



Background screening is slowly gaining popularity throughout the Middle East, particularly in the United Arab Emirates. Additionally, the financial sector remains one of the leading industries in which background checks have become more common. However, there are diverse legal and cultural considerations that companies should be aware of before implementing a background screening program in this particular country. This whitepaper will highlight the legal landscape and outline checks available.

Legal Landscape

Employers need to understand the different laws that may impact background screening. In particular, analyzing the data protection landscape in conjunction with labor laws is important when designing a background screening program.

The United Arab Emirates (UAE) is a federation of seven emirates: Abu Dhabi (the largest emirate which also serves as the capital), Ajman, Dubai, Fujairah, Ras al-Khaimah, Sharjah and Umm al-Quwain. In terms of government, each emirate has its own ruler that oversees local affairs. The Federal level is primarily responsible for items such as foreign affairs, education, labor relations and public health. Each emirate’s ruler has one vote on the Supreme Council (the highest authority in the country), but Abu Dhabi and Dubai’s support is required on significant issues. There are also Free Zones established within the emirates. The Dubai International Financial Centre (DIFC) and the Abu Dhabi Global Market (ADGM) are examples that have their own employment laws and regulations.

Capital	Abu Dhabi
Currency	UAE dirham
Population	5,779,760
Area	83,600 km ²
Language	Arabic
Time Zone	UTC +4
Calling Code	+971

Data Privacy

On a federal level, the UAE does not have a comprehensive data protection scheme. However, there are provisions of various laws that address the concept of privacy such as the Constitution (Federal Law 1 of 1971).

The DIFC has its own data privacy scheme governed by Law No. 1 of 2007 Data Protection Law, Law No. 5 of 2012 Data Protection Law Amendment and the Data Protection Regulations issued by the Commissioner of Data Protection. The law provides a broad definition of personal data including an individual’s name, age, home address, race, sexual orientation, income, blood type, marital status, education and employment information. Sensitive personal data includes information relating to an individual’s racial or ethnic origin, political opinions, religious or philosophical beliefs, offences and criminal convictions, trade union membership, health or sex life. Data controllers must notify the DIFC Commissioner of Data Protection when processing sensitive personal data or transferring personal data outside of the DIFC to countries without adequate levels of protection.

The ADGM also has its own data privacy legislation in the form of Data Protection Regulations 2015. Both data privacy laws track rather closely in terms of requirements. Data controllers covered by



either legislation must ensure that all personal data is processed fairly, lawfully and securely for a specified and legitimate business purpose. Before processing personal data or sensitive personal data, consent from the data subject must be obtained (unless an exception is met). In order to transfer data out of the ADGM or DIFC, the recipient must be in a jurisdiction that provides adequate protection for personal data. Alternatively, the transfer may take place under a number of other conditions including if the data subject provides written consent to the proposed transfer. Data subjects are afforded many rights including the right to object to processing, and the right to access, rectify, erase or block personal data.

From a data transfer perspective, the DIFC has published a list of adequate countries, which includes the European Union member states, European Economic Area Member countries (Norway, Liechtenstein, Iceland), and other countries including Switzerland, Canada, Argentina, Guernsey, Isle of Man, Jersey, New Zealand and Uruguay.

Discrimination

Discrimination is not addressed by the labor law in the UAE (Law No. 8, 1980); however, there are consequences for behavior such as religious hatred and protections for women in the workplace in terms of equal pay. Further, the Penal Code makes sexual harassment a criminal offence.

Employment laws in the DIFC and the ADGM do include protected classes such as marital status, race, nationality, religion, sex or disability. Employers may not discriminate based on those protected classes unless there is a bona fide occupational requirement (which is a requirement reasonably necessary for the normal performance of a particular role or occupation).

Background Screening – Available Checks

Bankruptcy
Civil Records
Credit
Criminal
Directorship
Education
Employment
Global Search
Motor Vehicle Records
Passport Check
Professional License Verification
References

In general, the most commonly conducted checks in the UAE include reviewing an individual's past education and employment history, checking professional references and to a certain extent (largely depending on industry and position) conducting a criminal records check. Other checks,



such as reviewing an individual's credit history and motor vehicle records, are available; however, they tend to be used only when directly relevant to the position being filled and may not be suitable for every position in every industry.

The work week in the UAE is Sunday to Thursday, with the most prominent office hours running from 7:00am to 3:00pm or 9:00am to 5:00pm. Employers should obtain written consent from the applicant, especially if located or governed by the data protection laws in the DIFC or ADGM.

Education

In the UAE it is common to verify only the highest degree obtained by a candidate. Educational institutions will be contacted to verify dates of attendance, graduation date and degree information.

Employment

It is common to verify the last seven years of employment for candidates in the UAE. Employers will be contacted to verify the individual's title, dates of employment and if the candidate is eligible for rehire. Under the federal UAE labor law, employees may request a service certificate that includes the dates of employment, nature of work performed and his or her last pay including any bonuses upon termination from employment.

Criminal

As noted above, criminal records are not used in all hiring decisions. There is no central criminal records repository for the UAE and records are maintained within each emirate; therefore, the criminal search offered is on the local level.

The Ministry of the Interior does offer a Certificate of Good Conduct; however, the applicant must hold an Emirates ID and produced a set of fingerprints. If the applicant lives outside the UAE, the certificate is issued in the name of the UAE embassy in the applicant's country of current residence.

Motor Vehicle Records

The motor vehicle records search will confirm if the individual possesses a driver's license. Details of the driving record may be provided if available.

Miscellaneous

Other searches in the UAE include: Bankruptcy Records, Credit Check, Civil Records, Passport Check, Global Search (sanctions and watch lists), Professional License Verification and Professional References.

It is important to note that the following is offered as general educational information and is not intended to constitute legal advice. Given the intricacies of the pertinent laws and regulations, consultation with qualified legal counsel is recommended.