

In this document, underlining indicates new text and striking through indicates deleted text



Dubai International
Financial Centre

**COMMON REPORTING STANDARD
LAW AMENDMENT LAW**

DIFC LAW NO. 6 of 2020

Contents

PART 1: GENERAL..... 1

PART 2: AMENDMENTS TO COMMON REPORTING STANDARD LAW 2018..... 2

PART 1: GENERAL

1. **Title**

This Law may be cited as the “Common Reporting Standard Law Amendment Law, DIFC Law No. 6 of 2020”.

2. **Legislative Authority**

This Law is made by the Ruler of Dubai.

3. **Date of enactment**

This Law is enacted on the date specified in the Enactment Notice in respect of this Law.

4. **Commencement**

This Law comes into force on the date specified in the Enactment Notice in respect of this Law.

PART 2: AMENDMENTS TO COMMON REPORTING STANDARD LAW 2018

5. The Common Reporting Standard Law 2018 is amended as prescribed in this Part.
6. The following Articles of the Common Reporting Standard Law 2018 are to be amended by inserting the underlined text and deleting the struck through text as shown below:

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4. Application of the Law

This Law applies to:

- (a) any Reporting Financial Institution subject to the supervision of the Relevant Authority under this Law;
- (b) any Account Holder and Controlling Person of a Reportable Account held with a Reporting Financial Institution subject to the supervision of the Relevant Authority under this Law; and
- (c) any other person to whom a provision is specified to apply.

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7. Interpretation

- (1) Schedule 1 contains:
 - (a) interpretative provisions that apply to the Law; and
 - (b) a list of defined terms used in the Law.
- (2) Schedule 2 contains prescribed fines for contraventions of this Law.
- (3) Defined terms used in this Law that are defined in the Regulations, identified by the capitalisation of the initial letter of a word or a phrase, are (insofar as may be required) incorporated herein by reference, provided that in the event of any inconsistency, the provisions of this Law shall prevail.

8. Administration of the Law

This Law and any Regulations made under it shall be administered by ~~DIFCA~~ the Relevant Authority.

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11. Objectives, functions and powers of the Relevant Authority

- (1) In performing its functions and exercising its powers, the Relevant Authority shall pursue the following objectives:
 - (a) to promote good practices and observance of the requirements of this Law;
 - (b) to administer the Law in an effective and transparent manner;
 - (c) to prevent, detect and restrain conduct which is, or may be, in contravention of this Law;
 - (d) to maintain reliable and up-to-date information and provide access thereto to the UAE Competent Authority, in accordance with this Law; and
 - (e) to assist the Government in complying with its obligations under any international treaty or other agreement relating to the Common Reporting Standard to which the UAE is a party.

COMMON REPORTING STANDARD LAW AMENDMENT LAW

- (2) The Relevant Authority has such functions and powers as are conferred, or expressed to be conferred, on it:
- (a) by or under this Law;
 - (b) the Board of the DIFCA;
 - (c) by the UAE Competent Authority or the Government; or
 - (d) by or under any other law, decree or direction made by the Ruler.
- (3) Without limiting the generality of Article 11(2), such powers of the Relevant Authority shall include, so far as is reasonably practicable to:
- (a) prepare or cause to be prepared in a timely and efficient manner:
 - (i) draft Regulations;
 - (ii) draft Directives; and
 - (iii) any Guidance,reasonably required to enable the Relevant Authority to perform its statutory functions under this Law;
 - (b) submit such drafts of Regulations or Directives to the Board of Directors of the DIFCA for approval;
 - (c) advise the Board of Directors of the DIFCA of any Guidance so issued;
 - (d) issue or prescribe forms to be used for any of the purposes of this Law;
 - (e) issue or prescribe procedures and requirements relating to this Law;
 - (f) where the Relevant Authority considers it appropriate to do so, delegate such functions and powers as may more efficiently and effectively be performed, either generally or in relation to any particular matter, by DIFCA employees, or by any other person:
 - (i) to such employees;
 - (ii) with the approval of the Board of Directors of the DIFCA, to any such other person;
 - (g) specify the method of delivery of information pursuant to this Law, whether by electronic or any other means;
 - (h) exercise and perform such other powers and functions as may be delegated to the Relevant Authority by the Board of Directors of the DIFCA pursuant to the provisions of this Law.
- (4) The Relevant Authority may prescribe the use of an electronic or computer based system for the filing or delivery of information or documents required under or governed by this Law, or as may be required by the UAE Competent Authority pursuant to its duties under the Common Reporting Standard, and may specify the circumstances in which persons shall be deemed to have signed or certified documents on an electronic or computer-based system for any purpose under this Law.
- (5) The Relevant Authority has the power to do whatever it deems necessary for, or in connection with, or reasonably incidental to, the exercise and performance of its powers and functions inclusive of the power of delegation, subject to ~~any the~~ the Decision-Making Procedures ~~that may be issued by the Board of the DIFCA from time to time.~~

- (6) Subject to Article 11(7), neither the Relevant Authority nor any delegate or agent of the Relevant Authority can be held liable for anything done or omitted to be done in the performance of or purported performance of the functions of the Relevant Authority or in the exercise or purported exercise of any power or discretion of the Relevant Authority.
- (7) Article 11(6) does not apply if the act or omission is shown to have been in bad faith.

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PART 4: PENALTIES, ENFORCEMENT AND APPEALS

19. Contraventions-Penalties

- (1) A Reporting Financial Institution who:
 - (a) does an act or thing that is prohibited under this Law;
 - (b) does not do an act or thing that is required or directed to do under this Law;
 - (c) does not perform any action directed by the Relevant Authority under this Law;
or
 - (ed) otherwise contravenes this Law,commits a contravention of this Law and is liable to a fine under Schedule 2, ~~or to perform any action directed by the Relevant Authority pursuant to Article 20(1)(c), or any combination thereof.~~
- (2) Where a Reporting Financial Institution opens a New Account without obtaining a valid self-certification or fails to validate such a self-certification:
 - (a) the Reporting Financial Institution commits a contravention of this Law and is liable to a fine under Schedule 2;
 - (b) the Relevant Authority shall, within thirty (30) days of becoming aware of the contravention of Article 19(2)(a), notify the Reporting Financial Institution of the contravention and the amount of the fine; and
 - (c) the Reporting Financial Institution shall pay this fine within thirty (30) days from the date of receipt of such notification.
- (3) Where an Account Holder or Controlling Person provides a self-certification to a Reporting Financial Institution that contains inaccurate or incorrect information, which the Account Holder or Controlling Person knew, or ought to have known, was inaccurate or incorrect:
 - (d) the Account Holder or Controlling Person commits a contravention of this Law and is liable to a fine under Schedule 2;
 - (e) the Reporting Financial Institution shall, within thirty (30) days of discovering that an Account Holder or Controlling Person has contravened Article 19(4)(a), notify the Relevant Authority of such contravention and provide information relating to the identity, address and place of residence of the Account Holder or Controlling Person; and
 - (f) the Relevant Authority shall, within thirty (30) days of the date of the notification provided by the Reporting Financial Institution under Article 19(4)(b):
 - (i) notify the Account Holder or Controlling Person of the contravention of Article 19(4)(a) and the amount of the fine; and

COMMON REPORTING STANDARD LAW AMENDMENT LAW

- (ii) require the Account Holder or Controlling Person to pay the penalty within thirty (30) days of the receipt of such notification.
- (24) If a Reporting Financial Institution, person or intermediary enters into any arrangement, the main purpose or one of the main purposes, of which is to avoid an obligation imposed under ~~Article 12(1)~~ this Law, such Reporting Financial Institution, person or intermediary is subject to the obligation as if the Reporting Financial Institution, person or intermediary had not entered into the arrangement.
- (2) If any Reporting Financial Institution, ~~or Account Holder~~ or Controlling Person contravenes this Law, or refuses to answer any question put to such person by an Inspector for the purpose of an investigation, the Relevant Authority may certify such contravention or refusal in writing to the DFSA. The DFSA may thereupon inquire into the case and take such action or make such orders in respect of such Reporting Financial Institution, ~~or Account Holder~~ or Controlling Person as it sees fit under applicable law, which shall be in addition to any fines imposed or action directed by the Relevant Authority under this Law.
20. **~~Enforcement and appeals~~**
- (1) Where the Relevant Authority, or its delegate, considers that a Reporting Financial Institution, Account Holder or Controlling Person has contravened a provision of this Law, it may by written notice to such Reporting Financial Institution, Account Holder or Controlling Person:
- (a) allege that the Reporting Financial Institution, Account Holder or Controlling Person has committed the contravention and state the particulars of the facts it relies on;
- (b) set out the details of the applicable fine in respect of each contravention;
- (c) order that certain action(s) be taken in order to comply with this Law.
- (2) Subject to Articles 19(2)(b) and 19(3)(c), the imposition of any fine under Article 20(1) this Law shall be made within the period of twelve (12) months on the later of:
- (a) the date the Reporting Financial Institution, Account Holder or Controlling Person became liable to the fine; or
- (b) the date the contravention first came to the attention of the Relevant Authority.
- (3) A Reporting Financial Institution, Account Holder or Controlling Person shall not be liable to a fine under ~~Article 20(1)~~ this Law if the Relevant Authority is satisfied that there is a reasonable excuse for contravening this law.
- (4) Neither of the following shall be considered to be a reasonable excuse for the purpose of Article 20(3):
- (a) the Reporting Financial Institution, Account Holder or Controlling Person having insufficient funds to do something required to be done under this Law; or
- (b) the Reporting Financial Institution, ~~Account Holder or Controlling Person~~ unreasonably relying on another person to do something required to be done under this Law.
- (5) If the Relevant Authority determines that a Reporting Financial Institution, Account Holder or Controlling Person has a reasonable excuse for contravening this Law up to a particular time or event, the Reporting Financial Institution, Account Holder or Controlling Person shall not be liable to a fine if it can show that any subsequent

contravention of this Law was remedied without unreasonable delay after it became aware that the reason(s) providing the reasonable excuse had ceased.

21. Appeals

(61) A Reporting Financial Institution, Account Holder or Controlling Person may appeal against any fine imposed or action ordered under Articles 19 or 20(4), on any one (1) or more of the following grounds:

- (a) it disputes the grounds or reasons for the fine provided by the Relevant Authority;
- (b) it disputes the amount of the fine imposed; or
- (c) it disputes the validity of any action ordered by the Relevant Authority.

(72) Any appeal by a Reporting Financial Institution, Account Holder or Controlling Person ~~to a fine or action ordered issued~~ under Article ~~20~~21(1) shall be instituted by a written notice of appeal setting out the grounds of appeal and delivered to the Relevant Authority, within a period of thirty (30) days from the date of the relevant notice provided to it under Articles 19 or 20(4).

(83) When considering a notice of appeal delivered pursuant to Article ~~20(7)~~21(2), the Relevant Authority may, after due consideration of the grounds of appeal:

- (a) confirm, cancel, increase or reduce any fine originally imposed; or
- (b) confirm, change or cancel any action originally ordered,

and the Relevant Authority shall confirm such finding in writing to the Reporting Financial Institution, Account Holder or Controlling Person; provided that ~~a Reporting Financial Institution~~ such a person shall have the right to challenge any ~~such~~ finding made by the Relevant Authority, by way of a judicial review application to the Court, which shall stay any pending or further enforcement action under this Law until the final determination thereof by the Court.

(94) Subject to Article 19(3)(c)(ii), A fine imposed or action ordered by a Relevant Authority under Articles 19 or 20, or confirmed pursuant to Article ~~20(8)~~21(3), shall be paid or performed by the Reporting Financial Institution, Account Holder or Controlling Person (as applicable) within thirty (30) days after the date of the relevant written notice provided by the Relevant Authority, failing which the Relevant Authority may apply ~~to~~ the Court for the enforcement thereof, and the Court may:

- (a) order the payment of the fine;
- (b) order for the required action to be taken; or
- (c) make any further order it deems fit.

(405) The Relevant Authority may prescribe forms and procedures in relation to:

- (a) the imposition and recovery of any fines and penalties imposed pursuant to ~~this~~ Articles 19 and 20;
- (b) the enforcement of actions required by the Relevant Authority pursuant to Article 20; and
- (c) any objection or right of appeal in respect of any such fine, action required or the enforcement thereof pursuant to this Article 21.

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SCHEDULE 1

INTERPRETATION

1. Rules of interpretation

- (1) In this Law, a reference to:
 - (a) a statutory provision includes a reference to the statutory provision as amended or re-enacted from time to time;
 - (b) a “person” includes any natural person, body corporate or body unincorporate, including a company, partnership, unincorporated association, government or state;
 - (c) an obligation to publish or cause to be published a particular document shall, unless expressly provided otherwise in this Law, include publishing or causing it to be published in printed or electronic form;
 - (d) a “day” means a calendar day, unless expressly stated otherwise. If an obligation falls on a calendar day which is either a Friday or Saturday, or an official public holiday, the obligation shall take place on the next calendar day which is a business day;
 - (e) a “week” shall mean a calendar week or seven (7) days, whichever is applicable in the circumstances;
 - (f) a “month” shall mean (unless specifically referring to a calendar month) shall be a period of thirty (30) days;
 - (g) a “year” shall mean a calendar year of the Gregorian calendar or period of three hundred and sixty five (365) days and a “calendar year” shall mean a year of the Gregorian calendar, whichever is applicable in the circumstances;
 - (h) a reference to the masculine gender includes the feminine;
 - (i) the singular shall include the plural and vice versa;
 - (j) “dollar” or “\$” is a reference to United States Dollars unless the contrary intention appears;
 - (k) “this Law” includes, where relevant, a reference to any Regulations made under the Law; and
 - (l) any capitalised term not otherwise defined in this Law or the Regulations will have the meaning set forth in the Common Reporting Standard or, failing that, the meaning that it has under the applicable laws of the DIFC.
- (2) The headings in the Law shall not affect its interpretation.
- (3) References in this Law to a body corporate include a company incorporated outside the DIFC.
- (4) A reference in this Law to a Part, Chapter, Article or Schedule by number only, and without further identification, is a reference to the Part, Chapter, Article or Schedule of that number in this Law.
- (5) A reference in an Article or other division of this Law to an Article by number or letter only, and without further identification, is a reference to the Article of that number or letter contained in the Article or other division of this Law in which that reference occurs.
- (6) Unless the context otherwise requires, where this Law refers to an enactment, the reference is to that enactment as amended from time to time, and includes a reference to that enactment as

COMMON REPORTING STANDARD LAW AMENDMENT LAW

extended or applied by or under another enactment, including any other provision of that enactment.

- (7) References in this Law to writing, filing, instrument or certificate include any mode of communication that preserves a record of the information contained therein and is capable of being reproduced in tangible form, including electronic means.

2. Legislation in the DIFC

References to legislation in the Law shall be construed in accordance with the following provisions:

- (a) Federal Law is law made by the federal government of the United Arab Emirates;
- (b) Dubai Law is law made by the Ruler, as applicable in the Emirate of Dubai;
- (c) DIFC Law is law made by the Ruler, (including by way of example this Law), as applicable in the DIFC;
- (d) this Law is the DIFC Common Reporting Standard Law, DIFC Law No. 2 of 2018 as amended and restated, made by the Ruler of Dubai, and shall include (unless otherwise required in the context) reference to the Regulations;
- (e) the Regulations are legislation made by the Board of Directors of the DIFCA under this Law and are binding in nature;
- (f) the Enactment Notice is the enactment notice pursuant to which this Law is brought into force;
- (g) a Directive is any directive or statement issued by the Relevant Authority directing any party subject to this Law to do, or not to do, something which, once approved by the Board of the DIFCA, shall be binding in nature; and
- (h) Guidance is any guidance, commentaries or explanatory material published by the OECD, the UAE Competent Authority or the Relevant Authority for the purpose of assisting with the interpretation of the Common Reporting Standard, which shall be indicative and non-binding.

3. Defined terms

In this Law, unless the context indicates otherwise, the defined terms listed below shall have the corresponding meanings:

Term	Definition
Account Holder	any person defined as such in Section VIII of the Regulations.
Accounting Records	records and underlying documents comprising initial and other accounting entries and associated supporting documents, such as: <ul style="list-style-type: none">(a) cheques;(b) records of electronic funds transfers;(c) invoices;(d) contracts;(e) the general and subsidiary ledgers, journal entries and other adjustments to the financial statements that are not reflected in journal entries; and(f) work sheets and spread sheets supporting cost allocations, computations, reconciliations and disclosures.
Board of Directors of the DIFCA	the Board of Directors of the DIFCA appointed by the President from time to time.
Common Reporting Standard	the standard for automatic exchange of financial account information developed by the OECD as amended from time to time by the OECD, the current format of

COMMON REPORTING STANDARD LAW AMENDMENT LAW

Term	Definition
	which is set out in the Regulations or incorporated by reference in the Regulations.
Companies Law	the Companies Law DIFC Law No.2 of 2009.
Companies Regulations	the companies regulations approved by the Board of the DIFCA under the Companies Law.
<u>Controlling Person</u>	<u>any person defined as such in Section VIII of the Regulations.</u>
Court	any relevant court or tribunal established in the DIFC.
Decision-Making Procedures	the decision-making procedures prescribed in the Operating Regulations for the exercise of powers by the Relevant Person which shall, with all necessary adaptations apply to the Relevant Authority under this Law.
DFSA	the entity established as the Dubai Financial Services Authority under Dubai Law No. 9 of 2004 or, where permitted, its delegate.
DIFC	the Dubai International Financial Centre.
DIFCA	the entity established as the DIFC Authority under Dubai Law No. 9 of 2004 or, where permitted, its delegate.
Directive	has the meaning given in paragraph 2(g) of this Schedule 1.
Government	the federal government of the UAE.
Guidance	has the meaning given in paragraph 2(h) of this Schedule 1.
Inspector	any inspector appointed by the Relevant Authority under Article 14.
<u>Law</u>	<u>the Common Reporting Standard Law No. 2 of 2018.</u>
New Account	any account defined as such in Section VIII of the Regulations.
OECD	the Organisation for Economic Co-Operation and Development which was established by the Convention on the Organisation for Economic Co-operation and Development signed in Paris on 14 December, 1960.
Pre-existing Account	any account defined as such in Section VIII of the Regulations.
President	the President of the DIFC appointed by the Ruler pursuant to Dubai Law No. 9 of 2004.
Regulations	has the meaning given in paragraph 2(e) of this Schedule 1.
Relevant Authority	the DIFC Registrar of Companies, or any other competent authority designated by the Board of the DIFCA to administer the provisions of this Law, or any part thereof.
Reportable Account	any account defined as such in Section VIII of the Regulations.
Reporting Financial Institution	any person defined as such in Section VIII of the Regulations.
Ruler	the Ruler of the Emirate of Dubai.
UAE	the United Arab Emirates.
UAE Competent Authority	the UAE Ministry of Finance, or any other competent authority designated by the Government to facilitate the exchange of information under the Common Reporting Standard pursuant or any agreement or treaty entered into by the Government, or its permitted delegate or nominee, in connection therewith.

COMMON REPORTING STANDARD LAW AMENDMENT LAW

SCHEDULE 2

CONTRAVENTIONS AND FINES*

Every Reporting Financial Institution which fails to comply with a duty or obligation imposed under this Law is liable to the penalties set out in the table below:

Contravention	Fine
<u>A Reporting Financial Institution that opens a New Account without obtaining a valid self-certification or fails to validate such self-certification.</u>	<u>US\$300</u>
A Reporting Financial Institution knowingly or recklessly signs or otherwise positively affirms a false self-certification.	US\$7,000
A Reporting Financial Institution <u>that</u> fails to keep records of the due diligence procedures performed under the Regulations, or fails to keep them for a period of six (6) years pursuant to the requirements of the Regulations.	US\$2,800
A Reporting Financial Institution <u>that</u> fails to apply the due diligence procedures specified in Section II through to Section VII in the Regulations.	US\$7,000
A Reporting Financial Institution <u>that</u> fails to report the information required to be reported in terms of the Regulations.	US\$2,800 plus US\$140 for every day the failure continues up to a maximum fine of US\$28,000
A Reporting Financial Institution <u>that</u> fails to report the information required to be reported in terms of the Regulations in a complete and accurate manner.	<u>Minor non-compliance:</u> US\$280 plus US\$28 for every day the failure continues up to a maximum fine of US\$7,000 <u>Significant non-compliance</u> US\$70,000
<u>An Account Holder or Controlling Person that provides an inaccurate or incorrect self-certification to a Reporting Financial Institution that the Account Holder or Controlling Person knew or ought to have known, was inaccurate or incorrect.</u>	<u>US\$5,500</u>

COMMON REPORTING STANDARD LAW AMENDMENT LAW

<p>Penalties that remain outstanding for a period of longer than thirty (30) days, or a Reporting Financial Institution fails to perform an action ordered by the Relevant Authority for a period of longer than thirty (30) days, as the case may be, the Relevant Authority may serve further default notices in accordance with these Regulations on the said Reporting Financial Institution imposing with each successive notice double the amount of the said penalties, provided that each such successive notice shall supersede the previous notice served on the Reporting Financial Institution for the same default but any payment made in respect of that previous notice shall be taken into account accordingly.</p>	<p>Double the amount of the previous fine, provided that such penalties for each contravention shall not exceed an aggregate amount of</p> <p>US\$70,000</p>
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** A fine will be levied on each of occurrence of a contravention of this Law and shall (if applicable) accumulate separately for each contravention.*