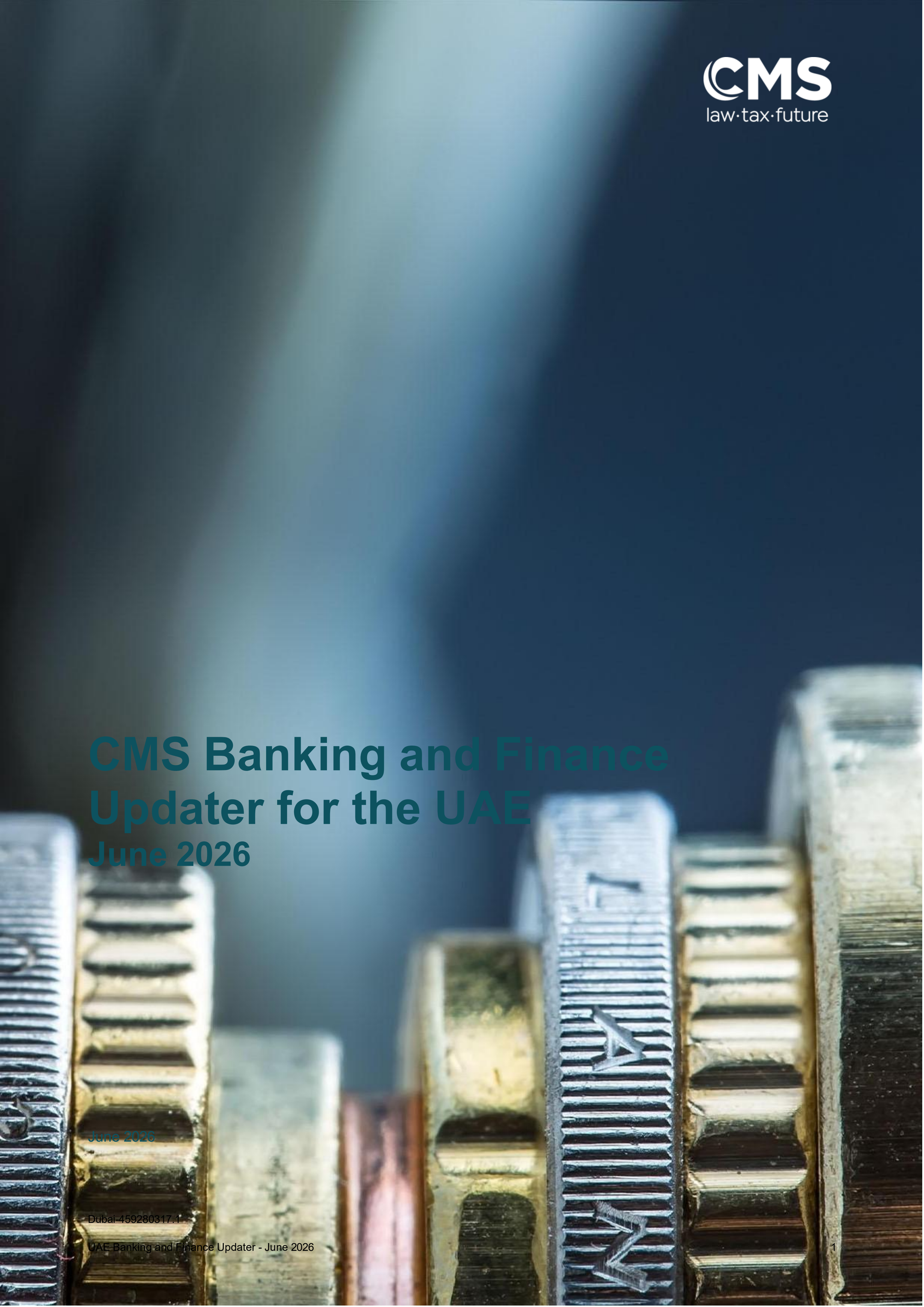

CMS Banking and Finance Updater for the UAE
June 2026

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Banking and Finance Updater for the UAE

Key topics for the month of June include the coming into force of the UAE's New Civil Transactions Law, a keen focus on MAC clauses and market flex in mandate letters and facility agreements, new guidance on the application of the Equator Principles to Data Centres, a welcome clarification around enforcement powers in the DIFC, DIFC's new ranking at 7th in the Global Financial Centres Index 2026, and, finally, a brief round-up of recent financial regulatory updates.

UAE's New Civil Transactions Law

The 1985 Civil Transactions Law was replaced on 1 June 2026 with Federal Decree-Law No. 25 of 2025 (the "**New Law**"), with many provisions consolidating existing legal principles, but also with important developments.

Highlights for banking and finance

— **Reassurances on enforceability of foreign governing law clauses**

- There is an express acknowledgement in the New Law of the effectiveness of choice of foreign law provisions in contracts
- This may trigger a potential change in practical application of such clauses by the UAE Courts (where historically such clauses have not been upheld due to public policy reasons)
- The approach by the UAE Courts should be monitored going forward to see how this issue evolves

— **Expansion of the "good faith" Doctrine to Pre-contractual Negotiations**

- Bad faith termination of negotiations or failure to disclose material information during negotiations may give rise to liability
- Areas of practical risk include: (a) departures in the facility documentation from pre-contractual representations (e.g. through correspondence with the customer) or term sheet positions; (b) aggressive negotiation tactics; (c) non-disclosure of the implications of particular terms of the financing; and (d) late identification of deal-breakers
- Risk mitigants include: (a) negotiation conduct training for business teams; (b) review of existing policies around origination and execution; (c) accurate record keeping; and (d) review and expansion of disclaimer wording in mandate documentation and term sheets.

— **The Doctrine of "exploitation"**

- Under the New Law, Courts have wide powers to vary a contract or even annul a contract in situations of imbalanced bargaining power including in cases of urgent need, dependence or inexperience

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- Risk mitigants include: (a) a requirement for legal representation for all customers; (b) robust contractual disclaimers and acknowledgements; and (c) transparent disclosure around the meaning and effect of material contractual provisions

— **Careful Drafting of Standard Terms**

- Pursuant to the New Law, a bank's standard terms (if, non-negotiated) are likely to be construed by the Courts in favour of the customer
- Risk mitigants include: (a) clear drafting; and (b) a balanced risk allocation in line with market practice

— **Formal Recognition of Framework Agreements**

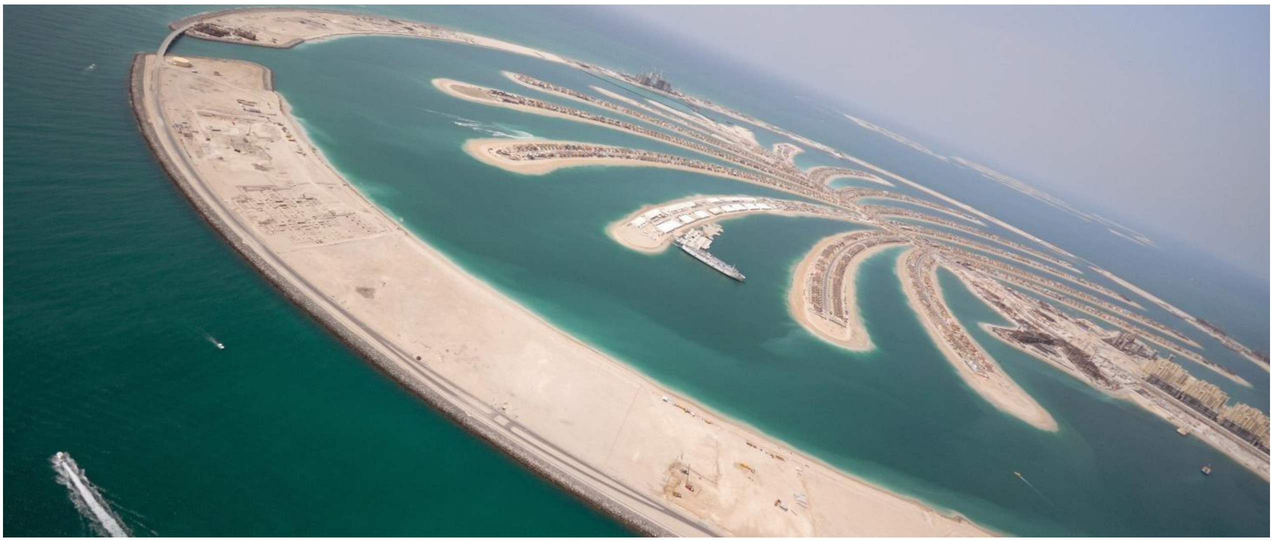
- The New Law formally recognises the effectiveness of framework agreements which would include, by way of example, ISDA Master Agreements and Master Commodity Murabaha structures
- The use of such framework agreements has been prevalent in the UAE market, but previously without a statutory basis for their enforceability. The New Law provides welcome clarification on the enforceability of these contracts.

— **Wider Discretion for Courts to Alter or Terminate Contracts due to "hardship"**

- Under the New Law, a Court may exercise its discretion to alter or terminate a contract where unforeseeable exceptional circumstances cause a contractual obligation to be onerous on a party resulting in heavy loss
- The threshold for a Court to exercise this right is likely to be a high
- Potential risk areas here for banks include in respect of financings which are reliant on key affected contracts or, in the context of REF financings, affected construction contracts, SPAs or key lease agreements

— **Laws around Guarantees**

- The New Law continues to include a section on the law of suretyship. The application of such provisions of the New Law by the Courts to guarantees in a commercial context by corporates should be carefully monitored going forwards.
- Please refer to our table in the Annex summarising some key provisions.



MAC Clauses and Market Flex

MAC clauses and market flex provisions both in mandate letters and facility documentation have been sharply brought into focus during the second quarter of 2026 as a result of the US / Israel / Iran conflict.

Headline points include

- MAC provisions are typically used as Events of Default, draw-stops and qualifiers to representations and undertakings in facility documentation, and as a condition precedent to underwriting commitment in a mandate letter
- In the context of a Facility Agreement, specific impact upon the condition, business or assets (etc.) of the obligor(s) itself is needed in order for the MAC to be triggered; a MAC in general macro-economic or market conditions or political instability is unlikely in itself to trigger a MAC clause in a Facility Agreement (although this ultimately depends on the drafting of the clause)
- Note the difference between Facility Agreements and Mandate Letters where MAC clauses in Mandate Letters typically reference a MAC in general market conditions
- The test for MAC is by reference to the circumstances prevailing at the time of signing the relevant Facility Agreement or Mandate Letter (as applicable) – a MAC in a domestic GCC facility may therefore be harder to call on the basis of the regional conflict given the long-standing political tension in the region
- Banks should check whether the MAC is objective or has an element of subjectivity (i.e. can it be called in the “Lender’s opinion”); the latter will be easier to trigger
- Market flex is a feature of Mandate Letters. It allows an Arranger(s) to adjust the commercial terms and structure of a proposed financing in order to achieve a successful syndication without the borrower’s consent.
- Unlike a MAC clause in a Facility Agreement, flex typically also extends to adverse changes in the relevant debt markets

Points to check: (a) the scope of the permitted changes (what financing terms can the Arrangers change without consent - the facility amount, pricing, fees, tenor, structure, security package, financial covenants, or is it more limited?); and (b) is borrower consent or just consultation required before making the changes?

Given current liquidity concerns in the region, banks may want to insist upon more rights under the market flex with the ability to change terms without the borrower's consent, including key commercial parameters such as pricing and fees

Note that force majeure provisions may also be relevant in the current climate, but do not typically feature in finance contracts, and would be difficult to call under UAE law in a financing context

Economic Support Measures

— **Declaration of an "Emergency Financial Crisis"**

  – The UAE has declared an "Emergency Financial Crisis" under the UAE's Federal Insolvency Law with effect from 28 February 2026

  – This brings into play a number of measures under the UAE's insolvency regime designed to protect debtors, including potentially stream lined formal restructuring processes, and rights to raise additional funding including in priority to existing creditors

  – Critically, creditors' rights to commence restructuring or bankruptcy proceedings against a debtor which is affected by the current regional conflict may be suspended for the period of the financial crisis

— **Dubai announces a Second Package of Economic Incentives valued at AED1.5 billion**

  – The Emirate of Dubai has announced a second package of economic incentives valued at AED1.5 billion

  – These economic incentives are to be provided through a range of short to medium term targeted schemes across a number of affected sectors, including government services and fees, education, tourism, trade and logistics, real estate, construction, and arts and culture

Application of the Equator Principles to Data Centres

— The Equator Principles, in collaboration with Arup, has released new sector-specific guidance to support effective application of the Equator Principles to data centre projects

— The guidance provides practical support for financial institutions, project sponsors, consultants, and independent experts throughout the project lifecycle by highlighting the technical context of data centre developments, including key environmental and social considerations

Enforcement Powers of the DIFC Courts

— In *Ostin v Oleda DIFC CA-001-2026*, the DIFC Court of Appeal held that Part 50 of the DIFC Courts Law may be used by a judgment creditor enforcing a Dubai Court judgment in the DIFC to require disclosure by the judgment debtor under oath of information about all of its assets (and not just those located in the DIFC), contributing to the status of the DIFC Courts as an effective enforcement forum

Financial regulatory round-up

DIFC

DFSA consults on Operational Resilience Framework

The DFSA has consulted on a new operational resilience framework that would introduce a principles-based regime requiring Authorised Firms to identify their critical business services and ensure they can continue to operate through periods of disruption. Firms with identified critical services would be expected to set impact tolerances, map the people, processes, technology and third parties supporting those services, undertake scenario testing, remediate vulnerabilities and maintain a documented self-assessment approved by the Governing Body. The proposals are closely aligned with international operational resilience regimes, including those in the UK and EU, and signal an increased regulatory focus on firms' ability to deliver important services during operational incidents rather than simply maintaining business continuity plans. Firms should begin assessing whether their existing governance, outsourcing oversight, testing programmes and operational resilience frameworks are sufficient to meet these enhanced expectations should the proposals be implemented.

DFSA New Conduct Rules go live on 1st July

Firms should ensure they are prepared for the DFSA's revised Conduct Principles framework, which takes effect on 1 July 2026. While the DFSA decided not to proceed with its proposed overhaul of the Licensed Functions regime (meaning Compliance Officers, Finance Officers and Senior Managers continue to require prior DFSA approval), a number of important changes will still come into force. These include extending Conduct Principles 1–4 to all "Relevant Employees" involved in the firm's financial services business (and certain outsourced personnel operating under the firm's direction and control), introducing a standalone obligation for Authorised Individuals to proactively disclose relevant matters to the DFSA, formalising the requirement for annual fitness and propriety assessments of all Authorised Individuals, and revising the Compliance Officer requirements to focus on seniority and independence rather than board or partner status. Firms should ensure their governance frameworks, policies, training, fitness and propriety processes, disclosure procedures and oversight of outsourced personnel have been reviewed and updated ahead of the implementation deadline.

DFSA publishes report on Personal Account Dealing

The DFSA has published its first Conduct Supervisory Pulse, sharing observations from a thematic review of Personal Account Dealing ("**PAD**") arrangements across DIFC brokerage firms. While the review does not introduce new regulatory requirements, it provides valuable insight into the DFSA's supervisory expectations and areas of future focus. The regulator identified a number of common weaknesses, including firms lacking adequate PAD policies, an over-reliance on employee declarations, insufficient post-trade monitoring, weak governance and oversight, inadequate training, and poor record-keeping. The Pulse also sets out examples of good practice across six key areas: policies and procedures, governance and oversight, monitoring and surveillance, compliance oversight, training and awareness, and record keeping. The publication serves as a reminder that the DFSA expects firms not only to maintain compliant PAD policies but also to demonstrate that those policies are operating effectively in practice through robust governance, surveillance and evidential record-keeping. Firms should use the Pulse as an opportunity to review and strengthen their PAD frameworks ahead of further thematic supervisory work on trading environment controls.

DFSA Crypto-Token regime updated and FAQs published

Changes to the DFSA's crypto-token regime are now in force, with effect from 12 January 2026. Marking a shift towards decentralised responsibility, firms must now carry out their own suitability assessment and determination as to whether each Crypto Token they engage with meets the DFSA's suitability criteria. The DFSA has published on its website responses to some frequently asked questions, to assist in the interpretation of the applicable DFSA Rulebook regime.

Onshore UAE

UAE Central Bank publishes FAQ guidance on aspects of the new UAE Central Bank Law

The UAE Central Bank ("**CBUAE**") has published questions and responses on a range of topics in a FAQ section on the CBUAE website.

One of the topics addressed is new Article 62 of the new law regulating the CBUAE and the provision of financial services onshore in the UAE, Federal Decree-Law No.6 of 2025. Article 62, which regulates "Carrying on Licensed Financial Activities through Emerging Technologies", which is broad in scope and captures "carrying on, offering, issuing, or facilitating, whether directly or indirectly, any Licensed Financial Activity – regardless of the medium, technology, or form employed", raised some speculation in the market as to whether it could be viewed as potentially introducing a new licensed activity. The CBUAE has confirmed that this provision does not create a new category of licensed financial activity but ensures that regulated financial activities remain supervised even when conducted via emerging technologies. It therefore provides a technology-neutral overlay to the regime. Pure technology providers, where not engaged in financial activities, remain outside the CBUAE's supervisory remit.

UAE Central Bank brings in new Telemarketing Rules

The CBUAE has introduced a new Telemarketing Regulation, significantly strengthening the rules governing how licensed financial institutions market and promote financial products to customers. The Regulation applies broadly to telemarketing activities across all communication channels, including telephone calls, SMS, email, websites, social media and digital platforms, and introduces enhanced governance, conduct and consumer protection requirements. Key obligations include obtaining board approval before conducting telemarketing activities, implementing robust customer consent and preference management processes, complying with strict rules on the timing and frequency of customer contact, adhering to enhanced conduct standards for telemarketers, and ensuring appropriate oversight of outsourced telemarketing providers and AI-enabled communications. Firms should review their marketing strategies, customer consent frameworks, policies, scripts, training programmes and third-party arrangements to ensure they are fully aligned with the new requirements and reduce the risk of regulatory enforcement.

Central Bank of the UAE issues enforcement notice against a Foreign Bank Branch

The CBUAE announced a financial penalty of AED 20 million (c. USD 5.45 million) against the UAE branch of a foreign bank following an investigation that revealed significant and repeated failures in the branch's Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) and sanctions compliance programs. Notably, CBUAE went further than fining only the bank itself; the Head of Compliance and Money Laundering Reporting Officer (MLRO) was personally fined AED 300,000 (c. USD 82,000) for failure to fulfil the responsibilities of his position.

In 2025 alone, CBUAE issued over AED 370 million (c. USD 101 million) worth of fines for AML/CFT failures. With the FATF Fifth Round Mutual Evaluation being held this month, it is very clear that the robust enforcement and accountability that was pivotal to the UAE's removal from the FATF grey list in February 2024 continues.

Finally, DIFC now ranked 7th in the Global Financial Centres Index

The DIFC has climbed from 12th position in 2025 up to 7th in 2026 in the Global Financial Centres Index on the back of wide spread expansion across banking, wealth and asset management, insurance, capital markets and fintech.

Dubai's stated aim is to be one of the world's top four financial centres by 2033.

Annex: Key Provisions on Suretyship under the UAE's Civil Code

#	Relevant Article of the UAE's Civil Code	Potential Implications
1.	Article 1005	A guarantor may be discharged from liability to the extent that any security is lost or diminished through the fault of the lender
2.	Article 1006	A guarantor may be discharged from liability where the lender fails to institute judicial proceedings to claim any debt against the debtor and the guarantor within six (6) months from the day following the date on which that debt falls due
3.	Article 1007	A lender's right of recourse against a guarantor may be extinguished to the extent of any loss sustained by that guarantor in consequence of any failure by the lender to lodge a proof of debt in the bankruptcy or insolvency proceedings of the debtor
4.	Article 1008	A lender may be under an obligation to deliver documents to a guarantor, transfer to a guarantor any pledged or retained movable property or execute instruments to transfer any real security to a guarantor following discharge of the debt
5.	Article 1009	A lender may be required to first pursue the debtor before having recourse against the guarantor and the assets of the debtor may first need to be exhausted before the lender may enforce against the assets of the guarantor
6.	Article 1014	A lender may be liable to a guarantor for any loss occasioned by the debtor's insolvency or bankruptcy where the lender has failed to enforce against specific assets of the debtor identified by the guarantor

#	Relevant Article of the UAE’s Civil Code	Potential Implications
7.	Article 1015	A lender may be required to enforce against any real security before enforcing against any assets of the guarantor
8.	Article 1035	Where the debtor or the guarantor assigns the debt, or any part thereof, to a third party and that assignment is accepted by both the assignee and the assignor, both the debtor and the guarantor shall be discharged to the extent of the sum assigned. Where the assignment expressly provides for the discharge of the guarantor only, the debtor shall remain liable for the original obligation

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