

Financial Services: Legal and Regulatory Developments in the UAE

Jody Waugh - Managing Partner - Banking and Finance / Turnaround, Restructuring and Insolvency / Projects

j.waugh@tamimi.com - Dubai International Financial Centre

Nazia Hameed

n.hameed@tamimi.com - Dubai, UAE

This article looks back on recent developments and attempts to predict what else may be enacted during 2017.

Centre for Amicable Settlement of Disputes

The Director General Office of Dubai Courts has issued an Administrative Decision no. 33 of 2017 (“Decision”) concerning the jurisdiction of the Centre for Amicable Settlement of Disputes (“Centre”). The Decision excludes the following disputes from the Centre’s jurisdiction:

- Labor disputes;
- Personal status disputes; and
- If one of the parties is a “bank”.

The Decision is an important change to the current practice in Dubai, which required banks to file their cases before the Centre prior to filing it with the Court of First Instance, which impacted the cost and timelines.

The Decision was effective on 12 March 2017.

Misdemeanour Court

Dubai has also issued Penal Order Law No. 1 of 2017 to establish a misdemeanour court to fast track certain offences.

Of particular interest to financial institutions will be the inclusion of two offences related to cheques, being:

- Giving a cheque with malicious intent; and
- Signing on the back side of the cheque (without sufficient funds).

UAE Central Bank Regulation of Electronic Payment Systems

The Regulatory Framework for Stored Values and Electronic Payment Systems Regulation (the “EPS Regulation”) was issued by the UAE Central Bank pursuant to the Cabinet Decision No.6/6 of 2016 and was effective as of 1 January 2017. The EPS Regulation has been long awaited by the banking industry and marks the formal issuance of regulations by the UAE Central Bank that recognises, governs and licenses the fast growing business of digital payment services. The EPS Regulation enables the issuance of Digital Money and Payment Instruments involving the United Arab Emirates Dirham.

The UAE Securities and Commodities Authority Promotion and Introduction regulations

The SCA issued a new regulation, Board Decision No. (3/R.M) of 2017 regarding the Promotion and

Introduction Regulations (the 'Promotion Regulations'). The Promotion Regulations were published in the Federal Gazette No. 611 on 31 January 2017 and came into force on 1 February 2017. Although the Promotion Regulations are currently in force, implementation is uncertain and clarifications from SCA are awaited.

UAE Federal Law No. (20) of 2016 on Mortgage over Movables

The Mortgage of Movables Law became effective in March 2017. The Law changes the regime for security over moveable assets and creates a public security register for such security. The Cabinet Resolution contemplated by the law is yet to be issued.

UAE Federal Law No 9 of 2016 concerning Bankruptcy

The new Bankruptcy Law came into force on 29 December 2016, placing greater emphasis on restructuring and work out solutions.

UAE Central Bank Regulation of Capital Adequacy

The UAE Central Bank has issued new regulations to ensure capital adequacy of all banks operating in the UAE in accordance with Basel III. The Regulatory Framework for Capital Adequacy was effective as of 1 February 2017.

Dubai Financial Market launches of a trading platform for exchange-traded funds (ETFs)

Dubai Financial Market has launched a trading platform which provides ongoing support to rapidly growing the EFT industry.

Other Securities and Commodities Authority regulations and updates

SCA has recently issued various new regulations which include:

- Licensing the Activity of Administrative Services of the Funds no. 4RM of 2017
- The regulation covers the licensing requirements and procedures for a Funds' Administrative Service provider, its obligations towards SCA and its clients.
- Anti AML and Anti Terrorism Reg. no. 2RM of 2017 (amending the previous one no. 17 R of 2010)
- The new regulation makes substantial amendments to take into consideration and ensure compliance with changes introduced with the Federal AML law no. 9 of 2014 and Federal Anti Terrorism law no. 7 of 2014.
- The Administrative Order no. 1 RT of 2017 concerning the criteria of Real Estate Investment Funds
- This Order aims to set out the purpose, conditions and specifications for real estate investment funds in the UAE.
- The Administrative Order no. 3 RT of 2017 concerning the criteria of Capital Venture Funds
- This Order sets out the purpose and conditions for UAE capital venture funds.
- SCA has on 22 December 2016, issued guidance notes to provide information in relation to the implementation of the Automatic Exchange of Information for tax purposes – the Common Reporting Standard in the UAE. The guidance notes do not have the force of law.

What is likely for the remainder of 2017?

It is not always possible to predict with any certainty legislative developments in the UAE, especially the timing of enactment. However laws and regulations which could be on the horizon include:

- UAE Netting Law
- Finance Company Regulations

- Union Law (amendment)
- Leasing Law
- Clarification from SCA on the Promotion Regulations
- Further Central Bank regulations, including on microfinance and crowd funding

For further information on any of the laws and regulations mentioned in this article, please contact the Banking and Finance team at Al Tamimi.