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AL TAMIMI & CO.

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LAW UPDATE

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The treatment of patients at end of life stage: A GCC overview

Joining Up the Dots... Saudi Healthcare Reform

Egyptian Law on Promotion of Healthcare Products and Services

Taking Security Over Commercial Business in Qatar

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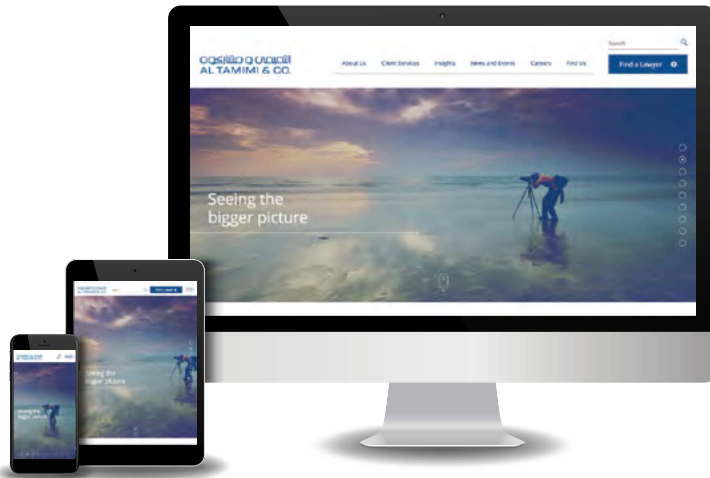

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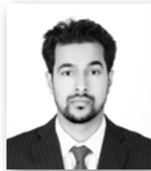

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Seeing the bigger picture

Al Tamimi & Company knows more than just the law. We focus on the here and now and also understand that our advice may affect the future. We therefore ensure our lawyers think about the situation at hand, current and future challenges and potential opportunities.

In a region where the legal landscape is never black and white, we have the knowledge, expertise and cultural awareness to make sure our clients are at the forefront of doing business in the Middle East.

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In this Issue

Welcome to the November issue of *Law Update* – our fourth special edition focusing on issues relating to Healthcare, an industry which continues to grow across the Middle East. There are many opportunities for investment in Healthcare in the region, primarily driven by population demand as well as broader initiatives such as UAE Vision 2021 and Saudi Vision 2030.

We examine Saudi Healthcare Reform driven by Vision 2030 on page 32, where the Government has invested significantly in healthcare in recent years and is now looking for greater participation from the private sector to meet the increased demands in the Kingdom. Our team 'joins the dots' and anticipates some the legal and regulatory challenges ahead for healthcare reform.

These broader initiatives have seen increased appetite from investors of late including a number of acquisitions over the past 12-18 months. Al Tamimi's Corporate Structuring team considers the opportunities and challenges in the context of licensing for hospitals in the MENA region on page 30 noting the most important aspect is securing a healthcare regulatory license.

Under the current provisions of Omani labour law, private sector employers are required to provide medical facilities to their expatriate employees living and working in Oman. Under new rules, Omani nationals will be entitled to a private healthcare insurance policy too and these rules are likely to impose stricter obligations on employers. Our Oman healthcare team provides an overview on page 35.

Al Tamimi's Regulatory practice provides a GCC overview of the treatment of patients at end of life stage. The concept of withdrawing active intervention medical treatments is now acceptable under both Islamic principles and under country-specific state laws. The article on page 20 examines the status of the current law in an issue that can present great difficulties for medical practitioners.

In Jordan, several new regulations have recently been issued to control the licensing of cosmetic clinics, beauty salons, freelance beauty technicians and spas. This is in response to increased demand for both surgical and non-surgical procedures and ensure that certain treatments are provided exclusively by licensed healthcare professionals rather than skin care technicians and other freelancers. Read more on page 39.

Meanwhile, our Bahrain team examines IVF legislation in the Kingdom which sets an essential framework and regulates an industry that is increasing in popularity. They also look at the recently issued Bahrain Healthcare Accreditation Standards, which sees a certified survey team assessing and reporting on each hospital facility in Bahrain. These articles can be found from page 41.

Beyond Healthcare, this issue also shines a spotlight on Bahrain where the Central Bank has introduced a regulatory sandbox aimed at enabling firms to test and develop their products in a virtual space that enables FinTech developments in a safe, measured and pragmatic manner (page 42). The Arbitration team provides an overview of new arbitration rules aimed at bringing the Kingdom in line with best international practices, making it an attractive forum for international parties (page 49).

Finally, Al Tamimi will again be attending the Arab Health Congress to be held in Dubai in January 2018 and we are planning some activities during that week. We will provide more details shortly and I look forward to seeing many readers there.

Best wishes,

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Judgments

Law Update Judgments aim to highlight recent significant judgments issued by the local courts in the Middle East. Our lawyers translate, summarise and comment on these judgments to provide our readers with an insightful overview of decisions which are contributing to developments in the law. If you have any queries relating to the *Law Update Judgments* please contact *lawupdate@tamimi.com*

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Dubai Court of Cassation judgment: When is the right to invoke arbitration waived

Introduction

UAE Civil Procedure Law provides that the plea of lack of jurisdiction based on the existence of an arbitration clause must be made to the court at the first court hearing or else the right to invoke arbitration will be waived.

In Dubai Court of Cassation, Commercial Appeal No. 79 of 2017 dated 05.03.17, the court held that the Respondents had not waived their right to invoke arbitration by not raising the plea of lack of jurisdiction before the Centre for Amicable Settlement of Disputes (CASD).

The CASD was established by law and entrusted with the task of attempting to mediate disputes, prior to such disputes being referred to the UAE court. The Court of Cassation confirmed that the CASD is not a tier of litigation but is considered as an alternative avenue for the resolution of disputes.

In the court's view, it was not therefore essential for the plea of lack of jurisdiction (based on the existence of an arbitration clause) to be raised at this level of proceedings and a party could still raise it at the first court hearing. The test for granting a request to dismiss a case based on the existence of an arbitration clause is discussed, below.

Background

The Appellant (a manufacturing company) brought Commercial Action No. 2005-2015 against the Respondents (two corporations) before the CASD seeking judgment against them jointly for AED 6,460,661.81. Pursuant to a contract, the Respondents commissioned the evaluation, supply, operation and testing of a LED lighting system for a project. The Appellant executed the contract work and was owed a sum of AED 20,292,307.71, of which the Respondents paid AED 13,831,645.94, leaving an outstanding balance of AED 6,460,661.81.

The matter, on referral from CASD, was registered as Commercial Action No. 217-2016 (Full Bench). On 28.02.16, the First Respondent filed a reply before the Court of First Instance arguing that the action should not be heard due to an arbitration clause and that it shouldn't be entertained either for having been brought by a party who lacked capacity against a party who lacks capacity.

"The CASD was established by law and entrusted with the task of attempting to mediate disputes, prior to such disputes being referred to the UAE court. The Court of Cassation confirmed that the CASD is not a tier of litigation but is considered as an alternative avenue for the resolution of disputes."

Court of First Instance:

On 18.04.16, the Court of First Instance dismissed the action due to the existence of the arbitration clause.

Court of Appeal

The Appellant appealed (Commercial Appeal No. 761-2016) and on 28.11.16, the Court of Appeal dismissed the appeal and upheld the primary ruling.

Court of Cassation

The Appellant appealed again on 22.01.17 and the Second Respondent filed a defense brief seeking dismissal of the appeal, adding that they were not a party to the arbitration clause/contract with the Appellant in question.

The Court of Cassation held that it is well established that the trial court has full discretion to interpret writings, agreements, documents, and clauses in order to discover their intended meaning, having regard to the facts and circumstances of the case, provided that its interpretation does not go beyond the plain meaning of such agreement, writing, document or terms and is reasonable according to the trial court's underlying findings.

The court also held that it is further settled that it is sufficient in a construction contract to make a referral to arbitration, so that in case a dispute arises between the client and the contractor in respect of the construction contract, it is resolved through FIDIC's General Conditions of Contract (standard form of contract for the International Federation of Consulting Engineers). This means that the parties agreed to arbitration in respect of all the disputes arising out of the obligations stated in the contract without the need to refer to the details of such condition, where the reference to it is sufficient.

The Court of First Instance and the Court of Appeal accepted the plea of arbitration based on an arbitration clause that was clearly intended by the parties to resolve their disputes by arbitration. This is a sound interpretation consistent with the plain meaning of the contract.

The test for granting a request to dismiss a case based on the existence of an arbitration clause, as held by the Court of Cassation, is whether the defendant had invoked the arbitration clause at the hearing at which he made his first appearance in court, even if the matter had come before the CASD without such plea having been raised. This is because CASD's referral of the matter to court following the failure of amicable settlement attempts is not a grievance or challenge against CASD's decision but a fresh submission of the Claimant's request before the court for the first time. In other words, the referral of the matter to CASD is a preliminary step which must precede the filing of court proceedings.

Such a referral is not a tier of litigation that would lead to a ruling that the defendant had waived the right to plead lack of jurisdiction (based on an arbitration clause) in court because he did not raise such plea before the CASD. This is not changed by the Appellant's reliance on the provisions of the CASD's establishing law, which essentially provides that the CASD is an integral part of the Dubai Courts while not constituting the CASD as a tier of litigation. In taking this approach and accepting the plea of lack of jurisdiction based on the arbitration clause because it was raised at the first hearing in court, the Court of Appeal was correct as a matter of law and the challenge to its decision was accordingly dismissed.

Based on the foregoing, the appeal was dismissed.

Conclusion

Article 84 of the UAE Civil Procedure Law provides that the plea of lack of jurisdiction must be made to the court prior to invoking any other procedural plea, request, or defence. As mentioned above, and notwithstanding the fact that the CASD is an integral part of the Dubai Courts , a party can still raise the plea of lack of jurisdiction at the first court hearing despite not raising the plea at the CASD.

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Introducing Smart e-Trials into the UAE judicial system

On 18 September 2017, His Highness Shaikh Khalifa Bin Zayed Al Nahyan, the President of the UAE, issued Federal Decree No. 10 of 2017 amending the Civil Procedures Law, issued by Federal Law Number 11 of 1992 (the "Law"). This measure introduces the use of remote communication technologies, known as "e-Trials", into civil proceedings in the UAE. The Law will come into force six months after its publication in the official Gazette Law in 28th September 2017.

The aim of the Law is to further promote the rule of law, enhance effective justice, provide for fast-track civil trials and to keep pace with advanced technological changes in the Civil Procedures Code. Starting from next year, the Law will allow videoconferencing in civil court trials and specialised courts to hear labour, financial, contracting and intellectual property disputes, among other cases. This Law is a clear example of how the UAE Courts have embraced the latest information technologies in a manner that will make trial procedures in the UAE easier, efficient , cost-effective and in line with international best practices.

The UAE Ministry of Justice's strategy is to launch four initiatives, to be implemented over the course of the next four years, to ensure fair and swifter trials whilst ensuring ease of access to justice. By 2021, there will be an online dispute resolution mechanism. The UAE judicial system will see a 'smart leap' as it plans to provide electronic trials (i.e., without physical courtrooms), video-conferencing during court hearings, real-time translations in court proceedings via a screen that will connect translators to secretaries of court and judges, and electronic mediation and conciliation services in criminal justice.

A new chapter added

The Law adds a new chapter to the Civil Procedures Law, entitled the "Usage of remote communications in civil proceedings". This authorises and outlines the use of video conferencing in civil procedures. The new chapter also defines in Article 332 'remote communication technologies' as tools which enable visual and audible communications between two or more parties at a distance, for uses including the exchange of images and documents such as the registration of lawsuit and legal notices procedures, trials and execution of the rendered judgment.

Remote communication technologies include videoconferencing via the Internet in civil court trials and specialised courts used for the hearing of labour, financial, contracting, intellectual property and other lawsuits. This is inspired by the French Tribunals de Commerce, where the presiding judge reaches the final verdict in a trial with the assistance of two lay experts who are not trained judges but rather can be local or international experts. Verdicts are to be finalised in compliance with the

procedures outlined in the Civil Procedures Law and signed by the judge only, while the two experts sign its original draft.

The Law stipulates that the requirements of attendance and publicity will be satisfied when remote communication occurs. In Article 335, the court chief, competent judge or the person authorised by him has the right to allow trial proceedings of the remote communication technologies, when it is deemed necessary to do so, at every stage of civil proceedings in order to facilitate trial procedures.

The Law allows the parties the right to request from the court that parties attend physical hearings during any stage of the trial when the trial is being conducted remotely. The Court, after notifying the other party, will consider the request.

In order to preserve the confidentiality of trial proceedings, the Law emphasises that all electronic recordings will be treated as confidential information and will not be published or copied, as the case may be, without permission from the competent court. All such remote communications will be subject to the regulations of the information security laws and regulations adopted in the UAE. Moreover, the Law emphasises that trial records generated by using remote communications procedures will be registered and maintained electronically and will be treated as confidential. These records may only be circulated, reviewed, copied or deleted from electronic information systems following the permission of the competent court. Furthermore, the electronic signature and electronic documents shall have the same authoritative effect as the signatures referred to in the provisions of the Law of Evidence in Civil and Commercial Transactions (Federal Law No. 10 of 1992) and Electronic Transactions and E-Commerce Law (Federal Law No. 1 of 2006).

The significance of the new law

We anticipate that video-conferencing will be a major benefit to the UAE judicial system in seeking foreign judicial assistance or using testimonies from overseas experts in foreign countries, in accordance with international agreements and treaties the UAE has signed. The UAE has entered into numerous reciprocal judicial cooperation treaties with other countries, including the Gulf countries, France, China, India and Egypt.

One of the other notable changes to the law is the introduction in Article 343 of a new system for accepting the submission of photocopied documents related to civil lawsuits being heard using remote communication technologies. The innovation here is that the other party cannot object to the submission of these documents merely because they are photocopies and not originals unless they dispute the validity of the documents or claim that they were not issued or related to the party attributed to them. The Law has vested the court with the authority to penalise the party who unjustifiably argued against the photocopied documents submitted to the court, and if the documents were deemed valid, a fine of not less than AED 1,000 and not exceeding AED 10,000 can be imposed by the competent court.

The importance of this newly introduced mechanism is that it enhances the positive role of the civil judge in managing the case positively, and indeed the vesting the competent judge with a major tool to ensure quicker and more effective trial procedures and to deter parties from resorting to unjustified and illegal procedures that result in the prolonging and delaying of issuing verdicts.

In conclusion, these new amendments to the Civil Procedures Law marks a key step forward for the UAE in achieving its strategic plans for being one of the top 25 performers in the World Justice Project (WJP) Rule of Law Index during the next five years. Last year, the UAE was ranked 33 out of 113 countries and jurisdictions worldwide. It is a brave and major step forward for achieving speedy justice where all the guarantees for a fair trial is being fulfilled and accomplished, and to avoid the harm encapsulated in the maxim, "justice delayed is justice denied".

"This Law is a clear example of how the UAE Courts have embraced the latest information technologies in a manner that will make trial procedures in the UAE easier, efficient , cost effective and in line with international best practices."

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The Dubai Cassation Court issues decision that strengthens the status of 3D trademarks

Al Tamimi & Co. have successfully represented Cartier (the "Plaintiff") in proceedings filed with the Dubai Court of First Instance against a famous jeweller in the UAE (the "Defendant") who was found selling lookalike Cartier pieces in its outlet in Dubai.

Cartier has long been regarded as the world's leading retailer in luxury jewellery and watches. Cartier's product is a combination of genius designs and intricate craftsmanship that has over the last two centuries enjoyed a continuous presence among the world's premier luxury brands. Cartier's long standing presence in the global market and their high calibre products mean that there is considerable recognition associated with their name and pieces.

Cartier owns numerous trademark registrations, protecting their exclusive collections names and iconic products' designs. As the proprietor of these registered rights, Cartier has the exclusive right to utilise, and as a result, is entitled to protect these rights against any infringement from third party. Cartier is a registered trademark in various countries, including the UAE and many of their iconic product's designs enjoy three dimensional Trademark ("3D Trademark") and copyright protection in various countries.

In this case, Cartier filed a lawsuit with the Dubai Court of First Instance (the "Court") alleging trademark infringement of their 3D Trademark "Amulette de Cartier" and demanded the Defendant stop selling lookalikes of Amulette de Cartier, and to withdraw all pieces reproducing the Plaintiff's design from the Defendant's shops. A comparison of the pieces is shown below.

Cartier

Defendant

The requisite evidence was submitted to the Court which appointed an Intellectual Property Expert to assist the Judge with technical expertise. The Expert assessed the trademark registrations against the alleged infringing pieces. Firstly, the Expert held that Cartier did indeed have valid trademark registrations in the UAE. Secondly, and more importantly, the Expert found that the infringing designs were very similar so as to be virtually identical to the Plaintiff's Amulette de Cartier. Taking the Expert's opinion into account, the Court held that the infringing products will damage the Plaintiff's business and reputation; moreover, it was held that the differences in quality between the two products would harm the Plaintiff's reputation and results in unfair competition.

In addition to the above reasoning, the Court also relied on various correspondences exchanged between the Plaintiff and the Defendant's initial legal representatives (who were later replaced) which were held as amounting to an admission of guilt. In these emails, the Defendant stated that it had "stored the infringing designs unintentionally and agreed to withdraw and melt the pieces". The Defendant claimed they obtained the pieces of jewellery from a Chinese company at a Hong Kong Jewellery exhibition in September 2014.

Based on all these factors the Court decided to reject the Defendant's request to dismiss the lawsuit and ordered them to immediately seize infringement of the Plaintiff's protected trademark by withdrawing any and all products identical or lookalike of Amulette de Cartier's registered shape. The Court further ordered the Defendant to seize and destroy all lookalike pieces and to pay the amount of AED 20,000 as compensation for the moral damage they suffered, in addition to the attorney's fees. The Defendant is also ordered to provide all information and documents related to the source of the infringing products and publication of the judgment in two local newspapers.

The Defendants lodged an appeal to the Dubai Court of Appeal, rejecting the presence of any similarity between Cartier's registered designs and the infringing pieces. The Court rejected the Defendant's appeal and reconfirmed the decision as issued by the Court of First Instance.

The Defendant submitted a further appeal before the Court of Cassation, raising the same arguments as raised in their previous appeal. This was rejected again and the Court of Cassation reaffirmed the judgement issued by the Court of First Instance.

This decision is warmly welcomed by Al Tamimi & Co. and it is first and foremost a victory for Cartier, and also a decision that strengthens the enforcement of 3D trademarks rights in Dubai and in the UAE.

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The introduction of a new licence by the SCA

Background and Introduction

When the Securities and Commodities Authority ("SCA") introduced Decision No. 1 of 2014 concerning Investment Management (the "Investment Management Regulations"), asset managers in the UAE that were historically licensed by the Central Bank were encouraged to obtain a new investment management licence from the SCA under the Investment Management Regulations (the "Investment Management Licence"). This new licence was meant to be the successor to the financial investment license previously granted by the Central Bank to conduct asset management services.

The term 'Investment Management' is defined in the Investment Management Regulations as the "management of Securities Portfolios for the account of third parties or the management of Mutual Funds in accordance with investment objectives and policy defined in the investment management agreement signed between the Investment Manager and its clients including individuals, establishments or Mutual Funds."

In 2016, the SCA issued new fund regulations pursuant to Decision No. 9 RM of 2016 (the "Fund Regulations"). The Fund Regulations created a new licence category known as the "Management Company" licence (the "Management Company Licence"). The Management Company Licence permits the licensed entity to establish and manage mutual funds.

Comparison

An initial impression of these two seemingly similar licences may illicit confusion as to why there is a need for both. However, the Fund Regulations have clarified the differences between the two licences and the following is a summary of the scope of each licence:

- Establishment of funds: The Management Company License allows for the Management Company to establish funds, provide administrative services, and promote and supervise such funds. In contrast, the Investment Management Company License does not permit the establishment of funds.

- Management of funds: The Management Company Licence also permits the Management Company to manage funds it has established, but does not permit the management of funds that it has not established. The Investment Management Company Licence permits the licensee to manage funds that are established by others, without permitting the establishment of funds.

- Security Portfolios: The Investment Management License allows for the management of securities portfolios, but the Management Company License does not.

Licensing Conditions

The following are the conditions to obtain a Management Company Licence under the Fund Regulations:

1. The applicant must be:

- a company operating in the area of securities and licensed by the SCA;
- a company incorporated to undertake the establishment and management of Mutual Funds;
- a local bank or a branch of foreign bank licensed by the Central Bank; or
- a branch of a foreign company licensed in the jurisdiction of its head office to establish and manage mutual funds and subject to a regulator similar to the SCA.

2. The share capital must not be less than AED 5 million.
3. The memorandum of association of the company must be authenticated before the official authorities and must be in Arabic or translated into Arabic.
4. The licensing fee must be paid.
5. Technical and administrative staff required to practice the business as per the rules issued by the SCA must be appointed.
6. Appropriate office, software and technical systems required to practice the business in accordance with the requirements of SCA must be procured.
7. The establishment of an internal control system that ensures the integrity of applying the law, regulations, decisions and circulars issued, as well as the bylaws applicable in the markets.
8. The creation of an operational manual for risk management that identifies and defines the potential risks, including the regulatory risks, which may face the company, how to handle them if they occur, and the monitoring and reporting of such risks in a manner that enables the company to continue in business and comply with the Fund Regulations.

Generally, most of the requirements to set up a Management Company are similar to those required to set up an Investment Management Company. Therefore, a licensed Investment Management Company may also apply for the Management Company Licence as it will already have met many of the Management Company License's requirements. This makes the Management Company License application much easier and faster for entities already holding an Investment Management Licence.

Obligations of the Management Company

The Management Company has a number of obligations and restrictions prescribed by the Fund Regulations. The Management Company must:

1. Assume the tasks of the management of the investment of the fund it establishes, including the administration, promotion and supervision of the fund. The unit holders may not interfere in the management of the fund in any way, except in the matters set forth in the prospectus or the matters which the Management Company decides must be submitted to the unit holders for voting.
2. Act as the legal representative for any mutual fund in dealings with third parties.
3. Refrain from the management of security portfolios or mutual funds established by third parties without obtaining a Investment Management Licence.
4. In the case of the company also being licensed as an investment manager, refrain from investing the money of security portfolios it manages in any mutual funds it establishes or manages without the prior consent of the unit holders.
5. Ensure its capital is at least 0.02% of the net value of the assets of the funds established or managed by the company where the value of assets of the Mutual Funds established or managed by the company exceeds one billion Emirati Dirhams, provided that the additional capital does not exceed 40 million Emirati Dirhams.
6. Manage risks and conflicts of interest with the security portfolios managed by the company with any mutual funds which the company establishes or manages.
7. Ensure the assets of the fund are maintained separately from the money and assets of the Management Company and from the assets of any other fund established or managed by the Management Company.
8. Refrain from promoting or providing administrative services to third parties without obtaining the approval or licence to practice that activity from the SCA.
9. Appoint a custodian for the fund and not change the custodian without the consent of the SCA and refrain from acting as the custodian for the mutual funds established or managed by the Management Company.
10. Ensure that the Management Company, its parent company, affiliates, related or sister companies do not hold 30% or more of the capital of the entities in which the mutual funds established or managed by the Management Company invest.
11. Refrain from collecting subscription or redemption fees in cases where the investment is in the units of funds or shares of investment companies established or managed by the Management Company by itself or through associated or related management companies.

12. Assess the assets, calculate the net asset value of the unit, and distribute or maintain the profits.
13. Disclose all the information related to the fund and any other disclosures in relation to the fund's activities, reports and prospectus to the unit holders.
14. Ensure that the management fees conform to the risks and interests of the fund and with the interests of its unit holders. The management fees shall be defined and reviewed as per the applicable procedures in the Management Company. The fees shall be defined and be at a fixed rate, and additional incentive fees shall be disclosed in the prospectus.

15. Ensure that employee salaries are not associated with the performance of the fund.
16. Ensure that the fund units shall be sold and redeemed at the announced price of the units' net asset value and as per the mechanism set forth in the prospectus, provided that announcement is made at least twice a month.
17. Inform the unit holders of the dividends and the cases of suspending the redemption operations using the notification method set forth in the prospectus. All the procedures shall be documented and they shall be handled fairly.
18. Set an effective investment policy to manage the liquidity and suspension of the redemption operations that ensure an amount of liquidity that conforms to the nature of the fund to face the risks related to the fund's investments. Such liquidity may be represented in investment instruments with low risks and can be transferred into cash upon request.
19. Perform the sale and purchase operations in the markets while achieving "best execution" and not be biased so as to achieve special gains or compromise the rights of unit holders. The Management Company may not fabricate transactions to increase the commissions, fees or expenses of other entities.
20. Not allow the Management Company or any of its employees to obtain special gains or privileges from the fund except the agreed management fees.
21. Study the financial position of the companies and the assets in which the assets of the fund established or managed by the company are invested.
22. Constantly maintain the solvency required to practice the business to ensure its ability to meet its obligations as per the relevant criteria issued by SCA.
23. Set a written bylaw within a month from the date of receiving the license and provide the SCA with a copy of such bylaws while considering amending the provisions of such bylaws in conformity with the amendments made to the law, regulations, decisions or circulars issued under such law and inform the SCA of the same.
24. Conduct regular reviews of the internal control system and the operational manual of risk management and update them continuously in line with the nature of the company's business and as applicable in this field.
25. Set the professional ethical rules for its employees, supervise its employees, and regulate and control their personal transactions in securities to ensure they strictly abide by the provisions of the law and the regulations, decisions and circulars issued by SCA, especially those related to honesty, integrity and conflict of interests.
26. Cooperate and coordinate with the internal auditor and enable it to practice its tasks. Inform the SCA of any violation of the law or the regulations, decisions, circulars, or rules issued under such law or the bylaws applicable in the markets.
27. Exercise due care in the performance of its tasks.

The introduction of the Management Company License will have several vital implications on the funds market in the UAE. This will especially affect existing Investment Management companies, as they will now have to apply for an additional license to be able to set up new funds, which will involve additional cost and time. As far as we are aware, no Management Company License's have yet been issued by the SCA, despite the Fund Regulations having been in place for several months. As the Fund Regulations will likely affect the way in which existing Investment Management companies operate and how new entrants will asses market conditions, it is important for such entities to carefully consider the implications of the Fund Regulations.

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Model Behaviour: Good Conduct in the Boardroom

Introduction

Over many years, directors of companies have developed a variety of unwritten procedures and practices so their meetings can be run in an efficient manner, whilst still accommodating the diverse differences of opinion and articulation of critical analysis which every well-run business should allow.

The ability to voice differences of opinion in the boardroom is of prime importance for directors. In the Dubai International Financial Centre jurisdiction, as in other legal regimes, directors are bound by responsibilities which they cannot neglect, or bypass by delegating to management.

Director's duties

The duties of a director in the DIFC are based on common law principles, but they are also laid out in the DIFC Companies Act:

'a director....., in exercising his powers and discharging his duties, shall:

1. act honestly, in good faith and lawfully, with a view to the best interests of the Company; and
2. exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

For any director to meet the requirements of the law, they must be able to exercise independent judgement and, through participation in meetings of the board, lend the weight of personal analysis and voice to any corporate decision taken in those meetings.

Principles of good governance

In many jurisdictions, consideration has been given by regulators, and by boards themselves, as to how the principles of management of the board, as the principal decision making organ of companies, can be formulated into written codes and procedures. The objective is that chairman and company secretaries will have a reference point in conducting meetings to ensure good corporate governance.

Collectively, directors are able to provide leadership whilst also imposing prudent controls which enable risk to be assessed and managed. The board should set the company's strategic aims, ensure that appropriate resources are in place, and that the company's values and standards are maintained.

Whilst not currently codified in the DIFC, the following principles have universal application and directors would be wise to consider their application in board meetings and committees of the companies they oversee, to ensure their obligations to the company and its shareholders are met.

The importance of meetings of the board

Whether or not the directors are exercising their individual and collective responsibilities to the company can be evidenced by whether or not board meetings are regularly held, how they are conducted and whether the decisions and discussions in those meetings can demonstrate that they are indeed discharging their fiduciary obligations to the company.

From the individual director's standpoint, voicing their opinion can also relieve them of personal liability for disastrous majority decisions, but only if they vote accordingly. So it is important to record objections in the minutes, in appropriate circumstances.

Below we set out some of the highlights of international critical thinking on the management of the board.

Is a written code desirable?

It is a good idea for boards to develop written codes of conduct to enable common ownership of meetings so that every director is aware of the expectations their colleagues have. Copies of the code should be given to each director and the chairman should take the trouble to secure 'buy-in' from all stakeholders.

As noted below, the existence of a written code will also be of great help to the chairman when required to rule on process.

Provision of information

No director can be expected to take important decisions as to the future direction a business should take without being fully informed of the facts. In providing information to directors, management must ensure that:

1. Each director should receive the same information at the same time;
2. Each director should be given sufficient time in which to consider the information; and
3. The board as a whole should allow sufficient time to discuss key decisions.

In one landmark US case, directors were sued successfully for approving an unwise merger deal, without any substantive discussion aside from asking the CEO and the external legal counsel whether the deal was in order and receiving positive responses.

Material decisions require board oversight

Boards should establish criteria to assess materiality of decisions so that management is fully aware of the requirement to obtain board approval prior to committing the company. In doing so, the company can set the parameters and remit of the board's engagement in the business of the company.

For example any contract considered material in the context of the company's day-to-day business, or indeed any contract which is not in the company's ordinary course of business, should be referred to the board for its review and approval, prior to any legal or contractual commitment in respect of that contract taking effect.

Failure by the company to ensure proper process in this manner could lead the directors to be in breach of their legal duties to the company, even in circumstances where the failure of the board to perform their oversight function was due to a failure in process (by not bringing the matter to the attention of the board) rather than a failure of the board itself.

To ensure that a consistent process is formed, terms such as 'ordinary course of business', and 'material' should be the subject of policy parameters so that management and other employees of the business are as aware as the directors as to when a particular contract or arrangement, to which the company would be bound, crosses that agreed threshold.

Of course, in the case of any uncertainty, it would be safe to assume that any contract requires board approval.

Preparing an agenda

Every meeting of the board should be preceded by an agenda. In order for directors to be forewarned and forearmed of the subject matter of any upcoming meeting, the company secretary, in conjunction with the chairperson of the board, should compile an agenda. Decisions regarding what should, and should not be included as agenda items should ultimately be for the chairperson of the board.

Whilst substantive commercial issues should only be discussed in detail if they have been included in the agenda, the chairperson should always permit any director (or the company secretary) to raise at any board meeting any matter concerning the company's compliance with the written code, the company's articles of association or any other legal or regulatory requirement.

Role of the chair

In simple terms, the chairperson's role is to ensure both the smooth running of the meeting and that the meeting is conducted in an orderly fashion.

A chairperson must control the meeting and preserve order so that it can proceed effectively. The chairperson must act in a fair manner to all participants and their individual interests.

In practice, this means that the chairperson must allow all members a reasonable opportunity to speak, even if there is a clear majority of board members who have made up their mind. In giving time to board members to air their views, the chairperson must ensure that discussions stay on topic so as to ensure discussion which is not relevant to the matter in hand is avoided, if necessary by limiting the time that board members have to speak. Conversely, the chairperson should also protect the speaker from interruption to ensure a fair hearing for all voices. Finally, at the appropriate point in time, the chairperson must decide when a matter should be put to the board for a vote, and to ensure that voting is undertaken in accordance with the provisions laid down in the company's articles of association and the law.

When the stakes are high tempers can sometimes become frayed and with that in mind the chairman must be prepared to call a board fellow member to order if there is a breach of etiquette or other inappropriate behaviour.

As mentioned above, having clear policies and procedures are a great help to the chairperson. By providing written rules which the members understand, the chairperson can provide clarity when meetings threaten to break down. The chairperson can also prevent misapprehension as to the powers available to participants in a meeting, in turn helping to avoid confusion and disorder.

In the absence of established rules, any difficulty may be overcome by the chairperson exercising common sense, bearing in mind that it is the chairperson's duty to ascertain the views of the meeting and act in a way that complies with statutory duties as a director of the company.

Role of the company secretary

The role of company secretary is of particular importance. The secretary's presence should be pervasive in all meetings of shareholders but also meetings of the board and committees thereof. The company secretary is charged with ensuring and enabling adequate information flows within the board and committees; they act as a conduit between the board and senior management and non-executive directors, as well as advising the board on all governance matters.

In particular, the company secretary is, together with the chairperson, responsible for the proper administration of meetings. To enable the company secretary to fulfil this function he should be present at all meetings. The company secretary should also ensure that minutes are produced for all meetings. Whilst it is not necessary to produce verbatim transcripts of a meeting, it is important that the minutes make an accurate account of the content of the meeting, and particular record key decisions having been properly considered, discussed and approved, including a distillation of the board's reasoning.

The company secretary should circulate the minutes to the board prior to the next board meeting and the opportunity should be given to directors at the next meeting to ask any questions that they may have on the minutes.

Conclusion

In all but the smallest companies, boards cannot take every decision for and on behalf of the company. Indeed, the presence of separate committees such as audit, remuneration and risk management can enable specific areas of the business of the company to be effectively managed. Notwithstanding effective delegation, a board that is cognisant of its responsibilities, has a well understood set of policies and procedures and a chairperson and company secretary who are fully conversant with that framework, will be best placed to discharge its duties and ensure effective leadership and oversight of the company's business.

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The treatment of patients at end of life stage: A GCC overview

The sensitive subject-matter of how to determine the best course of action with regard to the treatment, or other options, for a patient who is reaching the end of their life, who may be terminally ill or have an irreversible medical condition that is no longer responding to medical treatment, will always present great difficulties for medical practitioners. It requires great skill, care, medical and ethical judgment to balance the needs of the patient and their families, alongside what is medically 'doable', what should be done or should not be done, either from a medical or ethical stand-point, and, of course, to take into consideration what actions or decisions are permissible under the law. In the Gulf Corporation Council ('GCC') states, these already difficult decisions are over-layered with religious and cultural beliefs that must also be at the forefront of the mind of the care pathway decision-makers.

In some circumstances, it is not appropriate to continue to treat a patient, for example, at an end-of-life stage, perhaps with a terminal illness, or where a cardiac condition would mean that repeated attempts at resuscitation ('CPR') would be futile. The concept of withdrawing active intervention medical treatments is now accepted under both Islamic principles and under country-specific state laws. In this article we examine the current status of the law.

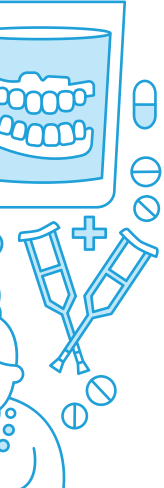
There are a number of significant 'concepts of care' that must be balanced when dealing with a patient at the end-of-life stage, these are:

- the over-arching duty to treat;
- futility of continuing to treat;
- whether to attempt or continue to attempt CPR;
- how to determine the moment when a patient has died (for example, 'brain dead'); and
- whether the organs of a deceased patient may be taken to benefit a living patient.

The Islamic perspective

The laws that govern end of life stage care in the GCC are rooted in Islamic principles. Islam considers that life is sacrosanct and that efforts to treat a patient should be continued. Historically, the thinking was that treatment options should continue notwithstanding that the end result would be that the patient would eventually die. A physician could be accused of terminating the life of a patient if all treatment options were not pursued with vigour. There has been a significant change in this approach in recent times.

There is now a great deal of support for the concept of the 'natural death', that it would be appropriate to withdraw active intervention for some patients to allow them to spend the last few weeks of their life peacefully, and that further



intervention or life support is not required if it prolongs agony and suffering. In such cases, the patient would be allowed a natural death, while feeding, hydration and comfort treatments would be continued.[1]

The concept of 'futility' now extends to patients not only at an end-of-life stage due to terminal illness, but also to cases where a patient suffers from a cardiac condition, or has been involved in a serious accident, and life support treatments by mechanical means become necessary. Under certain laws, CPR may be discontinued for a patient where three physicians agree that such resuscitation attempts would be futile. In the Kingdom of Saudi Arabia, for example, do not resuscitate ('DNR') orders can be put in place by way of an advance directive. Where no such DNR order has been made, CPR can be discontinued where three physicians agree that continued attempts would prove useless to improving the patient's condition. [2]

A question that has vexed Islamic scholars and medical practitioners alike, is to determine at what point the patient has actually died. The point at which the patient dies is very important from a religious, spiritual and family perspective, but also in medical terms, because the diagnosis of death then potentially enables other decisions to be made, such as whether organs can be harvested for the benefit of living patients.

There are numerous ways to define the point of death, including:

- the irreversible loss of capacity to breath;
- irreversible cessation of cardiac and respiratory function;
- brain death (whole-brain death, and brainstem death); and
- the departure of the soul from the body.

Islam is not wholly agreed on the concept of brain death, but, on balance, the agreement favours whole-brain death. There is general support for an Islamic legal definition of brain death when the following conditions are met:

- total cessation of cardiac and respiratory functions, ruled as irreversible; and
- total cessation of all brain functions, and experienced specialised competent doctors have ruled that this is irreversible, and that the brain has started to disintegrate. [3]

The diagnosis of brain death permits the physician to disconnect mechanical life support treatment. The difficulty, and a matter that does not nave full agreement under Islamic principles, is the agreed process for testing the patient to determine the cessation of all brain functions, or the evidence for the deterioration of the brain. If a strict approach is taken, in many situations, the diagnosis of brain death cannot be made, and this means that an organ cannot be harvested and transferred to a living patient.

While organ transplantation is permitted in the GCC , the transplant process is dependent upon having a brain-dead donor. By decision of the GCC Council of Health Ministers, GCC [4] states are required to establish uniform organ transplant laws and a GCC referral centre for transplants in the Kingdom of Saudi Arabia [5] whose responsibility will lie with the Saudi Center for Organ Transplantation.

GCC Federal laws

The principles for the rulings under Islamic laws have had a trickle-down effect into the laws of the GCC states. The current status of the laws are best illustrated in table A.

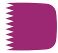
Table A: GCC Overview Of Regional Laws Touching Upon End Of Life Care

United Arab Emirates

Law	Details
Law No (7) of 1975 Human Medicine	Human Medicine Law indicates the duty to treat. However, local health authorities now accept withdrawal of active intervention at end-stage care.
Law No (4) of 2016 Medical Liability	Medical Liability law permits discontinuation of CPR and concept of DNR where three physicians agree, except where the patient has specifically requested that further attempts must continue.
Federal Decree No (5) of 2016 Human Transplant	The recently revised organ donation law permits transplant of tissue and organs from live or deceased patients. Death must be proven by three specialized physicians, one specialized in nervous disease. Death is defined as [paraphrased]: complete departure of life from the body… when the heartbeat and breathing have ceased completely and is irreversible… or if all functions of the brain have completely ceased and this is irreversible.
Ministry of Health and Prevention Resolution No (550) of 2017 Diagnosis of Death	Definition of death and 'brain death' Death: (i) spontaneous respiratory failure (ii) absence of pulse and lack of blood pressure (iii) absent heart rate when using a stethoscope Brain death: irreversible cessation of all functions of the entire brain, including the brain stem.

Kingdom of Saudi Arabia

Law	Position
Fatwa No. 26/3796 dated 28/07/1417H (09/12/1996)	DNR is not mentioned within any Saudi laws or regulations. Doctors rely on the Fatwa for removing life support from a patient shall be permitted if three specialised physicians or more agreed.
Directory of the Regulations of Organ Transplantation ("Directory"), endorsed by Ministerial Resolution No. 154219,dated 06/05/1434 and Ministerial Resolution No. 1081/1/29 dated 18/6/1414.	A significant body of law has been published on organ donation. The National Centre for Kidneys is a public entity founded by Supreme Order No. 7/1561/M dated 15/05/1404H (17/02/1984). The name of the centre was later amended by the Supreme Order No. 80 dated 20/06/1413H (16/12/1992) to become the Saudi Centre for Organ Transplantation expanding its specialisation to all organ transplantation issues.
Directory Appendix 8: Diagnosis of brain death by brain function criteria. Directory Appendix 9: Death documentation form by brain function criteria.	Definition of brain death: based on the irreversible cessation of all functions of the entire brain including the brain stem due to total necrosis of the cerebral neurons following loss of blood flow and oxygenation.



Qatar

Law	Position
Law No (2) of 1983 on Human Medicine	A physician may not refrain from treating a patient unless it is in the best interests of the patient, and the availability of medical care by others. There is very little under Qatar law which assists in understanding when it is appropriate to withdraw medical treatment. Organ transplants are permitted on live and deceased patients. Death defined as: Irreversible cessation of the heart and respiratory system, or irreversible cessation of all functions of the brain (brain death).
Law No (15) of 2015 on Human Transplants (defines brain death)	The diagnosis of death must be verified by a written report to be issued unanimously by committee consisting of three specialised doctors including doctor specialised in the neurological diseases, provided that the members of the committee shall not include the doctor, who has performed the operation, or is a relative of the donee patient or the deceased, or who has interest in his death.

Oman

Law	Position
Decree 22/1996, on Human Medicine and Dentistry There is no official Royal Decree, Ministerial Decisions nor other provision by Ministry of Health relating to the matter of withdrawal of treatment or DNR	In respect of withdrawal of life support, Oman follows the general regional position, that such decisions are unlikely to be made by physicians, but left for family members to make with guidance from a doctor, because any suggestion of ending viable life will offend Islamic principles. Article 13 of Decree 22/1996 states that 'A physician shall not divulge private secrets gained through practicing medicine unless the relevant party agrees to this. He is allowed to divulge secrets to a patient's family member such as the husband, wife, father, mother or adult sons, if the patient's condition is serious or if there are other sufficient reasons'. However, this only indicates that family members are involved in knowing confidential information pursuant to patient consent.
The Grand Mufti of Oman, His Eminence Sheikh Ahmed bin Hamed Al Khalili, fatwa of 2014 on organ transplantation	Organ transplantation in Oman is legal, allowing organ transplant after brain death under certain circumstances and in accordance with religious, legal and medical practices. Furthermore, Oman launched an Organ Donor Programme providing people with organ donor cards (once patients are brain-dead) where individual consent to donate organs will be specified on the donor card, according to the Ministry of Health. They can also choose what particular organ they would like to donate in order to transplant it to the people in need.

Bahrain

The National Health Regulatory Authority's Ethical Guide for Medical Practitioners

Sets out the measures to be applied to all those with a terminal illness or terminal condition that has become advanced, progressive and incurable. Key elements are summarized here:

- ensure that all decisions made in the care of the dying are in accordance with the patient's wishes as far as possible, respect the patient's dignity and aim to lessen their pain and suffering.
- Mechanical life support measures may only be discontinued where two consultants have confirmed that brain activity has ceased.
- not obliged to try to prolong life at all cost. Physician should understand the limits of medicine and recognise when prolonging life may not be of benefit to the patient.
- In exceptional circumstances where the patient is in a terminal condition, physician may direct that no attempt should be made to attempt resuscitation. This directive will only be valid for a period of 72 hours and should be made in consultation with the patient's family.

Decree Law No. 16 of 1998 Organ Transplantation

Bahrain regulates organ transplantation. Rules developed by the Ministry of Health, which are based on this law, state that:

- Donation is permitted by deceased persons, when the individual did not object to donating his/her organs while alive, written consent from the next of kin is sufficient.
- Death must be confirmed and diagnosed by three physicians, including a neurologist and excluding the surgeon who will perform the transplant.
- This does not include donation from patients with brain death.
- Harvesting the organs of an unidentified cadaver is permitted with the approval of three physicians in the field.

Kuwait

Decree No. (25) of 1981 Human Medicine, Dentistry and Paramedical Professions

General duty to treat. Kuwait law does not permit a withdrawal of treatment, thus it is necessary to look to Islamic principles and rulings for direction as to how to proceed in the case of a patient at end-of-life state.

Kuwaiti Fatwa of the Ministry of Charitable Endowments No. (132/79, 1979 organ donation
Law No. (7) of 1983

The Kuwaiti Fatwa sanctions live and deceased person organ donation. Law No. (7) of 1983 reiterated the position under the Fatwa and adding that living donors under the age of 21 must give their consent.

Conclusion

Significant steps have been taken towards coming to a consensus by Islamic scholars and under GCC State laws to ensure that patients' wishes at the end-of-life stage of their care are taken into account to ensure their needs are met and at the same time providing legal protection for those medical practitioners at the forefront of dealing with these difficult cases.

Footnotes:

1. *Do not resuscitate, brain death, and organ transplantation: Islamic perspective by Hassan Chamsi-Pasha and Mohammed Ali Albar, 2017, Avicenna J Med Apr-Jun 7(2), 35-45*
2. *Fatwa No. 26/3796 dated 28/07/1417H (09/12/1996) issued by the General Mufti of KSA and the Head of the Scientists Authority*
3. *Islamic Fiqh Academy of the Organisation of the Islamic Countries, ruling 1986, Third International Conference of Islamic Jurists, incorporated the concept of brain death into the legal definition of death in Islam.*
4. *There are numerous Islamic rulings, the most detailed of which is The Islamic Fiqh Council of Islamic World League Decree No. 2 (10th session) 1987*
5. *GCC Health Ministers Decision No. 3 for the organ transplant congress (61) on 26/04/1427 (corresponding to 24/05/2006).*

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Healthcare services fees hike in Kuwait

Recently, almost two decades after the issuance of Law No. 1 of 1999 on foreign health insurance and the imposition of fees against medical services, the Ministry of Health decided to increase the health care service fees at public hospitals and clinics throughout Kuwait for expatriate residents and visitors.

The underlying principle behind the price hike for medical care has been allegedly the heavy financial burden borne by the Ministry of Health, as the daily services costs became a general burden on the budget of the State, primarily due to the rise in the prices of medication and medical equipment globally.

The price increase is expected to assist in the increase of non-oil revenues which, will in turn positively affect the public budget and to curb the issue of the rising number or expatriates and visitors who under the previous health regime were taking advantage of the largesse of free or nominal healthcare charges in the country by visiting Kuwait only to receive medical treatments, from routine check-ups to more complex surgeries.

In the spirit of tackling the aforementioned issues, the Ministry of Health issued two ministerial decrees regarding the new health care service fees at public hospitals and clinics; Ministerial Decree 293 of 2017 applying to expatriate residents of Kuwait registered in the State's health insurance system and Ministerial Decree 294 of 2017 applying to expatriate visitors not registered in a State's health insurance system. The implementation of both decrees has already started, effective from 1st October 2017.

The increase in the medical fees was imposed to the following health services, including but not limited to: natural child delivery, open heart surgery, nuclear medicines, radiology tests, laboratory tests and prostheses.

According to the ministerial decrees, the new health fees have been significantly raised from 50% up to 500% in some cases, with the increase being rolled out to expatriates entering the country on tourist visas first, then to expatriate residents.

It is apparent that the new higher charges for medical services will force expatriates to give up their right of receiving medical treatment services at public hospitals and clinics and will instead opt for private ones. The costs for receiving treatment in private hospitals and clinics will be similar to the costs of receiving treatment in public hospital and clinics and as long as the private clinics and hospitals do not raise their current medical fees, there will be less crowding and no need to make appointments.

It is worth noting that the Ministry of Health has provided for exemptions for certain categories from all fees of health services provided thereto by the public general and specialized hospitals. Such exemptions are applicable to the below listed categories:

a. Residents of social welfare homes;

b. Sons and daughters of the Kuwaiti woman married to a foreigner;

c. Disabled sons and daughters of the Kuwaiti woman married to a foreigner,

d. Domestic labor compound residents in view of their vulnerability to health problems that require admission to hospital to undergo medical examinations, be operated on or be accommodated therein;

e. Emergency cases of transit passengers who suffer health issues while they are at Kuwait International Airport for transit;

f. All foreign prisoners;

g. Residents who live in in Kuwait without

having the appropriate legal residency documentation but are holders of a valid identification card from the Executive Committee for Illegal Residents Affairs;

h. Members of official delegations visiting the State of Kuwait who are vulnerable to health problems;

i. Scholarship students of the Ministry of Education; and

j. Non-Kuwaiti children with cancer who are under the age of 12 years and who have a valid residence provided that the initial diagnosis of the disease shall have been conducted in Kuwait.

In addition to the aforementioned exemptions, the Ministry of Health also exempted certain categories from the fees payable for health services related to X-ray and nuclear medicine in the public affiliated hospitals and healthcare centres as follows:

a. All the employees of the Ministry of Health along with their spouses and children in accordance with the following rules:

- The spouses and children who are entitled to this exemption must have a valid residence permit;
- The daughter must not be married or employed;
- The son must be below 21 years of age, or has come of 21 years of age but still studies at a High Institute or a university until he becomes 25 years old and is not employed (a certificate to this effect must be produced); and
- The children with impediments to legal competence.

b. The non-Kuwaiti wife of a Kuwaiti national and the Kuwaiti child of a non-Kuwaiti mother.

Even though more exemptions with regard to medical fees are under way as per the sources of the Ministry of Health, it should be noted that the increase of the medical fees, especially relating to expatriates residents, has been the apple of discord and provoked controversies and long debate between the parliamentarian circles and lawmakers, not only as to its legal dimension and compliance with the Kuwait law and but also as to its humanitarian dimension, given the fact that the increased fees directly and primarily impact the limited income expatriate groups.

Therefore, it did not come as a surprise that the legality of the Ministerial Decree 293 of 2017 has been recently challenged and a case filed against the Ministry of Health's decision to increase the health fees for expatriate residents. The Administrative Division of the Court of First Instance held its first hearing, reserving judgment for October 25th 2017.

During the said hearing, the Defence Counsel for the Government sought to dismiss the case on the grounds that the Plaintiff did not have a connection or interest in the case as he was an advocate. The Plaintiff argued that he filed the case as a citizen and employer of expatriate staff and not under his advocate's identity.

As for his interest in the case, he claimed that the ministerial decree will be deleterious to him and place an additional financial burden on him, not to mention that the country's reputation and humanitarian status would be deeply wounded. Alongside the Plaintiff, another expatriate resident joined the proceedings.

During the Plaintiff's submission, it was further argued that the challenged ministerial decree would tarnish the reputation of Kuwait in the humanitarian field, considering its vast global outreach efforts, as the Ministry of Health did not examine other aspects and potential consequences.

Additionally, the Plaintiff claimed that the Ministry of Health did not take into consideration the compatibility and commensurability principle applicable to the issuance of any administrative decree, as the said decree provides for huge medical fees regardless of the fact that the majority of the non-Kuwaiti residents are low-paid employees, which renders the decree illegal.

A constitutional challenge was further raised on the grounds that the decree is violating the constitution, mainly its Article 29 which stipulates that people are equal in the human dignity and before the law in the public rights and duties, without segregation among them because of race, origin, language or religion, clarifying that the term "people" encompasses Kuwait citizens as well as non-Kuwaiti residents which makes them equally entitled to receive healthcare services.

The Plaintiff requested that the constitutional challenge be referred to the Constitutional Court for a decision and sought a summary stay of enforcement of the decree pending the resolution of the case. The court, however, disregarded his request.

We are yet to see the findings of the Court and if the ministerial decree shall be repealed or amended.

Ultimately, the price hike on the medical fees is still unclear on how it will impact the entirety of the health care sector in the long term and whether it will breed a shift from public to private health care. However, it is apparent that its recent implementation has sparked conflicting arguments, even though the Ministry of Health always strives to offer the best health services for all the individuals.

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Why Musataha Agreements are a popular property right for the health care industry in Dubai and Abu Dhabi

Health care investors looking to develop hospital facilities in the UAE must consider how they will acquire the land to build their facilities and what type of property rights to acquire. The acquisition of property rights other than the purchase of freehold land is a financially sound way of reducing the amount of expenditure that would need to go in to developing health care facilities such as hospitals. The grant of a Musataha right is a popular way for health care investors to acquire property rights to build health care facilities as a Musataha right confers a right to build and own that building during the term of the Musataha. In this article we look at how health care investors can use Musataha rights to develop hospital facilities and the advantages of acquiring Musataha rights and the other options available for foreign investors based on the rules of property ownership for foreigners in the UAE.

1. What is a Musataha right?

A Musataha right is defined in Article 1353 of the UAE Civil Code (Federal Law No. 5 of 1985) (the "Civil Code") as: "A right in rem conferring upon the owner thereof the right to build a building [...] on the land of another."

The owner of a Musataha right owns the buildings which they have developed on the land and those buildings, together with the Musataha right, can be disposed of, as provided under Article 1357 of the Civil Code. Article 1359 of the Civil Code provides that the right of Musataha does not come to an end simply because the buildings on the land have been removed prior to the expiration of the term of the Musataha agreement.

2. Where can foreign health care investors own a Musataha right in Dubai and Abu Dhabi?

In Dubai, health care investors that are incorporated in the UAE that are wholly owned by UAE or GCC nationals or are individuals that are UAE or GCC nationals have the right to be granted a Musataha in any area in Dubai pursuant to Article 4 of Law No. 7 of 2006 concerning Real Property Registration (the "Dubai Property Law"). The Dubai Property Law also requires registration of a Musataha right with the Dubai Land Department (the "DLD") to have any legal effect.

For foreign health care investors in Dubai, the option of a Musataha is available where the hospital facility is being developed in those areas designated for foreign ownership ("Designated Areas"). Foreign health care investors wanting

to develop hospitals in areas which are outside Designated Areas must look at other ways to secure premises, subject to whether an exemption is available. The Dubai Property Law provides that a Public Joint Stock Company is exempt from this rule as they can own or take a Musataha right of property in any area in the Emirate.

In Abu Dhabi, foreign health care investors (including those wholly owned by GCC nationals or are GCC nationals) will face similar challenges if they want to develop hospitals outside Designated Areas since they will be limited to taking a four year lease of land or existing premises. Foreign health care investors have the right to own floors or buildings but not the land in Designated Areas. The grant of a Musataha right is a good alternative for a foreign health care investor as it gives them the right to build on the land. A Musataha agreement must be registered with the Abu Dhabi Municipality ("ADM") pursuant to Law No. 3 of 2005 Concerning the Regulation of Properties in Abu Dhabi ("Abu Dhabi Property Law") for it to be enforceable.

Law No. 19 of 2005 Regarding Real Estate Property regulates the ownership of property in Abu Dhabi both in Designated Areas and outside Designated Areas. The law states that Implementation Regulations will set the conditions, provisions and terms of Musataha agreements outside these Designated Areas. However, these Implementation Regulations are yet to be issued and it would be useful for such regulations to be issued to gain more clarity on the regulation of Musataha agreements outside Designated Areas.

3. What is the difference between Musataha right and Usufruct right?

The Musataha right and the Usufruct right are both property rights conferred by the Civil Code except that the Musataha right gives the owner of the Musataha right the right to build, own and use the building during the term of the Musataha. The maximum term for a Musataha agreement is fifty years in both Dubai and Abu Dhabi. In Abu Dhabi, Law No. 19 of 2005 Regarding Property Ownership provides clearly that this term is renewable for a further term of up to 49 years. However the term of a Usufruct right may be for up to 99 years in both Dubai and Abu Dhabi.

Article 1333 of the Civil Code defines a Usufruct right as "a property right in favour of the usufructuary to use property of another and to exploit it provided that it remains in its original condition." The Usufruct right gives the usufructuary the right to use the property without the right to build. Article 1341 of the Civil Code requires the usufructuary to return the property to its original condition after termination of the Usufruct right.

A Musataha agreement would be a preferable option for a health care investor in this circumstance since it confers on the owner of the Musataha right the right to develop a property fit for purpose. The owner of a Musataha right is required to remove the building on the land and return the land to the landlord or may be required to leave the building on the land if requested by the landlord at the expiration of the term of the Musataha. These make good obligations are explained in more detail below.

"The grant of a Musataha right is a popular way for health care investors to acquire property rights to build health care facilities as it confers a right to build and own that building during the term of the Musataha."

The Usufruct is a property right which must be registered in the DLD pursuant to Dubai Property Law and with the ADM pursuant to the Abu Dhabi Property Law.

4. What is the difference between a Musataha right and a lease?

The DLD and the ADM recognise both short and long term leases. In practice, the term 'long term lease' is used to describe 'use rights' and

'occupation rights' (without the right to build). Long term leases are not otherwise mentioned in the Civil Code.

Article 4 of the Dubai Property Law refers to a foreigner's right to acquire a lease for a maximum period of 99 years. This long term lease must be registered with the DLD as a property right pursuant to the Dubai Property Law.

Foreign health care investors in Dubai who wish to develop hospitals outside Designated Areas are limited to taking short term leases of land or existing premises for terms of less than ten years. These leases are to be registered on the Ejari system at RERA and confer personal rights rather than property rights.

Similarly in Abu Dhabi a short term lease can be granted for areas outside the Designated Areas. The term of the lease must be no more than four years and must be registered on the Tawtheeq system.

The grant of a short term lease poses some challenges for a health care investor wanting to obtain financing for its development. This is discussed in more detail below.

5. Can the owner of a Musataha mortgage the Musataha right?

Article 1355 of the Civil Code provides that "it shall be permissible to assign or mortgage a right of Musataha." Law No. 14 of 2008 Concerning Mortgages in Dubai (the "Mortgage Law") reflects the position in the Civil Code that a Musataha right in Dubai can be mortgaged. This is useful in circumstances where a health care investor is looking to develop its hospital facility and secure financing to assist with initial capital costs and running of the facility.

In Dubai, Article 21 of the Mortgage Law provides that an owner of a Musataha right may mortgage its building (but not land that is still to be developed) unless otherwise agreed. The mortgage interest will only be for the term of the musataha.

Foreign health care investors wanting to develop hospitals in areas which are outside Designated Areas may face difficulty in obtaining finance since they will be limited to taking a lease of less than ten years of land or existing premises, making these shorter term ventures less attractive for banks. One option is to express the term as renewable for further terms, however, this may not provide sufficient comfort for a bank providing finance.

In Abu Dhabi, the law is clear in respect of landlord consent for the grant of a mortgage, which is not required for a Musataha right that is longer than 10 years unless the musataha agreements states that landlord consent is required as per Resolution No.64 of 2010 the Chairman of the Executive Council.

6. What happens to the building on expiration of the Musataha right?

Article 1360 of the Civil Code requires that on expiration of the Musataha right, the provisions of Article 785 of the Civil Code will apply to the buildings developed on the land (unless otherwise agreed between the parties).

Article 785 of the Civil Code states:

"If the lessee has constructed a new building or planted plants in the thing leased, even with the consent of the lessor, the lessor may, upon the expiration of the lease, either require him to demolish the building or remove the plants, or he may take over ownership of the new buildings or plants placed there for such value as they would have if removed if the destruction or removal thereof would cause harm to the property, and if the demolition or removal would not cause harm to the property, the lessor may not require that they remain there without the consent of the lessee."

While dealt with in the Civil Code, we recommend that the make good obligations of the owner of the Musataha right are considered carefully by the parties and documented in the Musataha agreement as this is a commercially important issue. Considerations should include who bears the costs of removal, time frames for removal of the buildings, what condition the land should be returned to the landlord and, if the owner of the Musataha right is required to leave its buildings on the land, and what compensation is payable by the landlord. If the Musataha agreement is silent on make good obligations of the owner of the Musataha right then Article 785 of the Civil Code will apply.

7. Musataha fees

The DLD registration fee payable on a Musataha agreement is 1% of the total annual rent, which is lower than the fees payable on a long term lease (4% of the total rent value) or Usufruct agreement (2% of the total property value). This fee is collected from the owner of the Musataha right (unless agreed otherwise).

The fee payable on a Musataha agreement in Abu Dhabi is 2% of the total annual rent. The fee is usually paid by the owner of the Musataha right unless agreed otherwise.

8. Conclusion

The grant of a Musataha right for a health care investor has many benefits in the UAE. For a landowner, they secure revenue in respect of the land for a long period (typically fifty years or more). For health care investors, they do not have to spend a large amount of money by purchasing land.

We have assisted many clients in drafting and reviewing of Musataha agreements which is a clear indication that there is a high demand for this type of property right for the commercial and legal reasons discussed above.

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Licensing Requirements and Restrictions for Hospitals in the MENA Region: Challenges & Opportunities

Establishing a hospital in the MENA region or investing into an existing medical facility is of significant interest for investors globally.

From press releases and a general exchange of updates amongst members of business community, we have been learning, quite regularly, of new healthcare sector investments.

Last year, NMC Group announced their acquisition of Sharjah's Al Zahra Hospital for AED 2.06 billion. Amanat Holdings PJSC has a number of healthcare assets under its investment portfolio and continues to grow. Aster DM Healthcare has lately opened a new hospital, has added new specialities and services under their existing facilities, and increased bed capacity, as well as upgrading their diagnostic technologies.

Although hospitals require highly-qualified manpower to be able to expand their operations, a growing and aging population in the MENA region inevitably lead to an increased level of use of medical services, particularly medical facilities by both in-and out-patients.

In investing in hospitals across the MENA region, investors must navigate country-specific regulatory requirements and restrictions. This article explores some of the basic requirements and restrictions imposed under relevant local law in relation to hospitals operation in Bahrain, Egypt, Iraq, Jordan, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates.

Regulatory Authorities

The most important aspect of a hospital licensing process is securing its healthcare regulatory license. In a majority of the GCC/MENA states, the role of the healthcare sector regulatory, and consequently the supervisory, body overseeing licensing and operations of hospitals has been the Ministry of Health. In the UAE, however, although the Ministry of Health looks after the licensing of hospitals in few emirates, the Dubai Health Authority performs this role in the Emirate of

Dubai and the Healthcare Authority of Abu Dhabi performs this role in Abu Dhabi.

Commercial Registrars

There are regional differences across the MENA region in relation to commercial registration. Whilst in Bahrain hospitals are registered at the Ministry of Industry, Commerce and Tourism, in Egypt that role has been assigned to the Commercial Registry Office. In Kuwait, on the other hand, Ministry of Commerce and Industry takes care of the commercial registrations of hospitals.

Local Ownership Restriction

As with most other decisions about setting up a business or acquiring a stake in an existing business in the GCC healthcare sector, parties will have to pay attention to local ownership restrictions that may attach to the shares in the hospital-operating entity as well as to the assets the hospital is to own (for example, real estate).

In Egypt, for instance, any foreign national can own shares in a hospital, except for certain geographical regions (e.g. Sanai) where foreign investment restrictions apply.

Under UAE or Kuwait law, on the other hand, at least 51% of the entity that operates a hospital must be owned by local shareholder(s).

In the Kingdom of Saudi Arabia, before a non-Saudi party acquires shares in a hospital operator, that party will have to secure a license from the Saudi Arabian General Investment Authority.

Finally, in some GCC states, there are also certain nationality requirements in respect of medical staff or a Manager/ Director of the medical facility. This should be looked into country by country as there are differences between the local legal requirements in this regard.

Licensing requirements:

The licensing requirements that apply to hospital license applicants are, broadly speaking, aligned across the GCC. However, care should be taken to check country-specific requirements.

By way of example, in Oman a hospital entity will be required to have a capital of not less than OMR 150,000 (USD 390,000).

In Qatar, the authorities will conduct a preliminary evaluation of the hospital's premises and facilities while in the Kingdom of Saudi Arabia the location of the hospital will need to be approved by Civil Defense and the relevant local municipality office.

Practical Considerations

Although the legal requirements may look standard in a number of ways, it is crucial that you consider certain practicalities that may arise under the hospital incorporation or acquisition process that might not have been explicitly addressed under local law.

Let's consider the UAE, for example. Although in other jurisdictions a common expectation would be that the license be issued in the name of an entity that has applied for and obtained the license, as far as the UAE and the health authorities are concerned, in practice, sometimes Health Authorities issue the Health License in the name of the individual(s) local shareholder(s) in the relevant entity (i.e. the direct or indirect shareholder(s) in a given entity) or list the shareholder(s) as "Owner" of the license in question, rather than mentioning the given entity itself as the license holder or mentioning all of its shareholders as the license holders.

In other words, in such case, under a Health License the local (direct or indirect) shareholder(s) is listed as the "Owner" of the license.

Conclusion:

When planning for an establishment or acquisition of certain shares in or assets from a hospital, it is important to verify ownership restrictions to comply with local requirements.

As certain legal requirements and conditions, e.g. level of foreign investment or ownership of plot of land upon which the hospital has been built, can differ from one MENA state to another, it is important to thoroughly assess options that may be available to your business even though, at the outset, there are many structuring and licensing challenges.

The legal framework may appear restrictive. However, there are various options available that meet commercial business objectives as well as satisfy the legal requirements.

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Joining Up the Dots… Saudi Healthcare Reform

Saudi Arabia's ambitious programme of social and economic renewal, Vision 2030 (announced in April 2016), has healthcare squarely in its sights. Vision 2030 (Vision) is informed by a fundamental need to diversify the country away from the hydrocarbon sector, aiming simultaneously to revitalize the economy and to rationalize/reduce state spending. The key economic driver remains the market price for oil, which continues to hover in the USD 50-55 per barrel range.

The challenges in healthcare are significant. Taking just one key indicator of health, according to a 2013 report by the Saudi Ministry of Health, about 25 percent of Saudis are diabetics. Saudi Arabia has 4 million diabetic patients who require 5.5 million consultations and follow-up visits a year. By comparison, recent World Health Organisation statistics show global prevalence of diabetes among adults over 18 years of age rose from 4.7% in 1980 to 8.5% in 2014. Set against those statistics the Saudi health care system has benefited from substantial investment in recent years. As a result, average life expectancy in the Kingdom has risen from 66 years to 74 years over the past three decades. Moreover, under-five mortality rates have decreased from 44 to 16 per 1000 live births in the last 20 years. However, having a population which suffers from chronic health conditions such as diabetes constitutes a double financial drain through: (a) significant lost opportunity in terms of their economic contribution; and (b) the accrual of significant costs associated with care.

The Government views healthcare as the sector with the best potential for privatization and is reported to be studying whether to sell off all public hospitals and pharmacies. The Kingdom faces rising medical expenses related to areas such as accidents, smoking and obesity (which may manifest through diabetes). Health Minister Tawfiq al-Rabiah recently quoted Health Ministry estimates that medical costs will rise to about 250 billion SR by 2030. According to the Saudi Arabian General Investment Authority (SAGIA), in 2014, the government spent USD18 billion on healthcare. However, the spend on healthcare is only 3.2% of GDP, a per capita spending level with less than half of that for the average of OECD countries and less than the majority of GCC countries. Increasing private sector participation in the healthcare sector from 25 to 35 percent is part of the Vision, which also seeks to provide free and quality healthcare to the 20 million Saudi citizens. Against that backdrop, this article will attempt to 'join the dots' and anticipate some of the legal and regulatory challenges ahead for healthcare reform.

Foreign Direct Investment

SAGIA governor Ibrahim Al-Omar has recently announced plans to allow foreign investors to own companies fully in the health sector, indicating that this will open up investment opportunities worth USD180 billion over the next five years, although the date for implementation remains to be announced. Currently foreign entities can only own hospitals with a minimum bed requirement and cannot own any other healthcare institutions. SAGIA has identified a raft of investment opportunities ranging from diabetic care through to medical cities and primary healthcare centres (and it is reported that the Ministry has received at least six bids to act as financial adviser for the privatization

of 55 primary healthcare centers in Riyadh alone). Many of these initiatives will ultimately be procured through a PPP mechanism, in which foreign investors and service providers are likely to play pivotal roles. Total private investment in the health sector is expected to reach USD100 billion (SR375 billion) by 2020, adding 12,500 new beds every year. At present only five healthcare companies with a total capital investment of SR3.66 billion are listed on the Kingdom's stock market. The prospect of bundling together a fresh class of asset in terms of PPP projects and taking these to market is also likely to appear on the Saudi radar screen.

PPPs

Public Private Partnerships or PPPs are a key pillar of the reforms across all spending departments of the government. The government intends to transfer responsibility for healthcare provision to a network of new companies that compete both against each other and against private sector operators. Under this structure, hospitals and health centres will be detached from the Ministry and made into standalone companies (or groups of companies), competing with each other as regards quality, competence and productivity. The Ministry will gradually relinquish its role as a service provider and adopt a more regulatory and supervisory role.

To facilitate this reform, Saudi Arabia intends to establish an entity to monitor, inspect and regulate the provision of care services to make sure that national standards are established and achieved. This entity will offer a specialized quality monitoring system to oversee care provision in public and private hospitals, manage PPP outcomes and will be responsible for defining standards, for reporting quality outcomes at the hospital level, accrediting hospital reporting systems, overseeing PPP projects, gathering outcome data, and publishing comparative performance reports. In an era of increasing fuel prices and decreasing fuel subsidies, the carbon footprint and sustainability of new assets and services will, increasingly, become determining factors for measuring success. SAGIA indicates that potential investors could include data management companies and private Saudi investors.

The corporatization of existing service provision is thus a key plank in healthcare policy over the next period, and within that overall framework PPPs will have a fundamental role (both in terms of providing services and also perhaps in monitoring outcomes). The advent of corporatization is further intended to promote and prioritize specialization in health care services and, over time, will enable citizens to choose their preferred service provider.

Taking diabetes care as one example, Saudi Arabia currently has 4 million diabetic patients who require 5.5 million consultations and follow-up visits a year. This situation is already stretching the capacity of the 460 treatment centres. According to SAGIA (which has specified diabetes care as an investment opportunity), this situation creates significant opportunities for Saudi private hospital owners, Saudi health insurance companies, and international healthcare providers to increase capacity by building 500 outpatient chronic disease management clinics.

The services offered should include on-site blood analysis and diagnosis, diet and nutrition consultations, insulin pump services, medical endocrine disorder assessments, heart check-ups, and ophthalmology, kidney and podiatry assessments. Critically, the government intends to support this initiative by: (a) extending current contract duration limit beyond three years (b) defining a referral approach from MOH and appropriate payment mechanisms.

The challenges of embarking on this exercise in the health sector are, however, of an entirely different order of magnitude to other corporatization, projects especially when the

initiative is combined with PPP. The existing procurement law of the Kingdom (the Government Tenders and Procurement Law) has served well as a method of procuring input-based, client specified assets and some limited ancillary service provision. It is, however, unsuited to the procurement of complex outputs or outcome based services where the costs of assets and services are bundled into a "unitary charge" delivered against attainment of key performance indicators over a long term concession period.

Saudi Arabia's National Centre for Privatization (NCP) which has responsibility for PPPs commenced operations earlier this year. The NCP, which directly reports to the Kingdom's minister of economy, was established to identify the strategies, regulations, and organizational frameworks of privatization plans and PPP projects in various sectors, such as health, education, transport and municipal services. In order to encourage foreign investment and PPP investment in particular, the government will have to present a clear strategy, with an accompanying regulatory framework, addressing a number of key issues, notably (a) cost recovery mechanisms; (b) underpinning covenant support of state counterparties (whether corporatized or not); (c) the use of special purpose vehicles; and (d) the position as regards compensation on termination. Through a group of sectoral committees the NCP will address these issues and navigate the necessary fiscal approval processes.

Human Resources

Wherever PPPs (or corporatizations) have been implemented the status of the workforce has always been a primary cause for concern. The position in the Kingdom will have the same dynamic – PPP is a challenging concept for many in the public sector bringing significant risks and significant opportunities at the same time. Around the world various approaches have been adopted which both protect transferring employees' rights but also enable the private sector to drive efficiencies and value for money. These approaches have sometimes varied across sectors and grades of staff but generally seek to preserve existing contractual rights of employees whilst improving standards of performance.

The issue is also as complex at the end of a project as at the beginning so long term PPP projects have to cater for the position at their expiry as well their inception. The state often has a role in underwriting to some extent employment costs. For example, in the event of Authority default it would be usual to see the government underwrite any redundancy or other ancillary costs. All of these issues (and the associated issue of pension rights) will require careful calibration across the KSA market and a high level of upfront stakeholder engagement.

Insurance

The aim is to provide citizens with the highest quality of health care whilst, at the same time, allowing the government to focus on its legislative, regulatory and supervisory roles. Whereas there has always been a thriving private sector in the country this is something of a sea-change in wider provision and regulation. The move to an outcome-based approach to commissioning and provision will pose institutional and financial challenges – not least as regards the creation and calibration of appropriate cost-recovery-mechanisms in a domestic population which is, in the context of healthcare, under or indeed not insured at all.

The Vision explains that the state will work towards developing private medical insurance to improve access to medical services and reduce waiting times for appointments with specialists and consultants. A recent report issued by Asharqia Chamber of the Eastern Province indicated that '…insurance companies will be the biggest beneficiaries of the new healthcare system as they will get an opportunity to provide insurance coverage to millions of Saudis and expatriate workers, making an annual revenue of 50 billion SR with a per capita premium of 2,500 SR.' Embedding an insurance driven health regime in the new health economy of the country will be challenging, especially as regards the cost-recovery mechanisms necessary for long term PPPs.

Challenging Times

From the snapshot presented above, it is abundantly clear that Saudi healthcare market has many moving parts, each of which is iterative to varying degrees on the others and many of which present their own unique clinical, regulatory, fiscal and legal imperatives. A great deal of groundwork has been laid in terms of the next phase of implementation of the Vision and the National Transformation Program. The key challenge now will be to maintain momentum across the Vision and to foster confidence in the market that the Kingdom can deliver on its healthcare covenant.

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Health Insurance for the Private Sector in Oman

Under the current provisions of Omani labour law (the "Labour Law") private sector employers are required to provide medical facilities to their expatriate employees working in Oman. For larger companies, the Labour Law imposes an additional obligation on the private sector entity to employ a qualified nurse, provide access to specialist doctors and complementary medicine. Many employers have chosen to satisfy these obligations by providing a medical insurance policy to their expatriate employees under which the insurance company pays the private hospital for treatment rendered to the insured employee. Under existing provisions of the Labour Law, Omani nationals are not often beneficiaries of a dedicated healthcare policy in the same way as their expatriate colleagues. The cost of their treatment at Government hospitals is borne by their employers, who do not, in general, cover the cost of private healthcare for their employees.

Under the new rules, Omani nationals will be entitled to a private healthcare insurance policy, affording them access to a wider range of health institutions. In respect of expatriates, the new rules are likely to impose stricter obligations on deviant employers who do not comply with the existing Labour Law requirements outlined above.

The new regulations are expected to be issued by the Ministry of Health during 2018. The effects are likely to be significant and will undoubtedly reduce the strain currently experienced by Government owned hospitals in Oman, which generally cater for Omani nationals only, by diverting existing users of Government facilities to the private healthcare sector. Recent studies show that only 9% of Omani nationals in the private sector are beneficiaries of healthcare insurance.

A further update will be published once the new rules have been brought into force.

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Egyptian Law on Promotion of Healthcare Products and Services

In its attempt to protect consumers' health, Egypt has recently issued Law No. 206 of 2017 (the "Law") regulating the promotion of any healthcare goods and/or services. An important element of the Law is the forming of a committee that has sole authority to supervise the content of any advertisement related to medical goods and services (the "Committee").

The Law defines healthcare goods as any products, natural materials, cosmetics or medical goods that serve a therapeutic, cautionary, or any other medical purpose, regardless of form, component, or material including packaging manner or country of origin. Healthcare services is defined in the Law as any business, activity or effort exerted for therapeutic, cautionary or other medical purpose which does not fall within the scope of healthcare goods.

As for the definition of promotion, the Law has also allowed for a very wide definition of what can be considered a promotion of medical goods and services, including written, auditory, visual, and electronic promotion.

The Law will become effective upon the issuance of its related executive regulations ("Executive Regulations"). Until such date, the current regulations governing the promotional content of healthcare goods and services will remain applicable. However, the formation of the Committee will dramatically change the application of these current regulations, given that the Committee will be tasked with supervising all promotions of medical goods and services, a task that was previously distributed among many different administration bodies in the Ministry of Health.

Formation of the Committee

The formation of the Committee shall take place by virtue of a Decree by the Prime Minister. According to the Law, the Committee will be headed by the Minister of Health or a representative. Further, the Committee's members must include representatives from the Ministry of Health, Ministry of Supply and Internal Trade, Ministry of Interior Affairs, Ministry of Justice, Medical and Pharmaceutical Syndicates and a representative of the Consumer Protection Authority.

In addition to the above members, the Committee may temporarily use any experts who may be deemed required. However, such experts will not have any counted votes on any resolutions to be made by the Committee's members.

Competence of the Committee

The Committee is tasked with granting licenses in relation to the promotion of health products or services, reviewing the content of all kinds of advertisements and ensuring their compliance to public order and morals, contacting the competent authorities to cease publishing or broadcasting unapproved marketing material, and monitoring and ensuring that the health products and services meet their legal requirements.

However the competence and authority of the Committee may be further strengthened and broadened upon the issuance of the Executive Regulations since this is a common pattern of executive regulations.

Impact of the Law on existing relevant regulations

The current applicable regulations, namely Ministerial Decree No. 106 of 1996, established a supervisory authority for the content of promotions related to cosmetics only (i.e. products manufactured for non-therapeutic and external use). The authority has to approve the content of the promotion prior to its broadcast and release.

As for the promotion of therapeutic medications, this is regulated by Decree No. 113 of 2004 detailing the process for licensing a medication for trading. Once a licence is obtained, the promotion of the product is authorised but no further supervision or monitoring was set out in or regulated by such decree.

Therefore, due to the necessity of further protecting consumer health, the content of the 1996 and 2004 decrees was deemed inadequate and incomplete since a complete supervision over promotions of products and services related to the health of a human body was deemed necessary and in line with international standards. To this end, the Egyptian government should be successful in achieving such objective by establishing the aforementioned Committee with extensive powers.

Through the Law, the Committee shall unify the way in which the marketing of all health products are regulated and monitored. The promotion of health products was auxiliary to the tasks of the current committees, which should have a more scientific role, rather than a censorship role on the promotion of healthcare products and services. Therefore, it was essential to assign an independent committee with rules that, if violated, would lead to clear and assertive penalties, which is most likely to be established, upon the enforcement of the Law.

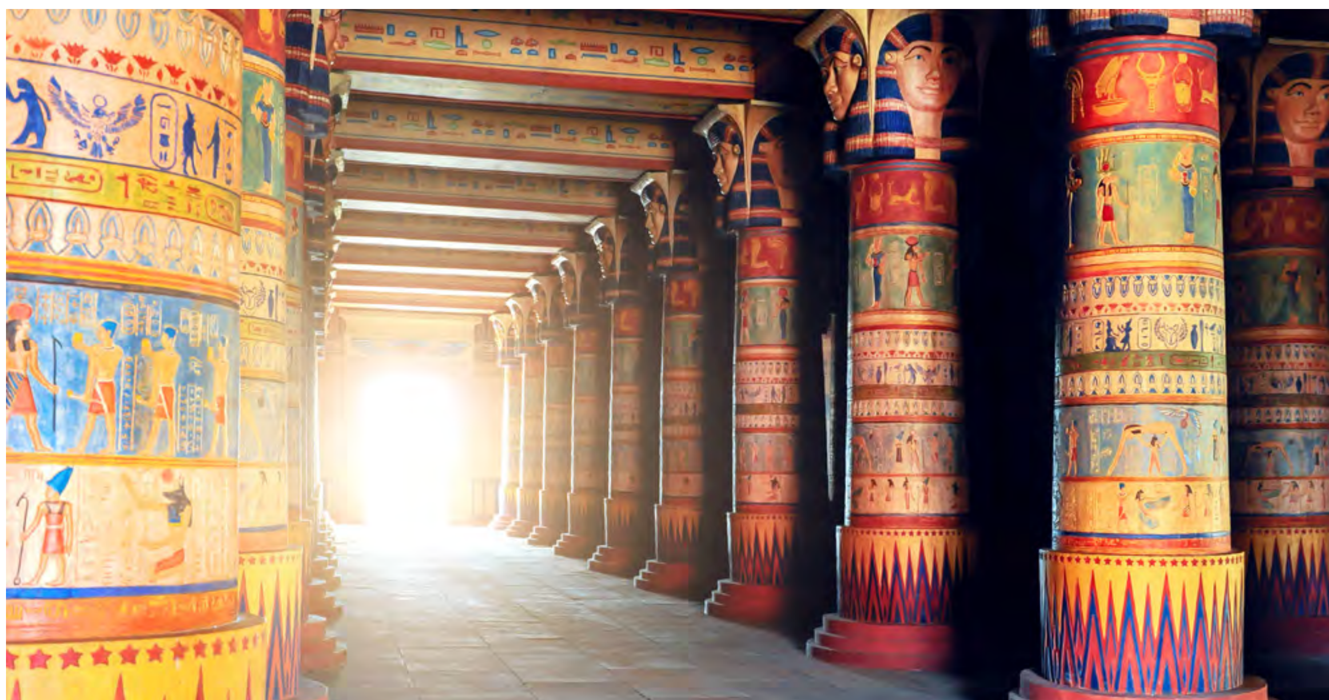
Applied Sanctions in case of breach

Given the sensitivity of the subject matter, severe sanctions shall be applied to persons publishing or allowing publishing of any advertisement of any health products or services without obtaining the required licensing from the Committee. Such persons may be subject to:

- the confiscation of the medical products, gained profits and any materials;
- imprisonment of a period of not less than one (1) month and/or payment of a fine of not less than EGP 50,000 and not exceeding EGP 100,000.

In the event that such advertised health product or service caused the death or permanent disability of a consumer, the sanction shall be the imprisonment for a period not less than one (1) month and a fine of not less than EGP 200,000 and not exceeding EGP 500,000.

Al Tamimi & Company's Corporate Structuring team regularly advises on large multinational companies investing in Egypt . For further information please contact Ayman Nour (A.Nour@tamimi.com) or Farah El Nahas (F.ElNahas@tamimi.com).



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Cosmetic Clinics Regulations get a Nip and Tuck: Recent updates to the licensing of cosmetic clinics in Jordan

In an era where picture-perfect images of flawless men and women flash before our eyes constantly, the pressure of maintaining a perfect appearance is mounting in our society. In response to that, cosmetic procedures have surged in popularity and are consequently becoming more socially acceptable. Cosmetic procedures include both surgical and non-surgical cosmetic treatments. Non-surgical cosmetic treatments are now available for corrections that were once only possible with surgery and Jordan has seen a rising demand for such non-surgical cosmetic treatments. To meet the demand for these cosmetic treatments, there has been an increase in the numbers of cosmetic clinics, beauty salons, freelance technicians and spas offering such treatments at affordable prices.

Until recently, these cosmetic clinics have not been subject to much regulatory oversight. However, in the last few months, several new regulations were issued in Jordan to regulate the licensing of these clinics and the work of its technicians. This article sheds light on these recent developments and seeks to highlight the licensing requirements applicable to such businesses.

Licensing for the Skin Care and Hair Removal Profession

The Regulation for Practicing Skin Care and Hair Removal Profession No. 99 of 2016 came into force on 16 August 2017 and was recently amended by the Regulation No. 88 of 2017 (the “Skin Care Regulation”). The Skin Care Regulation provides sets of requirements for licensing skin care technicians and skin care centres, as follows:

1. Requirements for licensing skin care technicians:

The Skin Care Regulation provides for the process of licensing skin care technicians by the Ministry of Health and provides that the technician must:

a. be a Jordanian national;

b. not have a criminal record;

c. have an educational degree in skin care from an accredited and licensed training centre, and have completed a course of no less than one year;

d. have a certificate of experience (reference letter) confirming completion of one to two years of experience (depending on the length of the academic course); and

e. pass an exam set by the Ministry of Health.

2. Requirements for licensing skin care centres:

a. The applicant must be licensed skin care technician pursuant to the provisions of the Skin Care Regulation;

b. The internal area of the centre shall not be less than 80 square meters and shall comprise of a waiting area, treatment rooms and washroom including special needs facilities;

c. Having the required equipment for evaluations and treatments; and

d. Compliance with public safety measures.

The Skin Care Regulation also sets out the required documents for applying for the license. It is also worth mentioning that the licensed skin care technician shall only be entitled to one license to open a centre.

Supervision of the Skin Care and Hair Removal Profession

The Skin Care Regulation stipulates that a committee shall be formed at the Ministry of Health to be responsible to receive applications for licensing skin care and hair removal profession and centres, form sub-committees to oversee the examinations for applicants to obtain technician licenses and make regular checks on skin care centres. The committee is entitled to close down any unlicensed business and refer those in violation to court.

Restrictions on Practicing Skin Care Treatments

a. The Skin Care Regulation prohibits skin care technicians to perform any of the following:

b. Treatment of skin diseases;

c. Provision of medical prescriptions or any prepared substances;

d. Requesting any lab tests or any x-rays;

e. The use of any kind of laser devices, LED light therapy, sound waves devices, carboxytherapy, devices for injecting medical products such as mesotherapy, Platelet-Rich Plasma (PRP), cortisone injections, fillers and Botox;

f. Chemical or electrical peals (including the use of what is known as the 'Crystal device'); and

g. Advertising without obtaining the approval of the Ministry of Health.

The Skin Care Regulation excludes laser hair removals from the above restrictions and provides for a separate set of requirements for performing such treatments at the skin care centre.

The Minister of Health issues a price list that shall be adopted by skin care centres and be showcased clearly in the centre.

Violation of the Skin Care Regulation might result in license withdrawal or imposing stricter penalties as set out in the Public Health Law.

The Role of the Jordan Food and Drug Administration in the dealing of Cosmetic Products

The Guidelines of Dealing in Cosmetic Products and Pharmaceutical Cosmetic Products of 2016 (the "2016 Guidelines") provide a set of rules for importing, producing and trading of cosmetic products.

The Jordan Food and Drug Administration ("JFDA") is entrusted by virtue of the 2016 Guidelines to oversee the marketing and selling of cosmetic products. There is a committee formed at the JFDA to study cosmetic products (the "Committee") and pharmaceutical cosmetic products and there is also a department at the JFDA responsible for registration of cosmetic products.

The 2016 Guidelines also provide requirements and restrictions for labelling cosmetic products including the prohibition of having any explicit medical statements on the label of a cosmetic product or on its leaflet or brochure.

Marketing and selling cosmetic products requires the approval of the JFDA and any change in the formula of any approved cosmetic product also requires the JDFA approval.

The General Manager of the JFDA, upon recommendation of the Committee, may issue a justified decision to prohibit the importation or ban the distribution or sale or dealing of any cosmetic product. He also may revoke an approval of dealing in cosmetic products or withdraw them from the market.

Inspection of Drugs, Medical Supplies and Cosmetic Products

Another recent development is the issuance of the Regulation of Inspection of Drugs, Medical Supplies, Sterilizers, Antiseptics and Cosmetic Products No. 89 of 2017 which grants the JFDA the discretion to decide to inspect and test any cosmetic product.

Conclusion

The aim of issuing these regulations by the Ministry of Health is to regulate and supervise cosmetic clinics in Jordan and ensure that certain treatments be exclusively provided by licensed healthcare professionals rather than skin care technicians and random freelancers. The involvement of the JFDA in the inspection of cosmetic products is a further step towards supervising this market and eliminating harmful substances being sold to the public. Overall, the regulations are a positive addition from a consumer standpoint while their impact remains to be seen.

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Jurisdiction Update: Jordan

A New Regulation on Licensing Home Healthcare Institutions

A relatively new regulation has been introduced in Jordan, which is the Regulation for Licensing Home Healthcare Institutions No. 84 of 2016 (the 'Regulation'). The Regulation allows patients and their families to hire a home healthcare institution to provide patients with the care that they need in the patients' place of residence. The Regulation provides that home healthcare services include: (a) medical treatment; (b) nursing care; (c) physiotherapy; (d) occupational therapy; (e) nutrition; (f) psychiatric and counseling services; and (g) audiology and speech therapy.

The Regulation outlines the guidelines for the establishment and operation of such institutions. In particular, it expresses the conditions for the licensing of an institution, in addition to the conditions for applying for the licensing of a home healthcare institution, as well as the events upon which the licence may be revoked.

The Regulation also governs the manner in which the home healthcare institutions are permitted to be operated, including the lists of records and documents that must be maintained by the home healthcare institution. According to the Regulation, the individual who should be responsible for managing the home healthcare institution is the technical director of the facility. The Regulation sets out the conditions for appointing an individual as a technical director, in addition to setting out the obligations and responsibilities with which a technical director must comply.

Moreover, the Regulation stipulates that the Minister of Health shall form a committee at the Ministry of Health titled "the committee for licensing the home healthcare institutions" with the purpose of regulating and managing home healthcare institutions. This committee's obligations, responsibilities and mandate are set out in the Regulation.

Prior to this Regulation, home healthcare intuitions did not have a formal regulatory framework under which to operate. This Regulation is likely to pave the way for increased accessibility to home healthcare services in Jordan.

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Enabling Reproduction: IVF Legislation in the Kingdom of Bahrain

Assisted reproductive ('AR') technologies, including in vitro fertilization ('IVF') to overcome infertility, are now widely available across the Middle East.

Since the 1980s, IVF and other forms of AR technologies have rapidly globalised and have become more readily available in the region. Today, the Middle East is host to a booming and high-tech AR industry. Egypt alone boasts more than fifty IVF clinics and Turkey tops the list with more than one hundred clinics. The United Arab Emirates ('UAE') is home to more than a dozen IVF centers, including two supported by the UAE government. This is due, in part, to the enthusiastic reception that these technologies have received from Islamic religious authorities, which have ruled for medical developments to overcome human suffering and inability. Islam is known for being pronatalist with its promotion of birth and family creation, and inspiriting the pursuit of medicine and science for peaceful means. The emergence of new AR has also led to increased bioethical discussions regarding how these technologies should be used.

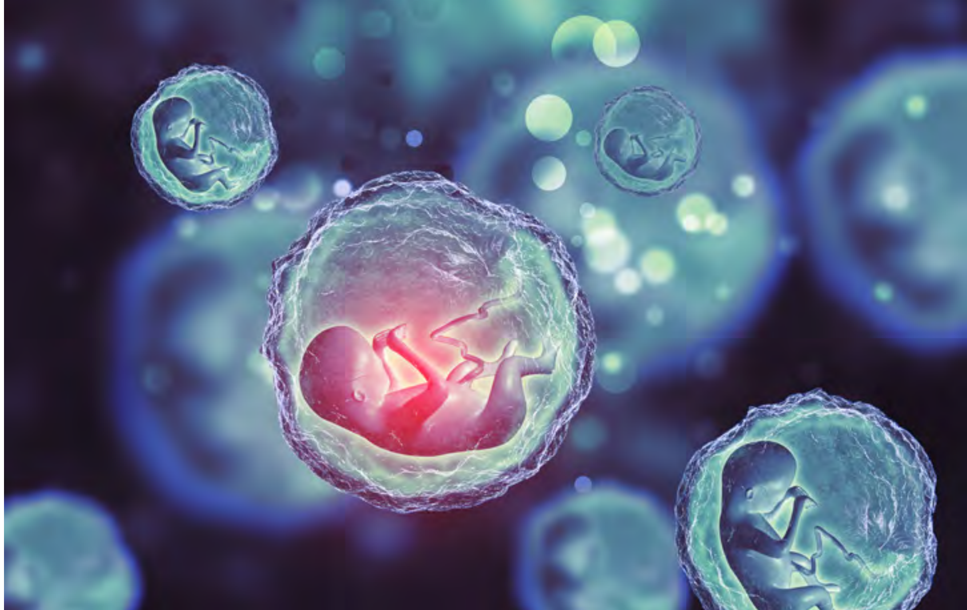
In keeping up with demand for assisted reproductive services and the development of AR technologies, the Kingdom of Bahrain enacted Law No. 26 2017 On Using Medical Techniques That Assist In Intrauterine Insemination ('IUI') and In Vitro Fertilization ('IUI-IVF Law'), which sets out clear regulations on the use of IVF and IUI techniques.

Since its breakthrough with the birth of the world's first test-tube baby, Louise Brown in 1978, there has been rapid development of AR related to IVF, which includes:

- intracytoplasmic sperm injection ('ICSI') to overcome male infertility;
- intrauterine insemination;
- test-tube babies;
- third-party reproductive assistance (with donor eggs, sperm, and embryos) to overcome problems of poor gamete quality;
- gestational surrogacy to help women who are unable to carry a pregnancy in their own uterus;
- cryopreservation (freezing) and storage of unused sperm, embryos, eggs, and now ovaries;
- mitochondrial transfer from a healthy human egg to the diseased egg of another woman;
- preimplantation genetic diagnosis ('PGD') to determine whether embryos have genetic defects, to select embryos of a specific sex, or to select embryos that can grow into 'savior siblings' through the donation of their

umbilical cord blood; and

- human embryonic stem cell ('hESC') research on unused embryos for the purposes of therapeutic intervention.



Do's and Don'ts

The IUI-IVF Law has permitted the use of the first three AR technologies described above and has left the scope of adopting other AR technologies to the determination of the National Health Regulatory Authority ('NHRA'). The NHRA is required to carry out specialised studies and consider the opinions of leading consultants in the field and the Supreme Council for Islamic Affairs ('SCIA') prior to permitting any further AR technologies.

There are a few considerations to bear in mind when opting for an AR technology in Bahrain. Article 6 of the IUI-IVF Law states that AR technologies are only available to married couples. The couple would also need to be screened for infectious disease and the express consent of both the husband and wife would need to be obtained in opting for an approved procedure under the IUI-IVF Law. The licensed physician is then required to maintain a record containing relevant data and procedures taken in relation to a couple's use of AR technologies.

Under the IUI-IVF Law, the AR technologies that are applied requires the sperm and eggs from the consenting married couple to be used. Ethical considerations played a large part in the drafting of the IUI-IVF Law as only certain AR practices are permitted. Wherever there is a risk that the use of an AR technology may pose serious harm or damage to the wife's life or wellbeing, the AR practice will not be permitted.

Under the IUI-IVF Law, the use of third-party donors is prohibited (Article 7 Section B), whether they are donating sperm, eggs, embryos, or uteruses, as in surrogacy. The use of a third party is considered tantamount to adultery. Therefore, all forms of surrogacy are forbidden (Article 7 Section F). Human reproductive cloning en masse and precisely for the creation of a cloned child — who would theoretically be the genetic twin of the cloning parent — is also forbidden (Article 7 Section C). The contravention of any section of Article 7 bears a prison sentence and a fine accordingly.

Article 7 of the IUI-IVF Law contains some exceptions for the use of procedures that are generally prohibited under the IUI-IVF Law. For example, The selective reduction of fetuses through termination is only permitted in order to save the mother's life and after the approval of three medical consultants, of whom one is employed by a public hospital, in addition to the mother or whoever is acting under her capacity. In the absence of meeting such requirements, such a procedure would be considered an abortion and punishable under the Bahrain Penal Code.

Another exception is the genetic selection of offspring characteristics when symptoms of inherited or rare diseases are found.

Preservation

For both spouses willing to preserve ova, sperms and tissues for future fertilisation, Article 8 of the IUI-IVF Law permits their storage for a period of up to 10 years, and up to five years for embryos, in accordance to NHRA safety and quality standards. Spouses can request the destruction of their own gametes following storage, with mutual consent of the spouses required for the destruction of a stored embryo. Stored gametes die with their proprietors, and the termination of the marriage through divorce or death of a spouse would mean that the embryo would need to be destroyed.

Cryobanks and the transaction of donor sperm and eggs, for purposes other than the storage of gametes relating to consenting married couples, are prohibited and storage facilities that are found in contravention of this will be ordered to close and its directors would be liable to face imprisonment and a fine

The IUI-IVF Law sets an essential framework for IVF and IUI providers in Bahrain and regulates an industry that is increasing in popularity in Bahrain.

Al Tamimi & Company's Healthcare team regularly advises on new developments in the healthcare sector. For further information on legal issues relating to Healthcare in Bahrain, please contact Raj Pahuja (R.Pahuja@tamimi.com)

Bahrain Healthcare Accreditation Standards: Quality and Safety Weighed 'Preciously'

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Bahrain's National Health Regulatory Authority's ('NHRA') directive to ensure safe and high quality delivery of healthcare has led the Supreme Council for Health to issue standards against which to evaluate each hospital facility in Bahrain. Such standards are set out in Decision No. 7 2016, setting out the required NHRA quality and safety standards, followed by Article No. 26 2016, regarding the accreditation of hospitals (together, 'NHRA Licensing and Regulation Standards for Hospital Facilities').

An NHRA survey team certified by the Saudi Central Board for Accreditation of Healthcare institutions ('CBAHI') will conduct the accreditation process in Bahrain for private hospitals. In Saudi, the International Society for Quality in Healthcare ('ISQua') has certified CBAHI, since 2012. ISQua defines accreditation as 'a self-assessment and external peer review process used by healthcare organisations to carefully assess their level of performance in relation to established standards and to implement ways to continuously improve the healthcare system'. With this in mind, NHRA requires evidence that the facility not only meets the standards at the time of survey but also is in a position to maintain during the period of accreditation acceptable standards and compliance with its legal obligations, including the NHRA Licensing and Regulation Standards for Hospital Facilities.

Visits conducted by the surveyors will assess all hospital facilities on 11 core elements, further considering three supporting elements and 13 facility specific elements when applicable. The lead surveyor will be responsible for producing the final facility report. Following this, the NHRA survey team will review and edit the report. The facility staff will be notified of the ratings and the comments of the survey team. However, based on the ratings and the comments of the survey team, specific recommendations and the final decision regarding the accreditation status of the facility will be given by an accreditation committee convened under NHRA. Based on the accreditation grade awarded, the facility will be categorised by NHRA as either

-Diamond: for facilities that achieve 95 per cent or more of standards evaluation;

-Platinum: for facilities that achieve not less than 90 per cent and not more than 95 per cent of standards evaluation;

-Gold: for facilities that achieve not less than 80 per cent and not more than 90 per cent of standards evaluation; and

-Silver: for facilities that achieve not less than 70 per cent and not more than 80 per cent of standards evaluation.

Following Bahrain's 2030 vision for sustainable development, NHRA firmly believes that information management is necessary to support better decision making within a healthcare facility. NHRA believes that the hospital facility should have an information management process to meet the information needs of its clinical and managerial teams and to compare its performance with other databases, when relevant.

With regards to healthcare professional training, Dr. Mariam Aljalahma, Chief Executive Officerof NHRA, has explored opportunities for cooperation with Tamkeen (an organisation tasked with developing Bahrain's private sector) in order to establish sponsored training schemes for health care professionals in the private sectors. The NHRA standards impose a mandatory number of Continuous Medical Education ('CME') and Continuous Professional Development ('CPD') credits in order to renew a caregiver's licence to practice.

In the development and implementation of the NHRA Licensing and Regulation Standards for Hospital Facilities, NHRA has also resorted to experts in the field of hospital management and health policy to ensure effective oversight on the accreditation process.

The NHRA Licensing and Regulation Standards is an important step in setting minimum accreditation standards for private hospitals in Bahrain. The introduction of a certified survey team and report based process brings the accreditation process in line with similar practices set by other regulators in the region.

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Central Bank of Bahrain (CBB) launch regulatory sandbox for fintech firms

June 2017 witnessed the introduction by the Central Bank of Bahrain ("CBB") of a regulatory sandbox aimed at enabling firms to test and develop their products in a virtual space. The introduction of the regime positions the Kingdom of Bahrain ("Bahrain") as only the second state within the Gulf Cooperation Council to implement such a framework. This article provides an overview of the new framework, including eligibility requirements and the application procedure and timelines.

A regulatory sandbox can be considered to be a framework and process that facilitates and encourages the development of the financial technology ("FinTech") sector in a safe, measured and pragmatic manner. The virtual space created by such a framework provides a safe area in which FinTech businesses (both established and start-ups) can test and refine their technology based innovative products, services and platforms without being immediately burdened by the usual regulatory and financial requirements which would otherwise apply to their activities. The effect is that FinTech firms are able to experiment with their products and services for a specified timeframe within a partially deregulated environment where the firms are able to offer their products and services to customers, but where risks to customers (and to the wider financial system as a whole) are mitigated none the less.

Key characteristics of the Bahrain Regulatory Sandbox

Some of the particularly notable features of the Bahrain regulatory sandbox include the following:-

- The regulatory sandbox is open to existing CBB licensees as well as to entities or firms which are not currently licensed by the CBB (both Bahraini and foreign). Such non-licensed firms or entities may include financial sector companies as well as technology and telecom companies; professional services firms which partner with or service financial institutions; and any other type of applicant working within the financial services industry and deemed acceptable by the CBB.

- The regulatory sandbox is open both to existing FinTech solutions which have been tested within a lab environment, as well as to ideas and solutions which are yet to be fully developed and/or tested.

- The timeframe for any applicant to remain within the regulatory sandbox is a maximum of nine months (with the possibility of an entirely discretional extension of three months).

- The testing of the product or service by the applicant may be limited by the CBB in terms of the number of volunteer customers and/or the amounts involved.

Eligibility Criteria

The key eligibility criteria to be satisfied by applicants include the following, all of which must be evidentially demonstrated to the satisfaction of the CBB:

- Innovation. The applicant's product or service (or its use) must be shown to be truly innovative or be significantly different to existing solutions within the Bahrain market.

- Customer Benefits. The applicant's product or service (or its use) should offer tangible direct or indirect benefits to customers, supported by quantifiable estimates or demonstrations.

- Technical Testing (for existing solutions). Where the applicant's product or service involves an existing solution, the solution needs to have undergone technical testing with the results to be provided to the CBB. In the alternative, external validation of the technical soundness of the solution from a reputable third party may be accepted.

- Regulatory testing readiness. Applicants are required to show evidence of a well developed regulatory testing plan, to include highlighting of the key risks the solution poses; details of how these will be mitigated; and details of adequate safeguards to protect customers.

- Post-testing deployment in Bahrain. The applicant should demonstrate both its intention and ability to deploy the proposed solution in Bahrain by way of submission of a Sandbox exit strategy (to include specific details of proposed scale-up and future deployment).

Application Procedure

Applicants are required to submit their application in writing to the CBB using the template CBB application form, attaching all relevant supporting documentation. The application form includes sections in which applicants must provide details of the following:

- A description of the applicant's organisation including its corporate structure, key business lines and centres, and its financial standing and technical expertise;

- The proposed innovative financial solution, and how it satisfies the eligibility criteria discussed above;

- The information as to the type (and number) of volunteer customers to be included in the applicants sandbox testing; how these will be sourced, and proposals to protect the volunteer customers and their confidentiality;

- Key performance indicators and targets which will be used to determine the success of the testing whilst in the regulatory sandbox;

- The cyber security and other relevant measures to be taken by the applicant to maintain security of the solution service or product; and

- The applicant's exit plan, plans for scale up and deployment strategy, together with a timeline of steps to be taken to meet the additional legal and regulatory requirements to be satisfied after exiting the regulatory sandbox.

The CBB have the right to relax certain requirements on a case by case basis.

Upon receipt of the completed application and all accompanying documentation together with the application fee (current set at one hundred Bahraini Dinars) the CBB will review the application and endeavour to respond to the applicant within fifteen days, either approving or rejecting the applicant's application.

Where approved, the applicant is then able to enter the regulatory sandbox in accordance with the terms and conditions of the framework and the applicant's application and commence the testing of its product or service based solution. The CBB have indicated that arrangements have been put in place with the other relevant Bahraini government authorities (for example, the Ministry of Industry Commerce and Tourism and the Labour Market Regulatory Authority) to enable applicants to, for example, employ and sponsor (for visa purposes) employees in Bahrain during the testing phase. Full details of these arrangements and how they operate are awaited.

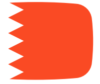
Whilst in the regulatory sandbox, applicants are required to adhere to the relevant CBB regulations with regards to Know Your Customer (KYC), Anti-Money Laundering (AML) and Countering Financing of Terrorism (CFT). Additionally, in so far as the applicant will as part of its sandbox testing be receiving any money from the volunteer customers, the applicant is required to entrust the handling of these funds to CBB licensed retail banks.

At the end of the designated sandbox period (which as mentioned, is a maximum of nine months with the possibility of an entirely discretional extension of three months) the applicant exits the regulatory sandbox, and may apply for the relevant CBB licence depending on the precise activities of the applicant.

Since the launch of the new framework, two entrants have so far been welcomed into the regulatory sandbox, in the form of London based Tramonex (a forex start-up focused on facilitating conversion and settlement services to automate cross border transaction) and Dubai firm Now Money (one of the first FinTech companies in the Gulf to use mobile banking technology to provide accounts, financial inclusion and a range of low cost money remittance options to low-income workers).

More recently, in October of 2017 the CBB announced the establishment of a dedicated FinTech Unit within the CBB with the mandate of ensuring the provision of the best services to individual and corporate licensees in the financial sector. The FinTech Unit will also be responsible for the approval process to participate in the regulatory sandbox, as well as supervision of licensed companies' activities and operations, including cloud computing, payment and settlement systems, and monitoring technical and regulatory developments in the FinTech field.

The introduction of the new framework and the creation of a dedicated FinTech Unit within the CBB is consistent with Bahrain's continued focus on further developing the Kingdom as the emerging FinTech and financial services hub of the Middle East region, promoting increased competitiveness and the encouraging the embracing of new technologies. At the same time, the safeguards built into the scheme will assist to maintain the required level of consumer protection and regulatory oversight which have long established Bahrain as one of key financial sector hubs in the region.



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Seven Years in Bahrain: The Bahrain Chamber for Dispute Resolution Updates its Arbitration Rules

The Bahrain Chamber for Dispute Resolution ("Centre"), a dispute-settlement institution based on a joint venture between the Bahrain Ministry of Justice and the American Arbitration Association, launched new arbitration rules in order to bring the Centre in line with the best practices of arbitration. The new Bahrain Chamber for Dispute Resolution Arbitration Rules ("2017 Rules") came into effect on 1 October 2017. The 2017 Rules are drafted in Arabic, English and French versions.

Background

The Centre is established by Bahrain Legislative Decree No. 30 of 2009 as amended by Legislative Decree No 65 of 2014 ("Decree"). The Decree confers two types of jurisdictions on the Centre: jurisdiction by law under Section 1 and jurisdiction by party agreement under Section 2. Under Section 1, the Centre has jurisdiction to resolve disputes, which are originally within the jurisdiction of the Bahrain courts or any authority with competent jurisdiction, whenever the amount of the claim is in excess of US$1.3 million (these disputes comprise of: (1) disputes where one or all parties are financial institutions; and (2) international commercial disputes). Under Section 2, the Centre has jurisdiction to hear the disputes that the parties agree in writing to resolve through the Centre.

In respect of disputes under Section 2 of the Decree, the former Bahrain Chamber for Dispute Resolution Arbitration Rules were adopted in 2010 ("2010 Rules"). The 2010 Rules were closely modelled on the International Centre for Dispute Resolution ("ICDR") Arbitration Rules. However, since the enactment of the 2010 Rules, several arbitration institutions (e.g. the ICDR itself, the London Court of International Arbitration ("LCIA") and the International Chamber of Commerce ("ICC")) revised their arbitration rules in order to reflect the changes in the arbitration market.

In an effort to update the 2010 Rules in accordance with the latest arbitration developments, the Board of Trustees of the Centre structured a three-member Rules Review Committee (composed of Antonio R. Parra, Adrian Winstanley and Nassib G. Ziadé). The Rules Review Committee considered all the observations contributed by commentators and incorporated amendments that enhanced the rules. The 2017 Rules are intended to reflect the best practices of the arbitration community.

The 2017 Rules only apply to disputes under Section 2 of the Decree, which are disputes handled and resolved by the Centre under the agreement of the parties. The 2017 Rules

"The amendments ought to provide the Centre with a modern and advanced set of arbitration rules, which should make it attractive to international parties."

amended a handful of the outdated provisions of the 2010 Rules and welcomed additional provisions to the rules, as seen below.

Amendments to the 2010 Rules

Filing Requirements

The 2017 Rules amend the current filing requirements of the Centre. Previously, under the 2010 Rules, arbitration was commenced by the claimant filing a "Notice of Arbitration and Statement of Claim" to which, in reply, the respondent was required to file a "Statement of Defense".

However, the 2017 Rules now introduce a new approach under Article 2 (Request for Arbitration) and Article 4 (Response to the Request). The Centre has adopted a similar approach to that of the leading arbitration centres, by not requiring the Request for Arbitration and the Response to the Request to exhaustedly describe the positions of the parties. This amendment is intended to reduce the disadvantage that respondents may face when required to produce a complete defense and counterclaim within a tight deadline, after receiving the notice of arbitration (which might have taken the claimant months to prepare). Under the 2017 Rules, the parties ought to have ample opportunity to present and to defend their case in subsequent written submissions (Article 17).

Prima Facie Jurisdiction

The 2017 Rules incorporate a new provision which deals with prima facie jurisdiction. Article 3 expressly empowers the Centre to decline to register a request for arbitration filed pursuant to a clause with no effective reference to the Centre. The addition of this provision is intended to avoid the unnecessary expense and time related to the appointment of an arbitral tribunal which lacks jurisdiction.

Appointment of Arbitrators

The 2017 Rules amend the provision which relates to the appointment of arbitrators. Under the 2010 Rules, the parties could agree upon any procedure for appointing arbitrators "with or without the assistance" of the Centre. However, the 2017 Rules adopt a new procedure, under Article 9, whereby the appointment of arbitrators must be made and/or confirmed by the Centre. The 2017 Rules also provide additional safeguards in relation to the independence and impartiality of arbitrators in Article 10.

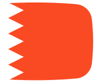
Notification of Challenge

The 2017 Rules introduce changes to the procedure for the notification of challenges of arbitrators. The 2010 Rules only required the party, wishing to challenge an arbitrator, to send the notice of challenge to the administration of the Centre. The notice of challenge was not sent to the tribunal, and the Centre would usually advise the challenged arbitrator of the challenge and request information from him relating to the challenge.

However, Article 9 of the 2017 Rules now requires the party intending to challenge an arbitrator to send the written notice of challenge to the Centre, to the arbitral tribunal and to all other parties involved in the dispute. This amendment provides the challenged arbitrator with a right of reply. The input of the other members of the tribunal, in some instances, may also be beneficial, as they are well-informed and may be able to express a view on whether the challenge is appropriately motivated.

Summary Procedure

The 2017 Rules add a new provision which deals with summary procedures, under Article 18. This new provision expressly empowers the arbitral tribunal, on the written application of a party (with copy to all other parties and to the Centre), to determine, on a summary basis any legal or factual issue considered by the applicant party to be material



to the outcome of the arbitration. The introduction of Article 18 empowers the tribunal to determine applications for summary disposal of all or part of claims and defenses without legal merit or outside the tribunal's jurisdiction. This provision is advantageous, especially where escalating time and costs associated with arbitration are increasingly the subject of criticism.

Party Representation

The 2017 Rules introduce a new provision, in Article 21, which deals with party representation. This provision closely follows the IBA Guidelines on party representations and the 2014 LCIA Arbitration Rules' Annex of "general guidelines for parties' legal representatives". The provision regulates the party representation in the arbitration and empowers the Centre and the tribunal to request a "written proof of authority of any named legal representative" at any time during the arbitration. Article 21 also regulates the conduct of the party's legal representative (e.g. the legal representative shall not engage in ex parte communications with the tribunal). The provision is also backed by sanctions for violation of the guidelines similar to those proposed by the IBA.

Privilege

The 2017 Rules also introduce a new provision in relation to privilege. The Centre has rather uniquely included guidance on the issue of privilege in the arbitration. The rules provide that the tribunal shall take into account applicable principles of privilege, such as those involving the confidentiality of communications between the lawyer and client. When the parties, their counsel, or their documents would be subject to different rules of privilege, the arbitral tribunal shall, to the extent possible, apply the same rule to all parties, giving preference to the rule that provides the highest level of protection.

Arbitrator Fees

The 2017 Rules now take the more usual approach of referring to a fee schedule in regards to determining the arbitrators' fees. This provides a clearer approach in contrast with the 2010 Rules approach, which based its determination on the arbitrators' "stated rate of compensation" and caused avoidable friction in arbitration cases.

Commentary

A significant number of arbitration centres are emerging in the Gulf region, making it important for these centres to ensure that their rules are regularly reviewed and updated to reflect the latest arbitration developments. The Centre's amended 2017 Rules reflect best practices and are a welcome contribution in the region. They incorporate the latest developments in arbitration. The drafting of the 2017 Rules is straightforward and the provisions are easy to understand and navigate. The amendments ought to provide the Centre with a modern and advanced set of arbitration rules, which should make it attractive to international parties.

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Taking Security Over Commercial Business in Qatar

Introduction

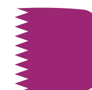
Security is of paramount importance in relation to commercial lending. However, a commercial borrower must be able to carry on its business without the requirement of obtaining the lender's consent on day to day matters.

Under English law, the common form of security is by way of an "all assets" fixed and/or floating charge pursuant to a debenture in favour of the lender. A floating charge is a form of security that may be taken by a lender over a company's present and future assets, whether such assets are identified or not at the time the floating charge is created. The assets can be tangible (raw materials, stock, plant and machinery) or intangible (intellectual property or goodwill). Unlike a fixed charge, under a floating charge the company is generally at liberty to deal with such assets (including selling and adding to the charged assets) until such time when the charge crystallises (usually upon an occurrence of an event of default).

The English law concept of a floating charge is not recognised under Qatari law. By contrast, under Qatari law a series of different forms of pledge may need to be created depending on the type of asset, each such pledge with its own set of creation and perfection requirements.

Qatari Commercial Code – Mortgage over Commercial business

The mortgage over commercial business (or fonds de commerce) is the closest Qatari law embodiment to the English law floating charge. There are practical limitations to the mortgage over commercial business making it a more cumbersome form of taking security in Qatar. One such limitation is that any asset mortgaged under the mortgage over commercial business must be readily identifiable and in existence at the time of creation of the mortgage over commercial business. Future assets cannot be secured under the mortgage over commercial business document, rather, an addendum to the mortgage over commercial



business would need to be executed by the parties from time to time to secure the asset.

Articles 53 to 59 of the Qatari Commercial Code Law No. 27 of 2006 set out the relevant provisions relating to mortgages over commercial business.

Article 53 of the Commercial Code states, "The Business can be mortgaged. In the event that the mortgage is not clearly described, the mortgage shall be in respect of the trade name, the right of lease, contact of customers and commercial reputation (goodwill)."

The term "Business" has the following meaning (under Article 36 of the Commercial Code):

"The Business possesses the store and the relevant rights. The Business includes a number of tangible and intangible elements, especially the merchandise and the commercial furniture, industrial machines, contact of customers, the trade name, the right to lease, trade marks and names, patents, licenses and industrial samples."

Accordingly, each type of asset listed above may be "mortgaged" as part of the mortgage over commercial business. In effect, it is the going-concern (i.e. the business itself) that is being mortgaged. For certain types of assets, additional approvals may be required. For example, any vehicular machinery such as a mobile crane or cement truck would not be captured under such mortgage.

Each of the assets subject to the mortgage over commercial business must be listed in a schedule attached to the mortgage agreement. Failure to clearly set out the assets to be mortgaged would only create a mortgage over intangible rights described under Article 53 of the Commercial Code.

The primary advantage of a mortgage over commercial business versus a pledge over movables is that the former is registered on the Commercial Register at the Ministry of Economy and Commerce. Accordingly, the mortgagee's name would be recorded in the Commercial Register, and the record would serve as notice to all third parties that the mortgagee has a mortgage over the commercial business of the company. However, the mortgage itself would be over only specific movables (i.e. movable objects that are listed in the mortgage agreement).

Formalities of the mortgage over commercial business dictate that it must be created in writing and executed by the parties (or their authorised representatives) before the Ministry of Justice. The agreement forming the basis of the mortgage over commercial business must contain the list of assets that are to be mortgaged (including any serial numbers which readily identify the asset). The mortgage over commercial business agreement is then registered with the Commercial Registry office at the Ministry of Economy and Commerce. Priority is obtained on the basis of first in time of the date of registration on the commercial registry.

News & Events

OCT

VAT is Coming... Are You Ready?

With the implementation of VAT across the GCC from1 January 2018, many of our clients have questions around what the VAT regime will mean for their business and the next steps.

In order to help answer some of the most pressing questions, we held two successful VAT seminars in Dubai and Abu Dhabi during October. Shiraz Khan, Senior Tax Advisor, Al Tamimi & Company presented to over 300 attendees on the key elements of the UAE VAT regime, how it impacts businesses and what people need to do in order to be ready before VAT is introduced.

The seminar was followed by a very interactive Q&A session which allowed attendees to gain insight into some of their key questions and concerns. The seminar was a great success and the feedback has been very positive, we look forward to hosting more VAT seminars across the region.

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10
OCT

Hot Topics for In-house Counsel

On Tuesday, 10th October we held an interactive Technology, Media & Telecommunications (TMT) workshop which was aimed at Abu Dhabi-based in-house counsel. Andrew Fawcett, Senior Counsel, Al Tamimi & Company covered some of the timely and hot topics in the broader technology and innovation space, including:

- Blockchain and smart contracts: Is this the end for lawyers?
- Internet of Things: Why isn't my fridge talking to me?
- VPNs: Can we use them or not?
- GDPR: How do EU rules impact on UAE business?
- Data Breach: What are the local notification obligations?

The workshop gave an overview of the relevant laws in the UAE context, as well as a platform to provide practical insights and examples. The attendees also had the opportunity to meet and exchange their views and experiences with other in-house counsel.

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Investments in Spain – Business Opportunities & Legal Aspects – Riyadh

On Wednesday, 11th October, Al Tamimi & Company partnered with Cuatrecasas and one of Spain's leading financial advisory firms, Arcano & Partners, to host a seminar in Riyadh exploring business opportunities and legal aspects of doing business in Spain. The seminar was strongly supported by the Spanish Embassy in Riyadh and very well attended by representatives of a broad range of Saudi businesses.

H.E. Mr Alvaro Iranzo Gutierrez, the Ambassador of Spain to KSA, laid the foundation for the success of the seminar by providing a very well received introduction.

Cuatrecasas partners Josep Marsal and Aida Kellal jointly presented a paper on the relevant legal issues associated with investing in Spain for the foreign investor. Mr Antonio Gomez-Crespo Lopez, Commercial Attaché of the Spanish Embassy, discussed investment opportunities and Dr Ignacio de la Torre of Arcano & Partners provided an insightful presentation on the Spanish economy. Head of our Riyadh office, Grahame Nelson, went into detail about legal issues relevant to Saudi businesses considering an overseas investment.

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LAW UPDATE 53

Dubai Chamber Workshop Examines Legal Aspects Of Managing Customs Processes in the UAE

On Wednesday, 18th October we co-hosted an interactive workshop with the Dubai Chamber that addressed the important legal aspects of UAE customs law, the enforcement of regulation and what many businesses need to be unaware of.

The workshop was led by Al Tamimi's transport and insurance lawyers; Omar Omar, Partner, Head of Transport & Insurance – UAE, James Newdigate, Associate and Sakher Alaqaileh, Associate who shared useful tips and guidance on customs law in the UAE, as well as best practices for managing efficient customs processes in the country.

The event was a great opportunity to network with a room full of Dubai Chamber members, legal professionals, business owners and representatives from shipping agencies and brokers.

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Bahrain Office's Brexit and UK Tax Seminar

On Wednesday, 18th October Al Tamimi's Bahrain office in collaboration with Irwin Mitchell LLP, hosted a breakfast seminar which addressed the Brexit and UK Tax Updates for individuals who own property and assets in the UK. The theme of the seminar was about the effect of Brexit on taxation and other legal issues which in turn has an impact on assets. The event was a great success and attendees found the session to be useful and informative.

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18-20 OCT

Al Tamimi & Company sponsors ITechLaw 2017 European Conference in Stockholm

ITechLaw is an association that informs and educates lawyers about the unique legal issues arising from technology and innovation, and is a forum for the exchange of ideas and in-depth examination of information technology and telecommunications law issues. Al Tamimi & Company again sponsored ITechLaw's annual European conference, this year held in Stockholm, Sweden. The conference was well attended by specialist technology lawyers from all over Europe, and further afield, including Australia, Singapore and the United States. As a key sponsor and the only Middle Eastern law firm represented at the conference, the Firm received considerable exposure. Nick O'Connell, Partner and Stuart Davies, Head of Technology, Media & Telecommunications represented the firm.

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19 OCT

Innovation in Healthcare

On Thursday, 19th October we held another successful healthcare breakfast briefing which focused on innovations in the healthcare sector.

With the need to introduce innovative systems and approaches to the healthcare sector, our seminar was a timely opportunity to discuss ways to achieve innovation and how the GCC is evolving.

Andrea Tithecott, Partner, Head of Regulatory Practice started the session by providing an overview and an update on the healthcare sector developments.

Ahmad Saleh, Partner, Head of Patents & Designs (R&D and Innovations) and Ina Agaj, Senior Associate presented on the various strategies and developments in the region which can provide a roadmap for longevity and protection in regional markets.

The session also covered; healthcare innovations and how to guide R&D projects to achieve innovation, protecting innovations in the pharmaceutical sector and optimising exclusivity with market approvals and patent protection.

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23 OCT

The Litigation Clinic: Execution of Construction Works By Employers

On Monday, 23rd October we hosted an informal workshop that addressed employer's right to execute part of the contractors' scope of work from a litigation perspective.

The objective of the session was to discuss and identify common and important litigation issues and to shed some light on the concerns faced during the litigation process and the court application of the law. Ahmad Ghoneim, Senior Associate, Litigation, Al Tamimi & Company provided attendees with an overview of the litigation process. Key topics also included:

- Execution of works at contractor's expenses before the termination; Court process
- Execution of works at contractor's expenses after the termination; Legal risks.
- Execution of works by the employers' sole discretion; Legal consequences.

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Construction and Infrastructure Seminar Series

Last month we held two successful Construction and Infrastructure seminars in our Dubai and Abu Dhabi offices, which addressed Construction Arbitration in the GCC – Practical tips and Latest Developments. Our Al Tamimi lawyers Scott Lambert, Head of Construction & Infrastructure, John Gaffney, Senior Associate and Justin Ede, Senior Associate discussed the following areas:

- Where to arbitrate
- Choosing arbitrators
- Managing the evidence
- Dealing with experts

The seminar was the perfect platform to allow the construction and infrastructure community to re-connect and discuss key elements regarding some of the current and hot topics.

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GCC Anti-dumping and Safeguard Seminar

On the 26th of October The Embassy of the Republic of Korea organised a thought provoking seminar and networking opportunity at the Sheraton Jumeirah Beach Resort, Dubai.

Jongeun (Christina) Lee, Head of Korea Group, Jiwon Ha, Corporate Commercial, Senior Associate at Al Tamimi & Company. and Dr. Eunho Lee, Minister Counselor of the Korean Embassy were the key note speakers at the seminar.

Jongeun (Christina) Lee gave a detailed presentation on the legal framework of the GCC Common Law on anti-dumping, countervailing and safeguard measures, GCC and State authorities and investigations formally initiated by the GCC bureau of the technical secretariat over the decade. Jiwon Ha covered the investigation procedures with a focus the GCC's first definitive measure taken against Korean car battery manufacturers.

Dr. E.H Lee, Minister Counselor of the Embassy of the Republic of Korea briefed the attendees about the ongoing efforts by the Korean government to support countering measures globally.

A panel discussion also took place which addressed the outcome of the government project to compile practical guidelines to respond to the increasing investigations in the GCC. Attendees had the opportunity to learn about GCC anti-dumping issues and practices in import regulatory system, as well as the difficulties in investigation procedures of GCC anti-dumping.

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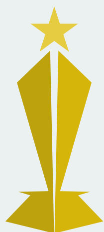
Afghan Bar Association

We were proud and honoured to host a two-day workshop on anti-corruption organised by the International Bar Association (IBA) and the Afghanistan Independent Bar Association (AIBA). The IBA's Anti-Corruption Committee, Bar Issues Commission, Al Tamimi & Company and the AIBA President demonstrated their combined dedication to integrity, honesty and transparency in the legal profession.

Participants exchanged views via videoconference with 20 members of the AIBA in Kabul on ways to continue to enhance the fight against corruption, locally and internationally. The workshop provided the opportunity to address the AIBA's proposed anti-corruption guidelines but also to hear from leading experts.

Essam Al Tamimi, Senior Partner & Founder greeted the participants and shared his personal insights from stewarding the leading law firm in the Middle East, having witnessed and participated in the UAE's legal progression over the past 30 years. His encouragement to the AIBA with their development in Afghanistan was well received.

Ibtissem Lassoued, as the IBA's Middle East Regional Officer for the Anti-Corruption Committee, was invited to present on the more specific aspects of the Middle East fight against corruption, applying the UAE as one of the examples, assisting the AIBA in their championship of cultural and ethical changes in Afghan society.



Best Employer Brand Awards 2017-18

We are pleased to announce that Al Tamimi & Company has been awarded Best Employer Brand 2017-18 in the recent GCC Best Employer Awards ceremony hosted by the World HRD Congress, held in Dubai on 11th October. Al Tamimi & Company was the only law firm within the GCC region to be shortlisted. The award is recognition of the value of the Firm's employer brand status throughout the region and the extent to which we are now an employer of choice for both lawyers and professional staff alike across the GCC countries.

United Arab Emirates
Ministry of Justice

47th Year
Issue No. 622 (Supplement)
8 Muharram 1439H
28 September 2017

FEDERAL DECREE-LAWS

10 of 2017	Amending Law No. (11) of 1992 on civil procedure.
11 of 2017	Delegating responsibilities to the Cabinet.
12 of 2017	Regarding international crime.
13 of 2017	Amending Federal Law No. (6) of 2014 on national and reserve service.
14 of 2017	Amending Federal Law No. (1) of 1972 concerning the mandates of ministries and powers of ministers.
15 of 2017	Amending Federal Decree-Law No. (7) of 2008 on the establishment of the General Authority of Youth & Sports Welfare and the Acting Bodies.
16 of 2017	Amending Federal Law No. (17) of 1972 concerning nationality and passports.
17 of 2017	Amending Federal Law No. (6) of 1973 on entry and residence of aliens.
18 of 2017	Amending Federal Law No. (2) of 2015 on commercial companies.

United Arab Emirates
Ministry of Justice

47th Year
Issue No. 623
11 Safar 1439 H
31 October 2017

FEDERAL DECREES

123 of 2017	Convening the Federal National Council.
124 of 2017	Terminating the duties of a UAE ambassador.
125 of 2017	Appointing two members of the diplomatic and consular corps.
126 of 2017	Appointing the UAE Ambassador to the Kingdom of Saudi Arabia.
128 of 2017	Awarding an ambassador extraordinary and plenipotentiary the rank of "Minister."
129 of 2017	Transferring an official.
130 of 2017	On the formation of the UAE Cabinet.
131 of 2017	Appointing State ministers.

REGULATORY DECISIONS OF THE CABINET

42 of 2017	Amending Cabinet Decision No. (35) of 2014 on the system of terrorism lists.
43 of 2017	On the organizational structure of the Ministry of State for Federal National Council Affairs.
44 of 2017	On the organizational structure of the Securities & Commodities Authority.

MINISTERIAL DECISIONS

- From the Ministry of Interior:

671 of 2017 On the conversion of a Hungarian driver's license.

- From the Ministry of Human Resources & Emiratisation:

729 of 2017 On standards and guidelines for classification of establishments and their staff.

762 of 2017 On the establishment and licensing of centers for services related to domestic workers (TADBEER Service Centers).

787 of 2017 Regulating telecommuting.

- From the Ministry of Climate Change and Environment:

598 of 2017 Amending Ministerial Decision No. (695) of 2016 on the regulation of net fishing of pelagic fish.

599 of 2017 On the formation of the Committee for Registration of Veterinary Preparations and their Companies.

640 of 2017 On the restructuring of the National Committee for Food Safety.

- From the Ministry of Culture & Knowledge Development:

165 of 2017 On the registration of foreign cultural objects arriving at the Louvre Abu Dhabi.

ADMINISTRATIVE DECISIONS

- From the Federal Authority for Land and Maritime Transport:

71 of 2017 On the assessment and certification of seafarers in the UAE under the International Convention on Standards of Education, Training & Certification for Seafarers (sic).

- From the Securities & Commodities Authority:

  - Certificate of approval of amendment of the Articles of Association of Arabian United Power Company PJSC.
  - Certificate of approval of amendment of the Articles of Association of Emirates Power Company PJSC.
  - Certificate of approval of amendment of the Articles of Association of Gulf Power Company PJSC.
  - Certificate of approval of amendment of the Articles of Association of Fujairah Water & Electricity Company PJSC.
  - Certificate of approval of amendment of the Articles of Association of Al Shuweihat Power Company PJSC.
  - Certificate of approval of amendment of the Articles of Association of Ruwais Power Holding Company PJSC.
  - Certificate of approval of amendment of the Articles of Association of Union Power Holding Company PJSC.
  - Certificate of approval of amendment of the Articles of Association of Al Taweelah United Power Company PJSC.
  - Certificate of approval of amendment of the Articles of Association of Drake & Scull International PJSC.
  - Certificate of approval of amendment of the Articles of Association of National Corporation for Tourism & Hotels PJSC.

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About Us

Al Tamimi & Company is the largest law firm in the Middle East with 17 offices across 9 countries. The firm has unrivalled experience, having operated in the region for over 25 years. Our lawyers combine international experience and qualifications with expert regional knowledge and understanding.

We are a full-service firm, specialising in advising and supporting major international corporations, banks and financial institutions, government organisations and local, regional and international companies. Our main areas of expertise include arbitration & litigation, banking & finance, corporate & commercial, intellectual property, real estate, construction & infrastructure, and technology, media & telecommunications. Our lawyers provide quality legal advice and support to clients across all of our practice areas.

Our business and regional footprint continues to grow, and we seek to expand further in line with our commitment to meet the needs of clients doing business across the Middle East.

17 offices

9 countries

60 partners

330 lawyers

720 staff

45 nationalities

Our Accolades

Client Services

PRACTICES
Arbitration
Banking & Finance
Capital Markets
Commercial
Competition
Construction & Infrastructure
Corporate/M&A
Corporate Structuring
Corporate Services
Employment & Incentives
Family Business & Private Wealth
Financial Crime
Insurance
Intellectual Property
Legislative Drafting
Litigation
Mediation
Private Equity
Private Notary
Real Estate
Regulatory
Senior Partner's Office
Tax
Technology, Media & Telecommunications

SECTORS
Automotive
Aviation
Education
Expo 2020
FMCG
Healthcare
Hotels & Leisure
Projects
Rail
Shipping
Sports & Events Management
Transport and Logistics

COUNTRY GROUPS
China
India
Iran
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