

United Arab Emirates

Chamber of commerce:

Dubai Chamber of Commerce Main Office
Bani Yas Road Deira
Dubai
UAE
Tel: +971 4 228 0000
Fax: +971 4 221 1646
Email: dcciinfo@dcci.gov.ae
Web: www.dcci.gov.ae

A better and more diverse regulatory framework

Sadiq Jafar
Hadeef Al Dhahiri & Associates
Dubai

The UAE plays an important role in the world's energy markets, holding almost 10% of the world's proven oil reserves and the world's fifth-largest natural gas reserves. The jurisdiction continues to move aggressively towards diversifying its petroleum-based economy, leading to local growth and expansion. Rapid development in all economic sectors has brought the legislative and regulatory framework into sharp focus, with an acknowledgement of the need for continued reform to provide the foundations for this development.

Property development

Historically, the ownership of land and buildings in the UAE has been essentially restricted to UAE nationals. However, the ruler of Dubai announced in 2002 that ownership of property in designated areas of the emirate was available to all nationalities. This paved the way for a real estate boom in Dubai and thereafter in the other emirates. For the past five years, there has been growth in property development in the UAE.

Although they were eagerly anticipated, no specific laws or regulations reflecting the developments in permitted foreign ownership of property were enacted in the UAE until 2005. Abu Dhabi overhauled its real estate laws with two pieces of legislation in 2005. Shortly after, legislation was enacted in Dubai and some of the other emirates. The emirates' respective regulations have various permitted ownership rights and interests. In certain cases, these rights equate to what are commonly known as freehold rights, but in other instances they are restricted to the ownership of the leasehold rights for 99 years or less.

Despite the enactment of various laws since 2005, various gaps remain and, together

with ancillary issues (such as the regulation of developers, real estate brokers and issues relating to inheritance), they need to be addressed to ensure the continuing confidence of investors.

The Companies Law

With the exception of entities established in the free zones, the Companies Law requires a limited liability company (often the most appropriate vehicle for foreign entities wishing to trade in the UAE) to have a minimum of 51% UAE ownership. Also, certain activities, as a matter of licensing practice, require 100% UAE ownership. In 2005, Gulf Cooperation Council nationals became entitled to hold 100% ownership in most types of UAE companies, including limited liability companies.

The profits of these limited liability companies may be apportioned differently and various structures may be in place to protect the minority rights of foreign shareholders. But the minimum UAE ownership requirement is generally seen as an impediment to foreign trade and investment. There have been reports of a proposed amendment to the Companies Law for some years, including a relaxation of the minimum UAE ownership requirements. However, there is no clear indication of the extent of these amendments or when they might be implemented. Furthermore, a so-called Anti-Fronting Law, which may affect arrangements between local and foreign shareholders in limited liability companies, is scheduled to come into effect in November 2007.

Free trade zones

The UAE free trade zones, generally established by each individual emirate, are subject to separate regulation and specific local laws. Over 20 zones in the UAE are collectively home to over 5,000 companies. Many of these free trade zones serve as re-export centres, their chief attraction being that 100% foreign ownership is permitted. However, there are

restrictions on the activities of free zone companies within the UAE.

One of the most recently established free trade zones is the Dubai International Financial Centre (DIFC) which is intended to be an international hub for the banking, finance, securities and insurance sectors. Each of the free trade zone projects is innovative and ambitious, but the DIFC goes a step further and in effect creates a jurisdiction within a jurisdiction. The DIFC was officially launched on November 11 2005 and has since gained momentum, attracting many of the world's top banks and investment houses. In March 2007, over 350 entities were operating in the DIFC.

These entities are subject to an independent legal, regulatory and judicial regime, distinct from that outside of the free zone. Since 2004, more than 30 laws have been introduced in the DIFC to create a civil and commercial code to govern the activities, rights and obligations of entities operating in or from (and individuals working and/or living in) the DIFC.

As with any newly created jurisdiction, there is a period of stabilisation, but the legal and regulatory system is showing every indication of becoming settled and established, although there are various as yet untested issues relating to jurisdiction and enforcement beyond the DIFC.

Other recent legislative developments

In November 2006 the UAE formally acceded to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. How the UAE courts exercise certain discretionary powers relating to enforcement of foreign awards remains to be seen, but the UAE's accession to the convention is generally expected to enhance the jurisdiction's position regarding enforcement and to increase its importance as a venue for international commercial arbitration.

There has for some time been an increasing acknowledgment of the need to reform the UAE Commercial Agency Law to aid for-

eign investment and further align the UAE with World Trade Organisation policies. The Agency Law has historically protected registered UAE agents in their relationships with foreign principals. Federal Law no 13 of 2006 amended certain provisions of the Agency Law, including amendments to help the foreign principal to terminate the agency relationship (previously recognised as a difficult process and a concern for foreign principals). The amendments also permit the importation of certain goods into the UAE without the need for a locally registered agent, although it does not specify which goods fall within this exemption. The amendments to the Agency Law are generally viewed as a step towards liberalisation.

Finally, the Consumer Protection Law (Federal Law no 24 of 2006) has been welcomed as the first step towards recognising the increasing need for protection of consumers in the UAE.

Capital markets

Recommended firms
Tier 1
Allen & Overy Clifford Chance
Tier 2
Linklaters
Tier 3
Ashurst Clyde & Co Lovells Norton Rose Shearman & Sterling Simmons & Simmons Vinson & Elkins
Tier 4
Afridi & Angell Al Tamimi & Company Hadeef Al Dhahiri & Associates

Banking and project finance

Recommended firms
Tier 1
Allen & Overy Clifford Chance
Tier 2
Linklaters
Tier 3
Al-Sayegh Reed Smith Richards Butler Clyde & Co Lovells Norton Rose Shearman & Sterling
Tier 4
Afridi & Angell Al Tamimi & Company Ashurst Denton Wilde Sapte Hadeef Al Dhahiri & Associates Simmons & Simmons Trowers & Hamblins Vinson & Elkins White & Case

Mergers and acquisitions

Recommended firms
Tier 1
Allen & Overy Clifford Chance
Tier 2
Linklaters Freshfields Bruckhaus Deringer
Tier 3
Al Tamimi & Company Ashurst Clyde & Co Herbert Smith Shearman & Sterling
Tier 4
Denton Wilde Sapte DLA Piper Hadeef Al Dhahiri & Associates Simmons & Simmons Trowers & Hamblins Vinson & Elkins

Dubai has enjoyed its position as a financial hub in the Middle East, and this year, there was a general sense of financial and corporate bustle, as the market both deepened and broadened. The relative strength and importance of the United Arab Emirates and the Middle East, already on the upswing, has increased with the advent of the subprime crisis. "For investors and sovereign wealth fund s in the Middle East it's been a good time to go out and buy assets," says one lawyer.

Seeing even more acceleration was the rise of Islamic finance: with the US and western European markets busy licking their wounds, capital from within the region has become more sought-after, and Islamic financing has been required on many transactions. This work often involves the conversion of a conventional debt facility into a *shariah*-compliant one, or the splitting of facilities into an Islamic and a non-Islamic tranche.

Infrastructure and real-estate development has also continued apace, as a number of large city projects have gotten underway. One example is the development of Dubai's neighbouring emirate, Abu Dhabi, which has been an area of particular activity as the city has aspirations to become another regional hub.

Not every sector is a runaway success. Landmark deals like the first-ever listing of a privately held UAE company, Depa, on the Dubai International Financial Exchange (DIFX), or even the merger of National Bank of Dubai (NDB) and Emirates Bank last year, haven't yet resulted in the hoped-for flood of similar deals in the market.

But there is a sense of anticipation in the UAE's business community, which is reflected in the movements of international law firms. "Very capable people are relocating from the US and Europe, so the level of product sophistication is growing," says one lawyer. The past year has seen many global firms establishing offices in Dubai, Abu Dhabi, or both, as has been the case with Latham & Watkins.

Al Tamimi & Company

Al Tamimi & Company tops the charts among local firms in the UAE and is the first port of call for clients seeking domestic counsel in various practice areas. Its success is evidenced in its receiving accolades such as *International Financial Law Review's* award for the UAE firm of the year. In addition, the firm maintains strong ties with most of the main government and financial institutions like the DIFC Authority and DIFX.

"It's a top-notch local firm," says one client. "They've got specialties right across the board. They are excellent in local UAE law in practice and procedure and documentation, so we primarily use them for locally related matters."

Others note the firm's stable of highly capable lawyers. "They've got some good partners there like Lisa Dale on the real-estate side and Husam Hourani on the finance, employment and regulatory side," comments a client. "They're all nice people." Another client says of Hourani: "For banking and finance work, he's an excellent practitioner."

In the busy project finance area, Al Tamimi was involved in the project to develop the Mirdif City Centre mall. The firm advised Emirates Bank International on the \$600 million financing of the mall in Dubai, sponsored by the Majid Al Futtaim Group.

"Our preferred law firm would be Al Tamimi," a client concludes.

Leading lawyers

Lisa Dale
Husam Hourani

Allen & Overy

One of the firms with the longest physical presence in the UAE is Allen & Overy, which is also unquestionably a top financial and corporate law firm. The firm has grown steadily: in the past year it has taken on more than 15 associates and promoted several lawyers to the partnership.

"They're probably the leading firm at the moment," says one banker. "They've been involved in the big transactions." Another client says: "They have been moving higher

and higher-level resources into the region. The local team here is staffed at a higher level than I've ever seen."

The firm advised Depa on its \$400 million IPO, the first-ever listing of a privately held UAE company on the DIFX. And in relation to the Dubai International Financial Centre (DIFC) *sukuk*, a \$1.25 billion issuance that was the first to be governed under DIFC law, Allen & Overy advised Deutsche Bank and Goldman Sachs as lead managers and bookrunners. In addition, the firm acted for NBD in relation to its \$11.3 billion merger with Emirates Bank, the first big banking merger in the region. The firm also has a thriving practice in banking and project finance.

"I consider them unmatched across the board," says a client of Allen & Overy. "Not just for their legal acumen, but for their approach to the business as a whole. [The firm is not] just narrowly looking at documents and drafting, but rather looking at finding solutions to business problems."

Leading lawyers

Pervez Akhtar
Bimal Desai
Khalid Garousha
Duncan Macnab
Simon Roderick

Clifford Chance

Clifford Chance is another long-established firm in the UAE which is consistently found on the largest and most sophisticated deals. Like its counterpart, Allen & Overy, Clifford Chance has bolstered its ranks this year, importing from the UK or hiring laterally from other firms, including partners Iain Hunter and Richard Ernest.

"Across the board, they've done exceptional work, and they were the most professional, accommodating, responsive, meticulous people that I've ever worked with," says one client. "They are lawyers, but they understand the commercial and operational issues. They worked weekends; they worked evenings; they worked the hours that I worked."

Hunter and team advised DP World on its \$5 billion IPO, a listing on DIFX that was the Middle East's largest flotation. In addition, Debashis Dey, Qudeer Latif and others again advised DP World on the establishment of its \$5 billion global MTN programme with a parallel *sukuk* issue. Of Latif, a client says: "Qudeer is certainly a triple-A lawyer. He's young and he's got tremendous potential." Dey heads up a strong securitisation practice, in one deal advising several banks on the \$4 billion Dubai Electricity and Water Authority securitisation programme.

Another client singles out partners Simon Clinton and Robin Abraham: "Simon Clinton, who's my relationship partner, is a top-tier senior and always 100% reliable contact. All my finance work goes to Robin Abraham who is great; we all love him. He's on top of a number of quite difficult issues we have to deal with and he's hugely responsive and proactive as well." Abraham's project finance co-head, Peter Avery, advised Abu Dhabi Commercial Bank as lender to the several projects, including a PPP contract, to the Industrial City of Abu Dhabi.

Leading lawyers

Robin Abraham
Peter Avery
Simon Clinton
Qudeer Latif

Freshfields Bruckhaus Deringer

Freshfields Bruckhaus Deringer has made a name for itself in the UAE in a very short time - the firm opened its Dubai office in 2005, and plans a further office in Abu Dhabi in the coming months. "They're very active," says one competitor, and this is further evidenced by additions to the team this year, such as infrastructure and energy partner Charles July to co-lead the firm's Middle East and North Africa team, and Ian Poynton from the firm's London office. Headed by Bruce Embley, the firm has been particularly successful in M&A.

Most notably, Freshfields advised Goldman Sachs in the merger of NBD and Emirates Bank, the largest bank merger in the region, valued at \$11.3 billion. On another marquee deal, Embley and team advised Hewlett-Packard on its acquisition of Atos Origin Middle East in October 2007. In addition, Freshfields has maintained a strong relationship with Saudi Telecom, which it advised it on matters such as its \$965 million acquisition of Kuwait's third mobile-telephony licence and its \$2.65 billion acquisition of a 35% interest in Oger Telecom, both in early 2008.

Leading lawyers

Bruce Embley

Linklaters

Not far behind the top-tier firms is Linklaters, which launched its Dubai office in June 2006. The firm has relocated senior personnel including Nick Garland and Richard O'Callaghan from London, and promoted Islamic finance specialist Luma Saqqaf to the partnership. In addition, Linklaters has recently brought in Sarosh Mewawalla from its Milan office to lead the Dubai office, fol-

lowing Ewan Cameron's appointment to regional senior partner.

"Linklaters is quite a good firm," says one client. "They've built up their resource base over the past couple of years. One of their strengths is their London office and how Dubai links in with London quite seamlessly on the big international deals."

Clients also praise the firm's lawyers. Of Jonathan Inman, one says: "I consider him a top-tier lawyer. Jonathan knows where to focus the attention and the effort, so he doesn't get too worked up about things that are small or minor." Another recommends Saqqaf for her understanding of *shariah*-compliant financing principles.

Still another reserves praise for Nick Garland: "He's very responsive, easily approachable, down-to-earth, gives succinct, commercial advice, and he's working very hard to build a relationship with us. A lot of my business guys are not so used to working with big international law firms - Nick's the sort of guy who makes people feel very comfortable."

One of the firm's standout deals this year was advising Borse Dubai on the financing and \$4.8 billion acquisition of OMX, the Swedish owner of several stock exchanges. In addition, the firm advised Emirates bank during its \$11.3 billion merger with NBD. Linklaters also took part in a number of large project finance deals, such as advising Red Sea Gateway Terminal Company on the development of the Jeddah Islamic Port in Saudi Arabia.

Leading lawyers

Ewan Cameron
Scott Campbell
Nick Garland
Jonathan Inman
Luma Saqqaf

Shearman & Sterling

Shearman & Sterling is not the highest-profile law firm in the UAE, but has focused on select deals, and it's a strategy that has worked. This year the Abu Dhabi branch hired a new batch of associates as well as partner Matthew Kidwell from Fulbright & Jaworski in Dubai, who helps head up the finance and projects department, perhaps the firm's strongest practice.

"They are very good," notes a client. "It's a multi-disciplinary firm: if it is a financing deal, they will find a special guy to do financing. It's not one person who does everything."

Clients recognise the skills of leading lawyers Philip Dundas and Tim Pick. One says of Dundas: "He knows everything in Abu Dhabi. He has been here for more than 20

years, and he's also a capable lawyer, very precise."

Tim Pick also comes in for client praise: "Tim is a very sharp lawyer, and you know he doesn't bullshit you. He's very focused and doesn't try to take advantage of his billing by hours."

One of the firm's big project financing deals of the year was Al Ghaith Holdings' development of the \$750 million Shadeed iron and steel plant in Sohar, Oman. Pick and team advised Al Ghaith on financing matters. Another deal saw the firm advise Qatar Electricity & Water Company on the \$450 million conventional and Islamic limited-recourse project financing for the development and construction of the Ras Abu Fontas A1 water desalination project in Qatar. In M&A work, Dundas and team represented the International Petroleum Investment Company in its \$780 million acquisition of a 20% interest in Cosmo Oil Company.

Leading lawyers

Philip Dundas
Tim Pick