

# Guide on Economic and Fraud Provisions in the Middle East

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*"There is one and only one social responsibility of business – to use its resources and engage in activities designed to increase its profits so long as it stays within the rules of the game, which is to say, engages in open and free competition without deception or fraud."*

*- Milton Friedman*

**E**conomic fraud is a term that has been repeated over the years, so much so that the consequences it bears do not have any precedence or impact on the ones that hear it. For many companies and capitalist machinery, this term essentially triggers them to explore options to hide their fraudulent tracks and continue operating in the same manner. To have governments help them cover the tracks in certain jurisdictions ultimately defeats the purpose of the assignment.

Despite the incongruent activities of individuals, companies, and governments from the expected norm of justice in many jurisdictions, other countries are tenacious to implement a regulatory framework that will eradicate such fraudulent activities in the market. This article will discuss the economic and fraud provisions established in the Middle East, their effectiveness, and the scope of reach it possesses about financial crime.

## **What are the Economic and Fraud provisions in the Middle East?**

If one area of the economy has seen a steady increase in the past years, it would be the economic fraud prevalent in society. Regardless of the number of provisions that jurisdictions and international organizations establish to combat financial fraud, none of them seems sufficient. The parties involved in economic fraud and other fraudulent practices are constantly evolving to cover their tracks efficiently.

Infamous scandals like Bernie Madoff and the Ponzi scheme leave one in absolute awe as it remains unclear, what is the culprit: the crime or the criminal? Many innocent parties, including employees and clients, were adversely affected by the ill-doings of these financial schemes. After the outburst of many scandals and its impact on many innocent individuals, jurisdictions are trying to fasten their pace to stay a step ahead of wrongdoers and hopefully eliminate the potential threats in the market.



The introduction of new anti-economic fraud regulations has paved the way for potential investors to feel a sense of security over their investments within the market, along with the ability of the regulations to enforce justice. Over time, people have understood that the formation and establishment of an anti-fraud legal framework are not sufficient to ensure peace and harmony in the market, an iron fist must be imposed on fraudulent parties and companies to deter them from doing such activities in the future and serving it as a lesson for other participants in the market who bear similar intentions.

The types of economic fraud can be quite varied and are spread across different industries and the scope of nature. These could include housing benefit fraud, tenancy fraud, council tax fraud, blue badge fraud, social care fraud, business rates fraud, insurance fraud, bribery, and money laundering. These are just a top layer of economic crimes prevalent in an ocean of fraudulent activities in the market. The crimes that are more coherent to the wrongdoings in the market include not declaring the business location, stating that a property is not in use while it is, dishonestly requesting for an exemption to pay for charges that are owed, or any unauthorized movement of money to make ill-gains.

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Often, economic crime is caused not by companies but by customers towards companies. The highest reported crime boost in the Middle East is through customer fraud and procurement fraud, which have proved to be the most disruptive fraud within an economic crime. In a survey conducted on a global platform, the number of customer frauds was comparatively more in the Middle Eastern region.

In an ongoing effort to combat fraud together, many companies in the Middle East began investing in more stringent controls and implementation of the rules to avoid economic crime, while many others conducted a thorough examination into reasons after the occurrence of a crime in the company. Another issue that stands alongside customer fraud about its prominence is procurement fraud. This fraud entails the practice of favoring associates with vendor and supplier contracts. All these efforts are measures taken to mitigate the risks involved and ensure that proper prevention is taken by instilling the right technology and talent to deviate from any fraudulent prone routes.

However, it is not easy to ensure that accountability will be maintained and transparent feedback is provided. Another limitation of this procedure is that advanced technologies to combat financial crime can be costly, which would further deplete if the company possesses insufficient resources to acquire and install the platform and is not equipped with properly trained employees to manage the technology. The lack of proper expertise to handle the in-place technology could attract various cyber threats, which allows a wrongdoer from any part of the world to infiltrate the company's system.

*"Any informed borrower is simply less vulnerable to fraud and abuse."*

*— Alan Greenspan,  
former Chair of the Federal Reserve of the United States*

With this in mind, companies must equip themselves from the arsenal of defenses to protect themselves and the financial and reputational facets of the company. The extent of damage that infiltration of the company's system can cause to the operations is quite unfathomable. It would be better for companies to leave their vault of secrets wide open than installing an IT platform that is managed poorly. The necessity of combating such insecurities is proliferating and must be countered at the earliest. One would like to believe that the efforts of the legal jurisdictions in the Middle East to battle economic crime are practical and promptly applied. However, many of the jurisdictions still fail to provide a proper implementation of the provisions established against economic crime.

The readiness of companies in the Middle East to confront the indecisive nature of economic crime and report any issues as they arise is still moving at a stagnant rate. The stark increase in cyberattacks and its potential threats is not a mystery to the companies in these regions. Nevertheless, they decide against preparing themselves in defense of such risks and attacks. The firms in the region and the governmental organizations must understand the types of threats that could arise in the economy and the nature of such economic crimes. Although this would seem like an insignificant step, this particular action could help achieve a more profound revelation of the gaps and vulnerabilities of the economy and its protective framework.

Many would argue that the relationship of the Middle East with economic crime and fraud dates back ages. All the glitz and glamour and the boom of economies are incongruent with the fraudulent activities occurring within the firms and regions.

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*"Businesses once grew by one of two ways; grass roots up, or by acquisition... Today businesses grow through alliances - all kinds of dangerous alliances. Joint ventures and customer partnerings which, by the way, very few people understand."*

*– Thomas Hobbes, Philosopher*



A region's legal systems cannot enforce the regulatory frameworks established to fight against economic crime if the country's government does not implement the rulings.

The political tension apparent in the Middle East does not help alleviate the pressure and threat by potential parties of economic crime. An arena that should have promoted unity and strength in fighting against economic crime resulted in discord and disarray. Be it success or failure; countries are always in an argumentative state to listen and understand the threats in their economies. Despite such dissonance, many Middle Eastern countries have tried to implement some form of preventive framework to deal with the fraud in the economy. *In November 2017, Crown Prince Mohammed bin Salman of Saudi Arabia introduced an expansive anti-corruption attack by circumnavigating through the economy and detaining several princes, ministers, and people in business who were involved in economic crime in some manner.* He ensured that many of them were imprisoned to reinvigorate the Saudi economy.

The legal system of the UAE provides an opportunity for parties who have become victimized by the economic crime to seek redressal by directly participating in criminal proceedings and seeking reparation for the losses and damages they have incurred. The provision under **Article 22** of the *Federal Law number 35 of 1992* states, *"those how have suffered a direct loss as a consequence of the crime are entitled to file a civil claim against the Accused, during the evidence gathering, the investigation stages, or at any stage before the criminal court before the completion of closing submissions."*

## **Effectiveness of Economic and Fraud provisions**

Despite the many established regulatory frameworks, perpetrators of the law make the maximum effort to ensure that their fraudulent activities are covered and undetectable by the government. Even if they are detected, the perpetrators will try to prevent or deter the government from realizing the criminal earnings have been concealed.

The critical challenge that many companies and the government of UAE have faced is the inability to achieve a conviction. Even though the Courts would reprimand or detain the fraudulent parties, it often seemed very difficult to enforce the rulings of the judgments and obtain the compensation due to the victims. It is an undeniable and fundamental truth that the perpetrators of law are not those who hope for the welfare of a party. They try to increase their riches by putting a knife onto someone else's neck. It can be challenging to retrieve compensation from such individuals who operate intending to cause harm upon someone else. Such individuals would be reluctant to separate themselves from the earned money. To ensure that the money does not get redirected back to its owners, the fraudulent parties would ensure that the funds would be redirected to several accounts and invested in companies and other opportunities overseas. It would be difficult for companies or individuals to trace and retrieve their money

*in this thick maze.*

This profound demerit still leaves the victim in the same position they were in, post the embezzlement. Even though the fraudulent party has been caught, the money embezzled from parties would be challenging to retrieve as it would be disseminated and distributed so that it cannot be traced back or recovered.

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*"Cybercrime is the greatest threat to every company in the world."*

*- Ginni Rometty*

Moreover, the inability of the government to provide retribution to the victims does not benefit the innocent in any way.

The fraudulent activities of the Lehman Brothers, Jordan Belfort, aka the wolf of wall street, Bernie Madoff, Enron, and WorldCom are just a few of the many offenders in the arena of economic crime. The level of damage their actions have caused does not even begin to compare to their earned benefits. Even though many of them were captured, the funds they have embezzled are still missing, the parties who were hurt in the process have not been reprieved, and the sentence provided for some of them does not align with the offenses. Considering all this, it is not a surprise that corporate crimes and other kinds of economic crimes are still rising.

In the UK alone, fraud through online banking accounted for approximately GBP 60 million, and fraud through cheques cost the banking sector a whopping amount of GBP 30 million. These are the funds decrepitly acquired to further the allowance of a fraudulent party. The Financial Action Task Force established by the G7 Summit to combat money laundering activities also developed an international response for the spread of economic crime. One of the tasks that the Financial Action Task Force conducted was to introduce a recommendation of 40 provisions that national governments are required to enforce within their jurisdiction. Along with this framework, even the United Nations introduced the United Nations Office on Drugs and Crime to tackle crimes in other parts of the economy.

### **Case Law**

Bernard L. Madoff, a brilliant, vibrant financial mastermind, former NASDAQ chairman, established a penny-stock firm with the mere 5000 Dollars he had earned as a lifeguard and a sprinkler installer. In 2008, his company Bernard L. Madoff Investment Securities LLC admitted to the shocking yet, inconvenient truth that the company's wealth management department was an elaborate multibillion-dollar Ponzi scheme.

On 11 December 2008, Madoff was arrested and charged guilty on account of eleven federal crimes and the operation of the Ponzi scheme. He was also sentenced to 150 years in prison and was required to pay restitution of 170 billion Dollars. On the day he was arrested, Madoff had a considerable number of 4800 clients who trusted his ability to manage their wealth. The unchecked activities of Madoff were brought to light by a whistleblower who stated that around 35 billion Dollars, which Madoff had declared stolen, was fictional money. Many of his investors did not lose much money in this unfolding; however, the clients' impact could not be the same. Upon freezing Madoff's account, many philanthropic organizations that depended on him had to close temporarily.

The US Securities and Exchange Commission was heavily criticized for their lack of due diligence and care and conducted for the Madoff Ponzi scheme especially considering that the matters related to the Investment firm were reported as early as 1999.

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*"You have to take away some of tax breaks for the wealthy, and you have to cut back on some entitlements. Because, unless we do all of these things, it just doesn't work. And what's good theater and what's good politics isn't necessarily good economic policy."*  
- Michael Bloomberg

Another controversial character in the realm of economic crime is Jordan Belfort. Most famously known as the "Wolf of Wall Street," Belfort was the mastermind behind an illegal pump and dump trading scheme that would essentially lead to brokers selling cheap stocks at an inflated price by falsely conveying deceiving information about the company. After many years of coning many investors, Belfort was under the scrutiny and investigation of the Securities and Exchange Commission for suspicious trading activities. He was ordered to pay 2.5 million Dollars as restitution for the civil securities fraud case. However, he was also investigated by the FBI for his involvement in money laundering. He was found guilty and sentenced to two years in prison and was ordered to pay a fine of 110.4 million Dollars.

The disparity between these two cases exemplifies the level of inconsistent application of the law for money laundering. Were these cases not severe enough and caused exponential damage? Absolutely! However, Belfort was able to get out of prison in a short period and continue with his life. Even the money he charged as a fine was mere pocket change for a man like him. So, how was the punishment going to create a change in fraudulent parties like Belfort?



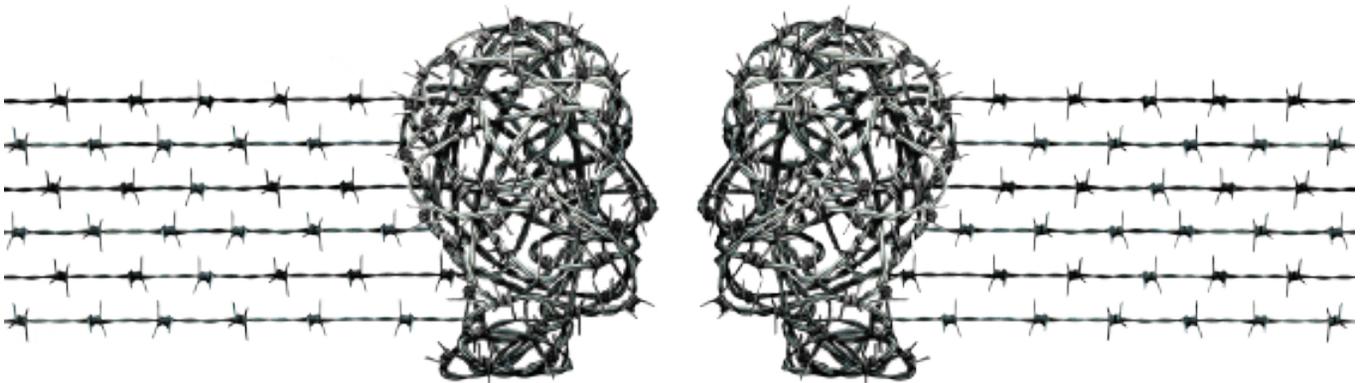
### Role of Companies in Combating Fraud

It is not the sole effort of the government of a jurisdiction or an international institution to combat economic crime in a particular region. Companies have to ensure that they have implemented appropriate technologies to detect any fraudulent practices. They should also employ competent individuals to manage the technology and also, they must be trained to inform authorities of any misbehavior occurring within a firm.

### Conclusion

The impact of economic crimes has not been fully understood or accepted by individuals or governments, which justifies the rapid increase in fraudulent activities. Lehman Brothers, Bernie Madoff, and Jordan Belfort are just a couple of examples of fraudulent parties that have created the system and piled up heaps of riches. None of these men were prosecuted early on, while some were given a more lenient sentence.

For any ordinary person, to see the ill-gotten gains and minimalistic punishment imposed, it makes one wonder whether the government of certain jurisdictions wants to eradicate crime or not. The mismatched ruling also encourages other citizens as the merits of doing the wrong thing outweigh the imperfections. Economic crimes like money laundering affect the investors and impact the reputation of the companies and affect the integrity of the market, inversely weakening the trust of investors in the system.



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