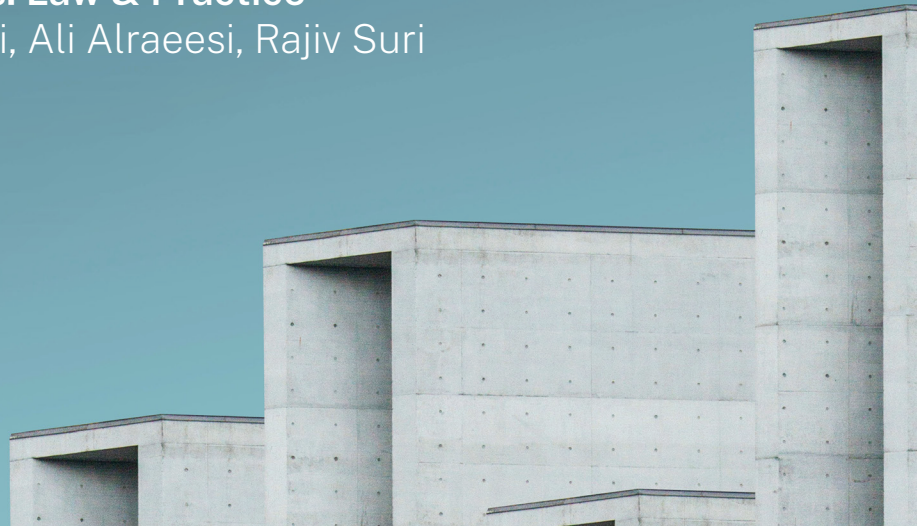

CHAMBERS GLOBAL PRACTICE GUIDES

Enforcement of Judgments 2024

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United Arab Emirates: Law & Practice

Mohammed Alsuwaidi, Ali Alraeesi, Rajiv Suri
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UNITED ARAB EMIRATES



Law and Practice

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Alsuwaidi & Company is a full-service law firm with extensive regional know-how. Since its inception in 1997, the firm has supported leading businesses across the UAE and beyond, assisting them in navigating complex and commercial challenges. It has built a reputation for its knowledge and expertise, and for its formidable standing in the Dubai and Abu Dhabi courts. Alsuwaidi & Company's regional expertise is consolidated by wider knowledge

of international legal systems. The firm includes qualified arbitrators and lawyers who are registered to practise in the DIFC and ADGM courts, enabling it to address clients' needs in all forums. The dispute resolution practice has an admirable track record. The firm's legal teams are fluent in Arabic and English, and have an established network with regulatory bodies, government agencies and the court circuits.

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ALSUWAIDI & COMPANY

1. Identifying Assets in the Jurisdiction

1.1 Options to Identify Another Party's Asset Position

Apart from obtaining a judgment, it is a challenging task to gather information on a debtor's asset position, even for large companies and private investigators who offer credit checking facilities.

The most effective way is to apply for an interim measure for a precautionary attachment order. If a creditor possesses an official document or an ordinary document for a debt payable and is not subject to a condition, or if they hold a non-enforceable judgment (eg, a judgment issued by the Court of First Instance that is still subject to appeal or an arbitral award that is not yet confirmed or recognised), they may request the summary judge to issue an order to freeze the assets of the debtor to secure the monetary claim, provided that the debt established is of a specified amount.

Notably, before accepting the application for the attachment of property, the court may request statements, evidence or affidavits, or conduct a brief investigation(s) with the assistance of the competent authorities if necessary. This serves as a safety measure to prevent enforcement of a future final and binding judgment from becoming cumbersome or even impossible. This interim measure is set forth in Article 247 of Federal Law No 42 of 2022 on the Civil Procedure Law (the "Civil Procedure Law").

Alternatively, a debtor's asset position can be confirmed through the execution of any writ of execution held by a creditor, such as a final and binding judgment. If a debtor fails to pay within seven days of being notified of the execution case, the court orders an investigation, request-

ing the banks, Road Transport Authority, Land Department, Economic Department and other authorities concerned to report back to the court about their findings. The court would then proceed to attach the available assets of the debtor.

2. Domestic Judgments

2.1 Types of Domestic Judgments

The UAE courts operate under a civil law system (onshore courts). The emirates of Dubai and Abu Dhabi have established financial free zones within their territories: the Dubai International Financial Centre (DIFC) and the Abu Dhabi Global Markets (ADGM), which both operate under a common law system.

Enforcement Before Onshore Courts

Domestic judgments and any writ of execution set forth in Article 212 of the Civil Procedure Law can be enforced in the UAE. The form of the writ of execution is as follows.

- Judgments and orders, including penal judgments along with any refunds, compensation, fines and other civil rights contained therein. This category includes:
 - (a) money judgments and non-money judgments, whether rendered by onshore or offshore courts;
 - (b) payment orders;
 - (c) precautionary attachment orders, whether rendered by onshore or offshore courts;
 - (d) interlocutory or interim orders, whether rendered by onshore or offshore courts;
 - (e) judgments in presence or in absentia rendered by the criminal court; and
 - (f) reconciliation judgments rendered by the criminal court.

- Notarised documents in accordance with the law on authentication and notarisation. This category includes any mortgage contract.
- Minutes of the conciliation ratified by the courts, whether onshore or offshore courts.
- Other documents granted in the capacity set by the law.

Enforcement Before Offshore Courts

DIFC and ADGM

Both courts operate under similar common law rules in dispensing with disputes in their respective jurisdictions.

If either party has a weak case, the other may apply for immediate judgment to either dismiss the case or grant judgment summarily. Depending on the facts, a party may claim for an interim payment of money during a trial. Both courts will grant injunctions (eg, the freezing of a bank account).

If a defendant fails to defend a claim, each court will consider granting default judgment.

2.2 Enforcement of Domestic Judgments

Enforcement Before Onshore Courts

For a judgment or any writ of execution to be enforced, it must have the exequatur form affixed by the court. On obtaining the exequatur, the creditor shall rely on Article 233 of the Civil Procedure Law on enforcement procedures, in addition to other Articles.

A creditor shall apply to the execution judge asking for the enforcement of the exequatur referred to above, following which the execution court will open a new lawsuit called an “execution case” and notify the debtor to pay the debt within seven days from the date of the notification. The provisions of the Civil Procedure Law grant the holder of a writ of execution the right to impose

precautionary attachments as well as executory attachments over assets that are owned by a debtor or in the possession of a third party. Upon successful application, the court issues an attachment order against the debtor’s assets.

The provisions allow the holder of a writ of execution to request the court to declare the debtor insolvent or bankrupt, as the case may be, and/or to impose detainment and a travel ban in certain circumstances to fulfil the judgment debts.

Declaration of bankruptcy or insolvency

UAE law differentiates between bankruptcy and insolvency procedures, as follows:

- bankruptcy procedures apply to commercial companies and any person having the capacity of trader, and are now regulated by the new law – ie, UAE Federal Decree Law No 51 of 2023 on Bankruptcy; and
- insolvency procedures apply to natural persons or non-trader debtors who are regulated by UAE Federal Decree Law No 19 of 2019 on Insolvency, and who are not subject to the provisions of Federal Decree Law No 51 of 2023.

Under either of the above laws, a judgment creditor can apply to the Court of First Instance, requesting it to declare a debtor bankrupt or insolvent, depending on the capacity of the debtor, if the assets of the latter are insufficient to satisfy the judgment.

Detainment

When the creditor possessing any writ of execution, such as a judgment ordering specific performance, finds that the debtor fails to fulfil their obligations, they may approach the execution judge to request the debtor’s imprisonment for a period not exceeding one

month, renewable for additional periods. That being said, the decision of the General Assembly of the Court of Cassation in Dubai Decision No 4/2023 stipulates that the debtor may not be imprisoned unless the creditor provides necessary evidence that the debtor is solvent or that the debtor has hidden assets with an intention to harm the creditor.

Travel ban

Pursuant to Article 324 of the Civil Procedure Code, if the debt is equal to or more than AED10,000 and there are reasonable grounds to believe that the judgment debtor may leave the UAE (excluding debts related to established alimony in support of the debtor's family, work remuneration or omission of an act), the creditor may request the execution judge to issue an order for a travel ban prohibiting the debtor from travelling.

In the case of an unliquidated debt, apart from the requirement that the claim for the right of entitlement shall be based on written evidence, the execution judge may require the creditor to provide a guarantee to the court to cover losses or damages the debtor may suffer as a result of being prohibited from travelling if the application for a travel ban is later found to be wrongful or unjustified.

Grievance from an order of the execution judge regarding the travel ban order can be submitted or appealed within seven working days from the day following the date of its issuance before the President of the Court of First Instance or whomever he authorises other than the Judge who issued the decision. The decision issued in the grievance is final. The decision of the execution judge may be appealable within ten working days from the date of its issuance if it was in

person, and from the date of its notification or knowledge if it was issued in absentia.

Enforcement in Dubai outside of DIFC of judgments, decisions or orders issued by DIFC Courts

As per Article 7 (2) of Dubai Law No 12 of 2004 as amended by Dubai Law No 16 of 2011 (the "Judicial Authority Law"), any DIFC Court judgment, decision, order or ratified arbitral award can be enforced through the Dubai Courts if the following three conditions are met:

- they are final and executory;
- they are legally translated into Arabic; and
- they are certified by the DIFC Courts for execution and have the following formula of execution affixed by the Courts: "Authorities must take the initiative to enforce this document and assist in implementing it even forcefully whenever requested to do so."

In addition, the creditor must request an execution letter called a "Judicial Deputation to Enforcement" from the DIFC Courts, which issue said execution letter addressed to the Chief Justice of the Court of First Instance of Dubai Courts stating the procedure to be carried out. The creditor shall then submit an application to the execution judge of Dubai courts, accompanied by a copy of the judgment, decision, order or ratified arbitral award, a legal translation thereof, and the execution letter. The execution judge shall apply the procedure and rules stipulated in the Civil Procedure Code, including any objections to the execution.

Enforcement in emirates other than Dubai of judgments, decisions or orders issued by DIFC Courts

DIFC Court judgments, decisions and orders can be enforced by the local courts of any emirate

within the UAE, in accordance with the procedure and rules adopted by such courts, and in accordance with any agreements or memoranda of understanding between DIFC Courts and these onshore courts. Said enforcement and/or execution is subject to conditions identical to those under the enforcement and execution before Dubai Courts.

Enforcement of ADGM judgments within onshore jurisdictions

Enforcement of ADGM judgments outside of the ADGM jurisdiction can be done in one of two ways:

- by way of deputising an Abu Dhabi Judicial Department enforcement judge; or
- by a direct application to the Abu Dhabi Judicial Department (Court) for enforcement.

Both these methods would require:

- a copy and a translation of the judgment into Arabic, along with an executory letter from the ADGM Court; and
- written evidence that the judgment has been served upon the judgment debtor.

Enforcement Before Offshore Courts

Enforcement of onshore judgments before DIFC Courts

Charging order

This is undertaken by obtaining a court order putting a charge over property (including land and securities) that is owned by the judgment debtor. This order prevents the judgment debtor from selling assets that are covered by the order without reference to the judgment creditor. It also allows the judgment creditor to seek an order from the court for the sale of those assets in order to pay the judgment debt.

An application is made without notice to the court, and a judge handles the application without a hearing. Following this, a final judgment order can be applied for, where the judgment debtor will be able to dispute the charging order.

Attachment of assets

This follows the same procedure as a charging order but pertains to obtaining a third-party debt for payment owed to the judgment debtor (a third-party debt order). This allows the judgment creditor to receive payment directly from the third party.

An application is made, similarly to a charging order, except the order is final unless the third party makes an application for the order to be reconsidered as the sum to be paid to the judgment debtor is more than the sum that is owed to the judgment debtor, or they do not owe a debt to the judgment debtor.

Attachment of earnings

Where the judgment debtor is an individual, the judgment creditor may make an application for an attachment of earnings. This provides for a court order instructing the judgment debtor's employer to pay a specified amount out of the judgment debtor's earnings to the judgment creditor. The debt must be in excess of USD100.

An application is made in the same way as for a charging order.

Enforcement by taking delivery of goods

The judgment creditor may apply to the court to take delivery of the judgment debtor's goods in order to sell them and pay the judgment debt. If the court makes such an order, an enforcement officer (bailiff) will be instructed to serve a writ of execution upon the goods of the judgment debtor. The goods are usually sold by public

auction, although an application can be made for sale other than by public auction.

The judgment debtor may make an application to the court to stay the execution of the court order for such periods as the court considers reasonable.

An application is made in the same way as for a charging order.

Insolvency proceedings – appointment of a receiver

This is an unusual method of enforcing a judgment debt and should only be used as a last resort where it is not possible to use the other methods of enforcement. The difficulty will be that the fees of a receiver may outweigh the assets of the judgment debtor or that a significant proportion of the judgment debtor's assets are covered by security from banks, etc, which may take precedence over the debts owed to the judgment creditor.

Freezing order

A judgment debtor may apply for a freezing order where it is likely that the judgment debtor will move assets out of the court's jurisdiction. Good evidence of the risk of dissipation will be needed.

The DIFC Courts can enforce judgments from onshore UAE courts. This is undertaken by an application being made to the DIFC Court with all relevant details of the debtor and a copy of the award to be enforced. The statutory provisions under which the application is made must be stated. The DIFC Court Registrar may deal with the application without the need for a hearing, although one may occasionally be required.

Once the DIFC Court has decided that the onshore award can be enforced, the usual methods of enforcement, as noted previously in this section, can be used.

Enforcement of onshore judgments before ADGM Courts

On 11 February 2018, the ADGM Courts entered into a memorandum of understanding with the Abu Dhabi Judicial Department on the mutual and reciprocal recognition and enforcement of judgments, decisions, orders and ratified arbitral awards.

The process is similar to the DIFC Courts, with the judgment having an executory formula attached and translated into Arabic. After the judgment creditor submits an application to the Abu Dhabi courts, a judgment will be enforced according to the relevant procedures but without re-examination of the merits of the judgment.

Enforcement of DIFC and ADGM judgments before offshore courts

The enforcement process in these financial free zones does not include an additional step in which the judgment must be the subject of an execution order.

DIFC

Judgments issued by the DIFC Courts are to be enforced pursuant to the Rules of the DIFC Courts (abbreviated to RDC), as stipulated in Article 42 thereof. Parts 36 and 45 of the RDC are the relevant rules governing such enforcement.

ADGM

Part 29 of the ADGM Court Procedure Rules sets out the rules to be complied with in filing an enforcement application. Apart from complying with the ADGM Court Procedure Rules, an

applicant must also observe the rules together with any relevant practice direction to which a judgment pertains.

2.3 Costs and Time Taken to Enforce Domestic Judgments Before Onshore Courts

The timeframe for completion of the enforcement process of domestic judgments varies between two and 24 months, depending on a wide range of factors, including:

- the availability of the debtor's assets;
- the nature of the debtor's assets;
- the evaluation of the debtor's assets by a court-appointed expert;
- the number of potential third parties, if any, who may have assets belonging to the debtor; and
- the length of the auction process.

Some special regulations explain the procedures and requirements for enforcement against the debtor's assets; for instance, under the UAE Maritime Code, which regulates the ship mortgage foreclosure and the judicial sale of a ship, auctioning a ship can take three to 24 months. In contrast, enforcing against a debtor's bank account may take just one week, making it the most efficient option.

The costs associated with enforcement procedure would include:

- court fees for opening an execution file before the Court of First Instance, which are estimated to be AED5,020, and a AED105 notification fee in the Emirate of Dubai;
- fees for investigations ordered by the court (eg, for an investigation within the General Directorate of Residency and Foreigners Affairs, estimated to be AED250);

- publication fees (if notification by way of publication is ordered by the court) may range from AED250–600;
- translation fees, if any;
- fees for any court-appointed experts to evaluate the debtor's assets;
- costs and fees incurred by Emirates Auction, which is the exclusive party to be appointed by the execution judge to conduct auction proceedings; and
- costs and fees that might be paid to a custodian engaged by the execution judge to store a movable asset.

Before Offshore Courts (DIFC and ADGM Courts)

For enforcement, ADGM Courts charge up to USD3,000 for court matters and USD3,000 for the enforcement of arbitration awards.

Both courts permit charging orders on property as a form of security for a judgment debt.

In addition, an unpaid judgment debt represents a strong claim in insolvency proceedings. However, care must be taken here to avoid proceeding against a judgment debtor who may have other preferred creditors.

2.4 Post-judgment Procedures for Determining Defendants' Assets Onshore Courts

The most efficient way to determine a defendant's assets is to request the execution judge, against nominal court fees, to issue directives to any natural or legal persons designated by the petitioner or creditor to disclose any such information pertaining to their assets. This may include public and regulatory authorities, such as:

- the Real Estate Regulatory Agency;

- the Land Department;
- the Central Bank of UAE;
- different company registries;
- the Roads and Transport Authority;
- the Securities and Commodities Authority;
- customs;
- insurance companies; and
- the financial markets in the UAE.

Offshore Courts

Under Part 50 of the RDC, the DIFC Court may order a judgment debtor to attend court to provide information so that a judgment creditor may enforce a judgment against them. The judgment creditor makes an application without notice to the court, which will issue an order for the judgment debtor to attend court so that they can be questioned under oath.

Under Part 30 of the Court Procedure Rules, the ADGM Court has a similar process to the DIFC Court for a judgment debtor to attend court to provide information.

2.5 Challenging Enforcement of Domestic Judgments Before Onshore Courts

The debtor has two available channels to challenge any enforcement procedure and to seek a stay pending the outcomes of a challenge, depending on the grounds of the challenge.

Challenging enforcement before the Court of First Instance

The debtor may challenge enforcement by filing a grievance within seven days from the day following the date of the issuance of any decision of the execution judge before the President of the Court of First Instance or their authorised representative on the following grounds:

- order of priority among the prevailing parties;

- postponement of the execution of the decision for any reason;
- granting the debtor a time limit to pay the amount for which settlement of the execution has been ordered, or allowing them to pay it in instalments;
- acceptance or rejection of the guarantee;
- a travel ban or refusal to order a travel ban; or
- an arrest warrant or refusal to order an arrest warrant.

The decision issued in the grievance shall be final and may not be subject to appeal.

Challenging enforcement before the Court of Appeal

The debtor may challenge enforcement by filing an appeal within ten days from the day following the date of the issuance of any decision of the execution judge before the Court of Appeal on the following grounds:

- the competence or lack of competence of the execution judge to enforce the writ of execution;
- the assets seized are such that they may or may not be seized or sold;
- the participation of parties other than litigants in the enforcement procedures;
- the decision to imprison the debtor, provided that the appellant presents a sponsor responsible for bringing the judgment debtor or paying the amount adjudged – if they are unable or fail to bring them before court, the court shall impose upon them to pay the amount of the guarantee, and will collect said amount in the manner under which the judgments are executed; or
- the decision issued determining the amount for execution, and whether or not to continue its implementation.

The decision of the Court of Appeal might be appealed in cassation in very narrow circumstances.

Before Offshore Courts

As common law courts, both the DIFC and ADGM Courts will allow appeals to be brought by the unsuccessful party in relation to the judgment itself. The process of enforcement allows a party to challenge the enforcement within those proceedings, and the judgment may be set aside if it was wrongly entered or was not within the court's jurisdiction.

2.6 Unenforceable Domestic Judgments Onshore Courts

Domestic judgments must be enforced within 15 years of the date that the judgment became enforceable or of the date of the last executory transaction – ie, the last act performed in relation to execution.

There is no specific type of domestic judgment that cannot be enforced in the UAE; all judgments that have the exequatur form affixed by the court can be enforced, except those that have been stayed by the execution judge or stayed and/or overruled by the Court of Cassation, and those that do not impose an obligation on the parties, such as some non-money judgments or some declaratory judgments confirming the proper termination of a contract. These kinds of judgments can be relied upon but cannot be enforced.

2.7 Register of Domestic Judgments Onshore Courts

There is no central register of all judgments in the UAE onshore courts. Lawsuit files are accessible exclusively to the parties to the proceedings and can be accessed through the electronic court system using the parties' credentials.

Offshore Courts

DIFC Courts

The basic case details of all public cases filed with the DIFC Courts are recorded in the courts' e-registry, which the public is able to access. However, the documents involved in the cases and the documents of the parties are not disclosed. All judgments, decisions or orders of public cases can also be accessed through the DIFC Courts' website, from decisions of a small claims tribunal to court administrative orders.

ADGM Courts

The public can access cases if they know details like the case number or the parties' names. The ADGM Courts' online list shows the start date of the case, but no other information. However, a copy of the judgment can be downloaded upon the closure of the case.

3. Foreign Judgments

3.1 Legal Issues Concerning Enforcement of Foreign Judgments Before Onshore Courts

The UAE has signed and ratified several multilateral and bilateral treaties for the reciprocal recognition and enforcement of foreign judgments in the country. Such agreements, conventions and treaties include the following.

- The Riyadh Arab Agreement for Judicial Co-operation (1983), signed by the UAE, Jordan, Bahrain, Tunisia, Algeria, Djibouti, Saudi Arabia, Sudan, Syria, Somalia, Iraq, Oman, Palestine, Qatar, Kuwait, Lebanon, Libya, Morocco, Mauritania and Yemen.
- The Convention on Judicial Assistance, Recognition and Enforcement of Judgments in Civil and Commercial Matters with France (1992).

- The Gulf Cooperation Council Convention for the Execution of Judgments, Delegations and Judicial Notifications (1996), which has six GCC member signatories: the UAE, Bahrain, Saudi Arabia, Oman, Qatar and Kuwait.
- The Agreement with India on Juridical and Judicial Cooperation in Civil and Commercial Matters (signed in 1999 and ratified in 2000) – in January 2020, the government of India officially notified UAE as a “reciprocating territory” for the purposes of recognising UAE civil judgments in India (including DIFC and ADGM Court judgments).
- The Convention on Judicial Assistance in Civil and Commercial Matters with China (2004).
- The Treaty with the United Kingdom on Judicial Assistance in Civil and Commercial Matters (2006), covering the service of judicial documents and the taking of evidence, although it excluded enforcement. Interestingly, in September 2022, the Ministry of Justice of the UAE circulated a memo to the Director General of the Dubai Court, stating that judgments issued in the United Kingdom may be enforced in the UAE under the principle of reciprocity, in view of the UK High Court’s enforcement of a Dubai Court judgment in *Lenkor Energy Trading DMCC v Puri* (2020) EWHC 75 (QB). This new memo is a significant development as it confirms enforceability on a reciprocal basis, thus allowing individuals and entities who have obtained judgments from UK courts to enforce said judgments in UAE courts.
- The Agreement with Kazakhstan on Judicial Assistance in Civil and Commercial Matters (2009).

Before Offshore Courts

DIFC Courts

The courts in the financial free zones have entered into bilateral memoranda of understand-

ing with several courts of foreign jurisdictions. For example, the DIFC Courts have entered into the following memoranda:

- the Memorandum of Guidance as to Enforcement with the High Court of England and Wales;
- the Memorandum of Guidance as to Enforcement with the High Court of Hong Kong;
- the Memorandum on Enforcement with the Supreme Court of Singapore; and
- the Memorandum of Guidance on Understanding the Enforcement of Money Judgments with the Federal Court of Malaysia.

The DIFC is bound by the treaties ratified by the UAE. Accordingly, the DIFC Court will conform to such treaties and enforce any such foreign judgments, orders or awards. In order to ensure enforcement of a foreign judgment, the following factors are to be considered:

- the judgment must be final and conclusive, even though it is subject to an appeal;
- the DIFC Courts will not enforce certain types of foreign judgments (eg, judgments ordering the payment of taxes, fines or penalties); and
- the foreign court must have had jurisdiction to determine the dispute, according to the DIFC Rules on the Conflict of Laws – the DIFC Courts will generally consider the foreign court to have had the required jurisdiction only where the person against whom the judgment was given was present in the jurisdiction at the time that the proceedings were commenced, was the claimant or counter-claimant in the proceedings, submitted to the jurisdiction of the foreign court, or agreed to submit to the jurisdiction of the foreign court before commencement in respect of the subject matter of the proceedings.

If the foreign judgment complies with these requirements (even where there is no treaty), the grounds to challenge recognition and enforcement will be limited to the judgment having been obtained by fraud or being contrary to public policy, or where the proceedings were conducted in a manner that the DIFC Courts consider to be contrary to natural justice.

Whilst the RDC do not specify a limitation period for the recognition and enforcement of foreign judgments, orders or awards under the laws of England and Wales (which can be applied in the DIFC Courts where no specific DIFC law applies), the limitation period is considered to be six years.

Before ADGM Courts

Whilst similar to the DIFC Courts' procedure for the enforcement of foreign judgments, orders and awards, the ADGM Courts are more restrictive in that they require reciprocity to be established.

3.2 Variations in Approach to Enforcement of Foreign Judgments

Onshore Courts

After satisfying the requirements of the Tier 1 procedure outlined in **3.4 Process of Enforcing Foreign Judgments**, the provisions of the UAE Civil Procedure Code do not differentiate between the enforcement of domestic and foreign judgments, notwithstanding the country of issuance of said foreign judgment.

Offshore Courts

The DIFC and ADGM Courts do not differentiate between the enforcement of domestic and foreign judgments, notwithstanding the country of issuance of said foreign judgment (see **3.4 Process of Enforcing Foreign Judgments**).

3.3 Categories of Foreign Judgments Not Enforced

Onshore Courts

A foreign judgment or order may not be enforced by UAE courts if the relevant court does not have the jurisdiction to do so. The condition of jurisdiction can be fulfilled as follows:

- the jurisdiction should be given to the authorised Court of First Instance in the location where the debtor has its address or residence; or
- the jurisdiction should be given to the authorised Court of First Instance in the location of movable or immovable assets that are owned by the debtor or in the possession of a third party.

Any foreign judgment or order that does not satisfy the conditions set out in **3.1 Legal Issues Concerning Enforcement of Foreign Judgments** cannot be recognised and thereby cannot be enforced in the UAE.

Offshore Courts

DIFC

The DIFC Courts will look to ensure that the issuing court had the jurisdiction to render the judgment, and may refuse enforcement when they find otherwise.

ADGM

The registration of the judgment will be set aside if the ADGM Court of First Instance is convinced that the issuing court has no jurisdiction in the circumstances of the case. In doing so, the Court will go through the criteria set out in Article 175 (2) of the ADGM Court Regulations for an issuing court to assume jurisdiction.

3.4 Process of Enforcing Foreign Judgments

If a creditor selects the onshore courts route, Article 222 of the UAE Civil Procedure Law governs the enforceability of foreign court judgments.

Onshore Courts Route

The process entails a two-tiered procedure, as described below.

Tier 1

A party seeking the enforcement of a foreign writ of execution before an onshore court must obtain an execution order from the execution judge by filing an “exequatur petition” as per the conditions and procedures for the initiation of a lawsuit set forth in Articles 44 and 222 of the UAE Civil Procedure Law. The court will issue its decision within five working days from the date of the submission of the petition.

The execution order may only be issued if the conditions required for the enforceability of the foreign writ of execution stated above are fulfilled.

For the Tier 1 procedure, the execution judge’s order of execution remains subject to the usual channels of appeal – ie, before the Court of Appeal and the Court of Cassation, and in accordance with the rules and procedures prescribed for filing an appeal.

Tier 2

After obtaining the exequatur, the creditor shall rely on the provisions stipulated in the UAE Civil Procedure Law concerning the enforcement procedures, in addition to other articles, by applying for the enforcement of the exequatur from the execution judge, following which the execution court will open a new lawsuit (called an execu-

tion case) and serve a summons notice on the debtor requesting payment of the debt with seven days from the date of the notification.

If the debtor fails to pay the judgment debt and/or amount, this grants the holder of the execution order the right to impose precautionary attachments as well as executory attachments over movable and immovable assets that are owned by the debtor or in the possession of a third party. Following the mentioned holder’s application, and subject to the court’s approval, the court will issue attachment orders against the debtor’s assets.

In addition, the provisions of the UAE Civil Procedure Law grant the holder of the execution order the right to request the Execution Court to declare the debtor insolvent or bankrupt, as the case may be, and/or imposes detention and a travel ban in certain circumstances.

For the Tier 2 procedure, the debtor has two possible channels (as stated in **2.5 Challenging Enforcement of Domestic Judgments**) to challenge enforcement procedures against them and seek a stay pending the outcomes of the challenge, depending on the grounds of the challenge.

Offshore Courts Route

For the execution within the DIFC of judgments rendered outside the DIFC, the procedures set out in the RDC must be followed. An enforcement application (the type of which depends on the type of assets to be enforced) is made to the DIFC Courts Enforcement Division.

Foreign judgment creditors have been known to utilise the Judicial Authority Law to seek an order of the DIFC Courts to ratify their foreign judgments and then enforce said judgments before

the Dubai Courts, and in some circumstances even when the matter and assets had no nexus with the DIFC Courts. It is noteworthy that the Joint Judicial Committee for the Dubai Courts and DIFC Courts – established under repealed Decree No 19 of 2016, and now known as “the Judicial Committee for Resolving Jurisdictional Disputes between the DIFC Courts and the Judicial Bodies of the Emirate of Dubai” (under new Dubai Decree No 29 of 2024) – has served to curtail the use of the DIFC Courts as a conduit jurisdiction to enforce foreign judgments.

For ADGM Courts, the process of enforcement of foreign judgments is largely the same as the process in the DIFC Courts.

3.5 Costs and Time Taken to Enforce Foreign Judgments Before Onshore Courts

Since the enforcement process of foreign judgments and any foreign writ of execution follows a two-tier procedure (see 3.4 **Process of Enforcing Foreign Judgments**), the timeframe and the costs are split between the two tiers.

Tier 1

The court will issue its decision on the execution order application within three days from the date of its submission. The estimated court fees are AED320.

Tier 2

See 2.3 **Costs and Time Taken to Enforce Domestic Judgments**.

Before Offshore Courts (DIFC and ADGM Courts)

The DIFC and ADGM Court processes can vary due to potential enforcement challenges and required hearings to ensure compliance with court requirements. This may take several

months, depending on the challenge and hearing preparation. Costs are low for straightforward applications for recognition and enforcement, but any challenge by the defendant could be lengthy and complex.

3.6 Challenging Enforcement of Foreign Judgments

Before Onshore Courts

It is not possible for any UAE court to order the execution of a foreign judgment before the following is verified:

- the reciprocity requirement – the UAE court must ensure that the judgments and orders delivered by a foreign country may be ordered to be executed in the UAE under the same conditions as prescribed in the law of that country for the execution of judgments and orders issued in the UAE;
- the UAE courts are not exclusively competent in the dispute in which the judgment or order was rendered;
- the judgment or order is delivered by a competent court in accordance with the law of the country in which it was issued, and the judgment or order is duly ratified and authenticated (ie, it must be shown that the judgment or order has been rendered enforceable in the jurisdiction in which it was made by having the exequatur form affixed by the court of issuance);
- the litigants in the case in which the foreign judgment was delivered were summoned and were duly represented;
- the judgment or order has the force of res judicata in accordance with the law of the court that issued it;
- the judgment does not contradict any existing judgment or order rendered by any UAE court, and does not contain anything contrary to public policy or morality in the UAE; and

- the execution judge has the right to obtain the documents supporting the application before issuing their decision.

Therefore, if a creditor obtained an execution order that the debtor finds does not comply with these conditions, the debtor may challenge the execution order following the Tier 2 procedure, as stated in **3.4 Process of Enforcing Foreign Judgments**.

Before Offshore Courts

DIFC

The DIFC Courts will only look to ensure that the court that issued the judgment had jurisdiction to determine the dispute, and will assume that the foreign court had jurisdiction where the defendant:

- was present in the jurisdiction when proceedings were commenced;
- was a party to the proceedings; or
- otherwise submitted to the jurisdiction of the relevant court (ie, by filing a defence or party agreement).

ADGM

The following requirements must be met in order to avoid a challenge.

- In the case of a judgment given in an action in person:
 - (a) the judgment debtor voluntarily appeared in the proceedings;
 - (b) the judgment debtor was a claimant or counterclaimant in the proceedings in the original court;
 - (c) the judgment debtor had agreed to submit to the jurisdiction of that court or of the courts of the country of that court, before the commencement of the proceedings;

(d) the judgment debtor was resident in – or being a body corporate was registered under the laws of – the country of that court when the action was commenced; or

(e) the judgment debtor had an office or a place of business in the country of that court, and the proceedings in that court were in respect of a transaction effected through or at that office or place.

- In the case of a judgment given in an action, the subject matter of which was immovable property, or in an action in rem, the subject matter of which was movable property, said property must have been situated in the country of that court when the action was commenced.
- The jurisdiction of the original court is recognised by any applicable Abu Dhabi law or any ADGM enactment.

4. Arbitral Awards

4.1 Legal Issues Concerning Enforcement of Arbitral Awards Before Onshore Courts

The enforcement of domestic arbitral awards is regulated by the UAE Federal Arbitration Law No 6 of 2018 (“the UAE Arbitration Law”), as amended by Federal Law No 15 of 2023 (the “Amended Arbitration Law”). The enforcement of foreign arbitral awards is regulated by the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958 (the “New York Convention”), which the UAE ratified without any reservation, meaning that even arbitral awards issued in a non-contracting state may be recognised and enforced in the UAE under the New York Convention.

Besides the New York Convention, the UAE also signed the 1966 Convention on the Settlement of Investment Disputes Between States and Nationals of Other States (the “ICSID Convention”) on 23 December 1981, which entered into force on 22 January 1982.

Before Offshore Courts

The Conventions referred to above apply to awards being enforced in the UAE, including the DIFC and the ADGM.

For the enforcement of onshore awards in the financial free zones (and vice versa), the procedures outlined in **2.2 Enforcement of Domestic Judgments** on the enforcement of judgments are equally applicable to the enforcement of arbitral awards granted in the DIFC outside of the DIFC in Dubai and governed by Article 7 of the Judicial Authority Law (and vice versa).

4.2 Variations in Approach to Enforcement of Arbitral Awards

In terms of enforcement, the UAE laws distinguish between domestic arbitral awards seated in the UAE and foreign arbitral awards seated outside of the UAE. While the confirmation and enforcement of domestic arbitral awards is governed by Articles 55–57 of the UAE Arbitration Law, the recognition and enforcement of foreign arbitral awards is governed by the provisions of the New York Convention, which prevail over the provisions of the domestic UAE laws.

4.3 Categories of Arbitral Awards Not Enforced

Onshore Courts

For domestic arbitral awards that may be nullified pursuant to the UAE Arbitration Law and are thereby not capable of being enforced, please see **4.6 Challenging Enforcement of Arbitral Awards**. Foreign arbitral awards seated outside

of the UAE are not subject to any nullification procedures, as explained in **4.6 Challenging Enforcement of Arbitral Awards**.

In the UAE, although most arbitral awards that are either confirmed (for domestic arbitral awards) or recognised (for foreign arbitral awards) and thereafter enforced are money judgments, certain non-money awards may also be either confirmed or recognised but not enforced in certain cases.

The arbitral award creditor in a domestic arbitral award may choose to apply only for its confirmation or for its confirmation and enforcement. Similarly, the arbitral award creditor in a foreign arbitral award may choose to apply only for its recognition or for its recognition and enforcement.

Please see **4.4 Process of Enforcing Arbitral Awards** regarding the two-tier process to recognise or confirm and enforce an arbitral award, and regarding the difference between the confirmation or recognition of an award from one side and the enforcement thereof from another.

Therefore, the confirmation or recognition of an award refers to the doctrine of *res judicata* and serves as a shield to ensure that an action may not be disputed once its merit has been decided on by the arbitrator, as happened in the arbitration case *Omnium de Traitement et de Valorisation SA (OTV) v Hilmarton Ltd* (Com Ct, NLD, 8 June 1999, [1999] 2 Lloyd’s Rep 223).

Offshore Courts

In both the DIFC and ADGM Courts, an arbitral award will not be enforced if:

- a party to the arbitration agreement lacked capacity;

- the arbitration agreement is not valid under the applicable law;
- the party against whom the award is invoked was not given proper notice of the appointment of an arbitrator or of the proceedings, or was otherwise unable to present its case;
- the award decides on matters not falling within the terms of reference or exceeding their scope but, if those matters can be separated from those on which the tribunal had the authority to rule, only the portion of the award addressing issues on matters not submitted to arbitration may be set aside;
- the composition of the tribunal or the procedure was not in accordance with the parties' agreement or, in the absence of such an agreement, with the applicable law;
- the subject matter of the difference is not capable of settlement by arbitration under the DIFC or ADGM laws; or
- the recognition or enforcement of the award would be contrary to the public policy of the UAE.

4.4 Process of Enforcing Arbitral Awards Process for Enforcing Domestic Arbitral Awards Before Onshore Courts

The process entails a two-tiered procedure, as described below.

Tier 1 – confirmation

Firstly, the award is to be confirmed by the competent Court of Appeal in whose jurisdiction the arbitration was conducted by following the procedure of confirmation set forth in Article 55 of the UAE Arbitration Law. The award creditor will then obtain an execution order (ie, exequatur) to forcibly enforce the award against the debtor.

Tier 2 – enforcement

Once an arbitral award is confirmed, it becomes enforceable and can be enforced by the same

means as used in Tier 2, described in **3.4 Process of Enforcing Foreign Judgments**.

It is noteworthy that, for the purposes of enforcement, Articles 18 and 21 of the UAE Arbitration Law empower the president of the UAE Courts of Appeal to issue orders of interim measures for a UAE-seated onshore arbitration, upon the request of a party or the arbitral tribunal.

Process for Enforcing Foreign Arbitral Awards

The process entails a two-tiered procedure, as described below.

Tier 1 – recognition

A party seeking the enforcement of a foreign arbitral award before an onshore court must obtain an execution order in the same manner as stated for Tier 1 in **3.4 Process of Enforcing Foreign Judgments**. The court will issue its decision on an ex parte basis within three days from the date of the submission of the petition.

The execution order may only be issued if the conditions required for the enforceability of the foreign arbitral award stated in Articles IV and V of the New York Convention are fulfilled.

The execution judge's order of execution remains subject to the usual channels of appeal, as noted for Tier 1 in **3.4 Process of Enforcing Foreign Judgments**.

Tier 2 – enforcement

After obtaining the exequatur referred to in Tier 1 above, the creditor shall rely on the Civil Procedure Code in the same way as explained in **3.4 Process of Enforcing Foreign Judgments**.

The parties have two possible channels to challenge the enforcement procedures and to seek a stay pending the outcomes of the challenge,

depending on the grounds of the challenge (see **2.5 Challenging Enforcement of Domestic Judgments**).

Enforcement in Dubai Outside of the DIFC of Arbitral Awards Ratified by DIFC Courts

Awards recognised by the DIFC Courts may be enforced outside the DIFC in accordance with the Judicial Authority Law, which provides for the same procedures as outlined in **2.2 Enforcement of Domestic Judgments**. Recognition under this Law includes ratification for the purposes of Article 7 of the Judicial Authority Law.

Process of Enforcing Arbitral Awards Before the Offshore Courts

DIFC

Articles 42–44 of the DIFC Law No 1 of 2008 as amended by virtue of DIFC Law No 1 of 2013 (the “DIFC Arbitration Law”), together with Parts 43.62–43.74 of the RDC, are relevant for the enforcement of awards within the DIFC (wherever the seat of the award).

A party must make an application for enforcement in the DIFC Courts under Articles 42(1) and 43 of the DIFC Arbitration Law, and under Part 43 of the Rules of the DIFC Courts by using a Part 8 claim form. Applications can be made without notice. Subject to any challenges to recognition and enforcement, the DIFC Court will issue an order in both English and Arabic if it decides to recognise the award.

The applicant must then serve the DIFC Court order on the other party. It should be noted that the award cannot be enforced until a period of 14 days has elapsed since the publication of the award or until any set-aside order has been finally dealt with.

Parts 43.62–43.74 of the RDC regulate the enforcement of arbitral awards, regardless of the seat of the award.

The documents for enforcing an award in the DIFC include:

- a witness statement exhibiting the original award, or a certified copy;
- the original arbitration agreement, or a certified copy (if these are not in English, a certified translation should also be provided); and
- a draft recognition/enforcement order in English and Arabic.

ADGM

Part 4 of the ADGM Arbitration Regulations 2015 and Chapter 10 of the ADGM Court Regulations are the pertinent legislation for the ADGM procedure. Article 56 of the ADGM Arbitration Law sets out the basic requirements for the recognition or enforcement of an arbitral award, regardless of the seat of the arbitration.

The documents for enforcing an award in the ADGM include:

- the original or a duly certified copy of both the arbitral award and the arbitration agreement; and
- an application for the enforcement of an award, which must contain:
 - (a) an arbitration claim form;
 - (b) the name and registered business address (or usual or last known place of residence for an individual) of the award creditor and debtor; and
 - (c) any information on the extent to which the award has been complied with at the date of the application.

4.5 Costs and Time Taken to Enforce Arbitral Awards

Domestic Arbitral Awards Before Onshore Courts

The court fees payable for Tier 1 related to the confirmation of the award vary between AED320 and AED520, depending on the emirate in which the application is submitted. The court will issue its decision on an ex parte basis within 60 days of submission of the request for confirmation and enforcement.

For Tier 2, after obtaining the confirmation of the award and the exequatur referred to in Tier 1 above, the creditor shall rely on the provisions of the Civil Procedure Law in the same way as explained in **3.4 Process of Enforcing Foreign Judgments**. The costs and timeframe will be the same as described in **2.3 Costs and Time Taken to Enforce Domestic Judgments**.

Foreign Arbitral Awards Before Onshore Courts

The court fees payable are the same as listed for Tier 1 above. The court will issue its decision on the execution order application within three days from the date of its submission.

For Tier 2, see **2.3 Costs and Time Taken to Enforce Domestic Judgments** and **3.4 Process of Enforcing Foreign Judgments**.

Enforcement of Arbitral Awards Before Offshore Courts

The cost and time taken to enforce arbitral awards before the DIFC Courts and ADGM Courts is similar. As with the enforcement of judgments and foreign judgments, the cost and time very much depend on whether the award is challenged, and the nature of that challenge. Despite this, in recent years the process has become more streamlined, with both Courts

dealing with straightforward enforcements usually within a few months.

4.6 Challenging Enforcement of Arbitral Awards

Challenges of Domestic Arbitral Awards Before Onshore Courts

To challenge a domestic arbitral award under a nullity action, Article 53 (1)(a)-(h) of the Arbitration Law sets out eight grounds on which the court may object to an arbitral award or refuse an application for confirmation.

The court will also nullify an arbitral award if the subject matter of the dispute is not capable of being decided by arbitration or if the arbitral award is in conflict with public order and morality of the state.

Disputes that are not capable of being decided by arbitration in the UAE and that are subject to the exclusive jurisdiction of UAE courts include:

- commercial agency;
- labour disputes;
- disputes of personal status (of a familial nature); and
- disputes of a criminal nature.

An applicant who seeks to nullify a domestic arbitral award may bring their action within 30 days from the date of notification of the arbitral award to the applicant. The decision issued by the court for such nullification shall be final, and may only be subject to appeal by cassation.

Procedures for challenges of domestic arbitral awards

Any challenges against the confirmation of a domestic arbitral award may be raised in the same manner as described in Articles 56 and 57 of the UAE Arbitration Law.

For an order obtained under Tier 2, any challenges may be raised following the two possible channels outlined in **2.5 Challenging Enforcement of Domestic Judgments**, to challenge the enforcement procedures and to seek a stay pending the outcomes of the challenge, depending on the grounds of the challenge.

Challenges of Foreign Arbitral Awards Before Onshore Courts

Although the UAE courts have jurisdiction to decide on a nullity action against domestic arbitral awards, foreign arbitral awards are not subject to any nullification procedures; the foreign arbitral award debtor can resist enforcement only.

Procedures for challenges of foreign arbitral awards

The procedures are the same for Tier 1 and Tier 2, as outlined in **3.4 Process of Enforcing Foreign Judgments**.

Challenging Enforcement of Arbitral Awards Before Offshore Courts

In both the DIFC and ADGM Courts, the process of challenging the enforcement of arbitral awards complies with the provisions of the New York Convention.

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