DRC, Sudan, and, to some extent, the Central African Republic and the Sahelian countries. This, in turn, has unnecessarily exacerbated or prolonged a number of African civil conflicts.

Fortunately, feasible technical measures exist to address these problems:

- To deter smuggling, the UAE could demand that couriers hand carrying gold produce legitimate export documents (export licenses, certificates of origin) and proof of payment of export taxes/royalties from the purported country of export.
- To deter the laundering of conflict gold, the UAE and Dubai authorities could work with African nations—particularly ICGLR countries—to develop a system that requires mineral exports to have a certification attesting to their conflict-free status.
- To further deter the illicit gold trade, the UK and United States could impose discretionary travel and financial sanctions on those Dubai-based businesses and individuals that facilitate it.
- To foster the adoption and implementation of the OECD due diligence standards, Dubai could demand that refineries adhere to the DGD standard as a condition of operation.
- To discourage laundering of smuggled and conflict gold through the Dubai souk, the DMCC or another appropriate Dubai authority could develop an OECD-type system of due diligence for souk dealers and insist on its adoption as a condition of operation.

Most of these technical measures would be relatively easy for UAE authorities (for example, customs departments and the DMCC) to implement. What is lacking is the political will to attempt them. Numerous entities, ranging from nongovernmental organizations to the OECD, have tried to constructively engage UAE and Dubai authorities on these issues, with limited to no effect.

The reasons for the UAE's reticence to take action are not entirely clear. Certainly, the current laissez-faire model is working, if gold volumes are the yardstick. But a UAE that insists that exporters pay taxes and that importers perform due diligence would still be a UAE with comparative advantages, including its geographical location, access via air, and established marketplace.

Unfortunately, UAE authorities appear untroubled by the fact that Dubai has become a major hub for laundering ASGM gold. Instead of becoming a responsible member of the world's gold community, the UAE is essentially facilitating tax evasion and indirectly perpetuating conflict within its supplier countries. Disabusing the UAE of its current business strategy ultimately will require some degree of external pressure.

CHAPTER 5

DUBAI'S VULNERABILITY TO ILLICIT FINANCIAL FLOWS

PETER KIRECHU

IN DUBAI, WEAK REGULATION, poor enforcement, and relatively high levels of secrecy and anonymity create a welcoming environment for global kleptocrats, money launderers, and other illicit entrepreneurs seeking to hide ill-gotten earnings. With global pressure for stricter enforcement on the rise, UAE authorities recently introduced new laws and regulations on beneficial ownership and customer due diligence disclosure. The effectiveness of these measures will depend on the strength of enforcement, especially in the UAE's free trade zones where—as described in Chapter 3—the extent and effectiveness of enforcement varies widely from one zone to the next.

In 2020, amid numerous public disclosures of misuse of the global financial system by criminal syndicates, terrorism financiers, kleptocrats, and other illicit actors, the intergovernmental Financial Action Task Force (FATF) delivered the results of the UAE's second mutual evaluation conducted in 2019. Public pressure for states to align their anti–money laundering, financial transparency, and tax policies with international norms is currently at an apex. Transparency advocates have long called for the public disclosure of ultimate beneficial owners, as well as rigorous policing of corporate ownership vehicles such as shell corporations, trusts, and nominee companies. In 2018, partly in anticipation of the FATF evaluation, UAE authorities introduced a new anti–money laundering and counterterrorism finance (AML/CTF) law that aims to expand and strengthen beneficial ownership and customer due diligence requirements, including by aligning some of its existing standards with FATF standards.[178] According to the FATF's findings, however, major or fundamental improvements are still required in ten of the eleven areas it assessed. Nevertheless, the task force acknowledged the UAE's 2018 legal reforms and that insufficient time has passed for their full implementation and thus put the UAE under a year-long observation.[179] At the year's end, should the FATF deem the UAE's progress "insufficient to address its strategic deficiencies," it will develop an action plan to address the deficiencies and consider requiring enhanced due diligence for financial transactions with the UAE or even eventual blacklisting.[180]

Some of the newly created compliance and enforcement measures now apply to both financial institutions—the more traditional targets for anti–money laundering and counterterrorism finance scrutiny—and nonfinancial service providers, such as lawyers, real estate brokers, and precious metal dealers. This is because various monitoring bodies—including the Middle East and North Africa Financial Action Task Force, which coordinates anti–money laundering and counterterrorism finance efforts regionally—have formally identified these providers as designated nonfinancial businesses and professions (DNFBPs) and recognized them as potential gateways for illicit financial flows.[181] In 2008, FATF evaluators had found that DNFBPs in the UAE were at a heightened risk of money laundering and terrorism finance due to the heavy use of cash transactions, the increase in foreign investment, and the overall allure of the country's luxury markets.[182]

> ***The most vulnerable jurisdictions offer vibrant banking systems, generous tax incentives, low commercial trade barriers, and accommodations and inducements designed to attract foreign investments.***

While it is unclear how much illicit finance transited through Dubai's real estate market in the pre-2018 period, the 2019 FATF evaluation found it was too early to accurately measure the impact of the UAE's 2018 AML/CTF law on beneficial ownership declarations in real estate and on DNFBPs throughout the country more generally. It will take yet more time to assess whether the new law has had a broader deterrent effect on illicit financial flows. While beneficial ownership disclosures are not a panacea for disrupting illicit flows through DNFBPs, they do lower the existing discovery barrier and raise the risk of public disclosure and noncompliance penalties. These deterrent effects may be further enhanced by making beneficial registries fully transparent and publicly accessible—something not addressed by the UAE's 2018 law.

THE ALLURE OF INTERNATIONAL TRADE AND FINANCE HUBS

Since the universe of global illicit actors is vast, diverse, and increasingly dispersed, global kleptocrats, terrorism financiers, and weapons proliferators often operate across borders and in concert with other criminal groups, high-end money launderers, and other financial facilitators. This illicit ecosystem generates millions in black and gray revenues—earnings that must be laundered before they can enter the licit financial system. As a result, many of these criminal actors gravitate to international trade and financial hubs, where weak financial regulation, low transparency standards, and stable investment vehicles (from luxury real estate to precious metals) create attractive opportunities.

Illicit actors' attraction to the world's foremost financial and commercial trade centers is age-old. As demonstrated by the 2015 Panama Papers, illicit actors often flock to tax and financial havens to operate beyond the scrutiny of enforcement agencies.[183] And in the five years since the Panama Papers' release, public disclosures on illicit schemes and activities have erupted into the public consciousness. Other investigative organizations, such as Transparency International, the International Consortium of Investigative Journalists, and the Organized Crime and Corruption Reporting Project, have documented similar illicit capital flows to other metropolitan capitals and financial hubs, including Hong Kong, London, New York, Singapore, Toronto, and Vancouver.[184]

While locations and jurisdictions have varied, each new report highlights a set of characteristics and vulnerabilities that make some financial and commercial capitals more susceptible to criminal and illicit infiltration than others.[185] The most vulnerable jurisdictions offer vibrant banking systems, generous tax incentives, low commercial trade barriers, and accommodations and inducements designed to attract foreign investments. Such jurisdictions are also plagued by low transparency standards that allow foreign investors to purchase or hold real property, establish trading companies, and conduct business and financial transactions without declaring the origin of their finances and/or the beneficial owners of their investments. These benefits also facilitate the use of anonymous ownership vehicles—shell corporations and shelf companies, trusts, nominee companies, and service providers—all of which can hide illicit investments from regulators, enforcement agencies, and the general public.

ILLICIT INVESTMENTS THROUGH NONTRADITIONAL FINANCIAL SECTORS

Public attention on illicit financial flows has historically targeted the misconduct of financial sector entities, including banks, money exchange companies, and financial service companies. As a result, these entities have been subject to the greatest amount of scrutiny by government regulators and transparency advocates, while the equally important activities of nonfinancial businesses and professions have flown largely under the radar.

As the timeline in Table 6 demonstrates, though the UAE began to open up its markets in the 1970s, its compliance with AML/CTF standards lagged. In the UAE's 2008 mutual evaluation, FATF assessors found that domestic authorities lacked specific anti–money laundering requirements for each type of nonfinancial business and profession.[186] Evaluators also found that many of these providers were unaware of the requirements, while others were not captured by the current AML/CTF law.[187] This mismatch in expectations and requirements, as well as the UAE's overlapping jurisdictional arrangements, complicated any enforcement efforts.[188] The FATF highlighted many of these same shortcomings in its 2020 evaluation. For instance, outside of free trade zones, the FATF noted that there was "very limited activity" for supervision beyond some initial registration of DNFBP entities, and the UAE was not due to have its supervisory regime in place before 2021. Its evaluation also noted a lack of basic knowledge of beneficial ownership registration and other obligations to combat money laundering and terrorism financing and that the UAE's various competing corporate registries led to confusion and "regulatory arbitrage."[189]

In 2012, the FATF formally classified these types of providers as DNFBPs and recognized the particular risks they pose. The task force added new recommendations to its 2012 plenary report, which was last updated in June 2019.[190] Thus, since 2012, the task force has applied the same AML/CTF requirements to both financial sector entities and DNFBPs.[191]

TABLE 6

TIMELINE OF DUBAI'S ANTI–MONEY LAUNDERING AND COUNTERTERRORISM FINANCE LAWS AND REGULATIONS

1971	The UAE is formed after the emirates receive independence from Great Britain; by convention, the ruler of Dubai holds the position of vice president and prime minister of the UAE.
1975	Dubai allows offshore banking, but significant banking does not take off there until the 1990s.
1979	Dubai sets up its first free zone, the Jebel Ali free trade zone.
1991	Dubai's oil production peaks, forcing Dubai to focus on alternative economic sectors, including banking.
2002	In response to international pressure following the role of UAE territory in financing the September 11, 2001, terrorist attacks, UAE passes its first federal AML/CTF law.
2002	Dubai opens its real estate market to foreign ownership.
2004	The Dubai International Financial Center financial free zone opens.
2004	The UAE places all free trade zones subject to the 2002 AML/CTF legislation.

2008	The global financial crisis bursts bubbles in the finance, trade, tourism, and real estate sectors; in return for substantial financial bailouts, Abu Dhabi gains significant influence over Dubai affairs.
2008	The first FATF mutual evaluation on the UAE finds significant shortcomings in UAE's AML/CTF standards, especially related to DNFBPs.
2010	The UAE's Central Bank signs an agreement with the Dubai Multi Commodities Centre requiring the free trade zone to share information on financial transactions suspected of links to money laundering for the purposes of terrorism financing.
2011	The United States threatens to cut UAE-based firms from the U.S. financial system due to sanctions busting associated with Iran; the UAE begins to crack down on Iran-related transactions.
2012	The FATF formally classifies DNFBPs as AML/CTF risks and applies the same financial standards to financial and nonfinancial entities.
2014	The UAE passes a new AML/CTF law that introduces the first beneficial ownership requirements, strengthens business records requirements, and requires financial institutions to confirm the source of wealth for politically exposed persons.
2018	The UAE introduces a new AML/CTF law to expand and strengthen beneficial ownership and customer due diligence requirements more in line with FATF standards; it is the first time the term DNFBP officially appears in UAE law and broadens what types of nonfinancial entities fall under AML/CTF regulations.
2018	The DIFC introduces its own, more stringent, beneficial ownership standards than those of other free zones or businesses outside those zones.
2019	The UAE issues a decree to implement the 2018 UAE AML/CTF law; it adds specific requirements for DNFBPs on handling politically exposed persons, suspicious activity reports, and high-risk countries, as well as supervising foreign branches and subsidiaries and keeping better records. It also adds the regulation of corporate service providers and trusts to the UAE standards passed in 2014.
2019	The FATF updates its AML/CTF recommendations.
2019	The second FATF mutual evaluation on the UAE commences.
2020	Results of the second FATF mutual evaluation on the UAE made public; the FATF stated that improvements in ten of the eleven areas they evaluated are still insufficient and thus put the UAE under a one-year observation.

Dubai's Risky DNFBP Sector

DNFBPs in the UAE currently include real estate agents and brokers, precious metals traders, company service providers, trust services providers, lawyers, notaries, and other independent professionals that support the purchase and sale of real estate and commercial entities, among other services.[192] These DNFBPs operate both inside and outside of commercial free trade zones. Though UAE authorities failed to provide the exact breakdown of where DNFBPs operate at the time of the 2008 FATF evaluation, the 2020 report documented a total of 28,144 DNFBPs. The bulk of these—20,485—operated outside of free zones, while 181 were registered in financial free zones. The remainder did business in one of the UAE's other free zones.[193] Because the total number of commercial free zones has grown from twenty-three in 2013 to twenty-nine in 2019, it is likely that the number of DNFBPs in Dubai has also increased.[194] This expansion complicates an already-fraught enforcement environment, whereby the extent and effectiveness of enforcement varies from one free zone to the next.

In 2008, FATF evaluators identified the variation in enforcement as a substantial money laundering and terrorism finance vulnerability.[195] Their evaluation found that while national anti–money laundering and counterterrorism finance laws applied universally to all businesses—whether inside or outside of free trade zones—enforcement fell to each zone's independent regulators rather than the national bodies that administer traditional financial institutions. This split in supervisory authority created a mismatch in the level of enforcement found inside the free trade zones versus outside the zones.[196]

For example, in 2008, outside the free trade zones, most traditional financial institutions were being regulated by the Central Bank.[197] However, inside the Dubai International Finance Centre (DIFC), these traditional financial institutions were being regulated by the Dubai Financial Services Authority, the independent regulatory authority of that free zone.[198] This allowed firms to be able to select a regulatory environment, rather than falling under universal regulation and enforcement.

The DIFC, which has its own regulatory and judicial system based on an English common law framework (including laws and regulations written in English), abides more closely to international standards than many areas outside of the DIFC. DNFBPs outside the DIFC were, at the time, only subject to the UAE's 2002 AML/CTF law, which fell short of existing FATF recommendations on beneficial ownership requirements and enforcement measures.[199] These businesses were therefore operating under a lower compliance threshold than those inside the DIFC, thereby heightening the risk of money laundering and terrorism finance.[200] While this mismatch was reportedly addressed by the 2018 AML/CTF law, DNFBPs in the intervening period were potentially vulnerable to illicit financial infiltration.[201] The 2008 and 2020 FATF evaluations cited the heavy use of cash in the UAE generally—and in the DNFBP sector specifically—as a money laundering and terrorism finance risk.[202]

Unfortunately, the 2020 evaluation cited similar problems. While supervision within free zones—such as the DIFC financial free zone—seems to have improved, oversight outside of those zones has been minimal at best. As the report noted, though checks completed by financial institutions are "comprehensive," for DNFBPs, "outside of the [financial free zones] and [commercial free zones] these controls are not particularly comprehensive or not yet fully in place, and do not adequately address the issue of foreign directors, shareholders, or beneficial owners."[203] Given these regulatory shortfalls outside free zones—where the bulk of DNFBPs are located—significant vulnerabilities to illicit activity remain.

While supervision within free zones—such as the DIFC [Dubai International Finance Centre] financial free zone—seems to have improved, oversight outside of those zones has been minimal at best.

POST-2008 CHANGES TO DNFBP REGULATION

Since its 2008 FATF evaluation, the UAE has passed new AML/CTF laws in 2014 and 2018.[204] Both laws introduced new beneficial ownership and DNFBP requirements. They redefined and expanded money laundering definitions and predicate offenses (crimes that are components of more serious criminal offenses) and also increased incarceration and financial penalties for offenders.[205] The 2014 law introduced beneficial ownership requirements for the first time, modified customer due diligence requirements to include mandatory maintenance of records for corporate entities that own more than 5 percent of a business, and added a requirement for financial institutions to confirm the source of wealth for politically exposed persons and their families.[206] Prior to 2018, the term DNFBP did not appear in either the 2002 or 2014 AML/CTF laws. Both laws identified this category of actors as "other financial, commercial and economic establishments" licensed and supervised by agencies other than the Central Bank (2002 law) or those licensed by entities other than Central Bank *and* the Securities and Commodities Authority (2014 law). [207]

The 2002 law had a rather limited definition of these establishments that included "insurance companies, stock exchanges, and others." This list expanded in 2014 to include "real estate brokers, jewelry, precious metals and stone traders, lawyers, legal consultants, private notaries, and accountants."[208] The 2018 law expanded the definition of DNFBPs and further broadened the list to include "anyone who conducts one of several of the activities or operations" identified by the 2019 cabinet decree that implemented the 2018 law.[209] The decree added corporate service providers and trusts to the list and also gave the minister of finance additional discretion to designate additional professions and activities as DNFBPs.[210] The 2019 implementation decree also added specific requirements on vetting politically exposed persons, filing suspicious transaction reports, working with clients from high-risk countries, maintaining records, and supervising foreign branches and subsidiaries for both traditional financial institutions as well as DNFBPs.

A surface-level assessment of the 2019 decree suggests that if implemented and enforced, the new regulations would eliminate any compliance gaps between traditional financial institutions and DNFBPs. The regulations seem to align the UAE's 2018 AML/CTF framework with existing FATF requirements and were likely subject to scrutiny as part of the 2019 evaluation. The regulations appear to raise the minimum compliance threshold for all entities operating inside and outside of the free trade zones.[211] While some free zones have operated in line with higher AML/CTF standards, other free zones, as well as entities outside of these zones, have not. With the new standards established by the 2018 national law, all businesses must now operate at a higher compliance threshold than has existed before. Nonetheless, because the FATF could not adequately assess implementation of the 2018 regulations, it is unclear whether enforcement gaps within free zones require further reform.

While some free zones have operated in line with higher AML/CTF [anti–money laundering and counterterrorism finance] standards, other free zones, as well as entities outside of these zones, have not.

POST-2008 CHANGES TO ULTIMATE BENEFICIAL OWNERSHIP

The 2014 and 2018 laws include slightly different definitions of a beneficial owner. The 2014 law refers to the ultimate beneficial owner as a "real beneficiary" and defines that actor as a "natural person in actual control of the client or performs transactions on his behalf, including the person that actually controls a corporate person or legal arrangement."[212] Both the 2014 and 2018 standards emphasize the centrality of a natural person—in other words, an actual individual—as a beneficial owner as opposed to a legal person, which could be a business entity, nongovernmental organization, or public body.[213] The 2018 law does not, however, further define "effective ultimate control" and may therefore allow free trade zones to determine their own standards. Some zones, such as the DIFC and the Dubai Creative Clusters Authority, appear to have independent regulations that modify the national beneficial ownership standard.[214]

The DIFC is one of the more regulated free zones in the UAE and has at least ten independent regulatory and judicial authorities and at least twenty-seven different laws and regulations that govern operations therein. In November 2018, the DIFC enacted its own beneficial ownership regulations requiring that each "registered person" within the DIFC maintain a beneficial ownership register and that entities with one or more nominee directors maintain a Register of Nominee Directors.[215] The new DIFC regulation modified the

2018 ultimate beneficial ownership definition to include natural persons with 25 percent ownership or voting rights, as well as the authority to appoint or remove a majority of directors.[216] While some exemptions exist for some foreign companies, nonprofit organizations, and government-run entities, the DIFC's beneficial ownership standards appear to go beyond the national requirements set by the 2018 law.

> ***The [Financial Action Task Force's] placement of the UAE under a one-year observation will heighten international scrutiny on the nation—and Dubai specifically.***

It is, however, currently unclear whether the other free zones will alter and implement their own versions of beneficial ownership requirements and whether gaps across the various free zones will continue to provide opportunities for illicit exploitation. According to the 2020 FATF evaluation, however, such opportunities will remain because the UAE still has thirty-nine different entities responsible for registering beneficial ownership in different ways. Indeed, the report specifically noted that "the risk of criminals being able to misuse legal persons in the UAE for money laundering/terror finance remains high, particularly through concealment of beneficial ownership information via complex structures, which may be controlled by unidentified third parties, or the use of informal nominees."[217] The report's public release and the placement of the UAE under a one-year observation will heighten international scrutiny on the nation—and Dubai specifically—until they harmonize beneficial ownership requirements and improve training and enforcement related to DNFBPs.

CONCLUSIONS

As states tighten enforcement measures around money laundering and terrorism financing through financial institutions, DNFBPs will continue to provide savvy illicit entrepreneurs with alternative avenues. And while the 2018 AML/CTF framework reduces the risk of illicit infiltration by establishing a national baseline for beneficial ownership and customer due diligence requirements, complete deterrence will require strict enforcement of these standards, especially in the free trade zones. By aligning the country's compliance standards to FATF requirements, UAE authorities have telegraphed their willingness to confront the many challenges posed by the free movement of illicit capital through the country's often touted commercial and financial sectors.

The UAE's introduction of stricter beneficial ownership and customer due diligence requirements in 2014, and again in 2018, was a welcome start. However, UAE authorities should work to more closely align the regulatory frameworks of all free trade zones across the country. While some zones have, at least on paper, transparent compliance regulations and standards, many more zones operate behind a veil of secrecy. The implementation of uniform standards across all free trade zones will not only level the playing field for both existing and incoming investors but also simplify the regulatory environment as a whole. It will also help to improve transparency and reduce enforcement burdens. The UAE is now under enormous pressure to ramp up its enforcement efforts during the FATF's one-year observation period.

CHAPTER 6

THE ILLICIT ALLURE OF DUBAI'S LUXURY PROPERTY MARKET

PETER KIRECHU AND JODI VITTORI

THE TIGHTENING OF ANTI-MONEY laundering and terrorism finance regulations across the formal international financial sector has pushed illicit actors to invest or launder their earnings in other lucrative sectors such as luxury real estate. Nowhere is this trend more visible than in some of the world's premier commercial and financial centers, including Dubai, New York, and Vancouver, among others.

Money laundering through real estate takes place during three stages: placement, layering, and integration. During placement, the launderer invests illegally garnered funds in real estate through the construction or purchase of properties. During layering, the launderer mixes illicit and licit real estate transactions as part of a series of financial transactions that move funds across numerous jurisdictions and economic sectors, obscuring their origin. During integration, the generated paperwork supporting these transactions provides a plausible explanation for the source of funds, such as from property purchases or rent payments, allowing laundered money to appear clean.[218] This is especially true when real estate purchases are associated with anonymous shell companies, trusts, or foundations or when nominee directors are used to obscure ownership.

Because, as noted in Chapter 5, international standards for anti–money laundering and terrorism finance have generally focused on banks and other financial institutions, money laundering practices associated with real estate have garnered less scrutiny by anti–money laundering institutions. Even the United States has significant legal loopholes, and for that reason, it is a haven for real estate–related money laundering. Especially in the absence of enforceable beneficial ownership standards and requirements, kleptocrats, criminal actors, and other money launderers are able to purchase and hold properties anonymously or through other indirect ownership vehicles. This ultimately shields their illicit investments from public discovery. A 2016 Transparency International report found that in Canada, anonymous companies and trusts were used to funnel illicit finances into Vancouver's property market, making beneficial owners invisible to financial regulators and law enforcement agencies.[219] The report found that in the absence of beneficial ownership and other strict customer due diligence requirements, illicit actors purchased and profited from luxury real estate holdings without the fear of public disclosure, seizure, or penalty.[220]

Kleptocrats, criminal actors, and other money launderers are able to purchase and hold properties anonymously or through other indirect ownership vehicles.

Real estate–related money laundering has particular advantages for the beneficiary and the host government. Foremost, the beneficiaries or their associates, such as family members, can reside in the properties. The beneficiaries can also use the properties to conduct further criminal activities. For example, properties purchased with the proceeds of narcotics crimes can be used to conduct drug processing or sales. Real estate purchases are also fairly liquid investments; a property can be sold relatively quickly, especially if the seller is willing to sell at a loss. Further, properties in other countries can become a potential safe haven for criminals or corrupt actors to flee to if required. Finally, should the beneficiary be interested in conspicuous consumption, ownership of, or residence in, luxury properties can signify "having made it" in much the same way that expensive clothing, watches, or jewelry can.[221]

For the host governments, real estate investments provide capital for urban redevelopment, additional real estate–associated tax revenue, and local jobs in construction. The capital can then be disbursed as a form of patronage. For example, favored banks can be given special privileges to profit from the investments, construction firms close to a regime can receive priority for contracts, or powerbrokers can expropriate or buy land at below market rate and resell it at higher prices.

Money laundering through real estate can have uniquely destabilizing effects, however. Due to revelations of incredible opulence, it can help ignite popular grievances against regimes. It can lead to housing bubbles, unfair land expropriation, and unaffordable prices for ordinary citizens. In particular, the mass purchasing of properties bought for money laundering purposes rather than residency can create a glut of empty or near-empty buildings, thereby making affordable, good quality housing even scarcer.[222] Moreover, when housing bubbles propped up by money laundering burst, they can take substantial parts of the economy with it. Environmental degradation or the expropriation of public spaces can also excite populations.[223] For example, expropriation of Istanbul's Taksim Gezi park for urban redevelopment helped spark the social unrest in Turkey in 2013. Finally, the capital flight associated with overseas real estate purchases can help drain treasuries, forcing budget cuts that hurt social and other programs that support the citizenry.

It [real estate–related money laundering] can lead to housing bubbles, unfair land expropriation, and unaffordable prices for ordinary citizens.

For all of these reasons, tours of former corrupt leaders' opulent palaces and other properties are common pastimes immediately after the overthrow of a regime—such tours were done of properties owned by former Ukrainian president Petro Poroshenko after the Maidan Revolution and those owned by the family of former president Zine el-Abidine Ben Ali in Tunisia. Corruption and crony capitalism allegations in the commercial and real estate sectors in Lebanon are one of many driving forces behind political unrest there today.[224]

DUBAI'S MAGNETIC REAL ESTATE MARKET

Chapter 2 highlighted the role that real estate played in the development of Dubai and also how the 2008 financial crash decimated its real estate market. Historically, some funds flowing through the market have come from illicit activities, such as the Kabul Bank Ponzi scheme noted in Chapter 9 or those described in the introductory chapter.

Sanctioned Individuals With Links to Dubai Properties

In 2018, the Center for Advanced Defense Studies (C4ADS), a Washington, DC–based nonprofit research organization, identified—in a leaked Dubai property registry covering 2014 to 2016—forty-four luxury properties directly associated with seven individuals sanctioned by the United States and/or European countries (see Table 7).[225] These properties were valued at approximately $28.2 million in total. The report also identified twenty-seven additional properties worth an estimated $78.8 million within the expanded commercial networks of the seven sanctioned individuals.[226] The report revealed that despite existing sanctions restrictions, several of these individuals operated in broad unsanctioned commercial networks that extended from Dubai and the UAE to multiple international jurisdictions, including the British Virgin Islands, Cyprus, Hong Kong, Lebanon, Liberia, Mexico, Romania, Syria, and the United States.[227] The report also found extensive use of family and third-party networks, including various designated nonfinancial business professions (DNFBPs) such as lawyers, to obscure beneficial ownership of both sanctioned and unsanctioned commercial entities.[228]

TABLE 7
SEVEN SANCTIONED INDIVIDUALS WITH LINKS TO DUBAI PROPERTIES

Case Study	Criminal Activity	Country
Wael Abdulkarim and Ahmad Barqawi	Conflict Finance	Syria
Hassein Eduardo Figueroa Gomez	Narcotics Trafficking	Mexico
Kambiz Mahmoud Rostamian	Nuclear Proliferation	Iran
The Altaf Khanani MLO	Terror Finance	Pakistan
Kamel and Issam Amhaz	Terror Finance	Lebannon
Rami Makhlouf	Grand Corruption	Syria

SOURCE: *Sandcastles: Tracing Sanctions Evasion Through Dubai's Luxury Real Estate Market* (Washington, DC: Center for Advanced Defense Studies, 2018).

Throughout 2018, the Organized Crime and Corruption Reporting Project (OCCRP) identified multiple luxury property holdings in Dubai held by former public officials—from Armenia, Nigeria, Pakistan, Russia, South Africa, and Thailand—as well as by their family members and business associates.[229] OCCRP investigators found that, in some cases, the individuals were linked to illicit or allegedly illicit dealings, as in the case of former Nigerian petroleum minister Dan Etete (highlighted in Chapter 1) who had previously faced corruption allegations based on prior dealings with international oil companies.[230] OCCRP investigators also found that, in some cases, offshore ownership vehicles, including shell companies based in the British Virgin Islands, were used to manage properties in Dubai.[231] Altogether, both reports identified the lack of mandatory beneficial ownership reporting in property purchases to be a significant vulnerability easily exploited by both criminals and other illicit actors seeking to hide their money in Dubai's luxury real estate market.

In some cases, real estate purchases have been associated with conflict finance. For instance, according to the C4ADS report, Syrian nationals Wael Abdulkarim and Ahmad Barqawi, who allegedly helped President Bashar al-Assad's regime avoid sanctions on aviation fuel and oil, ran at least four companies from Dubai and held three properties there worth a total of over $850,000.[232] Both individuals remain sanctioned by the U.S. Department of Treasury.[233]

Likewise, according to the report, Rami Makhlouf, Assad's cousin and a key smuggling facilitator, also owned property in Dubai. The United States sanctioned Makhlouf for his role in corruption perpetrated by the Syrian regime as early as 2008, and the European Union sanctioned him for his role in human rights abuses and corruption in 2011. Makhlouf and his family ran at least two Dubai-based businesses and had five properties worth a total of $3.9 million.[234]

According to media reports and the U.S. Department of Treasury, Samer Foz, a Syrian trader close to the Assad regime and linked to importing food and oil-related goods despite sanctions, also has substantial business assets in Dubai and travels there (and who, since 2018, co-owns the former Four Seasons Hotel in Damascus).[235] Muhammad Hamsho, sanctioned by the Treasury Department, is a front man, business associate, and money launderer to Assad's brother Mahir al-Asad, who is also sanctioned by the Treasury Department and accused of looting building materials from areas recaptured by the regime. Muhammad led a Syrian trade delegation to a trade forum in Abu Dhabi in 2019 despite U.S. and European Union sanctions. According to the Panama Papers, his son Ahmad Hamsho sits on the board of at least one of Muhammad's companies linked to sanctions busting; Ahmad is based out of Dubai.[236]

PEPs With Links to Dubai Properties

In other cases, real estate purchases were associated with politically exposed persons (PEPs)—individuals entrusted with a prominent public function, as well as their families and associates. PEPs from countries that perform poorly on corruption-related assessments should raise red flags, especially when they purchase a large number of properties or when the properties are of high value. While none of the individuals mentioned below have been arrested or convicted of an illegal activity, the fact that so many PEPs originating from highly corrupt countries purchase properties in Dubai raises concerns.

For example, Azerbaijan's president, Ilham Aliyev, has owned extensive properties in Dubai. The leaked Dubai property registry used by both C4ADS and OCCRP documented that Aliyev's daughters own the Sofitel hotel on Dubai's Palm Jumeirah island as well as sixteen other villas in the development.[237] In 2010, the then eleven-year-old son of former president Heydar Aliyev bought $44 million worth of Dubai real estate in just two weeks.[238] Kleptocrats all around the world commonly use family members—especially young children—as proxy owners in order to conceal properties and other proceeds of corruption.

Rajesh "Tony" Gupta, who the United States sanctioned in October 2019 for his role in the well-documented corruption schemes conducted during South African president Jacob Zuma's tenure, purchased a ten-bedroom, thirteen-bathroom villa for Zuma in the Emirates Hills development in 2015. The villa was supposed to be a second home for the Zuma family.[239] Zuma and Rajesh Gupta have denied all corruption allegations made against them.[240] According to testimony in a 2017 court case, Grace Mugabe, wife of the now-deceased former president of Zimbabwe, also had rented a villa in the same development.[241]

An assessment of the leaked Dubai property registry by Matthew T. Page identified thirty-four Nigerian governors who owned seventy-one properties, seven senators who owned thirty-three properties, and thirteen ministers who owned twenty-six properties.[242] A separate 2014 report claimed that 60 percent of all serviced apartments in Dubai were sold to Nigerians, while a 2012 report stated that Nigerians had invested $6 billion in real estate in Dubai over three years, including whole floors of apartment blocks.[243] As a sales manager at a Dubai-based property development company noted in a 2012 article, "There are not the same checks on the sources of money coming into Dubai as there are in London and elsewhere."[244] While there is nothing illegal about Nigerians purchasing real estate in Dubai, the high number of purchases by senior Nigerian politicians, many of which seem to exceed what their official salaries should permit, raises concerns that such purchases may be associated with corruption and capital flight.[245]

ANTI–MONEY LAUNDERING AND COUNTERTERRORISM FINANCE REFORMS

As noted in Chapter 5, until 2018, real estate brokers and other DNFBPs outside Dubai's oldest financial free zone—the Dubai International Financial Center—were only subject to a relatively weak 2002 anti–money laundering and counterterrorism finance law, which fell short of the intergovernmental Financial Action Task Force's recommendations on requirements for determining and recording the ultimate beneficial owners and associated enforcement measures.[246] Companies purchasing real estate—especially shell companies—therefore operated under a lower compliance threshold than those within the DIFC.[247] The lack of standardization of beneficial ownership requirements and lack of due diligence related to the source of funds for purchases therefore enabled criminals and corrupt actors to purchase property.

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While this mismatch was reportedly addressed by the 2018 anti–money laundering and counterterrorism finance law, in the intervening period, the real estate sector was potentially vulnerable to illicit financial infiltration, especially through luxury real estate.[248] In 2018, OCCRP investigators visited a variety of real estate agencies in Dubai, posing as potential clients, and found that real estate agents often preferred cash transactions and "showed little interest in where the money might have come from."[249] The 2008 and 2020 Financial Action Task Force (FATF) evaluation similarly cited the heavy use of cash in the UAE generally as a money laundering and terrorism finance risk.[250]

Despite the new legislation, plenty of vulnerabilities remain. The 2020 FATF mutual evaluation report summed up real estate issues as follows:

> The construction and real estate sectors in the UAE contributed 20 percent to GDP as of 2016. Dubai's high-end luxury real estate market has been exposed to transactions in cash, has a highly internationalized client base, and is therefore attractive to [money laundering]. People from 217 nationalities invested a total of AED 151 billion [37 billion euros] through 71,000 transactions in Dubai's real estate market in the 18 months up to the end of June 2017. Third parties can be used to conduct the transactions and there remains a vulnerability where complex ownership structures can be used to obscure the beneficial owner and source of funds used for purchase.[251]

Thus, the real estate sector was rated by FATF as a medium-high risk, regardless of whether real estate transactions took place on the mainland or in a free zone.[252]

The Dubai luxury real estate sector has proven vulnerable to illicit investments by global kleptocrats, weapons proliferators, and narcotics traffickers. And while recent anti–money laundering and counterterrorism finance reforms reduce the risk of future illicit infiltration by establishing a national baseline for beneficial ownership and customer due diligence requirements, complete deterrence will require their strict enforcement. By aligning the country's compliance standards with those of the FATF, UAE authorities have telegraphed their willingness to confront the many challenges posed by the free movement of illicit capital through the country's real estate sector. Recent high-profile scandals—such as the one involving 2019 real estate purchases in Dubai by Isabel dos Santos, daughter of the former Angolan president José Eduardo dos Santos—will provide important test cases for whether Dubai will now cooperate with international law enforcement, as well as investigate and prosecute the use of its real estate market for money laundering.

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CHAPTER 7

HOW EMIRATI LAW ENFORCEMENT ALLOWS KLEPTOCRATS AND ORGANIZED CRIME TO THRIVE

KAREN GREENAWAY

THE UAE INCREASINGLY APPEARS to be an alluring destination for corrupt politically exposed persons, transnational organized crime groups, and U.S.-sanctioned individuals seeking to invest their illegal proceeds. Moreover, a number of countries' law enforcement agencies view the UAE as a base for some of the illicit activities carried out in their jurisdictions.[253] This chapter examines the structure and capacity of the UAE's law enforcement, its role in enabling money laundering and foreign corruption, and the challenges to international coordination. Emirati leaders appear to lack the political will and relevant training to truly partner with foreign law enforcement to tackle illicit behavior.

In addition to examining the UAE's commitments to several key international anticorruption and anti–money laundering agreements, this chapter also looks at the inherent tension between national law enforcement priorities and policing in the individual emirates.

THE STRUCTURE OF UAE LAW ENFORCEMENT

The government of the UAE is organized under a federal, presidential, and constitutional monarchy, with a federal criminal procedure code that was adopted in 1987. However, three of the emirates (Abu Dhabi, Dubai, and Sharjah) have their own police forces, which are considered branches of the federal Ministry of the Interior (MOI). The MOI prides itself on utilizing technology, even robot police officers, to create an innovative policing environment. The MOI also claims that crime is at an all-time low level. Some of the departments even have female police officers.[254]

The MOI works through partnerships with other federal and municipal institutions to enforce the various laws that apply to the country's different jurisdictions.[255] The MOI does not appear to have an investigative staff at the federal level, only executive management and administrative staff. However, the ministry's exact structure is not clear, as there is no organizational chart that clearly delineates the MOI's command and control authority.

The federal system has a separate public prosecution and judicial structure, but matters that are not assigned to the Federal Judiciary in accordance with the constitution are tried through local-level courts in Abu Dhabi, Dubai, and Ras Al Khaimah.[256] Further complicating the UAE's judicial processes is the combined use of sharia law, civil law, and, in Dubai—specifically as it relates to financial disputes and structures—English common law.

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The Emirati government publicly releases very little information regarding successful prosecutions of individual criminal cases, according to a detailed review of open source reporting. Every few months, the police will announce a major narcotics bust. However, unlike most foreign law enforcement websites, the various UAE websites do not appear to post information about arrests or convictions. Even the judicial system's websites do not provide case specific details.[257] In fact, these websites are particularly opaque when it comes to the day-to-day operations of the various courts. On the other hand, citizen services related to licensing, criminal history checks, traffic tickets, and safety advisories are clearly and prominently displayed on the various websites with clear self-help instructions.[258]

There also is little mention of white collar or fraud crimes and the prosecution of them. The MOI's focus seems to be narcotics trafficking investigations and traditional violent crimes, and both the Abu Dhabi and Dubai police departments have separate units devoted to narcotics investigations.[259] (Note that the Sharjah police department does not have this unit.)

DOMESTICATION OF INTERNATIONAL TREATIES AND UN RESOLUTIONS

The UAE has been a signatory to a handful of international treaties, conventions, and United Nations (UN) resolutions that address transnational crime and corruption. The following is a discussion of some of the most important ones and the adoption of their provisions into Emirati legal structures.

The UAE signed the United Nations Convention Against Transnational Organized Crime (UNTOC) in 2002 and ratified the convention in 2007. This convention requires member states to provide a platform for cooperation targeting transnational criminal organizations. It also requires member states to designate money laundering by transnational criminal organizations as a criminal act and, generally, stipulates that member states establish an illicit asset seizure and forfeiture regime focused on criminal cases against transnational organized crime groups. Finally, the convention commits member states to setting up a sharing regime for forfeited assets. However, so far, the level of member state compliance with these provisions is unclear. A review mechanism to determine compliance with the UNTOC provisions was not adopted until 2018, and to date, it does not appear that any signatory state has been subject to this review.[260]

The UAE has also adopted the Kimberley Process Certification Scheme to ensure that diamonds from conflict zones are not sold in the country. In fact, in 2002, the UAE was one of the first signatories on the UN resolution that led to development of the scheme.[261] However, this federal standard is virtually only applicable to Dubai, since the Dubai Multi Commodities Centre Authority is the only legal entry and exit point for rough diamonds in the country.[262] On the other hand, gold can be imported and exported from Abu Dhabi and Sharjah as well. In 2005, Dubai established the Dubai Gold & Commodities Exchange, an electronic trading platform, giving Dubai more trading capability and capacity than the other emirates.[263] Dubai also created its own gold accreditation program, the Dubai Good Delivery standard in 2014. However, there is no treaty or resolution that requires countries to coordinate on gold-smuggling investigations.

As a part of the international efforts to tackle transnational corruption and money laundering, the UN General Assembly adopted the United Nations Convention Against Corruption (UNCAC) in 2003. The UAE ratified this convention in 2006. Interestingly, the country's State Audit Institution (SAI) is the lead agency on anticorruption, utilizing its audit functions to identify waste, fraud, and abuse at the federal government level and to provide forensic evidence for investigations and prosecutions of domestic corruption.[264] In 2016, the government created an anticorruption unit in the Abu Dhabi Accountability Authority (ADAA).[265] However, neither the SAI nor the ADAA are law enforcement bodies, thus limiting their effectiveness and impact. For example, UNCAC treaty obligations require the UAE to assist with asset recovery when a corrupt politically exposed person has invested illicit corruption proceeds in the country. Yet neither the SAI nor the ADAA have the authority to conduct an investigation or obtain legal process to freeze and forfeit illicit proceeds on behalf of a foreign government. Without this authority, a country seeking to recover assets stolen from its treasury through embezzlement and corruption will not have any legal method to force the return of these funds.

The Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (BEPS) is a convention that is coordinated through the

Organisation for Economic Co-operation and Development (OECD). More than eighty countries, including the UAE, have ratified the convention. BEPS came into force for most signatories at the beginning of 2019 and obligates countries to amend any tax laws that are not in compliance with existing tax treaties' obligations. The convention also requires countries to create and enforce legislation that would prevent the abuse of existing tax treaties.[266] As with UNCAC, the SAI is the lead agency tasked with bringing the UAE in line with the obligations under this convention.[267] However, to date, the UAE does not appear to have committed any law enforcement resources to international coordination on personal or corporate tax evasion by non-UAE citizens who reside there.

Although the Gulf Cooperation Council (GCC) is an FATF member, the UAE has only agreed to be a member of the Middle East and North Africa Financial Action Task Force (MENAFATF), a regional FATF body. Regardless of its level of participation, a member of the FATF or one of its regional bodies agrees to comply with the "40 Recommendations on Combating Money Laundering and Financing of Terrorism and proliferation issued in 2012 by using the 2013 AML/CTF [anti–money laundering and counterterrorism finance] Methodology for assessing technical compliance with FATF recommendations and the effectiveness of AML/CTF systems." The UAE promulgated a new AML/CTF law in late 2018 in anticipation of its 2019 FATF evaluation. The law's stated purpose is to improve international cooperation in the enforcement of money laundering and terrorism financing.[268]

The enforcement of laws on human trafficking became a priority for the UAE when it criminalized the practice in 2006 and formed a National Committee to Combat Human Trafficking. There is no separate treaty or convention that commits the signatories to coordinate and cooperate on human trafficking. Instead, this coordination is mandated under the UNTOC, which has specific provisions related to the trafficking of persons and smuggling of migrants. Investigative statistics that the UAE provides to the U.S. Department of State as part of its annual Trafficking in Persons Report indicate that modern slavery also has been prosecuted under the human trafficking provisions of the legislation (though the UAE does not publish detailed statistics on trafficking-related investigations).[269]

Three complementary treaties form the basis for international law enforcement cooperation against narcotics and psychotropic drug trafficking networks: the Single Convention on Narcotic Drugs of 1961, amended by the 1972 protocol; the Convention on Psychotropic Substances of 1971; and the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988. The UAE acceded to the first two in 1988 and the third in 1990. These conventions commit the signatory countries to international coordination in the interdiction of illegal narcotics and psychotropic substances. There are also provisions for the confiscation of illicit proceeds from narcotics trafficking. There is no review mechanism to ensure the compliance of the ratifying states. Instead, the United Nations Office on Drugs and Crime provides training, financial assistance, and coordination assistance to participating countries.[270]

CHALLENGES AND OBSTACLES TO COORDINATING WITH UAE LAW ENFORCEMENT

Foreign law enforcement agencies face three primary challenges to cooperation with their Emirati counterparts: an opaque command and control structure, the oft-diverging interests of particular emirates and the federal monarchy, and constraints imposed by the UAE federal government that limit the scope and depth of international cooperation. For example, cooperation with Dubai authorities must be coordinated and overseen by federal officials. As counterproductive as it is, this constraint is not unusual; federal law enforcement structures in the United States—with notable exceptions like the New York City Police Department—are responsible for coordination with foreign countries' law enforcement. However, in the case of the UAE, there is a patchwork of investigating authorities because each emirate is responsible for enforcing its own criminal laws.[271] This makes it more difficult for international investigators to connect and build relationships with local partners.

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As for the command and control structure, each emirate's police department is organized differently. However, they typically contain two units that would be considered operational—the Criminal Investigative Department and the Narcotics Trafficking Department. Within each emirate's Criminal Investigative Department, there are specialized Anti-Economic Crimes units.[272] However, these units do not report to MOI executives in Abu Dhabi. Thus, liaison officers for foreign law enforcement who sit in the capital must rely on their MOI federal point of contact to connect them with the right unit in the individual emirates. Therefore, actual implementation of international cooperation with UAE law enforcement is constrained by the willingness and ability of the MOI point of contact to compel cooperation from the local police departments.

In addition, INTERPOL's National Central Bureau—the local office for each INTERPOL member state—is located in Abu Dhabi. In recent years, the UAE has contributed significant funds to INTERPOL law enforcement projects that are coordinated out of the organization's General Secretariat in Lyon, France. In 2018, Dubai hosted the annual international meeting of INTERPOL member states.[273]

INTERPOL projects involve multilateral coordination on transnational organized crime, cybercrime, and—more recently—international terrorism.[274] While the UAE is obliged—in theory—under the terms of its participation in INTERPOL to follow the organization's coordination standards, member states actually enjoy broad discretion in their implementation of these standards. In the past, the UAE has sent representatives of the Abu Dhabi National

Central Bureau, as opposed to working-level investigators, to international coordination meetings. The absence of line investigators from these case coordination discussions severely limits the effectiveness of bilateral information sharing and joint operational discussions.

Further, in the last ten years, INTERPOL has been accused of allowing countries to submit Red Notices that are politically motivated.[275] A Red Notice is essentially a request from one INTERPOL member state to another member state to detain an individual of interest until the country issuing the Red Notice provides the appropriate legal documentation justifying the detention request. Some countries require the underlying legal documentation in advance of the detention. The United States and most European Union countries go even further and insist that the request must be the result of a legitimate criminal investigation.

Overall, the UAE has a strong track record of cooperating on international terrorism and terrorism finance issues but is generally uncooperative and ineffective when it comes to other illicit activities and financial crimes.

Recently, observers have suggested that the UAE uses the Red Notice system to pursue financial debtors who generally would not be prosecuted criminally in most jurisdictions.[276] Even as late as 2019, after the 2018 INTERPOL conference, an attorney who defends clients who have had INTERPOL Red Notices issued based on political activity or financial debt—as opposed to criminal accusations—stated that the UAE and some other jurisdictions have been misusing the system to collect business and credit card debt and even funds for bounced checks from debtors who have fled the country. In a *Foreign Policy* article, the lawyer notes that an unidentified organization in the United Kingdom that assists foreign nationals with criminal charges brought by Emirati officials based upon financial debt were seeing as many as two cases a month in 2018.[277]

The UAE's international law enforcement coordination structures include regional coordination that occurs through yet another organization, GCC-POL. This regional equivalent of INTERPOL is staffed with police investigators from each emirate. However, GCC-POL's coordination relates solely to international terrorism issues. Overall, the UAE has a strong track record of cooperating on international terrorism and terrorism finance issues but is generally uncooperative and ineffective when it comes to other illicit activities and financial crimes.[278]

Compounding the challenges arising from the UAE's complicated foreign law enforcement liaison structures are the occasionally divergent political interests of the two main emirates: Abu Dhabi and Dubai. While the federal monarchy is a signatory on almost every international treaty that addresses transnational criminal activity, it is the individual emirate's police force that sets its department's priorities. These priorities are influenced by the economic interests of each emirate, which are often not in sync. Dubai's economy relies heavily on promoting itself as a diamond and precious metals commodities trading and financial hub. This explains why the emirate adopted English common law to govern certain financial relationships, even though sharia law still applies to banking law in all of the emirates.[279] Abu Dhabi's economy, meanwhile, relies on government services and petroleum exports.

As a result, Dubai has had little incentive to address the problems of domestic or foreign corruption and money laundering. The emirate has made insufficient progress in addressing either corruption or money laundering threats emanating from inside or outside of the emirate. Even in Abu Dhabi, the implementation of anticorruption legislation and treaty obligations is focused on preventing federal government waste, fraud, and abuse. This prioritization has left the SIA as the primary point of contact for anticorruption coordination with foreign partners.

At the federal level—despite the UAE being a signatory on numerous conventions, treaties, and resolutions related to transnational organized crime and corruption, as well as participating in UNCAC evaluations of other signatory countries—it was not until 2018 that the UAE adopted a new AML/CTF law more closely aligned with FATF principles.[280] And it was only through this law that the Emirati government created an independent Financial Intelligence Unit (FIU). Prior to 2018, the FIU was a part of—and reported to—the Central Bank. The previous incarnation of the unit had little law enforcement coordination capability, an established FATF recommendation that is assessed during the task force's evaluations. A strong functioning FIU is essential for robust international cooperation on anti–money laundering.[281]

By far the most interesting provision under the 2018 AML/CTF law is that local authorities are required to cooperate with document collection, witness interrogation, and extradition of suspects in money laundering and terrorism-financing investigations. In addition, Emirati law enforcement is not able to refuse requests if the crime is under investigation in its jurisdiction, except where honoring the request would harm an ongoing investigation or prosecution. Further, an international request where the specific alleged offense is money laundering or terrorism financing can no longer be refused because the request violates the "confidentiality restrictions" of the relevant financial institutions (for example, banks) or DNFBPs (for example, attorneys, accountants, or real estate agents)—unless obtaining the specific material is expressly prohibited in Emirati legal statutes. Complicating enforcement, however, are new provisions regarding attorney-client privilege contained in the law.[282]

To date, it is not clear how individual emirates' law enforcement agencies will implement the law. It is also not clear whether its passage will lead to greater cooperation between the UAE and those countries that have seen illicit financial outflows channeled into Dubai real estate investments and Emirati financial institutions.[283] Since the law is still relatively new, it is too early for an FATF evaluation to determine its effectiveness.

If the MOI will not commit the resources to enforce the law and the confidentiality restrictions of banks and attorney-client privilege become barriers to international cooperation on money laundering and foreign corruption cases, it is very likely that the financial institutions and DNFBPs being used by corrupt PEPs and criminal figures to launder illicit proceeds in Dubai will continue to be protected.

ANEMIC COOPERATION ON ANTI–MONEY LAUNDERING

Western law enforcement faces additional challenges besides the emirates' diverse political interests and the opaque operational linkages between UAE federal law enforcement agencies and emirate police departments. Particularly acute are the added challenges related to the enforcement of anticorruption and anti–money laundering laws, including complex financial crimes.

As stated above, overall, the UAE has a strong track record on regional and international coordination related to terrorism financing and a decent record related to narcotics trafficking and human trafficking. However, the crimes that require more significant cooperation—for example, on transnational organized crime groups operating from the former Soviet Union, international asset recovery, and anti–money laundering—do not appear to be priorities for the MOI. While it is true that the ministry's inaction on these types of cases may be partially attributed to the UAE's weak pre-2018 anti–money laundering laws, it also suggests a significant lack of political will.

> ***Between 2013 and 2018, it [the UAE] prosecuted just fifty individuals for money laundering and convicted thirty-three. Of those prosecutions, only seventeen took place in Dubai.***

The FATF's 2020 evaluation report seems to bear this out. It noted that between 2013 and 2019, the UAE prosecuted ninety-two people—and convicted seventy-five—for terrorism financing. However, between 2013 and 2018, it prosecuted just fifty individuals for money laundering and convicted thirty-three. Of those prosecutions, only seventeen took place in Dubai. The report specifically noted "the low number of [money laundering] prosecutions in Dubai is particularly concerning, considering its recognized risk profile."[284] The report further noted that though some money laundering prosecutions had been linked to forgery and fraud, there was a "noticeable absence of consistent investigations and prosecutions of [money laundering] related to other high risk predicate crimes (such as drug trafficking), professional third-party [money laundering], and those involving higher risk sectors (such as money value transfer services or dealers in precious metals or stones)."[285]

Thus, the questions for foreign law enforcement are as follows: Does the UAE now have the wherewithal to enforce the 2018 anti–money laundering law and implement the obligations the country has under UNCAC? Furthermore, assuming Emirati authorities have the expertise, are they devoting the necessary resources to address money laundering crimes, which remain a significant concern for international law enforcement? Even in the private sector, in-depth knowledge of corruption and money laundering—particularly as it relates to illicit proceeds transiting through or destined for the Emirati financial system or the Dubai real estate sector—appears to be lacking.

This lack of awareness of money laundering risks affects other facets of the real estate market. For example—because much of the civil law governing Dubai's banking system reflects tenets of sharia law—the typical property purchase is done in installment payments and not through a traditional mortgage (which charges interest, prohibited under sharia law).[286] As a result, a corrupt politically exposed person or criminal has an incentive to pay for a property up front, including all banking fees, in order to avoid a long-term banking relationship. This limited transactional relationship does not provide a financial institution with enough data to assess, as recommended by the FATF, the long-term risk of a client who may be engaged in money laundering.

Unless the new FIU is empowered to set strong requirements for reporting suspicious financial activity—such as a thorough know-your-customer review when engaging in what will likely be a one-time transaction with a client—financial institutions will have broad discretionary authority to designate a transaction as suspicious. And, in turn, without robust activity reports, the FIU will have no financial data to provide to Emirati law enforcement. This leaves the MOI—as well as foreign law enforcement—without the critical information needed to launch money laundering or international corruption investigations.

The MOI does provide public information on internally organized and internationally led training attended by their staff. There are also examples of Emirati law enforcement inviting outside experts to provide training and expertise to local authorities.[287] However, this training has not focused on international corruption and money laundering. A number of law enforcement executives from the UAE—including members of both the Abu Dhabi and Dubai police forces—have attended the U.S. Federal Bureau of Investigation's (FBI) National Academy, a ten-week course for law enforcement officials who are expected to rise into executive positions in their home countries. It focuses on skills development and international cooperation. However, this FBI course is not tailored toward building capacity in specific areas of criminal investigation and instead focuses on cooperation related to international terrorism and cybercrime.[288]

As a result, without focused training and development on investigations related to money laundering, foreign corruption and bribery, and international asset recovery, Emirati law enforcement activity will be limited to the investigative assistance required under the new anti–money laundering law. So far, there is little evidence that UAE law enforcement has demonstrated cooperation in these types of investigations.

The UAE's training appears to focus on building capacity in the day-to-day enforcement of violent crimes and other local threats. However, a troubling development is that Emirati authorities have been integrating intelligence surveillance training into law enforcement operations.[289] In other words, the detection and prevention of crime is being aided by hidden cameras, secret enforcement operations, and the opaque collection of so-called evidence that is then used in court against criminal suspects. According to the government, this development is helping to protect the monarchy as opposed to enhancing law enforcement capacity.[290] Regardless, the practice is blurring the lines between intelligence and evidence collection and has the potential to further complicate coordination between UAE and Western law enforcement agencies; the latter follow strong legal provisions that prohibit using intelligence collection methods to collect evidence in purely criminal cases.

Without focused training and development on investigations related to money laundering, foreign corruption and bribery, and international asset recovery, Emirati law enforcement activity will be limited to the investigative assistance required under the new anti–money laundering law.

Another complicating factor is the UAE law enforcement's alleged use of torture during interviews with subjects. Civil society organizations continue to make allegations that Emirati law enforcement officers use torture to obtain confessions in some instances.[291] Since the use of torture against potential subjects and witnesses in criminal cases is illegal in the United States, every European Union member state, and many other countries, a confession or admission obtained under torture would be inadmissible in these jurisdictions.[292] The use of torture as a method to obtain evidence from witnesses or potential subjects could also invalidate any international cooperation mandated under the UAE's anti–money laundering legislation and UNCAC provisions.

CONCLUSIONS

In the last several years, the UAE has taken some concrete steps to integrate into its criminal laws obligations that it has agreed to under a number of international treaties, conventions, and resolutions. International cooperation by the UAE has moved beyond the signature and ratification phases to the implementation of practical training and cooperation in the spheres of terrorism financing, narcotics trafficking, human trafficking, and cybercrime. However, there continues to be a hole in the UAE's international cooperation efforts on money laundering and foreign corruption, as well as the smuggling of precious metals.

The key to any change in this cooperation will be Emirati law enforcement's improved capacity (particularly in Abu Dhabi and Dubai) to enforce the 2018 AML/CTF law. The international community should closely monitor the newly created FIU's guidance to financial institutions on the filing of suspicious activity reports, as well as its cooperation with local law enforcement. Perhaps in its desire to improve perceptions of its international law enforcement cooperation, the UAE will begin implementing best practices on international money laundering investigations involving foreign corruption and bribery.

There continues to be a hole in the UAE's international cooperation efforts on money laundering and foreign corruption, as well as the smuggling of precious metals.

CHAPTER 8

THE UAE'S KAFALA SYSTEM: HARMLESS OR HUMAN TRAFFICKING?

MUSTAFA QADRI

WITH ABOUT 90 PERCENT of the UAE's over 9-million-strong population consisting of foreign nationals—most of whom are low-wage and semi-skilled workers from Africa, Asia, and elsewhere in the Middle East—the country's economy is heavily dependent on migrant workers.[293] Labor migration to the UAE is regulated by a private sponsorship system known as kafala, which has existed in the Gulf Cooperation Council states and other Middle Eastern countries for decades. The laws and procedures of the kafala system vary from state to state.

With about 90 percent of the UAE's over 9-million-strong population consisting of foreign nationals . . . the country's economy is heavily dependent on migrant workers.

Like most of its neighbors, the UAE has engaged in a range of reforms over the last decade to enhance labor mobility and rights compliance for migrant workers. But the kafala system remains a critical ingredient in the state's capacity to ensure political control in a situation where only a minority of the population has citizenship rights and where legal and social power rests with a small group of royal families. What is less well understood is the system's role in creating a social contract between the state and the citizen, which effectively promises the latter a ready source of revenue and significant control over migrant labor in return for reduced social and political freedoms.

UAE authorities have long viewed the unequal legal status of migrant workers as a matter of national security.[294] They argue that this has enabled the state to preserve its national identity, provide significant economic and social advantages to individuals with citizenship, and maintain a safe and stable society anchored in the rule of law.[295] However, significant political and other restrictions are imposed on UAE nationals. Emiratis are not allowed to form or join a union; collective bargain; strike; or exercise the rights of peaceful assembly, association, and protest. Prominent human rights defenders have been abducted (enforced disappearance) and prosecuted after making even seemingly minor demands, such as greater freedom of expression and political freedom.[296]

LABOR REFORMS IN THE UAE

The UAE has passed a range of legal reforms and initiatives aimed at modernizing its labor markets and respecting international labor conventions. These initiatives include efforts to regularize the migrant labor recruitment market and to improve the skills-matching and training of prospective migrant worker employees seeking to enter the UAE jobs market. Successive labor reforms over the past five years have included removing the requirement of seeking an employer's permission to change jobs or leave the country (known, respectively, as a No Objection Certificate and an Exit Permit) and increasing worker access to grievance remedy and labor dispute resolution mechanisms.[297] In addition, in 2007, the UAE set up a National Committee to Combat Human Trafficking to oversee implementation of its 2006 antitrafficking law and to coordinate government efforts to combat trafficking. Departments in the Ministry of Labor and the Ministry of Interior also deal with protection against trafficking.

The UAE has passed a range of legal reforms and initiatives aimed at modernizing its labor markets and respecting international labor conventions.

Labor reforms have led to some improvements in labor rights protection, but significant gaps in their implementation and enforcement remain and labor exploitation is still a common practice in both public and private enterprises. As the United Nations (UN) special rapporteur on trafficking in persons has pointed out, the high demand for low-skill work in the UAE has created a lucrative opportunity for criminal involvement in the market of foreign workers.[298] There are several reported cases of women and men voluntarily traveling to the UAE for work but then being subjected to sex trafficking or forced labor there or in other Gulf countries.[299] Despite the reforms, the kafala system continues to give employers a high degree of control over workers, thereby increasing workers' vulnerability to trafficking, forced labor, and other exploitation.

Migrant workers who are trafficked into forced labor are typically recruited by agents who charge high recruitment fees in exchange for secure work permits and employment in the UAE. However, once in the UAE, victims are made to sign contracts they often do not understand and that include conditions different from what they were promised. They are then forced to work long hours in cramped labor camps. Wages are low, payments are made infrequently, and living and sanitary conditions are poor. The workers inevitably fall into situations of debt bondage and find themselves compelled to accept the terms and conditions imposed on them. This is particularly common among construction, domestic, and lower-level service workers.[300]

INVESTIGATION AND PROSECUTION OF LABOR EXPLOITATION

The UN special rapporteur noted in 2013 that the UAE primarily views trafficking as a problem concerning women and children and commercial sex exploitation. She stated that this may be owing to the country's policy of delinking trafficking and labor migration and an unwillingness to intervene in situations of trafficking for labor exploitation. The rapporteur said, "Emirati authorities unequivocally stated that 'labour issues should not be linked to human trafficking and should be treated separately.'"[301]

Unfortunately, these views have not changed over the years. The U.S. State Department's "2019 Trafficking in Persons" report noted that the UAE government rarely investigated violations of Emirati laws that are often trafficking indicators—including passport confiscation, delayed or nonpayment of wages, and contract switching—as possible trafficking crimes.[302] Instead, the government often treated the cases as regulatory violations and either imposed administrative fines or revoked the business license. In 2018, the UAE did not report any investigations, prosecutions, or convictions of officials complicit in trafficking crimes.

The U.S. State Department's "2019 Trafficking in Persons" report noted that the UAE government rarely investigated violations of Emirati laws that are often trafficking indicators.

According to publically available information, the government's protection efforts appear to focus almost exclusively on victims of sex trafficking. The government's relevant webpage details how to report trafficking and obtain support—in reference to mainly women and children.[303] It mentions Ewa'a shelters for women and children victims of human trafficking and sexual exploitation; the shelters are run by the Dubai Foundation for Women and Children, the Women's Protection Centre of the Social Services Department of Government of Sharjah, and the General Directorate for Human Rights Protection that provides support "to women and children who are victims of human trafficking." There are no specific references to support for trafficking victims subjected to labor exploitation.

In its 2018 "Global Report on Trafficking in Persons," the United Nations Office on Drugs and Crime (UNODC) noted that shortly after the UAE introduced its antitrafficking law in 2006, the number of trafficking victims the government detected increased, potentially indicating greater attention to the issue.[304] However, according to UNODC statistics, all of the eighty-eight victims detected between 2014 and 2017 were women or girls and most were subjected to sexual exploitation.[305]

LABOR RIGHTS AND WIDER SOCIAL REFORM

The confiscation of passports, long hours of work, poor working and living environments, and the withholding of wages—among other labor market conditions—contribute to the expanding demand for trafficked migrants and create lucrative opportunities for recruiters, exploiters, and brokers. However, as mentioned earlier, the U.S. State Department's 2019 report noted that UAE authorities continue to deal with labor law violations administratively and do not usually investigate such cases as possible trafficking crimes or refer them for criminal prosecution.[306] The government also does not enforce its prohibition on employers withholding workers' passports, which remains a pervasive problem.[307]

A crucial element in the state's stability has been the link between the kafala system and the wider social contract between states and citizens. Although citizens face restrictions on their human rights, the state offers them a wide arrange of social benefits, such as generous housing benefits, access to free education and medical services, preferential treatment in the workforce, generally higher salaries, and more.[308] By contrast, with few exceptions, virtually all foreign workers must have an employer sponsor who is a citizen or resident of the UAE.[309] In most circumstances, the sponsor must be the majority owner of the enterprise. This creates a significant power imbalance between the sponsor who is also legally the worker's employer and the migrant worker.

In practice, it is common for migrant workers to manage and operate the business on behalf of the sponsor. However, the sponsor expects to receive the majority share of the profits and may step in to resolve any disputes or to reach new agreements. The arrangement gives the sponsor control over the employee, creating a power relationship that has similar characteristics to that between the state and citizen. In effect, the state gives citizens rights and powers over migrants and the wealth generated from enterprises operated by these migrants in exchange for significant restrictions in civil and political freedoms. Despite these restrictions, citizens enjoy the wealth generated by the economy and preserve their social status above migrant workers—regardless of whether these workers are highly skilled or critical to the functioning of the state and the economy. Given the benefits Emirati citizens derive from this labor system, any effort by the UAE government to reform it in line with international standards and labor conventions will be unpopular. Citizens would see the reform as a threat to their privileges in an otherwise restrictive society.

Nevertheless, the UAE has, like all of the Gulf states, been moving toward increasing indigenous participation in the workforce in order to reduce its overdependence on foreign workers.[310] This poses a potential challenge to the dominant role of the kafala system, as increasing numbers of Emiratis would become employees and not just employers and business owners. But in the absence of union participation and wider civil and political freedoms, the preferential treatment citizens enjoy and the control they exert over migrant workers will remain key elements of the social contract in the UAE. For the state, the challenge will be balancing the need to maintain a social contract based on an imbalance in labor relations in favor of employers and business owners, who are overwhelmingly citizens, with its international obligations to respect core aspects of human rights and labor rights and the need to respond to a global market increasingly sensitive to rights protections. Without wider civil and political reforms, however, it will be difficult for the state to modify a labor regime that leaves migrant workers exposed to human trafficking, forced labor, and other forms of exploitation.

CHAPTER 9

THE KABUL TO DUBAI PIPELINE: LESSONS LEARNED FROM THE KABUL BANK SCANDAL

BRIAN GEORGE

FOR ALMOST TWO DECADES now, billions of dollars in corruption proceeds have been funneled from Afghanistan, a country devastated by four decades of conflict, to Dubai. These outflows have played a part in stunting Afghanistan's economic and political development, facilitating the resurgence of the Taliban, and exacerbating regional instability. They have also largely negated the effects of huge sums of development aid and stabilization funds spent by the international community in Afghanistan. These critical observations are evidenced by the multitude of illicit finance cases and credible reports that highlight the cross-pollination of criminality between Afghanistan and Dubai. There is, perhaps, no case that illustrates these linkages better than the notorious Kabul Bank scandal.

ALONG COMES A MONEY LAUNDERER

For many observers, the story of the Kabul Bank scandal begins with the August 2010 revelation that the bank's leadership and a handful of political elites had embezzled close to $1 billion through fraudulent loan schemes.[311] Asset recovery efforts, sometimes corrupt themselves, continue almost a decade later. Hundreds of millions of dollars have not yet been reclaimed. While some of this money is still tied up in real estate assets—many in Dubai—much of it has simply been lost through handsome bribe payments, ill-devised underbidding schemes intended to squash competition, and wasteful purchases by the scandal's main protagonists.

For others, however, the story of the Kabul Bank debacle begins much earlier than 2010, well before it received its Afghan banking license under murky circumstances back in 2004 and even before the Taliban was driven out of Kabul in late 2001. The story actually begins in Russia during the mid-1980s, when a young Afghan named Sherkhan Farnood who was studying at a Moscow textile institute started a small hawala (money transfer service) out of his dorm room.[312]

For others, the story of the Kabul Bank debacle begins much earlier than 2010 . . . [it] begins in Russia during the mid-1980s, when a young Afghan named Sherkhan Farnood who was studying at a Moscow textile institute started a small hawala (money transfer service) out of his dorm room.

By the late 1990s, the service was handling money transfers among Russia, Central Asia, and Afghanistan, and Russian authorities had begun to suspect it was a money laundering scheme—a fact unknown to Afghan authorities when Farnood secured the banking license for Kabul Bank.[313] Farnood fled Russia, but cognizant of the potential opportunities in Dubai, he quickly began setting up his new base of operations in the city. He first established his own general trading company around 1996.[314] Later, in 1998, his mature hawala operation was effectively legitimized when he secured a money-changer license from the UAE's Central Bank.[315]

With the assistance of just a handful of employees, Farnood rapidly established himself as one of the region's preeminent financial conduits between Dubai and Afghanistan. And with his hawala connections, he was capable of moving—or laundering—funds anywhere in the Middle East, Central Asia, China, Europe, and even the United States.[316] Farnood had employees or partners working out of small offices all over the globe.

In the years immediately following the international community's 2001 venture into Afghanistan, and in the confused rush to modernize Afghanistan's infrastructure and economy, Farnood and others saw many opportunities for expansion and profit, but one in particular truly resonated with him. When the Taliban's currency printing press began to transform—with international assistance—into Afghanistan's central bank, Da Afghanistan Bank (DAB), Farnood saw the superficially functional yet immature and corruptible entity as a golden opportunity to vastly expand his now licensed Dubai-based hawala operation, the Shaheen Money Exchange. (It is important to note that the Shaheen Money Exchange changed ownership in late 2014 or early 2015 and there is no suggestion that the firm currently operating under that name is connected in any way to the matters discussed in this report.)

Once the DAB began issuing private banking licenses, Farnood and a small group of investors—mostly Afghan businessman also based in Dubai—successfully obtained the first post-Taliban Afghan commercial banking license in 2004.[317] Though the actual specifics of the initial capitalization of Kabul Bank remain unclear, Farnood once claimed that the $5 million start-up money required by the DAB to obtain a banking license was actually paid but later withdrawn.[318] Though seemingly impossible, this feat is believable, given the bank's relatively brief history of operations.

So why was Farnood so keen to get a banking license? Why did he believe owning a bank would vastly expand his burgeoning group of companies? Put simply, he wanted to "borrow" (in other words, embezzle) money from hapless depositors and invest it in Dubai real estate, as well as launder the ill-gotten gains of corrupt, high-profile clients.

KABUL BANK TAKES OFF

There was, in reality, an ingenious and complex strategy underlying the Kabul Bank scheme. As a world-class hawaladar and money launderer, Farnood knew very well something that is widely misunderstood: money remitters, hawaladars, and similar service providers generally rely on the formal banking system to move money. Monies collected at various hawala or money exchange branch offices are often pooled and moved to their interim or final destination via a bulk wire transfer initiated at a bank. This process allows hawaladars to offer their clients relatively low transfer fees. The business model is simple: the hundreds of individual transfer fees collected by a hawaladar are greater in value than the cost of initiating one large bulk wire transfer. And the bigger the hawala operation, the more reliant on banks that hawala becomes.

Like other Dubai-based money exchangers, Farnood relied on banks—and those banks' correspondent banking relationships—to move monies denominated in U.S. dollars and other currencies globally via wire transfer.

Like other Dubai-based money exchangers, Farnood relied on banks—and those banks' correspondent banking relationships—to move monies denominated in U.S. dollars and other currencies globally via wire transfer.[319] Whether those accounts were held in the name of the Farnood-owned Shaheen Money Exchange or other entities, the reality is that monies associated with Farnood's hawala operations were ultimately being wired all over the world to accommodate his clients' needs.[320] People living in the un-banked or un-bankable areas of the world gain access to the global banking system via hawaladars like Farnood, who serve as their proxy bankers.

Connected to Dubai's network of international banks, the Farnood-owned Shaheen Money Exchange had immediate access to the Society for Worldwide Interbank Financial Telecommunication (SWIFT) and the formal global financial sector.[321] With the vast commercial trade networks at his disposal, Farnood had plenty of opportunities to conduct trade-based money laundering when it was profitable or required. But once he obtained his banking license in Afghanistan, the Farnood-owned Shaheen Money Exchange—using the fronts of both Kabul Bank and his Kabul-based hawala, the Kabul Exchange—quietly became a significant unregulated component of the international banking system. The dorm room hawala had evolved into a licensed, seemingly legitimate bank, with its own access to SWIFT, U.S. dollar-denominated correspondent banking relationships, credit card products, and a host of other products and services. One of these turned out to be as tempting and ultimately destructive as depositor monies and loans.

> ***Once he [Farnood] obtained his banking license in Afghanistan, the Farnood-owned Shaheen Money Exchange . . . quietly became a significant unregulated component of the international banking system.***

Farnood no longer needed to rely on other banks to keep the financial conduits of the Farnood-owned Shaheen Money Exchange flowing with licit and illicit funds. He had his own bank, which, ironically, had its own anti–money laundering (AML) compliance department. For Farnood's money laundering empire, it is difficult to imagine a more favorable operating landscape. In Dubai, very lax regulatory enforcement allowed the Farnood-owned Shaheen Money Exchange to launder money through Dubai unchecked. In Afghanistan, incompetent, politically weak, or corrupt regulatory bodies and regulators could not—or would not—do anything to challenge Farnood's bank.

Meanwhile, Kabul Bank's activities were being fueled by the money international donors were pouring into Afghanistan's economy. Business opportunities in Afghanistan abounded, stemming from lucrative construction projects and the international community's increasing needs for fuel and other supplies. As a result, Farnood's nest egg of depositor money for Dubai real estate purchases grew larger on a daily basis. Other members of the Afghan Business Council in Dubai—established in 2005—were looking for easy access to cash for real estate investments there.

COPYCATS EMERGE

Farnood's rivals soon emulated his business model. After the ribbon cutting for Kabul Bank in 2004, the landscape of Afghanistan's new private banking sector began to take shape. For example, in 2006, much to Farnood's annoyance, Mirwais Azizi—an on-again, off-again business partner and later rival—obtained a license from the DAB to launch Azizi Bank, which Azizi allegedly used to finance multimillion dollar real estate projects in Dubai.[322] Documentation by the United States Agency for International Development reveals that Abdul Qadeer Fitrat, DAB governor at the time of the Kabul Bank scandal, requested in early 2010 that the U.S. Department of the Treasury arrange forensic audits of both Kabul Bank and Azizi Bank.[323] A key concern raised by Fitrat and other senior Afghan officials was the sheer amount of monies—tens or hundreds of millions of dollars—continuing to flow from both banks into Dubai property investments.[324] Azizi Bank was subjected to a forensic audit undertaken by the DAB in the aftermath of the Kabul Bank scandal.[325] Though the audit's results were not made public, there is no indication that the DAB identified any wrongdoing and both Azizi and Azizi Bank have denied all allegations of impropriety.[326]

Perhaps the most ill-fated Farnood copycat scheme was carried out by the New Ansari network. In 2010, the New Ansari Money Exchange was Afghanistan's largest money service business, capable of transferring funds just about anywhere in the world. In 2007, the owners of the exchange sought to mimic Farnood's strategy by obtaining a banking license from the DAB and opening Afghan United Bank (AUB). Most of the then shareholders of the exchange owned stakes in the AUB.[327] (It is important to note that the AUB fully changed ownership in 2011. Its current owners are in no way connected to the bank's activities during the 2007–2010 period discussed in this report.)[328]

By 2009, the U.S. interagency Afghanistan Threat Finance Cell (ATFC) and Afghan law enforcement had compiled information indicating that the New Ansari Money Exchange was involved in significant money laundering activities, likely tied to regional narcotics trafficking.[329] The exchange was the primary mechanism by which actual cash currency was physically transported via couriers from Afghanistan to Dubai. That exchange house and others like it moved billions in hard cash—mostly Saudi riyals and U.S. dollars—from Kabul directly to Dubai.[330] Those cash exports consisted of legally derived monies co-mingled with the proceeds of public corruption, extortion operations, contract fraud, drug trafficking, and other criminal activities.[331] Anyone needing to send cash from Kabul to Dubai during that period likely used the New Ansari Money Exchange. Even Farnood and his co-conspirators did so.

Cash exports consisted of legally derived monies co-mingled with the proceeds of public corruption, extortion operations, contract fraud, drug trafficking, and other criminal activities.

When, as part of a joint ATFC investigation of the New Ansari network, Afghan police executed search warrants on the exchange's primary Kabul office in Shahazada Market, the investigators not only uncovered evidence of money laundering at the exchange but also connections to Farnood.[332] Thus, it was this investigation that led the ATFC to talk to Farnood. Had the ATFC and Afghan law enforcement not investigated the New Ansari network in 2009 and early 2010, the story of Kabul Bank would likely have unfolded much differently.[333]

The Kabul Bank scheme resulted in close to $1 billion in illicit financial outflows from Afghanistan, according to the Independent Joint Anti-Corruption Monitoring and

Evaluation Committee.[334] Of this sum, $410 million was transferred to the United Arab Emirates, some of which funded the purchase of eight villas on the Palm Jumeirah island and other properties.[335]

FARNOOD TELLS ALL

Fortunately for the AFTC, Farnood told its investigators just about everything he knew.[336] By at least 2009, there was somewhat of a symbiotic relationship between Farnood's business interests and the New Ansari network. One of Farnood's proudest moments was in 2008 when he, with a roughly $100 million loan from Kabul Bank, acquired his own airline, Pamir Airways.[337] The private carrier operated one of the few coveted Kabul to Dubai routes.[338] New Ansari Money Exchange cash couriers could now more easily transport money embezzled from a Farnood-controlled bank (Kabul Bank) on a Farnood-owned airline (Pamir Airways) and deliver it to a Farnood-owned exchange house (Shaheen Money Exchange) in Dubai.[339]

The New Ansari Money Exchange was moving money to Dubai for its own clients as well. It had two key offices in Dubai: Al Adal Exchange and Greenleaf General Trading.[340] When the Farnood-owned Shaheen Exchange was short on cash in Dubai, it was able to easily borrow cash from its friends at the Al Adal Exchange. Farnood reciprocated by allowing the New Ansari Money Exchange to open nominee accounts at Kabul Bank.[341] This became particularly useful during the 2008–2010 period, when the international community—almost completely unaware of the hawala-bank dynamic described here—was discouraging Afghan banks from holding accounts for hawalas and other similar service providers.

THE TRUTH GETS OUT

In late summer 2010, the most important bit of information the ATFC had was that Farnood had fallen out with some Kabul Bank shareholders and Khalilullah Ferozi, his former driver whom he had promoted to chief executive officer of Kabul Bank.[342] Farnood explained to the ATFC that he, Ferozi, certain shareholders, and Kabul Bank's more influential clients had looted hundreds of millions in depositor funds through a nominee loan scheme.[343] He also revealed that Ferozi, without his permission, was taking bribes to issue even more such loans and that Pamir Airways—due in part to a crash in May 2010 that resulted in the deaths of thirty-nine passengers—was in serious trouble financially. Furthermore, Ferozi and other shareholders wanted him out as chairman of the bank. Furious with the other shareholders for stealing without his permission and pursuing their own business ventures, Farnood told the ATFC just about everything about his illicit activities.[344]

Over the course of the next few months, with the DAB's removal of Farnood and Ferozi as the chairman and chief executive officer of Kabul Bank, respectively, and subsequent runs on the bank by depositors, the Afghan government and international community scrambled to avoid catastrophe. Kabul Bank had over one hundred branches across Afghanistan and was the primary means by which Afghan soldiers, police officers, and other public officials were receiving their internationally funded salaries. It held roughly $1 billion in depositor monies, but most of that was tied up in Dubai real estate, Pamir Airways aircraft, or failing business ventures or had simply vanished.[345] Depositors wanted their money back.

A controversial government bailout and questionable receivership process soon followed. And while the international community struggled to overcome then president Hamid Karzai's opposition to its attempts to save Afghanistan's financial system, the ATFC sought to tie up its loose ends with the New Ansari network.[346] However, because Karzai had handicapped the country's anticorruption units' ability to pursue money launderers and the corrupt public officials protecting them, the ATFC had limited options for disrupting the New Ansari network's money laundering schemes. Recognizing this, the ATFC opted to leverage U.S. sanctions that could not be stymied by Afghan government officials.[347]

DISRUPTING THE KABUL-DUBAI PIPELINE

On February 18, 2011, the U.S. Treasury Department's Office of Foreign Assets Control (OFAC) levied financial sanctions against the New Ansari Money Exchange and fifteen affiliated individuals and entities under the United States' Foreign Narcotics Kingpin Designation Act. The public statement of the case highlighted the following as the underlying rationale for the sanctioning action:

> The New Ansari Money Exchange is at the center of an unofficial network of individuals, money exchange houses and other businesses operating throughout Afghanistan and in the United Arab Emirates. Between 2007 and 2010, the New Ansari Money Exchange used the billions of dollars it transferred in and out of Afghanistan to conceal illicit narcotics proceeds. The New Ansari Money Exchange transfers money to its Dubai subsidiaries, Green Leaf General Trading LLC and Al Adal Exchange, also designated today, which then transfer money through the U.S. and international financial systems.[348]

Since the 2011 sanctioning of the New Ansari network, similar U.S. and UN sanctions have been imposed. The sanctions have targeted money launderers facilitating the operations of drug trafficking organizations, terrorist groups, and transnational criminal organizations. Almost all the cases have had some connection to Dubai's financial sector. In 2012, the OFAC levied counterterrorism finance sanctions under Executive Order 13224 against the Haji Khairullah Haji Sattar Money Exchange and the Roshan Money Exchange for moving money on behalf of the Taliban. Both hawalas operated primarily in Afghanistan and Pakistan but had offices in Dubai. The same day the United States sanctioned both exchange houses and their owners, the UN added them to its 1988 list of individuals and entities associated with the Taliban that posed "a threat to the peace, stability and security of Afghanistan."[349]

In November 2015, leveraging its executive order–based sanctioning authority that targets transnational criminal organizations, the OFAC sanctioned the Altaf Khanani Money Laundering Operation (MLO), described in Chapter 3. The public statement of the case issued for this action outlined a now familiar pattern:

> The Khanani MLO facilitates illicit money movement between Pakistan, the United Arab Emirates, United States, United Kingdom, Canada, Australia, and other countries, and is responsible for laundering billions of dollars in organized crime proceeds annually. The Khanani MLO offers money laundering services to a diverse clientele, including Chinese, Colombian, and Mexican organized crime groups and individuals associated with Hizballah. The Khanani MLO has also laundered funds for designated terrorist organizations.[350]

Beyond these sanctions, U.S. authorities have also levied considerable fines against UAE-based banks or their affiliate offices. In October 2018, Dubai-based Mashreqbank agreed to pay $40 million to the New York State Department of Financial Services for its New York office's failure to maintain and make available records of transactions related to the execution of its sanctions compliance program.[351] More recently, the London-based Standard Chartered Bank (SCB) announced it would pay $639 million to settle potential civil liabilities for apparent violations of U.S. sanctions as identified by the OFAC. Compliance program failures in SCB's Dubai office figured prominently. According to the U.S. Department of the Treasury:

> From June 2009 until May 2014, SCB processed 9,335 transactions totaling $437,553,380 that were processed to or through the United States. All of these transactions involved persons or countries subject to comprehensive sanctions programs administered by OFAC (including Burma, Cuba, Iran, Sudan, and Syria). The majority of the conduct concerns Iran-related accounts maintained by SCB's Dubai, UAE branches ("SCB Dubai"), including accounts at SCB Dubai, held for a number of general trading companies and a petrochemical company. SCB Dubai processed USD transactions to or through SCB's branch office in New York or other U.S. financial institutions on behalf of customers that sent payment instructions to SCB Dubai while physically located or ordinarily resident in Iran. SCB also processed online banking instructions for residents of comprehensively sanctioned countries.[352]

In 2013, Farnood and Ferozi were convicted for a breach of trust and sentenced to five years in prison in connection with the collapse of Kabul Bank. Farnood died unexpectedly in 2018 while still serving his sentence in an Afghan prison. A prolific criminal, he was charming, calculating, and highly intelligent. His decisions to create a hawala-bank hybrid and take a dispute among shareholders into the public realm not only reshaped the financial sector landscape in Afghanistan but also revealed how Dubai is used to facilitate international money laundering operations.

LOOKING AHEAD: MENDED WAYS OR MORE OF THE SAME?

It is unlikely that Dubai's approach to combating international money laundering will change anytime soon.[353] As such, its banks and large money exchange houses are unlikely to willingly adopt a culture of proactive compliance. That said, genuine signs of progress include the UAE's recent removal from the European Union's list of noncooperative tax jurisdictions and its decision to require financial institutions to use the UNODC-developed AML software system for reporting suspicious transactions.[354] The Financial Action Task Force's recent evaluation will only heighten the pressure on Dubai to undertake further reforms.

Ultimately, Dubai must resolve the inherent tension between its two identities. On the one hand, it is a major, global financial center with laws, regulations, and attitudes sculpted to attract commerce. On the other hand, it is a financial secrecy jurisdiction that—along with the rest of the UAE—ranked tenth in the 2020 Tax Justice Network's Financial Secrecy Index, behind other major financial centers and financial secrecy jurisdictions like the United States, Hong Kong, Singapore, and Switzerland.[355] Its laws and regulations are technically sound, and its enforcement personnel are capable enough to combat illicit financial flows. As a well-policed and tightly governed state, the UAE has the capacity—if not the political will—to combat money laundering more effectively. Its laws just need to be enforced more consistently and aggressively, and some of the more prolific money launderers must be successfully investigated and prosecuted.

Until the UAE embraces a culture of proactive enforcement that is more developed and entrenched in other major global financial hubs, Dubai will remain a desirable destination for illicit financial flows from across the globe.

The UAE's AML enforcement bodies need to record a few wins. Their investigators need experience, momentum, and more familiarity with international law enforcement practices. The UAE's national FIU Anti–Money Laundering and Suspicious Cases Unit needs to be faster and more helpful when it comes to answering other national FIUs' requests for financial intelligence on cases related to the UAE. However, until the UAE embraces a culture of proactive enforcement that is more developed and entrenched in other major global financial hubs, Dubai will remain a desirable destination for illicit financial flows from across the globe.

CHAPTER 10

CHALLENGES AND RECOMMENDATIONS

JODI VITTORI AND MATTHEW T. PAGE

AS THIS REPORT HAS illustrated, Dubai's political economy depends on illicit financial flows, organized crime, and conflict finance. Nevertheless, Dubai and the UAE are widely viewed internationally as upstanding entities. Leading companies place their regional offices there: 138 out of 500 of the world's largest companies (by revenue) have a regional headquarters in Dubai.[356] Over the last decade, the United States sold $27 billion in military equipment to the UAE, a country former U.S. secretary of state James Mattis affectionately called "Little Sparta."[357]

Dubai's ability to serve as a crossroads connecting gray networks to the international financial system is guaranteed by its idiosyncratic, complex, and symbiotic relationship with the UAE national government based in Abu Dhabi. At the international level, the UAE government appears polished, cooperative, and willing to embrace anticorruption best practices. And as a preeminent emirate of the UAE, Dubai should in theory implement these federal commitments. In practice, however, there is strong evidence that it does not.

This underlying tension between Dubai's problematic international role and its unwillingness to acknowledge or alter its behaviors underpins three key challenges facing anticorruption practitioners and policymakers interested in reducing Dubai's role as a hub of illicit financial and trade activities:

1. Dubai's deep economic dependence on global illicit financial flows and other problematic activities such as human trafficking.

2. Dubai's high sensitivity to international criticism and its aggressive efforts to boost its reputation.

3. The gap between Dubai's robust law enforcement capacity and its unwillingness to use it to stem illicit financial flows.

After outlining these challenges in greater detail, this chapter concludes with a set of policy recommendations to address them.

CHALLENGE #1: DUBAI'S ECONOMIC DEPENDENCE ON ILLICIT FINANCIAL FLOWS

The foremost obstacle to reducing Dubai's problematic role is its economic dependence on illicit financial flows. Indeed, the emirate's comparative advantage as a trade and financial hub relies to a large extent on its openness to dubious characters and transactions. As the world tightens its controls on banking and beneficial ownership requirements for businesses, for instance, Dubai remains an important exception. Although the United States, Switzerland, and others have cracked down on conflict gold and minerals, Dubai barely regulates its supply chain for gold and even reexports that gold internationally, giving it a clean bill of health.

> ***The foremost obstacle to reducing Dubai's problematic role is its economic dependence on illicit financial flows.***

Dubai's economy remains fragile, as highlighted in Chapter 2. Dubai suffered a major financial crisis, including a drop in real estate prices, starting in 2008—and it has never completely recovered. Large loans from Abu Dhabi cushioned the blow, but there is still a substantial outlay of capital unaccounted for, and it is unclear how those loans or subsequent ones will be repaid. Dubai's economy is based on foreign direct investment, state-owned enterprises, cheap international credit, real estate trades, financial flows, and retrade in goods—all of which can quickly shift or decline. Very little is actually manufactured in Dubai itself.[358] Likewise, Dubai's human capital is almost entirely made up of foreign workers, with many Emirati citizens choosing to work in state jobs rather than in the business sector.[359] Looking ahead, a global recession triggered by the coronavirus pandemic—compounded regionally by sharp decline in crude oil prices—will greatly affect Dubai, rendering its economy even more reliant on questionable business practices and illicit financial flows.

CHALLENGE #2: SENSITIVITY TO INTERNATIONAL CRITICISM

Dubai exercises strict control over its narrative. Leading members of Dubai's royal family worry about their public image and are quick and savvy in defending it. Dubai and the UAE overall strategically spend large sums of money to cultivate a positive reputation. This is partly done by sponsoring leading popular brands—for example, Emirates Airlines supports the Real Madrid, Arsenal, and AC Milan football clubs.[360] Sporting events like the international Dubai Tennis Championships and Dubai Desert Classic golf tournament also help.[361] Dubai also provides tax breaks and other incentives for various movies to be made there, such as *Star Wars: The Force Awakens* and a *Mission Impossible* movie in which Tom Cruise scales Dubai's Burj Khalifa building.[362] Perhaps most significantly, however, Dubai will host Expo 2020—postponed one year due to the coronavirus—from October 2021 until March 2022. The Expo will feature 192 country pavilions and would make history as the first world expo held in the region.[363]

Dubai and the UAE overall strategically spend large sums of money to cultivate a positive reputation.

The UAE's media savvy also stands out, especially in relation to its military operations in Yemen. As Seth Binder of the Project on Middle East Democracy has noted, the Arab coalition fighting Houthi rebels in Yemen is generally referred to in the Western press as the Saudi-led coalition, despite the fact that the UAE has been involved with most of the ground operations and has conducted a high number of airstrikes there. Its blockade of Yemeni ports is mostly blamed for the humanitarian crisis, while widespread reports of Emirati human rights abuses continue, including allegations of mercenary hit squads against foes and a secret prison system that uses torture.[364]

Dubai also spends considerable amounts of money on lobbying and public relations. While numbers are not broken out by emirate, the UAE spent over $20 million on U.S. lobbying firms in 2018. This encompassed 3,168 distinct "political activities" according to filings under the Foreign Agent Registration Act (FARA), including the contacting of 200 congressional offices and key congressional committees, eighteen think tanks, and many media outlets. Firms that represent the UAE also made $600,000 in campaign contributions.[365] These FARA filings did not, however, encompass business- and petroleum-related transactions between the UAE and U.S. entities or Emirati donations to U.S. universities.[366] In December 2019, the U.S. Department of Justice announced indictments of eight individuals associated with funneling more than $3 million in illegal campaign donations on behalf of the Emirati government to the 2016 presidential campaigns of Donald Trump and Hillary Clinton.[367]

Dubai also burnishes its international reputation by spending considerable sums hosting international fora. Dubai and the UAE overall are willing not only to host important international meetings but also to pay for the travel and accommodation of delegates, especially those attending from cash-strapped developing countries. For example, Abu Dhabi hosted the Conference of the State Parties to the United Nations Convention Against Corruption in December 2019.[368] It also hosted the first papal visit to a Middle East country in February 2019 and the first World Tolerance Summit in November 2019.[369]

Positive coverage of Dubai, however, does not mean that its international image goes unchallenged, and Emirati authorities work hard to minimize information that may reflect poorly on the city. In Dubai—as in the rest of the UAE—free press, civil society, trade unions, and political parties are outlawed, limiting local investigative journalism and avenues of criticism or dissent. The UAE's parliament is advisory only, and even then, only a selective electorate is allowed to vote for a hand-picked slate of candidates, making it one of the least democratic legislatures in the world. Dubai's Emirati citizens—only totaling about 263,000 out of the emirate's population of 3.4 million—are subsidized grandly in return for quiescence.[370] Those who advocate change are treated harshly. For example, a petition signed by 133 Emirati individuals prompted a harsh crackdown; authorities arrested many signatories as well as lawyers who sought to defend them.[371]

In Dubai free press, civil society, trade unions, and political parties are outlawed, limiting local investigative journalism and avenues of criticism or dissent.

This combination of aggressively telling the positive story of Dubai while suppressing negative coverage helps to maintain a strong reputation globally, especially within key supporter countries like the United States, which is both the UAE's leading protector from external threats and the leading financial hub on which Dubai's prosperity depends.

CHALLENGE #3: FAILURE TO USE EXISTING LAW ENFORCEMENT TOOLS

The UAE government cannot claim that a lack of law enforcement or domestic intelligence gathering capacity precludes it from detecting and combating illicit activities or suspicious financial flows. Emirati law enforcement already selectively cooperates with the West—especially the United States—on shared issues of concern. For example, as demonstrated in this report, it has helped root out some terrorism financiers and recently strengthened its anti–money laundering and antiterrorism laws.

This cooperation developed in part following revelations that Iran used Dubai to smuggle nuclear items and otherwise evade sanctions during the 1990s. Likewise, after the September 11, 2001, terrorist attacks on the United States, Dubai was sharply criticized for its role as a terrorism financing hub and as the home of two of the nineteen hijackers. At least nine hijackers had transited through Dubai on the way to the United States with the help of two locals who arranged for plane tickets and travelers' checks.[372] Another individual allegedly involved in financing the attacks lived in Dubai and worked in one of its free trade zones.[373] In the early 2000s, Dubai was also suspected as a conduit for Taliban gold smuggling following the collapse of that regime.[374] As a result, Dubai has highlighted its anti–money laundering and counterterrorism finance cooperation with the United States and the Middle East and North Africa Financial Action Task Force.[375] This high-profile cooperation has helped mask the fact that many transnational criminals still live and operate in Dubai.

The selective nature of Dubai's cooperation on international crime fighting, sanctions enforcement, and counterterrorism demonstrates that its reluctance to comprehensively address its role in global illicit financial flows is a deliberate choice and not borne out of a lack of capacity. As explained in Chapter 7, Dubai has cracked down on Iranian sanction-evaders when pressured. In 2017, for instance, when the U.S. Treasury Department emphasized the importance of Dubai shutting down money and trade organizations associated with Iran's Islamic Revolutionary Guard Corps, Dubai took steps to do so. As noted in Chapter 2, the UAE government undertook an audit of all Iranian trade in 2017, in part to be able to tackle it if needed.

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Emirati law enforcement is not constrained by a lack of surveillance capacity either. Dubai and the UAE as a whole engage in robust electronic public surveillance.[376] For example, the UAE purchased a technology called Evident, developed by a Danish subsidiary of BAE, that allows the government to intercept any internet traffic, pinpoint people's locations based on their mobile phones, and break encrypted communications.[377] Emirati journalists and democracy advocates have also been hacked with such tools. In 2016, the UAE government reportedly hired a firm (DarkMatter) to track, locate, and hack the phones of dissidents, human rights activists, political leaders, and individuals—including some U.S. citizens—critical of the Emirati government.[378]

RECOMMENDATIONS

Recognizing the three significant challenges outlined above, here are five feasible recommendations for anticorruption practitioners, policymakers, international organizations, and other nongovernmental entities seeking to deter and prevent illicit financial flows from transiting through or being absorbed by Dubai. Of course, these steps alone will not fully address the core drivers of the problem. The anticorruption community needs to convince the broader policy community, especially those responsible for redefining relations with the Gulf, that the corruption challenge is vital to address in a new "two-way street" relationship with Dubai—one that addresses the concerns of Dubai's partners while launching a broader effort to help Dubai reinvent and reimagine its economy in a vastly transformed regional and global international landscape.

1. **Western governments should target UAE-based corruption facilitators with travel and financial sanctions.** Western policymakers and practitioners have a range of discretionary visa and financial sanctions that they could invoke more assertively. These include the U.S. Global Magnitsky Act and Presidential Proclamation 7750, among others. If these tools were directed on a concerted and widespread basis toward individuals engaged in illicit activities—especially money laundering and gold smuggling—Dubai could become a less appealing safe haven for the world's bad actors.

2. **Western governments, international organizations, and donors should cultivate, protect, and speak out on behalf of regional civil society groups.** Due to the lack of journalistic and civil society freedoms in Dubai, key donors should continue to finance outside independent journalists, civil society groups, and anticorruption and human rights researchers focusing on the city state. Emirati efforts to silence, intimidate, or detain journalists, researchers, and academics should be met with more robust objections from Western governments and concrete measures aimed at disincentivizing such crackdowns and promoting press and academic freedom.

3. **International organizations should increase their constructive scrutiny of Dubai.** The United Nations, the Organisation for Economic Co-operation and Development, and the Bretton Woods institutions should take a harder look at Dubai's role in facilitating international financial flows, as the intergovernmental Financial Action Task Force (FATF) recently did. Should the UAE come up short after its year-long FATF-ordered observation period, for example, the international community should not hesitate to place it on gray or blacklists as required, even if pro-UAE member states exert pressure to keep it off those lists. If the country's financial sector meets the criteria of a state of primary money laundering concern under the USA Patriot Act, then sanctions by the Society for Worldwide Interbank Financial Telecommunication (SWIFT) should also be considered.[379]

4. **International organizations, civil society groups, and Western governments should distance themselves from Dubai's efforts to primp its reputation.** While constructive engagement with Emirati officials should continue and relations should remain cordial, these entities should avoid sending counterproductive or mixed messages by participating in events that burnish the UAE's anticorruption, human rights, civil liber-

ties, or conflict prevention credentials. An example of such an event is the recent Eighth Session of the Conference of the States Parties to the United Nations Convention Against Corruption held in Abu Dhabi in December 2019. Absent meaningful reforms, international participation in these events only further inoculates the UAE and Dubai against legitimate critiques of their problematic behaviors.

5. **International companies sponsoring Expo 2020 should weigh the reputational risks that an event designed to celebrate Dubai entail and consider withdrawing their sponsorship.** These high-profile international sponsors include Accenture, Cisco, Mastercard, PepsiCo, and Siemens.[380]

APPENDIX: UAE FREE ZONES

COMPILING AN ACCURATE MASTER list of all the free zones located in the United Arab Emirates (UAE) is difficult. There is no single published list of all free zones and no single internationally recognized platform that registers free zones globally. Furthermore, some zones described as under construction already have companies operating out of them, some zones have merged, and other zones have free zones within them. Finally, not all free zones have operational websites. Nevertheless, for the purposes of this report, Lakshmi Kumar, the policy director of Global Financial Integrity, graciously compiled the below list of free zones in the UAE. The list is as comprehensive and accurate as possible given the constraints just noted.

DUBAI

Auto Spare Parts Zone (ASPZ)

Building Material Zone (BMZ)

Dubai Academic City

Dubai Airport Free Zone (DAFZA)

Dubai Biotechnology and Research Park (Dubiotech)

Dubai Carpet Free Zone

Dubai Cars and Automotive Zone (DUCAMZ)

Dubai Creative Clusters Authority (previously, Dubai Technology and Media Free Zone)

Dubai Design District (d3)

Dubai Flower Centre (DFC)

Dubai Gold & Diamond Park

Dubai Healthcare City (DHCC

Dubai Industrial City (DIC)

Dubai International Humanitarian City (IHC)

Dubai International Academic City (DIAC)

Dubai International Financial Centre (DIFC)

Dubai Internet City (DIC)

Dubai Knowledge Village (KV)

Dubai Logistics City (DLC)

Dubai Maritime City

Dubai Media City, DMC

Dubai Multi Commodities Centre (DMCC)

Dubai Outsource Zone (DOZ)

Dubai Production City, IMPZ (previously, International Media Production Zone)

Dubai Science Park

Dubai Silicon Oasis (DSO)

Dubai Studio City (DSC)

Dubai South or DWC

Dubai Techno Park

Dubai Textile City (DTC)

Energy and Environment Park (Enpark)

Heavy Equipment & Truck Zone (HETZ)

Jebel Ali Free zone (JAFZA)

National Industries Complex (previously, Dubai Techno Park)

ABU DHABI

Abu Dhabi Airport Business City

Abu Dhabi Global Market

Abu Dhabi Ports Company (ADPC)

Higher Corporation for Specialized Economic Zones in Abu Dhabi

Khalifa Industrial Zone Abu Dhabi—KIZAD

Industrial City of Abu Dhabi (ICAD)

Masdar City Free Zone

TwoFour54

SHARJAH

Hamriyah Free Zone

Sharjah Airport International Free Zone

Ajman

Ajman Free Zone

RAS AL KHAIMAH

Ras Al Khaimah Free Trade Zone

Ras Al Khaimah Media Free Zone (RAKMFZ)

RAK Maritime City

RAK Investment Authority Free Zone

FUJAIRAH

Fujairah Free Zone

Fujairah Creative City

UMM AL QUWAIN

Ahmed Bin Rashid Free Zone

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