

# In the UAE, investor data is secure under the law



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TOP NOTE

**T**he UAE has been a favoured investment destination for entrepreneurs and businessmen from around the world. The presence of an investor-friendly framework in governance coupled with liberal taxation policies, makes it one of the most sought-after business and investment destinations. The country also attracts a huge tourist footfall every year, where visitors generally indulge in shopping. There is also a fair number of expat-investors who buy properties.

With these many transactions happening, it is natural for a bulk of investor information to be in circulation in the country and therefore be exposed to vulnerabilities. However, it may be noted that the UAE has a firm legal and administrative framework in place, to protect such data and information as are disclosed by the investors, thereby protecting investors from unlawful data-leakage and unauthorised or unwarranted investigations.

Primarily it has to be noted that, in the UAE, disclosure of information and investigations based on such information, if any, should be in compliance with UAE's federal legislations and the local laws of the various emirates. Investigations which do not adhere to such laws may be considered illegal (for infringement of privacy and breach of confidentiality) attracting prosecution and penalties.

Insofar as financial information is concerned, the Central Bank of UAE (CBUAE) acts as the chief administrative and regulatory authority. The CB Law has special provisions in place to ensure that private financial information is given due protection and makes the financial institutions liable to ensure such protection.

Under Article 26 of the CB Law, the CBUAE's board of directors, all committee-members appointed by such board, employees or representatives of the CBUAE along with experts, technical personnel, or academics dealing with CBUAE, are forbidden from disclosing confidential information except in accordance with the provisions of the CB Law. Notably such prohibition remains enforceable even after such individuals are no longer associated with the CBUAE. Although, confidential information can be exchanged in instances wherein a foreign government is investigating, under Article 28 of the CB Law, the CBUAE is still entitled to exercise its discretion before making a disclosure, subject to the request for disclosure being made on the basis of reciprocity, not in contravention of the prevailing laws of the UAE.

Further, Article 120 of the CB Law obliges financial institutions licensed by the CBUAE, to maintain confidentiality of all data and information "relating to customers' accounts, deposits, safe deposit boxes and trusts" for all times and forbids them against making disclosures to third parties without the written permission of the customers or their legal representatives.

Notably, the duty of maintaining confidentiality of information also falls squarely on the public prosecutors and their assistants, clerks, experts and others who by virtue of investigation proceedings may be exposed to secret information, and any violation is a punishable offence under Article 67 of the UAE Federal Law No (35) of 1992 Concerning the Criminal Procedural Law (Criminal Procedure Law).

Further, under Article 379 of UAE's Federal Law No. (3) of 1987 on the Penal Code a person making an unauthorised disclosure of information obtained by him due to his profession, craft, position or art, for a personal interest may be subject to penalties which may include 5 years' imprisonment. Keeping due regard on maintaining confidentiality of information, the UAE is also pledged to act strongly against unscrupulous activities like money laundering. The enactment of the Federal Decree-law No. (20) of 2018 on Anti-Money Laundering and Combating the Financing of Terrorism and Financing of Illegal Organisations (the 'AML

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Law') is a definitive example in this regard. As such, Article 15 of the AML Law provides that the licensed banks/financial institutions, upon suspicion of a money laundering transaction taking place, are required to issue notifications to the CBUAE's 'Financial Intelligence Unit' regarding such transactions.

However, the importance of confidentiality remains unaffected inasmuch as Article 17 of the AML Law obliges the investigating authorities to maintain confidentiality of information and make disclosures for investigation/prosecution purposes only. Further Article 18 (2) of the AML Law restricts the usage and exchange of information with foreign authorities as the confidential information can only be used for its intended purpose and the exchange of information is only with foreign countries with which UAE is bound by a convention or through the principle of reciprocity.

With a robust legal framework aimed at data protection and confidentiality of information, investors may thus be reassured that information parted by them in the UAE is protected.

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