

ALSUWAIDI & COMPANY

A Tale of Three Cities Webinar: Dubai
01 June 2023





UAE – Setting up Business in UAE

By Suneer Kumar and Vida Grace Serrano

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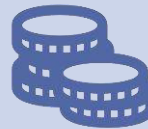
UAE sustains its position as the Middle East's Best Place to do Business



UAE New Commercial Companies Law (Federal Law No. 32 of the 2021) allowing 100% foreign ownership of businesses



UAE's digital initiative



Top-notch infrastructure and friendly tax regime

Types of company formation in the UAE



Onshore Entity



Location flexibility and zero trade restrictions



100% ownership control of mainland business entities for limited liability companies



Ability to diversify business offerings



Broad working scope



Greater scope for business activities

Free Zone Entity



100% Foreign
Ownership



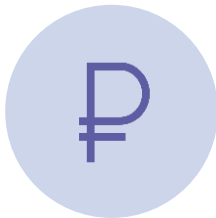
100% exemption from
corporate and income
taxes



Fast and easy business
set-up procedures



Developed business
communities

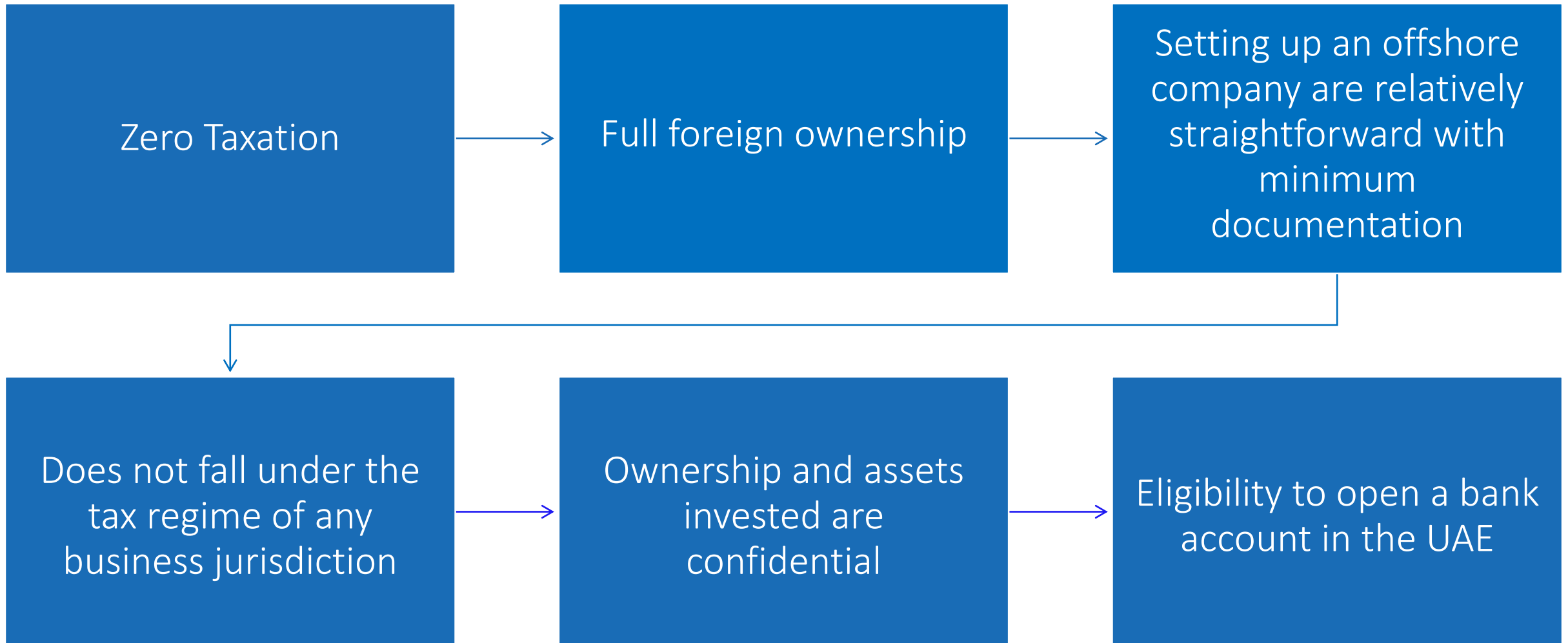


100% repatriation of
capital and profits



Easy regional and
global market access

Offshore Entity



UAE Residency Visa



Golden Visa – 10 years and 5 years



Investor Visa – 5 years and 2 years



Employment Visa – 2 years

What we can offer



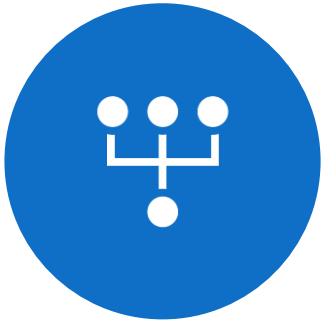
List of Actions / Benefits



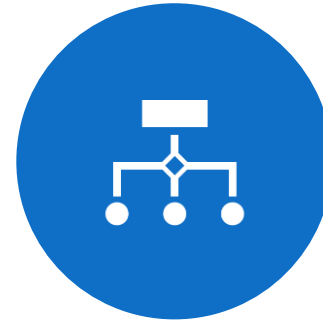
Preparation of all documentation in relation to the incorporation



Choosing the right jurisdiction



Coordination with the authorities.



Providing regular updates to the client including keeping them abreast with the current UAE laws.



[Suneer Kumar](#) is a Partner and leads the corporate and commercial team at Alsuwaidi & Company. He is active across sectors, including, government and quasi government, real estate, technology, and oil and gas.

For further information on this please get in touch with [Suneer Kumar](#) who can be contacted on s.kumar@alsuwaidi.ae.



[Vida Grace Serrano](#) is an a Senior Associate in the corporate and commercial team at Alsuwaidi & Company. Vida advises clients across oil and gas, real estate, financial services, family businesses and multinationals on a range of matters including corporate, labour and employment, arbitration.

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UAE - Intellectual Property Protection By Rajiv Suri, Senior Associate

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Intellectual Property Enforcement Actions

- Civil Action
- Criminal Action
- Action Through Customs
- Administrative Action



UAE - Enforcement Actions for Protection of Various Intellectual Property

IP Rights (Regn with UAE Ministry of Economy)	Civil	Administrative	Criminal	Customs
Trademarks - Valid for 10 years (Federal Decree Law No. (36) of 2021)	Yes	Yes	Yes	Yes
Copyrights - Valid for lifetime of author and 50 years thereafter (Federal Decree Law No. (38) of 2021)	Yes	Yes	Yes	Yes
Industrial Designs - Valid for 20 years (Federal Decree Law No. (11) of 2021)	Yes	No	No	No
Patents - Valid for 20 years (Federal Decree Law No. (11) of 2021)	Yes	No	No	Yes, but Court is still required

Civil Action

TRADEMARKS LAW - FEDERAL DECREE-LAW NO. (36) OF 2021

- **Article (47)** – Order on a Petition from Urgent Matters Judge for precautionary measures
 - Provide details of infringement, materials, goods.
 - Attachment of the proceeds resulting from infringement.
 - No entry of goods in commercial channels and preventing their export.
 - Maintaining of evidence.
- **Article (48)** - provides for filing of Suit for claim of damages within 20 days. Damages should be direct result of infringement.
- **Article (49)** - Penalty for forging a registered trademark - Imprisonment of not exceeding one year and fine of AED 100,000 (approx. USD 27,200) and upto AED 1,000,000 (approx. USD 272,000) or either of the two.
- **Article (50)** – Penalty for deliberately selling forged products - Imprisonment of not exceeding one year and fine of AED 50,000 (approx. USD 13,600) and upto AED 200,000 (approx. USD 54,400) or either of the two.

Criminal Action

FEDERAL DECREE LAW NO. (19) OF 2016

- **Article (1)** – Counterfeit Commodities - The commodities bearing, without authorization, a trademark that is conformant or similar to the legally registered trademark.
- **Article (2)(a)** – Commercial Fraud - The import, export, re-export, manufacturing, sale, display or acquisition for the purpose of sale, storage, lease, marketing or trading, the fake, corrupt or counterfeit commodities.
- Complaint with Police or Public Prosecutor followed by inquiry.
- Leads to confiscation and seizure of the offending goods.

Punishment

- a) Imprisonment not exceeding 2 years
 - b) Fine of AED 50,000 (approx. 13,600 USD) and not exceeding AED 200,000 (approx. 54,400 USD) or either of the two
-
- **Article (14)** – for human food, animal food or medical drugs or organic agricultural products
 - a) Imprisonment not exceeding 2 years
 - b) Fine of not less than AED 250,000 (approx. 68,000 USD) and not exceeding AED 1,000,000 (approx. 272,000 USD) or either of the two

Action Through Customs

FEDERAL DECREE-LAW NO. (36) OF 2021

- **Article (45)** - Customs empowered to act and not release the goods for 20 days
- All 7 Emirates provide for registration of IP (TM, Copyright, Patent) with their respective Customs authorities
- Inspection of goods
- Remedies – Fines/Penalties along with seizures and destruction/recycling of counterfeit goods.

Year	Number of disputes resolved	Number of counterfeit goods seized/recycled
2020	255	923,724
2021 (1 st Qtr)	81	510,000

Administrative Action

- Complaint with the Department of Economic Development (DED) - followed in Abu Dhabi, Dubai & Sharjah.
- Complaint with Ministry of Economy (MoE) - followed in Ajman, UAQ, Ras Al-Khaimah & Fujairah.
- Leads to conducting of raids.
- Search, seizure and destruction/recycle of counterfeit goods.
- Necessary fines/penalties as provided under law.

Conclusion: Depending on the gravity of the IP rights violation, we can advise as what form of action/s would be most suitable in the circumstances.



[Rajiv Suri](#) is a Senior Associate in the intellectual property and corporate and commercial team at Alsuwaidi & Company. Rajiv advises clients on strategies involving a wide range of intellectual property and commercial laws including contractual agreements and digital assets. He has been involved in managing corporate portfolios across various industries.

If you have any questions about this or any other query related to intellectual property, corporate & commercial, commercial laws and digital assets laws, please get in touch with the author [Rajiv Suri](#) is directly on r.suri@alsuwaidi.ae

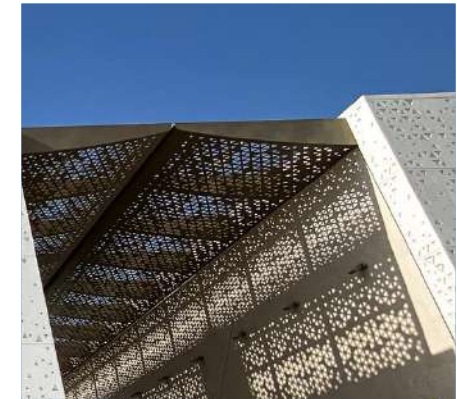


UAE - Litigation & Criminal Courts

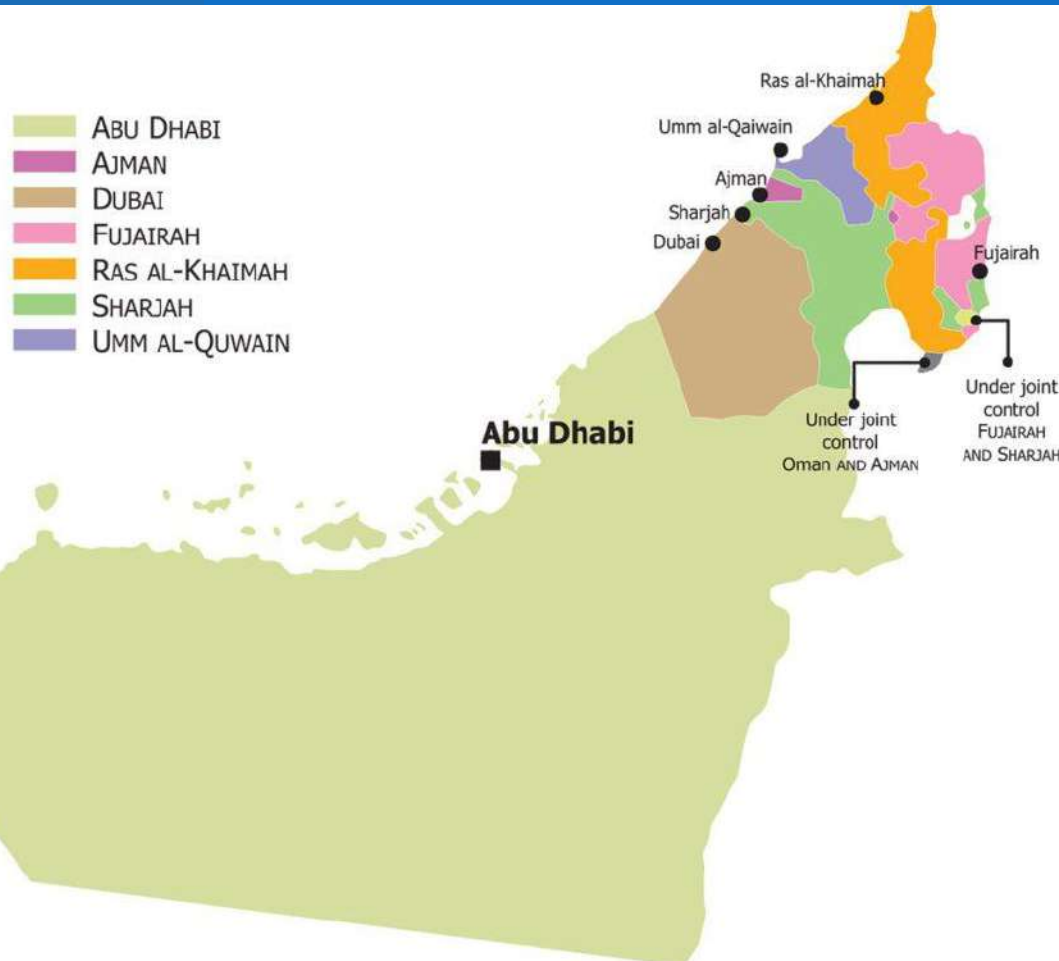
BY Ali Alraeesi

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Depending on the system opted for by the individual Emirate, the combination of federal and local (or Emirate) courts in the UAE



The Emirates of Sharjah, Ajman, Fujairah, and Umm Al Quwain as well as Abu Dhabi (in the capacity as the capital of UAE) have merged themselves with the UAE Federal Judicial System

Emirates Dubai, Ras Al-Khaimah, and Abu Dhabi (in the capacity as an Emirate of UAE), have retained their own distinct and separate local judicial systems

Both Emirate/local and Federal Courts are allowed by the Constitution to apply UAE federal laws, as well as laws and regulations promulgated by the rulers of the respective Emirates. In case of conflict, UAE Federal Law has supremacy

STRUCTURE OF THE JUDICIAL SYSTEM

CONSTITUTION

Federal Courts

Supreme court of Cassation

Court of Appeal

Court of First Instance

Civil Courts

Criminal Courts

Sharia Courts

Local Courts

Court of Cassation

Court of Appeal

Court of First Instance



Criminal Proceedings in UAE

Police Station



Public Prosecution



Criminal Courts

The criminal court comprises three stages:

- The Court of First Instance
- The Court of Appeal
- The Cassation court (final appeal court)

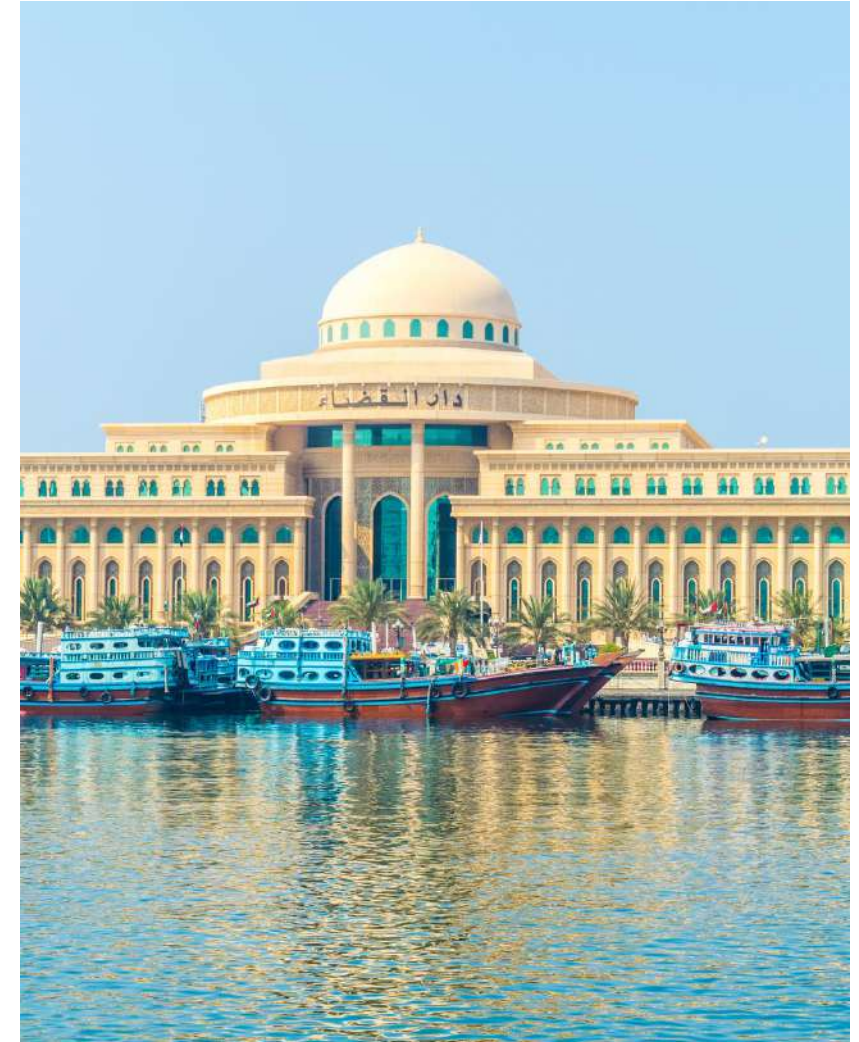
Civil Lawsuit related to the Criminal Lawsuit



A person who has sustained direct personal harm from the crime may claim civil rights against the defendant during the gathering of evidence or the investigation, or before the Court that hears the criminal lawsuit in whatever state the lawsuit was in and until the closing of the pleadings, and this shall not be accepted before the Court of Appeal.



The claim of civil rights shall not be accepted unless after paying the judicial fees.



Structure of Criminal Courts *contd.*

Courts of Appeal

Both the defendant and the Public Prosecution may appeal the judgments issued in the criminal lawsuit by the Courts of First Instance

The death penalty sentence shall be considered ipso jure and its execution stayed

The appeal shall be made within fifteen (15) days from the date of pronouncing the judgment in the presence or from the date of the judgment issued in the objection

The Attorney General may appeal within a period of thirty (30) days from the date of issuance of the judgment

Structure of Criminal Courts *contd.*



Court of Cassation



The Court of Cassation is the highest judicial body in the Emirate.



To be made within thirty (30) days from the date of pronouncing the judgment by the Appeal Court

Few Recent Legal Initiatives to Faster Justice and easing access to the judicial system



The Smart Police Station (SPS) in Dubai

Courts' services are all accessible online, with no need to visit the Courts in person



[Ali Alraeesi](#) is a Partner and Senior Advocate at Alsuwaidi & Company. He is experienced in Civil Law, Commercial Law and Criminal Law, representing client's interests before all levels of the UAE courts.

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ALSUWAIDI & COMPANY

A Tale of Three Cities Webinar: Abu Dhabi
01 June 2023



UAE – Islamic Banking and Finance - Overview

By Nidal Alsayed

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Abu Dhabi | Dubai | Ajman

Definition

- In the UAE, Islamic finance refers to banking, insurance and asset management that comply with the *jurisprudence of commercial transactions in Islam*.
- 1975: first Islamic bank established in the UAE.
- Global Growth forecast 2023-2024: 10% (S&P)
- Islamic Banks Assets (UAE): AED631.7 billion by the *end of February 2023* (6.5% YOY) growth.

Islamic Banks, Finance Companies and Islamic Windows in the UAE

- 6 local Banks and two foreign Islamic Banks.
- 9 Finance Companies.
- 15 Islamic Windows.
- 12 Insurance Companies.



Overview of Products

- From Murabaha to diversified products
- Commercial and Retail products.
- Corporate finance.
- Capital markets.
- Investment funds.
- Asset management.

Choice of Law and Jurisdiction.



Some relevant laws

- Civil Transactions Law.
- Federal Law No 20/2016 regarding Pledge of Moveable Assets.
- Financial leasing: Federal Law 8/2018.



Regulatory framework and Governance

- Federal Law No. 14/2018 Regarding the Central Bank and Organisation of Financial Institutions and Activities.

Higher Sharia' Authority

- The Higher Sharia' Authority ("HSA") is affiliated to the Central Bank.



Regulatory framework and Governance -Continued

HSA:

- determines the rules, standards and general principles applicable to Sharia'-compliant businesses and licensed financial activities.
- undertakes supervision and oversight of the internal Sharia' supervisory committees of Islamic licensed financial institutions.
- Consultations by the Central Bank with the HSA.
- Other regulations.

Conclusion



- Islamic banking and finance industry is well regulated in the UAE.
- High growth rate supported by the strong economy of the UAE.



[Nidal Alsayed](#) is the Head of Banking & Islamic Finance at Alsuwaidi & Company. Nidal has deep understanding, and knowledge of the UAE banking laws and regulations and extensive in-depth knowledge on Islamic Sharia' compliant banking products and transactions.

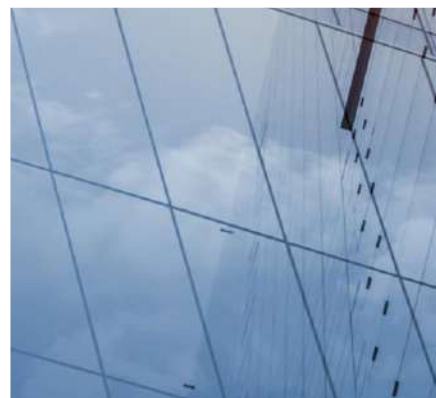
If you have any questions about this or any other query related to Banking & Islamic Finance, please get in touch with the author [Nidal Alsayed](#) directly on n.alsayed@alsuwaidi.ae



UAE – Dispute Resolution in Abu Dhabi By Craig Cothill

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Abu Dhabi Global Market Courts (ADGM)

- Freezone jurisdiction within Abu Dhabi with covering Al Maryah Island and recently Al Reem Island.
- The ADGM Is now one of the largest financial districts in the world, with a total area of 1,438 Hectares.
- The ADGM has three main branches:
 - Registration Authority
 - Financial Services Regulatory Authority
 - The ADGM Courts



The ADGM Courts - <https://www.adgm.com/>



- Common law developed court system guided by UK principles
- Court of first instance with 3 divisions:
 - Commercial / Civil division
 - Employment
 - Small claims divisions
- Court of Appeal

The ADGM Arbitration Centre

- The ADGM Arbitration Centre is geared towards offering an excellent service for **Alternative Dispute Resolution**.
- **UNCITRAL** Model Law: ADGM's Arbitration Regulations are based on the Model Law on International Commercial Arbitration published by the United Nations Commission on International Trade Law.
- Its purpose is **not** to be an arbitral institution and it does not restrict a preference to use any institution
- Has attracted the attention of The International Court of Arbitration of the International Chamber of Commerce (**ICC Court**) who has established a branch in the ADGM.
- The first branch of the ICC in the Middle East.
- Enforcement: New York Convention, multi-lateral and bilateral treaties with certain countries; and MOUs with leading international common law jurisdictions.
- ADGM has its own case management office Cutting edge software for case preparation and presentation of evidence.
- Physical / Virtual / Hybrid hearings



Enforcement of Arbitral Awards In Local UAE Courts

- The UAE is a signatory to the **New York Convention** on the Recognition and Enforcement of Foreign Arbitral Awards, thus, in principal, arbitral awards are to be enforced by local courts.
- Do the local UAE Courts enforce arbitral awards?

BRIEF CASE STUDY: A6 (Claimant) v B6 (Defendant) [2023] ADGMCFI 0010

- Claimant and Defendant “opted in” to arbitration at ADGM.
- ICC procedural rules and UAE law.
- Claimant unhappy with award, approached local UAE Courts rather than ADGM.
- Local Courts, including the highest UAE Court refused to hear the Claimant for lack of jurisdiction.



[Craig Cothill](#) holds an LLB and master's degree in international trade from the Northwest University in South Africa. He has a diploma in intellectual property law, and he is qualified as an arbitrator in both sports law (anti-doping disputes) and disciplinary hearings of chartered accountants. He has the right of appearance at DIFC and is dealing with DIAC arbitrations.

For further information on this, please get in touch with [Craig Cothill](#) who can be contacted on c.cothill@alsuwaidi.ae

This webinar has been approved by the Dubai Legal Affairs Department (DLAD). Therefore, if you are a registered Legal Consultant in DLAD, you can obtain 1 Continuing Legal Professional Development (CLPD) point for attending the webinar.

To confirm your attendance, kindly send an email to hr@alsuwaidi.ae on or before 15 June 2023 and indicate your full name and DLAD registration number.

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Course Provider	Alsuwaidi & Company
Course Title	A Tale of Three Cities: Overview of the Legal Systems of Abu Dhabi, Dubai and Hong Kong SAR
Course Code	AA79-01
Course Completion Date	01 June 2023
Number of points allocated	1 Point





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