

UNITED ARAB EMIRATES (UAE)

CHAPTER PREPARED BY

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JURISDICTION INDICATIVE TRAFFIC LIGHTS

- | | |
|--|---|
| 1. Law | ● |
| a. Framework | ● |
| b. Adherence to international treaties | ● |
| c. Limited court intervention | ● |
| d. Arbitrator immunity from civil liability | ● |
| 2. Judiciary | ● |
| 3. Legal expertise | ● |
| 4. Rights of representation | ● |
| 5. Accessibility and safety | ● |
| 6. Ethics | ● |
| Evolution of above compared to previous year | ☰ |
| 7. Tech friendliness | ● |
| 8. Compatibility with the Delos Rules | ● |

VERSION: 6 NOVEMBER 2025 (v01.01)

There have not been any material changes requiring an update to this chapter (including the traffic lights) since the date of the latest version. Nonetheless, please note that this chapter does not constitute legal advice and its authors, the contributing law firm and Delos Dispute Resolution decline any and all responsibility.

IN-HOUSE AND CORPORATE COUNSEL SUMMARY

Arbitration is a popular method of dispute resolution in the United Arab Emirates (“UAE”). The UAE is unique because it has three arbitration jurisdictions in one country, with each having its own legislative framework. In this regard, the UAE offers a number of popular seats, including onshore Dubai and Abu Dhabi and their offshore financial centres, such as the Dubai International Financial Centre (“DIFC”) and Abu Dhabi Global Market (“ADGM”). Parties have been showing a willingness to submit their commercial disputes to arbitration, and this trend is not limited to any specific industry or sector.

The UAE Federal Law No. 6 of 2018 on Arbitration governs onshore arbitrations in the UAE. It came into effect on 15 June 2018, thereby repealing Articles 203-218 of Federal Law No. 11 of 1992 on the Civil Procedures Law (as amended), i.e., the so-called arbitration chapter, and was recently amended by Federal Decree Law No. 15 of 2023 (“**Federal Arbitration Law**”). Additionally, the recognition and enforcement procedures of foreign arbitral awards in the onshore UAE are governed by Federal Law No. 42 of 2022 promulgating the Civil Procedures Law (“**Civil Procedures Law**”), which came into force on 2 January 2023. As noted by the United Nations Commission on International Trade Law (“**UNCITRAL**”) (A/CN.9/1020, paragraph 7), the Federal Arbitration Law is based on the UNCITRAL Model Law on International Commercial Arbitration.

This chapter addresses the provisions of the Federal Arbitration Law (“**Part 1**”) and includes developments on DIFC and ADGM arbitrations (“**Part 2**”). Arbitrations seated in the DIFC are governed by the DIFC Law No. 1 of 2008, which was enacted in September 2008 and amended in December 2013 (“**DIFC Arbitration Law**”). Arbitrations seated in the ADGM are governed by the ADGM Arbitration Regulations of 2015, which were enacted on 17 December 2015 and amended on 23 December 2020 (“**ADGM Arbitration Regulations**”).

Key places of arbitration in the jurisdiction?	The key places of arbitration in the UAE are Dubai (onshore and offshore through the DIFC), Abu Dhabi (onshore and offshore through ADGM), and Sharjah.
Civil law/Common law environment?	Onshore UAE is a civil law jurisdiction, whereas DIFC and ADGM are common law jurisdictions.
Confidentiality of arbitrations?	<p>With respect to onshore arbitrations, the Federal Arbitration Law provides that arbitration hearings and arbitral awards are confidential unless otherwise agreed by the parties (see, Articles 33 and 48). The Federal Arbitration Law permits the publication of judgments dealing with arbitral awards, as this is not considered a violation of the restriction on publication of arbitral awards (see, Article 48).</p> <p>As for offshore arbitrations:</p> <ul style="list-style-type: none"> • The ADGM Arbitration Regulations (Section 45) prohibit parties from disclosing any confidential information to a third party, unless otherwise agreed by the parties, ordered by the arbitral tribunal or as may be required by a legal duty or to protect or pursue a legal right. • The DIFC Arbitration Law (Article 14) provides that all information relating to the arbitral proceedings shall be kept confidential

	<p>unless otherwise agreed by the parties and except where disclosure is required by an order of the DIFC Court.</p>
<p>Requirement to retain (local) counsel?</p>	<p>There is no requirement, whether onshore or offshore, to retain counsel. Parties can either retain outside counsel (local or foreign) or be self-represented. Article 33(4) of the Federal Arbitration Law specifies that the arbitral tribunal may request proof of power from outside counsel, i.e., power of attorney.</p>
<p>Ability to present party employee witness testimony?</p>	<p>There is no prohibition on parties from presenting employee witness testimony. Section 3(p) of Schedule 1 of the ADGM Arbitration Regulations implies that an employee of a party may appear as a witness.</p>
<p>Ability to hold meetings and/or hearings outside of the seat?</p>	<p>The Federal Arbitration Law places no restriction on the choice of location for the meetings and/or hearings in connection with an arbitration (Article 28). Article 27(2) of the DIFC Arbitration Law and Section 35(4) of the ADGM Arbitration Regulations provide that the arbitral tribunal may meet at any place it considers appropriate.</p>
<p>Availability of interest as a remedy?</p>	<p>Onshore, the parties can recover interest as a remedy, subject to certain limitations provided by the applicable laws in the UAE.</p> <p>Offshore, the DIFC Arbitration Law does not expressly address the arbitral tribunal's power to award interest. In the ADGM, subject to any contrary agreement by the parties, the arbitral tribunal's powers to award interest shall be in accordance with the substantive law governing the claim for which an award of interest is sought and include the possibility of awarding simple or compound interest (Section 52 of the ADGM Arbitration Regulations).</p>
<p>Ability to claim for reasonable costs incurred for the arbitration?</p>	<p>Onshore, an arbitral tribunal assesses the costs of the arbitration unless the parties agree otherwise (Article 46 of the Federal Arbitration Law). According to the Federal Arbitration Law, costs of arbitration include the fees and expenses incurred by any member of the arbitral tribunal and the costs of appointment of experts by the arbitral tribunal (and not legal and other costs). The arbitral tribunal may order either party to bear all or part of the costs of arbitration.</p> <p>Offshore, the DIFC Arbitration Law (Article 38(5)) and the ADGM Arbitration Regulations (Section 55(6)) both provide that the arbitral tribunal shall fix the costs of the arbitration in its award and that the costs for legal representation and assistance of the successful party are included within the meaning of arbitration costs.</p>
<p>Restrictions regarding contingency fee arrangements and/or third party funding?</p>	<p>Onshore, there is no legislation governing third party funding, and contingency fees of advocates and legal consultants registered with the Ministry of Justice are subject to a 25% cap.</p> <p>Offshore, the ADGM issued the Litigation Funding Rules 2019, which includes rules on, <i>inter alia</i>, the amount of qualifying assets, scope of</p>

	<p>funding, and conflicts of interest. In addition, the ADGM Arbitration Regulations regulate third party funding in arbitration proceedings. While they do not restrict third party funding, the ADGM Arbitration Regulations provide that a party must notify all other parties and the arbitral tribunal of the existence of any third party funding agreement and the identity of the third party funder (Section 37).</p> <p>Practice Direction No. 2 of 2017 on Third Party Funding in the DIFC Courts sets out requirements regarding the relationship between the funded parties and the funder in legal proceedings in the DIFC Courts. While there are no provisions on DIFC-seated arbitrations, it is our view that the DIFC's friendly approach to third party funding implies that such an arrangement should not be prohibited. Particularly, the DIFC Courts, as the supervisory court of a DIFC-seated arbitration, are unlikely to refuse recognition and/or enforcement of an arbitral award on the ground that one of the parties benefited from third party funding.</p>
Party to the New York Convention?	<p>The UAE is a signatory of the New York Convention (see Federal Decree No. 43 of 2006). The UAE acceded to the New York Convention on 21 August 2006, and the New York Convention entered into force in the UAE on 19 November 2006. The UAE made no reservations to the New York Convention. The DIFC and the ADGM are also bound by the New York Convention by virtue of Article 33 of the Dubai Law No. 2 of 2025 concerning DIFC (the "DIFC Courts Law"), and Article 170 of ADGM Courts, Civil Evidence, Judgments, Enforcement and Judicial Appointments Regulations 2015.</p>
Party to the ICSID Convention?	<p>The UAE signed and ratified ICSID Convention on 23 December 1981, which entered into force on 22 January 1982.</p>
Compatibility with the Delos Rules?	<p>We have not identified any provision in the Delos Rules that would, in principle, conflict with the Federal Arbitration Law, the ADGM Arbitration Regulations, or the DIFC Arbitration Law.</p>
Default time-limitation period for civil actions (including contractual)?	<p>UAE Federal Law No. 5 of 1985 on the Civil Transactions Law, as amended, ("Civil Transactions Law") provides in Article 473 that a right shall not be extinguished by time limitation but the hearing of the case shall not be admissible after the lapse of fifteen years without legal excuse. Generally, limitation periods are subject to particular rules. The period for ordinary commercial contractual claims, according to Article 92 of UAE Federal Law No. 50 of 2022 on the Commercial Transactions Law ("Commercial Transactions Law"), is five years.</p>
Other key points to note?	<ol style="list-style-type: none"> 1. The representative of a juristic person must be duly authorized to agree to arbitration as a means of resolving disputes in order to bind the entity to arbitrate (i.e., Article 4(1) of the Federal Arbitration Law). The UAE Courts adopt a formalistic approach and often scrutinize, in detail, the authority of the signatories of

	<p>entities agreeing to arbitration. The Federal Arbitration Law reaffirms the requirement that the signatory to an arbitration agreement must possess the requisite authority. In more recent cases, the Dubai Court of Cassation has adopted a less stringent approach in determining this question, yet it remains to be seen whether this relaxed approach will constitute a <i>jurisprudence constante</i>. Nevertheless, it remains prudent for an arbitral tribunal to request proof of authority of the signatory to the arbitration agreement, most notably in circumstances where the arbitration agreement is reconfirmed in writing (e.g., terms of reference) or varied at the outset of the proceedings.</p> <ol style="list-style-type: none"> 2. While commercial agency disputes, particularly in relation to the existence and registration of the commercial agency, were not considered to be arbitrable, Article 26 of UAE Federal Law No. 3 of 2022 Concerning the Regulation of Commercial Agencies, which came into force on 16 June 2023, confirms that any dispute between an agent and the principal may be referred to arbitration. 3. The UAE Courts have set aside awards because witnesses did not swear the oath set out under UAE law before giving evidence. While Article 33 of the Federal Arbitration Law does not expressly provide for any requirement of oath taking, it would be prudent for arbitral tribunals to take witness evidence on oath. 4. An arbitrator could be held criminally liable if found to have engaged in corrupt activities. The standard applied to an arbitrator’s potential criminal liability for corruption is the same as that applied to public servants. 5. Following the Government of Dubai Decree No. 34 of 2021 Concerning the Dubai International Arbitration Centre (“DIAC”), which came into force on 20 September 2021, the DIFC Arbitration Institute (i.e., the key stakeholder and administrator of the DIFC-LCIA Arbitration Centre) was abolished and its assets and operations were transferred to DIAC. Recently, the Abu Dhabi Court of Cassation (Case No. 536 of 2024 dated 23 May 2024) and the DIFC Courts (ARB 0092024 Narcisco v. Nash) ruled that the dissolution of the DIFC-LCIA was not a ground for the arbitration clause to be considered invalid or unenforceable. Similarly, foreign courts have also dealt with this issue. The most notable was the initial ruling of the US District Court of Louisiana, which has been overturned by the US Court of Appeals for the Fifth Circuit. In reversing the decision, the court determined that the parties’ arbitration agreement remained enforceable despite the dissolution of the DIFC-LCIA, as the parties’ intent to arbitrate prevailed.
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<p>World Bank, Enforcing Contracts: Doing Business score (2020)</p>	<p>75.9</p>
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World Justice Project, Rule of Law Index: <i>Civil Justice</i> score for 2024, if available?	0.66
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ARBITRATION PRACTITIONER SUMMARY

Arbitration is a widely used method for resolving disputes arising out of domestic and international commercial transactions in the UAE. Developments in recent years in the UAE show its commitment to arbitration, including ensuring its mechanisms are in line with international standards as enshrined in the UAE’s accession to the New York Convention in 2006 on a no-reservation basis and the enactment of the Federal Arbitration Law based on the UNCITRAL Model Law. The UAE is also party to multilateral treaties such as the Riyadh Convention, i.e., the 1983 Riyadh Convention on Judicial Co-operation between States of the Arab League and the GCC Convention, i.e., the 1995 Protocol on the Enforcement of Judgments, Letters, Rogatory and Judicial Notices issued by the Courts of the Member States of the Arab Gulf Co-operation Council. Generally, the UAE Courts have been supportive of and respect arbitration agreements between parties (although they have tended to adopt a restrictive approach to upholding arbitration agreements as an exception to their general jurisdiction). The UAE Courts also recognize and enforce arbitral awards, in accordance with the provisions of the law.

Financial free zones have been established by virtue of a federal decree pursuant to Federal Law No. 8 of 2004 on Financial Free Zones. Notably, the **DIFC** has been established in the Emirate of Dubai, and the **ADGM** in the Emirate of Abu Dhabi. Both are bound by the treaties and conventions to which the UAE is a party.

The DIFC was established in 2004 pursuant to UAE Federal Law No. 35 of 2004. Dubai Law No. 9 of 2004 sets out the laws of the DIFC and formation of a Judicial Authority. It has its own civil, commercial, and arbitration laws, and largely follows the English common law approach. The DIFC Courts Law repealed Dubai Law No. 12 of 2004 (as amended) and DIFC Law No. 10 of 2004. The DIFC Courts Law governs the Court of First Instance and Court of Appeal established by the now-repealed DIFC Law No. 10 of 2004, as well as the Small Claims Tribunal. Article 14 of the DIFC Courts Law sets out the Court’s jurisdiction. The DIFC Courts are English-language common law courts and have been designed to appeal to the international business community.

The ADGM was established in 2013 pursuant to UAE Federal Law No. 15 of 2013 and Cabinet Resolution No. 4 of 2013 (as amended by UAE Cabinet Resolution No. 41 of 2023). Abu Dhabi Law No. 4 of 2013 (as amended by Abu Dhabi Law No. 12 of 2020) sets out the governance, legislative, and regulatory frameworks and activities to be carried out in the ADGM. The ADGM has its own civil, commercial, and arbitration laws and is the first jurisdiction in the Middle East to directly apply English common law. For example, the rules and principles of equity are directly applicable in the ADGM. In addition, a wide-ranging set of English statutes on civil matters are also applicable in the ADGM. The ADGM Courts are broadly modelled on the English judicial system and are the supervisory courts in respect of arbitrations seated in ADGM. In 2017, the International Court of Arbitration of the International Chamber of Commerce (“**ICC**”) established the ICC Middle East and North Africa representative office in the ADGM and a case management office for the ICC Court Secretariat opened in April 2021 in the ADGM with a primary focus on administering Middle East–related ICC arbitrations.

Date of arbitration law?	For arbitrations seated in the onshore UAE (anywhere outside of DIFC and ADGM), it is the Federal Arbitration Law, which was enacted on 15 June 2018 and amended by Federal Decree Law No. 15 of 2023. The Federal Arbitration Law repealed Articles 203-218 of Federal Law No. 11 of 1992 on the Civil Procedures Law (as amended), i.e., the so-called arbitration chapter. The recognition and enforcement of foreign arbitral awards in the onshore UAE is governed by the Civil Procedures Law.
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	<p>Arbitrations offshore in the DIFC are governed by the DIFC Arbitration Law, which was enacted in September 2008 and amended in December 2013.</p> <p>Arbitrations offshore in ADGM are governed by the ADGM Arbitration Regulations, which were enacted on 17 December 2015 and amended on 23 December 2020.</p>
<p>UNCITRAL Model Law? If so, any key changes thereto?</p>	<p>All arbitration laws in the UAE, both onshore and offshore, are based on the UNCITRAL Model Law, including the Federal Arbitration Law, the DIFC Arbitration Law, and the ADGM Arbitration Regulations, which have been recognized by UNCITRAL (A/CN.9/1020).</p> <p>The key changes from and additions to the UNCITRAL Model Law are:</p> <ul style="list-style-type: none"> • <i>Capacity (Federal Arbitration Law only)</i>: The signatory must be authorised to enter into the arbitration agreement; otherwise the arbitration agreement is considered null and void (i.e., Article 4 of the Federal Arbitration Law). There is no similar requirement under the UNCITRAL Model Law; • <i>Commencement (Federal Arbitration Law only)</i>: Arbitral proceedings are deemed to have commenced from the date following the formation of the arbitral tribunal, unless otherwise agreed by the parties (i.e., Article 27 of the Federal Arbitration Law). By contrast, the UNCITRAL Model Law provides that the arbitral proceedings commence on the date on which the request for arbitration is received by the respondent (i.e., Article 21 of the UNCITRAL Model Law); • <i>Hearings (Federal Arbitration Law and ADGM Arbitration Regulations)</i>: Unless otherwise agreed by the parties, the arbitral tribunal may hold the arbitration hearings through modern means of communication and technology – for example, by video conferencing (i.e., Article 28 of the Federal Arbitration Law and Section 34 of the ADGM Arbitration Regulations). By contrast, the UNCITRAL Model Law does not provide for arbitration hearings through modern means of technology; • <i>Confidentiality (Federal Arbitration Law, ADGM Arbitration Regulations, and DIFC Arbitration Law)</i>: The law expressly protects the confidentiality of arbitration hearings and arbitral awards unless otherwise expressly agreed by the parties (i.e., Articles 33 and 48 of the Federal Arbitration Law). Express protection of confidentiality, unless otherwise agreed by the parties, ordered by the arbitral tribunal or as may be required by a legal duty or to protect or pursue a legal right (i.e., Section 45 of the ADGM Arbitration Regulations). All information relating to the arbitral proceedings must be kept confidential unless otherwise agreed by the parties or where the DIFC court orders disclosure (i.e., Article 14 of the DIFC Arbitration Law). By contrast, the UNCITRAL Model Law does not expressly provide confidentiality provisions;

- *Joinder of third parties (Federal Arbitration Law and ADGM Arbitration Regulations):* The arbitral tribunal may join a third party to the arbitral proceedings, provided that the latter is a party to the underlying arbitration agreement and upon the request of a party or the third party itself (i.e., Article 22 of the Federal Arbitration Law). The ADGM Court of First Instance or the arbitral institution administering the arbitration (if any) can join a third party to the arbitration provided that it is a party to the arbitration agreement and that it has consented in writing (i.e., Section 39 of the ADGM Arbitration Regulations). By contrast, the UNCITRAL Model Arbitration Law does not provide for the joinder of third parties;
- *Limitation period for setting aside applications or waiver/limitation of right to set aside (Federal Arbitration Law and ADGM Arbitration Regulations):* A party seeking to set aside the arbitral award must submit the request within 30 days from the date of the notification of the award (i.e., Article 54(2) of the Federal Arbitration Law). The parties may, by an express statement in the arbitration agreement, or by a subsequent written agreement, fully waive the right to bring an action for setting aside, or to limit it to certain grounds (i.e., Section 59 of ADGM Arbitration Regulations). By contrast, the UNCITRAL Model Law provides for a duration of 3 months from the date of receipt of the award (i.e., Article 34 of the UNCITRAL Model Law) and does not expressly permit a waiver to the right to set aside an award;
- *Number of arbitrators (DIFC Arbitration Law only):* The default number of arbitrators is one (i.e., Article 16(2) of the DIFC Arbitration Law). By contrast, the UNCITRAL Model Law stipulates that, in the event that the parties have not agreed on the number of arbitrators, the default number of arbitrators shall be three (i.e., Article 10(2) of the UNCITRAL Model Law);
- *Liability of arbitral tribunal and others (DIFC Arbitration Law only):* Arbitrators, employees or agents of the arbitrators, arbitral institution and appointing authority are not liable to any person for any act of omission in connection with an arbitration, unless they are shown to have caused damage by conscious and deliberate wrongdoing (i.e., Article 22 of the DIFC Arbitration Law). In contrast, the UNCITRAL Model Law does not provide for any limitation on the liability of the arbitral tribunal or others; and
- *Certification of award (DIFC Arbitration Law only):* The original award or an original arbitration agreement must be duly certified whether it is a copy that is certified in accordance with the laws of the jurisdiction in the place of arbitration or elsewhere (i.e., Article 42(3) of the DIFC Arbitration Law). There is no similar requirement under the UNCITRAL Model Law.

<p>Availability of specialised courts or judges at the key seat(s) in the jurisdiction for handling arbitration-related matters?</p>	<p>Article 1 of the Federal Arbitration Law designates the Court of Appeal at the seat (i.e., the local or federal Court of Appeal, as the case may be) to provide supervision and assistance to onshore arbitrations. By contrast, the Court of First Instance in both the ADGM and DIFC is designated to deal with arbitration matters under Section 13 of the ADGM Arbitration Regulations and Article 11 of the DIFC Arbitration Law, respectively. The DIFC Courts also have an Arbitration Division.</p>
<p>Availability of <i>ex parte</i> pre-arbitration interim measures?</p>	<p><i>Ex parte</i> precautionary attachment orders are available to parties pre-arbitration as interim measures. These interim measures are available both onshore and offshore and include, <i>inter alia</i>, freezing injunctions to prevent the dissipation of assets or requests for the preservation of evidence. Further, the UAE's arbitration framework confirms the competent court's power to order interim measures before, and during, arbitral proceedings (Article 18 of the Federal Arbitration Law; Article 15 of the DIFC Arbitration Law; Section 31 of the ADGM Arbitration Regulations).</p>
<p>Courts' attitude towards the competence-competence principle?</p>	<p>With respect to arbitrations seated in the onshore UAE, Article 19 of the Federal Arbitration Law gives the arbitral tribunal the power to rule on its own jurisdiction (including objections in relation to the nullity, non-existence, or expiration of an arbitration agreement), either as a preliminary question or in the final award. Where an arbitral tribunal rules that it has jurisdiction as a preliminary matter, either party may request the competent court to review and make its own determination on the matter within 15 days of notification of the arbitral tribunal's decision. Following this, the competent court is required to issue its decision within 30 days of the party's request. This decision is not subject to appeal. Pending the judicial decision on jurisdiction, the arbitral tribunal is required to stay the arbitration proceedings unless it decides to continue the proceedings at a party's request.</p> <p>Where an arbitration is offshore, the arbitral tribunal may rule on its own jurisdiction, whether as a preliminary question or in an award on the merits (i.e., Article 23 of the DIFC Arbitration Law and Section 25 of the ADGM Arbitration Regulations). The ADGM Arbitration Regulations further provide that any ruling on jurisdiction may be challenged by any available arbitral process of appeal or review that the parties may have agreed, or in accordance with the ADGM Regulations.</p>
<p>May an arbitral tribunal render a ruling on jurisdiction (or other issues) with reasons to follow in a subsequent award?</p>	<p>In both onshore and offshore seated arbitrations, an award is required to state the reasons upon which it is based (i.e., Article 41(4) of the Federal Arbitration Law; Article 38(2) of the DIFC Arbitration Law; and Section 55(2) of the ADGM Arbitration Regulations).</p>

	<p>Neither the onshore nor offshore arbitration legislations explicitly include provisions regarding the timing for the issuance of reasoning or on whether a ruling on jurisdiction (or other issues) is in an award.</p>
<p>Grounds for annulment of awards additional to those based on the criteria for the recognition and enforcement of awards under the New York Convention?</p>	<p>Neither the DIFC Arbitration Law nor the ADGM Arbitration Regulations provide grounds for the annulment of awards beyond the New York Convention criteria (i.e., Article 41 of the DIFC Arbitration Law; Section 58 of the ADGM Arbitration Regulations). Whereas the Federal Arbitration Law provides additional grounds for annulment of awards beyond the criteria for the recognition and enforcement of awards under the New York Convention.</p> <p>The additional grounds under the Federal Arbitration Law include: (1) that a party was unable to submit its defence due to the arbitral tribunal's failure to comply with the principles of litigation or for any other reason beyond its will; (2) the award failed to apply the law agreed by the parties to the merits of the dispute; or (3) the award was issued after the termination of the specified period for issuance (i.e., Article 53 of the Federal Arbitration Law).</p>
<p>Do annulment proceedings typically suspend enforcement proceedings?</p>	<p>Article 44(2) of the DIFC Arbitration Law and Section 62(2) of the ADGM Arbitration Regulations provide that the DIFC and ADGM Court, respectively, may adjourn its decision if an application for the setting aside has been made. For arbitrations seated onshore, Article 56(1) of the Federal Arbitration Law provides that the filing of an action to annul an arbitral award shall not result in the stay of enforcement of the award. However, the UAE Court examining the annulment application may order the stay of enforcement (Article 56 of the Federal Arbitration Law).</p>
<p>Courts' attitude towards the recognition and enforcement of foreign awards annulled at the seat of the arbitration?</p>	<p>The onshore or offshore courts do not appear to have enforced any foreign award annulled at the seat of the arbitration. Article 44(1)(v) of the DIFC Arbitration Law and Section 62(1)(vi) of the ADGM Arbitration Regulations specify that enforcement may be refused if the award has been set aside by a competent authority of the country in which it was made.</p>
<p>If an arbitral tribunal were to order a hearing to be conducted remotely (in whole or in part) despite a party's objection, would such an order affect the recognition or enforceability of an ensuing award in the jurisdiction?</p>	<p>Article 28(1) of the Federal Arbitration Law provides that the parties may determine the location, whether on site or virtually, through modern technological means or in technological communities. If there is no agreement, it shall be determined by the arbitral tribunal. Article 35 provides that the arbitral tribunal may hear testimony by modern means of communication.</p> <p>Section 34(5)(g) of the ADGM Arbitration Regulations requires the arbitral tribunal to consider the use of technology in order to enhance the efficient and expeditious conduct of the arbitration, including for conducting hearings, in whole or in part, by video conference, telephone or other communication technology. Section 35 provides that the arbitral tribunal may meet at any place for hearing witnesses,</p>

	<p>experts or the parties and that such meetings may take place, in whole or in part, by video conference, telephone or other communications technology. Section 43(2) provides that the arbitral tribunal shall decide whether the hearing is to be conducted, in whole or in part, in person or by video conference, telephone or other communication technology.</p> <p>While the DIFC Arbitration Law does not refer to technological means of communication, Article 27(2) provides that the arbitral tribunal may meet at any place for hearing witnesses, experts or the parties, and Article 31(1) provides that the arbitral tribunal shall decide whether to hold oral hearings or whether the proceedings shall be conducted on the basis of documents and other materials.</p> <p>Holding a hearing remotely via technological means would therefore be unlikely to affect the enforceability of an ensuing award, unless objected to following the parties' agreement against it.</p>
<p>Key points to note in relation to arbitration with and enforcement of awards against public bodies at the jurisdiction?</p>	<p>Generally, governmental bodies in the UAE may not enter into arbitration agreements without prior approval from the Cabinet of Ministers. The contracts must also be reviewed by the Ministry of Justice, Islamic Affairs, and Awqaf in coordination with the Ministry of Finance and Industry.</p> <p>There are no provisions under the UAE legislation granting immunity from civil or arbitral proceedings to the state, whether domestic or foreign. However, some Emirates do require a notice to be served on the Legal Affairs Department before any proceedings are initiated.</p> <p>Additionally, Article 242 of the Civil Procedures Law provides a general prohibition on the attachment of public funds owned by the "State or one of its Emirates," as well as funds owned by "foreign embassies and diplomatic bodies enjoying diplomatic immunity under the condition of reciprocity," including for the purposes of enforcement.</p> <p>Although neither the DIFC nor the ADGM legislation mentions the waiver of sovereign immunity, in Pearl Petroleum Company Ltd. & Others v. the Kurdistan Regional Government of Iraq ("KRG"), the DIFC Court in upholding the enforcement of an arbitral award held that KRG had explicitly waived the right to sovereign immunity in the parties' agreement. Notably, the Court did not decide whether KRG in fact had a right to sovereign immunity in the first place, finding that there were no questions of sovereign immunity because any such right which might have existed had been waived. In Fal Oil Company v. Sharjah Electricity and Water Authority, the DIFC Court found there to be no general principle of inter-Emirate immunity under the Constitution of the UAE.</p>
<p>Is the validity of blockchain-based evidence recognised?</p>	<p>The use of blockchain-based evidence and its validity is not addressed in any of the legislation of the UAE, whether onshore or offshore, and</p>

	<p>the UAE courts, including DIFC and ADGM Courts, have not dealt with any issues pertaining to the validity of blockchain-based evidence.</p>
<p>Where an arbitration agreement and/or award is recorded on a blockchain, is it recognised as valid?</p>	<p>The recording of an arbitration agreement and/or award on blockchain is not addressed in any of the UAE legislation, including the Federal Arbitration Law, the ADGM Arbitration Regulations, and DIFC Arbitration Law.</p> <p>Nevertheless, the arbitration agreement or award must comply with the mandatory provisions under the relevant arbitration law. For example, with respect to arbitral awards issued in onshore-seated arbitrations, the awards must comply with Article 41 of the Federal Arbitration Law. Likewise, for offshore-seated arbitrations, the awards must comply with Section 55 of the ADGM Arbitration Regulations or Article 38 of the DIFC Arbitration Law.</p> <p>Arbitration agreements are required to be in writing. Article 7(2) of the Federal Arbitration Law provides that such requirement is met if the arbitration agreement is made by an electronic communication. Article 12(4) of the DIFC Arbitration Law provides that an arbitration agreement is in writing if its content is recorded in any form. Section 14(3) of the ADGM Arbitration Regulations provides that the requirement is met by an electronic communication if the information contained therein is accessible so as to be useable for subsequent reference.</p> <p>It is worth noting that, in February 2023, the ADGM Courts announced that they would be introducing blockchain technology for the purpose of enforcing commercial judgments, which would enable commercial courts to independently and instantly verify the authenticity of judgements. Arguably, this means that the ADGM Courts should have no issue in recognizing blockchain arbitration agreements and/or awards.</p>
<p>Would a court consider a blockchain arbitration agreement and/or award as originals for the purposes of recognition and enforcement?</p>	<p>The UAE Courts recognize electronic documents as originals for the purposes of recognition and enforcement and would therefore, recognize, in principle, a blockchain arbitration agreement or arbitral award as an original to the extent that it is the original electronic document.</p> <p>Concerning the ADGM and DIFC Courts, the points noted above regarding the validity of blockchain-based evidence and validity of an arbitration agreement and/or award recorded on a blockchain would similarly apply here. Specifically, for ADGM-seated arbitrations, provided that a blockchain arbitration agreement or award does not conflict with the mandatory requirements under the ADGM Arbitration Regulations on the form of the arbitration agreement and/or award and any other applicable rules on the taking of evidence, then, arguably, they ought to be considered as originals. Similarly, for DIFC-seated arbitrations, provided that a blockchain arbitration agreement or award does not conflict with the mandatory</p>

	requirements under the DIFC Arbitration Law on the form of the arbitration agreement and/or award and any other applicable rules on the taking of evidence, then, arguably, they ought to be considered as originals.
Other key points to note?	φ

JURISDICTION DETAILED ANALYSIS: (1) ONSHORE ARBITRATION

1. Legal Framework

1.1 Is the arbitration law based on the UNCITRAL Model Law?

As indicated above, the Federal Arbitration Law is based on the UNICTRAL Model Law.

1.1.1 If yes, what key modifications, if any, have been made to it?

The Federal Arbitration Law contains several modifications, including:

- (i) Article 4 on capacity, which provides that an arbitration agreement may only be concluded by a physical person who has the legal capacity to act or by the representative of the juristic person authorized to conclude the arbitration agreement; otherwise, the arbitration agreement is considered null and void;
- (ii) Article 22 on third parties, which allows the arbitral tribunal to join a third party to the arbitral proceedings, provided that the third party is a party to the underlying arbitration agreement, and upon the request of a party or the third party itself;
- (iii) Article 27 on commencement, which provides that arbitral proceedings are deemed to have commenced from the date following the formation of the arbitral tribunal, unless otherwise agreed by the parties;
- (iv) Article 28 on hearings, which stipulates that, unless otherwise agreed by the parties, the arbitral tribunal may hold arbitration hearings through modern means of communication and technology (e.g., video conferencing);
- (v) Articles 33 and 48 on confidentiality, which protect the confidentiality of arbitration hearings and arbitral awards, unless otherwise expressly agreed by the parties;
- (vi) Article 48 on publication of awards, which provides that arbitral awards should be confidential and may not be published in whole or in part without the written consent of the parties;
- (vii) Article 54 on setting aside applications, which states that a party seeking to set aside the arbitral award must submit the request within 30 days from the date of the notification of the award; and
- (viii) Article 56(1) on the stay of proceedings, which empowers the court examining the annulment application to order the stay of enforcement, however, it may not do so *sua sponte* and may only do so at the request of a party.

1.2 When was the arbitration law last revised?

The Federal Arbitration Law came into force on 16 June 2018 and was amended by Federal Law No. 15 of 2023 on 4 September 2023.

It is important to note that the Civil Procedures Law came into force on 2 January 2023 and repealed sections of Federal Law No. 11 of 1992 on the Civil Procedures Law, its Executive Regulations, and Cabinet Resolution 57 of 2018. The Civil Procedures Law now governs the recognition and enforcement regime of foreign arbitral awards.

2. Arbitration Agreement

2.1 How do the courts in the jurisdiction determine the law governing the arbitration agreement?

The point of departure may be Article 53(1)(a) of the Federal Arbitration Law or Article V(1)(a) of the New York Convention. While it is frequent that the arbitration agreement does not specify the law applicable to itself, the UAE Courts do not appear to have dealt with the question.

2.2 In the absence of an express designation of a 'seat' in the arbitration agreement, how do the courts deal with references therein to a 'venue' or 'place' of arbitration?

Article 28 of the Federal Arbitration Law corresponds to Article 20 of the UNCITRAL Model Law. While the first paragraph of Article 28 of the Federal Arbitration Law recognises the parties' freedom to choose the place of arbitration, a term of art referring to the legal seat of arbitration, it now (i.e., after the amendments) appears to only concern the location(s) for various acts and processes in the arbitration. One may argue that the previous provision merely represented an emanation of the principle of party autonomy since it only applied, in accordance with Article 2, when the place of arbitration had already been chosen.

While Article 20.1 of the DIAC Arbitration Rules provides that "[w]here the parties have not agreed a seat, but they have agreed a location/venue for the arbitration, [...], such location/venue shall be deemed to be the seat of the arbitration," the Federal Arbitration Law does not have any such deeming provision.

2.3 Is the arbitration agreement considered to be independent from the rest of the contract in which it is set forth?

Article 6(1) of the Federal Arbitration Law provides that an arbitration agreement shall be separate from other clauses of the contract and that the nullity, rescission or termination of the main contract does not affect the arbitration agreement contained therein, unless the matter relates to the incapacity of any party. However, there may be other defects common to the arbitration clause and the underlying contract. Article 6(2) provides that an argument on the nullity, rescission, or termination of the contract does not result in the stay of the arbitration proceedings.

2.4 Formal requirements for the validity and/or enforceability of the arbitration agreement?

Article 7 of the Federal Arbitration Law contains form requirements. According to Article 7(1), an arbitration agreement must be made in writing, and failure to observe the requisite form makes the arbitration agreement null and void.

Article 7(2) contains a list of circumstances that satisfy the in-writing requirement, including inclusion into a document signed by the parties, exchange of correspondence between the parties, exchange of written statements in arbitration and incorporation by reference. Article 5(3) requires that such reference be clear when making the arbitration clause part of the contract. In Dubai Court of Cassation, Case No. 1308 of 2020, the court held that a mere general reference to another document was insufficient to prove that the parties were explicitly aware of the existence of an arbitration agreement contained therein. However, in Dubai Court of Cassation, Case No. 141 of 2021, the court ruled that a simple reference that disputes arising between the employer and contractor with regard to the performance of the works would be resolved by reference to FIDIC standard forms was sufficient to bind the parties to arbitration.

In respect of capacity, it is worth noting that the UAE courts generally require that the representative of a juridical person be authorized to agree to arbitration, i.e., requiring proof of authority in the form of a power of attorney. For example, the Court of Cassation, Case No. 902 of 2024, emphasized the importance of ensuring that a signatory to a contract containing an arbitration agreement has specific authority to bind the company to arbitration.

Recently, the Dubai Court of Cassation in Case No. 735 of 2024 held that a unilateral option clause (asymmetrical clause) was unenforceable under UAE law. The decision of the Dubai Court of Cassation primarily focused on concerns of (i) the non-mutual right to pursue arbitration, and (ii) the non-exclusivity of the unilateral arbitration clause. However, in an earlier case, for example, the Dubai Court of Cassation, Case No. 1522 of 2023 appeared to give effect to such clauses. Parties should be cautious when drafting their arbitration agreement to ensure it meets the relevant requirements for a valid arbitration agreement to avoid the UAE courts assuming jurisdiction due to a clause being considered asymmetrical where the intention of the parties was to resolve any dispute through arbitration.

2.5 To what extent, if at all, can a third party to the contract containing the arbitration agreement be bound by said arbitration agreement?

The subjective or personal scope of an arbitration agreement extends to its parties. However, it may extend to a third party who did not enter into the arbitration agreement.

A transfer may occur by succession. Article 4(4) of the Federal Arbitration Law provides that an arbitration agreement is not discharged by the death of any party and that it may be enforced by or against the legal successor. As the parties may agree otherwise, the underlying contract may contain a non-assignment stipulation.

It may occur that a third party to the proceedings takes part in the arbitration. Article 22 of the Federal Arbitration Law permits joinder and intervention on the request of any party to the proceedings or the third party, provided that the third party is a party to the underlying arbitration agreement.

2.6 Are there restrictions to arbitrability?

2.6.1 Do these restrictions relate to specific domains (such as anti-trust, employment law, etc.)?

Article 4(2) of the Federal Arbitration Law states that arbitration may not be conducted for matters for which conciliation is not possible. These matters include matters related to public policy, criminal offences and family matters. Also, labor disputes may not be resolved through arbitration.

In recent years, the issue of arbitrability has been a key consideration as a result of the approach of the Dubai Courts in 2012 (Dubai Court of Cassation judgment in Case No. 14 of 2012 issued on 16 September 2012), that seemed to interpret public policy widely so as to include most real estate disputes. However, recent judgments have clarified that such disputes are indeed arbitrable, save for issues concerning registration of ownership of real estate property, which remain reserved to the jurisdiction of the UAE's Courts and as such may not be arbitrable (see, e.g., Abu Dhabi Court of Cassation Case No. 55/2014).

While registered commercial agency disputes were not considered to be arbitrable, Article 26 of Federal Law No. 3 of 2022 Concerning the Regulation of Commercial Agencies, which came

into force on 16 June 2023, confirms that any dispute between the agent and the principal may be referred to arbitration.

2.6.2 Do these restrictions relate to specific persons (i.e., state entities, consumers etc.)?

Article 4(1) of the Federal Arbitration Law provides that an arbitration agreement may only be concluded by a physical person who has the legal capacity to act. Article 53(1)(b) appears to refer the issue of capacity (or incapacity) to the personal law of the party.

Ministerial Resolution No. 406/2 of 2003 provides that the UAE governmental bodies may not enter into an arbitration agreement without prior approval from the Cabinet of Ministers and requires contracts to be reviewed by the Ministry of Justice, Islamic Affairs, and Awqaf in coordination with the Ministry of Finance and Industry. Additionally, at the Emirate level, there are certain restrictions; for example, in Dubai, Article 120 of Dubai Law No. 12 of 2020 Concerning Contracts and Warehouse Management in Dubai states that *“parties to the contract may agree to resort to Arbitration. In which case, nothing may be stipulated in the contract to indicate that the arbitration shall be held outside the Emirate or that any dispute in respect of the contract be subject to any rules or legislation other than the legislation and rules applicable in the Emirate. Each provision that goes against the provisions of this Paragraph shall be null and void and unenforceable, where the public interest so requires.”*

3. Intervention of domestic courts

3.1 Will the courts stay litigation if there is a valid arbitration agreement covering the dispute?

Article 8(1) of the Federal Arbitration Law requires the court, before which the dispute is brought, in a matter covered by an arbitration agreement, to declare the inadmissibility of the action, if the defendant has raised such plea before any claim or defence on the substance of the case. However, if the court finds that the arbitration agreement is null and void or incapable of being performed, then such an order of inadmissibility would not be passed. Article 8(2) confirms that the arbitration proceedings may, irrespective of such court action, be commenced or continued, and an arbitral award may be made.

3.2 How do courts treat injunctions by arbitrators enjoining parties to stay litigation proceedings?

This does not appear to have been tested before the onshore courts. However, Article 21(1)(e) of the Federal Arbitration Law does provide that the arbitral tribunal may order a party to take action that would prevent, or refrain from taking action that is likely to cause, current or imminent harm or prejudice to the arbitral process itself. Article 21(4) requires the party in whose interest an interim order is granted to obtain written authorization from the arbitral tribunal before requesting the court to grant an enforcement order.

3.3 On what ground(s) can the courts intervene in arbitrations seated outside of the jurisdiction? (Relates to the anti-suit injunction but not only)

Article 2(2) of the Federal Arbitration Law provides that it applies to international commercial arbitration carried out outside the UAE if the parties so agree. Therefore, the UAE Courts may intervene, pursuant to the relevant provisions of the Federal Arbitration Law, in foreign seated arbitrations that are international, commercial and agreed to be subject to the Federal Arbitration Law. Article 18(2) of the Federal Arbitration Law provides that the president of the competent Court of Appeal may order interim or precautionary measures for current or future arbitration proceedings, whether before or in the course of the arbitration proceedings.

Article 21 of the Civil Procedures Law provides that courts shall have jurisdiction over summary and provisional measures enforced in the UAE, even if such courts have no jurisdiction over the original case. In practice, the measure would be provisional seizure on the property and the assets (i.e., attachment) referred to in Article 247.

4. The conduct of the proceedings

4.1 Can parties retain outside counsel or be self-represented?

Article 33(4) of the Federal Arbitration Law provides that the parties may – at their own expense – seek the assistance of legal representatives, including lawyers and others, to represent them before the arbitral tribunal. Therefore, a party may retain outside counsel or be self-represented.

4.2 How strictly do courts control arbitrators' independence and impartiality? For example: does an arbitrator's failure to disclose suffice for the court to accept a challenge, or do courts require that the undisclosed circumstances justify this outcome?

Article 10(3) of the Federal Arbitration Law expressly requires (prospective) arbitrators to disclose in writing any circumstances that may give rise to doubts as to their impartiality or independence. The obligation is a continuous one and arbitrators are required to fulfil the disclosure obligation without any delay. The disclosure obligation differs from the ground for challenge, as the former is triggered by doubts, while in respect of the latter, Article 14(1) refers to serious doubts. The Federal Arbitration Law does not indicate if a breach of the disclosure obligation indicates lack of independence or impartiality.

4.3 On what grounds do courts intervene to assist in the constitution of the arbitral tribunal (in case of ad hoc arbitration)?

While party autonomy is the general rule, Article 11 of the Federal Arbitration Law provides that the competent court, or any appointing authority agreed by the parties, may be called upon to make arbitrator appointments. Where the appointing authority fails to appoint an arbitrator pursuant to the parties' agreement, any party may request the competent court to take the necessary procedure for the completion of the composition and appointment of the members of the arbitral tribunal. Additionally, upon the request of either party under Article 11(8) of the Federal Arbitration Law, the court may request a list of arbitrators from any arbitral institution in the UAE; the court may appoint one of them as the arbitrator. The court's appointment is not subject to appeal; however, the parties are not restricted from bringing a challenge under Articles 14 and 15 of the Federal Arbitration Law.

4.4 Do courts have the power to issue interim measures in connection with arbitrations? If so, are they willing to consider ex parte requests?

According to Article 18 of the Federal Arbitration Law, upon the request of any party or the arbitral tribunal, the competent court may issue interim or precautionary measures for current or future arbitration proceedings, whether before or in the course of the arbitration proceedings. Such measures do not result in a stay of the arbitration proceedings.

4.5 Other than arbitrators' duty to be independent and impartial, does the law regulate the conduct of the arbitration?

Article 26 of the Federal Arbitration Law provides for equal treatment of the parties and that each party shall be given an equal and full opportunity to present its claim and defence. Subject to the fundamental principles of procedure, Article 23 recognizes the principle of party autonomy in the determination of rules governing the procedure. Where the parties do not determine the procedure, it is for the arbitral

tribunal to do so. In relation to the conduct and location, Article 28 provides that the parties may agree to conduct arbitration and determine its location, whether on site or virtually, through modern technical means or in technical communities, and in the absence of the parties' agreement, this shall be determined by the arbitral tribunal.

Unless otherwise agreed, arbitration proceedings commence on the day following the full composition of the arbitral tribunal (Article 27) and are carried out in Arabic (Article 29). The claimant has 14 days from the date of composition of the arbitral tribunal to submit a written statement of claim, and the respondent then has 14 days to submit a written statement of defence (Article 30). The arbitral tribunal may decide whether to hold oral hearings or whether the proceedings shall be conducted on the basis of documents and other materials (Article 33). The arbitral tribunal may hear the testimony of witnesses (Article 35), appoint experts to submit reports (Article 34), and seek the court's assistance in taking evidence (Article 36).

4.5.1 Does it provide for the confidentiality of arbitration proceedings?

Articles 33 and 48 of the Federal Arbitration Law provide that arbitration hearings and arbitral awards are confidential, unless otherwise agreed by the parties. It is worth noting, however, that Article 48 of the Federal Arbitration Law permits the publication of judgments dealing with arbitral awards, which is not considered a violation of the restriction on publication of arbitral awards.

4.5.2 Does it regulate the length of arbitration proceedings?

Under Article 42(1) of the Federal Arbitration Law, the time frame within which the final award is to be issued is for the parties' agreement. Where there is no agreement, the award shall be rendered within six months from the date of the first hearing, and this period may be extended for up to another six months by the arbitral tribunal.

In the event the arbitral tribunal fails to issue its award within the prescribed time frame, either party or the arbitral tribunal itself may request an order from the court extending the time period for the award under Article 42(2) of the Federal Arbitration Law. The court may either order the ending of the arbitral proceedings or extend the period for the award to be rendered, and it may extend that period according to the conditions it deems appropriate. The court's decision shall be final, unless agreed otherwise by the parties.

4.5.3 Does it regulate the place where hearings and/or meetings may be held, and can hearings and/or meetings be held remotely, even if a party objects?

Under Article 28(1) of the Federal Arbitration Law, the parties may agree to conduct arbitration and determine its location, whether on site or virtually, through modern technological means or in technological communities, and in the absence of the parties' agreement, the arbitral tribunal makes the determination, taking into account the circumstances of the case and the suitability of the location for its parties. Article 35 provides that the arbitral tribunal may hear testimony by modern means of communication. Therefore, holding a hearing remotely via technological means would be unlikely to affect the award's enforceability, unless objected to following the parties' agreement against it.

4.5.4 Does it allow for arbitrators to issue interim measures? If in the affirmative, under what conditions?

Under Article 21(1) of the Federal Arbitration Law, the arbitral tribunal is empowered to issue interim or precautionary measures upon the request of either party or in its own discretion, unless agreed otherwise by the parties. These measures include:

- (i) an order to preserve evidence that is material to the resolution of the dispute;
- (ii) taking necessary measures to preserve the goods that constitute a part of the subject matter of the dispute or to sell perishable goods;
- (iii) preserving assets and property against which a subsequent award may be enforced;
- (iv) maintaining or restoring the status quo pending the determination of the dispute; or
- (v) taking action that would prevent, or refrain from taking action that is likely to cause, current or imminent harm or prejudice the arbitral process itself.

The Federal Arbitration Law does not contain any detailed provision on conditions for granting interim measures. Article 21(2) stipulates that the arbitral tribunal may request the party requesting the interim or precautionary measures to provide a security for costs. Additionally, where the arbitral tribunal subsequently decides that the request was ineligible, then the arbitral tribunal may require the requesting party to bear all damages resulting from the enforcement of such measures.

4.5.5 Does it regulate the arbitrators' right to admit/exclude evidence? For example, are there any restrictions to the presentation of testimony by a party employee?

Article 33(7) of the Federal Arbitration Law provides that unless the parties agree otherwise, the arbitral tribunal shall have discretionary authority to determine the rules of evidence that shall be followed, in the event that the applicable law lacks evidence to rule on the dispute, provided that these rules do not conflict with public order. Under Article 33(8), the arbitral tribunal has the discretion to determine the extent of relevance and acceptability of the evidence and the time, method, and format in which such evidence is to be exchanged and how it is to be presented. Article 33(6) of the Federal Arbitration Law stipulates that, unless otherwise agreed by the parties, the laws of the UAE shall apply to the hearing of witnesses, including experts.

4.5.6 Does it make it mandatory to hold a hearing?

According to Article 33(2) of the Federal Arbitration Law, the arbitral tribunal may, unless otherwise agreed by the parties, decide whether to hold oral hearings for the presentation of evidence or for oral arguments, or whether the proceedings shall be conducted on the basis of documents and other materials. Therefore, the Federal Arbitration Law does not make it mandatory to hold a hearing.

4.5.7 Does it prescribe principles governing the award of interest?

There are no provisions under the Federal Arbitration Law dealing with the award of interest. Nevertheless, Articles 84 and 73 of the UAE Federal Commercial Transactions Law provide that where a commercial obligation is the payment of money and the payment is delayed, the debtor shall be obligated to pay interest until the debt is paid. Under Articles 84 and 72 of the UAE Federal Commercial Transactions Law, the interest shall be calculated per the rate agreed to by the parties in the contract. Where the agreement is silent on the rate, it shall be calculated

according to the current interest rate in the market, provided that it does not exceed 9% annually. It is worth noting that this rate varies in the Emirates between 9% and 12%. Under Article 86 of the UAE Federal Commercial Transactions Law, interest must be paid on the maturity date of the debt, unless provided otherwise under UAE law or in the parties' agreement. It is also worth noting that Article 85 UAE Federal Commercial Transactions Law states that interest is not conditional on the creditor proving that it sustained damages.

Article 88 of the UAE Federal Commercial Transactions Law stipulates that interest shall be simple interest and a creditor may not claim compound interest. While this has been interpreted to mean that arbitral tribunals are not prohibited from awarding compound interest, there are differing judgments in the UAE Courts with respect to the award of compound interest. For example, the UAE Federal Supreme Court held that compound interest is not acceptable, rendering the compound interest awarded as null and void (Federal Supreme Court, Case No. 130/19). Whereas the Dubai Court of Cassation upheld its previous position in a judgement dated 12 September 2023 that compound interest may be applied for the period prior to the closing of an account, and, thereafter, simple interest shall apply. However, under UAE Federal Law No. 23 of 2022, the Amended Central Banking Law, Article 121.4 is in line with Article 88 of the UAE Federal Commercial Transactions Law prohibiting compound interest. Accordingly, despite the 2023 judgment of the Dubai Court of Cassation, it is likely that any award of compound interest after the effective date of the Amended Central Banking Law and UAE Federal Commercial Transactions Law will not be upheld.

4.5.8 Does it prescribe principles governing the allocation of arbitration costs?

Article 46(1) of the Federal Arbitration Law stipulates that the arbitral tribunal shall assess the costs of the arbitration unless the parties agree otherwise. Arbitration costs under the Federal Arbitration Law include the fees and expenses of the arbitral tribunal and costs of the appointment of experts by the arbitral tribunal. Notably missing from arbitration costs are the fees of counsel. In order to include the recovery of counsels' fees, the courts have held that an explicit agreement of the parties is required. For example, the Dubai Court of Cassation, Case No. 427 of 2018, held that including the authority for the arbitral tribunal to award 'legal costs' in the terms of reference was not sufficient to grant the authority to award such costs. In a separate case, Case No. 990 of 2019, the Dubai Court of Cassation partially annulled an award because the claimant's legal representative exceeded the scope of the authorities granted to it in the power of attorney by empowering the arbitral tribunal to award legal costs. In Dubai Court of Cassation, Case No. 1514 of 2022, it was held that the tribunal's power to award costs did not extend to legal costs in the absence of the parties' agreement, and under the DIAC Arbitration Rules 2007, there was no express power for the tribunal to award legal costs. The Dubai Court of Cassation, in Case No. 821 of 2023, upheld the Court of Appeal's partial annulment of an ICC award, as it found that Article 38(1) of the ICC Rules of Arbitration did not explicitly empower the tribunal to award legal costs. However, the Dubai Court of Cassation, in Case No. 756 of 2024, held that the ICC Rules entitled the tribunal to award legal costs, including costs paid by a party to its legal representatives.

Under Article 46(2) of the Federal Arbitration Law, the arbitral tribunal may determine the portion of the costs to be borne by each party, which may be borne in the entirety by one party. Although the parties may request that the arbitral tribunal reassess the costs to make them appropriate to the effort expended, nature of the dispute, and the arbitrator's expertise, Article

46(3) prohibits the parties from making an application to the courts to reconsider the awarding of costs.

4.6 Liability

4.6.1 Do arbitrators benefit from immunity to civil liability?

While the Federal Arbitration Law does not provide arbitrators immunity from civil liability, in practice, arbitrators' liability is often excluded or reduced, to the extent they perform judge-like duties. Article 24 of the Statute of the DIAC attached to the Government of Dubai Decree No. 34 of 2021 provides that an arbitral tribunal will not, in the course of performing the duties at the DIAC, incur civil liability for any act or omission committed as a result of an inadvertent error. The Dubai Court of Cassation, in Case No. 484 of 2017, referred to grave fault marred by cheating or misrepresentation and collusion with the litigant or abstaining from arbitration with no acceptable justification, as acts that would preclude arbitrators from seeking immunity. However, the court held that normal fault or negligence is not sufficient to hold arbitrators liable.

4.6.2 Are there any concerns arising from potential criminal liability for any of the participants in an arbitration proceeding?

As of September 2018, when Federal Decree Law No. 24 of 2018 amended Article 257 of the Federal Law No. 3 of 1987, the old penal code, arbitrators were excluded from being subject to criminal prosecution for issuing a decision "*in contravention of the requirements of the duty of neutrality and integrity*". This was upheld on 2 January 2022 when the new Penal Code came into force, which reaffirmed in Article 306 the exclusion of arbitrators from being subject to criminal prosecution as a result of a breach of their duty of "neutrality and integrity". It is worth noting that, in the event of corruption, arbitrators could still be held criminally liable pursuant to the standard applied to public servants.

5. Award

5.1 Can parties waive the requirement for an award to provide reasons?

Under Article 41(4) of the Federal Arbitration Law, parties may agree to waive the requirement of a reasoned award.

5.2 Can parties waive the right to seek annulment of the award? If, yes under which conditions?

Article 54(5) of the Federal Arbitration Law provides that waiver of the right to seek annulment before the issuance of the arbitral award does not prevent the admissibility of the action. Therefore, an exclusion agreement may only be entered into validly after the award is rendered.

5.3 What atypical mandatory requirements apply to the rendering of a valid award rendered at a seat in the jurisdiction?

The only atypical requirement pertaining to the validity of an arbitral award is the requirement that the dispositive section be signed. Although not explicit under the Federal Arbitration Law, the Court of Cassation has repeatedly refused to enforce arbitral awards onshore in the UAE where the arbitral award is not signed on the dispositive and, historically, at least initialled on all other pages, irrespective of whether the seat is in the UAE or a foreign jurisdiction (including offshore). Recently, the UAE's Authority for Unification of Federal and Local Judicial Principles has issued a decision (Application No. 1

of 2025) concluding that a signature on the dispositive page of the award was sufficient, particularly where the authenticity of the award had not been challenged by the party opposing enforcement. Previously, there had been a split in the UAE courts on whether all pages had to be signed. For example, the Dubai Court of Cassation, Case No. 403 of 2020, refused the enforcement of an award issued in China on the grounds that the award was not signed in both the dispositive and reasoning sections of the award. A similar decision was rendered under Dubai Court of Cassation, Case No. 109 of 2022 with respect to an arbitral award issued under the International Centre for Dispute Resolution-American Arbitration Association Rules in which the award was only signed on one page, being the operative page of the award. However, in Abu Dhabi, the Court of Cassation, in Case No. 411 of 2022, enforced a foreign arbitral award, finding that there was no violation of public policy, despite the award not being signed on all pages. Nevertheless, it is recommended for onshore-seated arbitral awards to be signed by the arbitrator(s) on the dispositive page and initialled on all other pages, and where a foreign-seated arbitral award is to be enforced onshore in the UAE, the recommendation also applies. Additionally, it was confirmed by the Dubai Court of Cassation, Case No. 606 of 2024, that where there is a dissenting opinion, the award will nevertheless remain valid as long as the refusal of the dissenting arbitrator is documented, and the majority of the tribunal sign the award.

The UAE courts have in some instances set aside awards because witnesses did not swear an oath. In Dubai Court of Cassation, Case No. 96 of 2022, the award was annulled on the basis that Article 29 of the DIAC Rules 2007 required an oath be taken and in this instance one had not been administered. In Dubai Court of Cassation, Case No. 1406 of 2023, it was held that since there was no oath requirement where an expert is appointed under Article 30(1) of the DIAC Rules 2007, it was not a ground for a challenge, especially in circumstances where the respondent did not raise an objection at the time of the non-administration of the oath.

5.4 Is it possible to appeal an award (as opposed to seeking its annulment)? If yes, what are the grounds for appeal?

Article 53(1) of the Federal Arbitration Law provides that an objection against an arbitral award may not be accepted unless by lodging an annulment application with the competent court or during the examination of the request for recognition of the award. The Federal Arbitration Law does not establish any appeal procedure.

5.5 What procedures exist for the recognition and enforcement of awards, what time-limits apply, and is there a distinction to be made between local and foreign awards?

Enforcement of arbitral awards falls into two categories under UAE law: (a) domestic, and (b) foreign (which includes offshore-seated arbitral awards). The former falls under the Federal Arbitration Law and the latter under the Civil Procedures Law.

Article 55 of the Federal Arbitration Law deals with the enforcement of domestic arbitral awards and stipulates that a party seeking the recognition and enforcement of an arbitral award must submit a request to the relevant court accompanied by:

- (i) the original award or a certified true copy thereof;
- (ii) a copy of the arbitration agreement or arbitration clause;
- (iii) if the award is not in Arabic, then a certified Arabic translation of the arbitral award from an accredited entity; and

- (iv) a copy of the minutes of deposit of the award in court.

Pursuant to Article 55(2) of the Federal Arbitration Law, the president of the relevant court or a delegated judge shall order the recognition and enforcement of the arbitral award within 60 days from the day of the filing of the request, unless one or more reasons to annul the arbitral award under Article 53(1) of the Federal Arbitration Law are present.

Whereas Articles 222(2) and 223 of the Civil Procedures Law deal with the enforcement of foreign arbitral awards, including offshore-seated arbitral awards, and stipulate that a party seeking the recognition and enforcement of an arbitral award must submit a request to the competent execution judge of the UAE courts. The execution judge will issue an order for recognition and enforcement within five days from the filing of the request, provided that:

- (i) the UAE courts do not have exclusive jurisdiction over the dispute and that the foreign court, which recognized the award, was competent and had jurisdiction in accordance with its applicable laws;
- (ii) the arbitral award was issued and duly certified in accordance with the law of the place it was issued (seat of arbitration);
- (iii) the parties were duly notified and represented;
- (iv) the arbitral award has acquired the force of *res judicata*;
- (v) the arbitral award does not conflict with a judgment or an order previously issued by the UAE courts; and
- (vi) the arbitral award does not conflict with the public order or morality of the UAE.

Under Article 216 of the Civil Procedures Law, the order of the execution judge is enforceable with immediate effect as it is considered an 'Order on Petition,' which is immediately enforceable under UAE law. While the Civil Procedures Law provides the procedures by which a foreign arbitral award may be enforced, the substantive conditions of enforcement of foreign arbitral awards are subject to UAE law, which includes, for instance, the provisions of the New York Convention (see, Articles 223 and 225 of the Civil Procedures Law). This has been upheld in recent decisions of the UAE courts – for example, in Dubai Court of Cassation, Case No. 247 of 2022.

5.6 Does the introduction of annulment or appeal proceedings automatically suspend the exercise of the right to enforce an award?

Article 56(1) of the Federal Arbitration Law stipulates that an action to set aside an arbitral award does not automatically stay its enforcement; however, the court may order the stay of enforcement upon the request of either party if the request is based on serious grounds. Under Article 56(2), the court must decide on request to stay the enforcement of an award within 15 days from the first hearing.

5.7 When a foreign award has been annulled at its seat, does such annulment preclude the award from being enforced in the jurisdiction?

To date, this issue has not been tested in the UAE courts.

5.8 Are foreign awards readily enforceable in practice?

In general, the UAE courts take a pro-arbitral stance in enforcing foreign-seated arbitral awards, including those seated in the offshore jurisdictions (ADGM and DIFC). Following the enactment of the new Civil Procedures Law, which came into force in January 2023, Article 223 has made clear that Article 222 applies to the enforcement of foreign arbitral awards. Article 225 further confirms that the provisions of the Civil Procedures Law on enforcement shall not prejudice the provisions of treaties entered into by the UAE, thus including the UAE's obligations under the New York Convention.

6. Funding arrangements

6.1 Are there restrictions to the use of contingency or alternative fee arrangements or third party funding at the jurisdiction?

Third party funding is not addressed under the UAE legislation but has, in practice, been accepted. For example, Article 1030 of the Civil Transactions Law permits subrogation of claims by insurers. Previously, contingency fee arrangements were prohibited in the UAE; however, this is no longer the case. Under Article 49(4) of Federal Decree Law No. 34 of 2022 on regulating the Legal Profession and Legal Consultation Profession, which came into effect on 2 January 2022, contingency fee arrangements are now permitted, subject to a 25% cap.

7. Arbitration and technology

7.1 Is the validity of blockchain-based evidence recognised?

Currently, blockchain-based evidence (and transactions) is not addressed under UAE law, including the Federal Arbitration Law, nor is there a regulatory framework pertaining to blockchain. Nevertheless, Article 33(7) of the Federal Arbitration Law affords the arbitral tribunal the discretion to determine the rules of evidence that shall be followed. Further, the arbitral tribunal is empowered under Article 33(8) to decide the extent of the acceptability or relevance of evidence, as well as the time, method, and format in which the parties exchange evidence. Accordingly, where the evidence applicable to the dispute is based on blockchain, the parties may request that the arbitral tribunal adopt evidentiary rules that address and recognize the validity of such evidence. Article 28(3) requires the arbitral institution to provide the necessary technologies to conduct arbitration proceedings through modern technical means or in technical communities, in accordance with the necessary technical standards and controls in force in the UAE.

Taking into consideration the laws in the UAE, Articles 54 and 55 of the UAE Law of Evidence provide that electronic documents shall have the same probative force as that of physical documents. Furthermore, Article 18 of the Federal Law No. 46 of 2021 concerning Electronic Transactions and Trust Services ("**Electronic Transactions Law**") expressly recognizes the admissibility of electronic records as evidence. It is arguable that blockchain-based evidence is valid in onshore-seated arbitrations, provided that such evidence does not conflict with the mandatory requirements under the Federal Arbitration Law and any other applicable rules on the taking of evidence (e.g., the UAE Law of Evidence).

On a separate note, it is worth noting that in April 2018, the launching of the Emirates Blockchain Strategy 2021 was announced. Following that, in 2019, the Emirate of Dubai launched the Dubai Blockchain Strategy.

7.2 Where an arbitration agreement and/or award is recorded on a blockchain, is it recognised as valid?

While the Federal Arbitration Law does not expressly address the use of blockchain technology, the arbitration agreement or award must nevertheless comply with its provisions, including Articles 7 and 41. With respect to arbitration agreements, it must comply with Article 7 of the Federal Arbitration Law, which provides that an arbitration agreement must be in writing. This requirement is considered satisfied where the arbitration agreement is contained in the form of an electronic message if it is in accordance with the applicable rules of the UAE (e.g., Electronic Transactions Law). Article 11 of the Electronic Transactions Law recognizes the validity and enforceability of smart contracts, which are defined agreements formed through the exchange of automated electronic agents, including electronic information systems programmed for such a purpose.

Concerning arbitral awards issued in onshore-seated arbitrations, Article 41(6) of the Federal Arbitration Law provides that the arbitral award shall be considered issued in the place of arbitration regardless of the signing method, whether carried out in the presence of the members of the arbitral tribunal or if the award is sent to be signed by each member separately, or by electronic method, unless otherwise agreed by the parties.

7.3 Would a court consider a blockchain arbitration agreement and/or award as originals for the purposes of recognition and enforcement?

Taking into consideration the positions highlighted in response to questions 7.1 and 7.2 above, the answer to both parts of this question, in principle, is “yes”. However, it is caveated by the points raised above and subject to the arbitration agreement and/or award being considered original electronic documents. Based on our experience, the UAE Courts have considered electronically signed arbitration agreements and/or awards as originals.

7.4 Would a court consider an award that has been electronically signed (by inserting the image of a signature) or more securely digitally signed (by using encrypted electronic keys authenticated by a third party certificate) as an original for the purposes of recognition and enforcement? (Please consider both hypotheses separately.)

Article 41(6) of the Federal Arbitration Law stipulates that arbitral awards may be signed by an electronic method unless agreed otherwise by the parties, while ‘electronic method’ is not defined. Based on our experience, the UAE Courts have accepted electronically signed arbitral awards as original for the purpose of recognition and enforcement. Accordingly, an arbitral award that is electronically signed, either through inserting the image of a signature or by using encrypted electronic keys authenticated by a third party certificate, should be accepted by the UAE courts as an original for the purposes of recognition and enforcement, absent any agreement to the contrary by the parties.

8. Is there likely to be any significant reform of the arbitration law in the near future?

We are not aware of any forthcoming significant reforms following the amendments made in 2023.

9. Compatibility of the Delos Rules with local arbitration law

We have not identified any provision in the Delos Rules that would conflict with the Federal Arbitration Law.

10. Further reading

Blanke, G., *Blanke on UAE Arbitration Legislation and Rules*, (2nd ed., 2021)

Arab, H. *et al.*, *A Guide to Arbitration in the UAE*, (2020)

Alhashemi, A. A., *Arbitration in the UAE*, (2019)

JURISDICTION DETAILED ANALYSIS: (2) OFFSHORE ARBITRATION

1. Legal Framework

1.1 Is the arbitration law based on the UNCITRAL Model Law?

The DIFC Arbitration Law and ADGM Arbitration Regulations are largely based on the UNCITRAL Model Law.

1.1.1 If yes, what key modifications, if any, have been made to it?

Under the ADGM Arbitration Regulations, the modifications and enhancements to the UNCITRAL Model Law include:

- Section 18(2) on the number of arbitrators, which stipulates that if the parties do not determine the number of arbitrators, it shall be one;
- Section 24 on the liability of the arbitral tribunal and others, which provides that no arbitrator, arbitral institution or appointing authority shall be liable to any person for any act or omission in connection with an arbitration, unless they are shown to have caused damage by conscious and deliberate wrongdoing;
- Section 37 on third-party funding, which recognizes and regulates third-party funding in arbitration, requiring funded parties to disclose the existence of such arrangements and the identity of the funder;
- Section 39 on joinder of additional parties, which provides that unless agreed otherwise by the parties, on a party's request, the ADGM Court of First Instance or the arbitral institution administering the arbitration can join a third party to the arbitration, provided that the third party is a party to the arbitration agreement and has consented to joinder in writing;
- Section 44 on the conduct of the arbitral proceedings, which incorporates standards of proportionality, cost-efficiency, and active case management;
- Section 45 on confidentiality, which provides that the award and any information relating to the arbitral proceedings are confidential and may not be disclosed to a third party, save in certain limited circumstances;
- Section 52 on interest, which provides that, subject to any contrary agreement by the parties and subject to any contrary provision of the law governing the claim, the tribunal may award simple or compound interest from such dates, at such rates and with such rests as it considers necessary to meet the ends of justice in the case; and
- Section 59 on waivers, which stipulates that, by an express statement in the arbitration agreement or by a subsequent written agreement, the parties may fully waive the right to bring an action for setting aside or limit it to certain grounds.

Under the DIFC Arbitration Law, the modifications and enhancements to the UNCITRAL Model Law include:

- Article 12 on the definition and form of arbitration agreements, which provides that an arbitration agreement referring to future disputes in connection with a contract of employment or a contract for the supply of goods or services cannot be enforced against the employee or consumer;
- Article 14 on confidentiality, which provides that all information relating to the arbitral proceedings must be kept confidential, unless otherwise agreed by the parties or where the DIFC court orders disclosure;
- Article 16(2) on the number of arbitrators, which stipulates that, in the event that the parties have not agreed on the number of arbitrators, the arbitral tribunal shall be composed of a sole arbitrator; and
- Article 22 on the liability of the arbitral tribunal and others, which provides that arbitrators, employees and agents of arbitrators, arbitral institutions and appointing authorities are not liable to any person for any act of omission in connection with an arbitration unless they are shown to have caused damage by conscious and deliberate wrongdoing.

1.2 When was the arbitration law last revised?

The DIFC Arbitration Law was last amended in December 2013, whereas the ADGM Arbitration Regulations were last amended in December 2020.

2. The arbitration agreement

2.1 How do the courts in the jurisdiction determine the law governing the arbitration agreement?

Currently, neither the DIFC nor the ADGM courts appear to have dealt with the question of which law governs the arbitration agreement. The point of departure may be Article 41(2)(a)(i) of the DIFC Arbitration Law, Section 58(2)(a)(ii) of the ADGM Arbitration Regulations, or Article V(1)(a) of the New York Convention.

2.2 In the absence of an express designation of a 'seat' in the arbitration agreement, how do the courts deal with references therein to a 'venue' or 'place' of arbitration?

Both the DIFC Arbitration Law and the ADGM Arbitration Regulations define the term 'seat.' With respect to the designation of the 'seat' of arbitration, as opposed to the 'venue' or 'place' of arbitration, neither the DIFC nor the ADGM courts have explicitly dealt with this issue. However, observing the decisions of both the onshore and offshore courts with respect to whether the seat is onshore or offshore, both have reached varying decisions regarding the parties' choice of seat.

For example, the Abu Dhabi Court of Cassation, Case No. 1045 of 2022, dated 18 January 2023, found that, by virtue of agreeing to the administration of the arbitral proceedings by the ICC branch office in the ADGM, the parties had agreed to the ADGM having supervisory jurisdiction. This was despite the arbitration clause stating that the arbitration was to be "*conducted in Abu Dhabi City (U.A.E.) in accordance with [the ICC Rules] in force at the time of the claim, controversy or dispute*", and that the contract was to be "*governed and construed in accordance with the laws of the Emirate of Abu Dhabi and the federal laws of the U.A.E.*". Following this decision, the parties mutually agreed, on an exceptional basis, that the ADGM Courts should hear the application, despite the seat being Abu Dhabi, which the ADGM Courts in *A8 v B6* [2023] ADGMCFI 0015 accepted in light of the parties' mutual agreement. In Abu Dhabi Court of Cassation, Case No. 635 of 2022, the court declined jurisdiction to hear the set-aside application due to the presence of the ICC representative office in the ADGM, despite neither party contesting the seat of

arbitration during the proceedings. In Dubai Court of Cassation, Case No. 458 of 2021, the court held that a setting aside application should be brought before the DIFC Courts because the arbitration had been administered by an institution within the DIFC, while the arbitration agreement specified the seat of arbitration as 'Dubai'.

In *Dhir v. Waterfront Properties* [2009] DIFC CFI 011 (8 July 2009), the court held that an arbitration can have only one seat, the DIFC or onshore Dubai, and that if parties want the DIFC Arbitration Law to apply and the DIFC Courts to have jurisdiction, they should expressly select the DIFC as the seat. However, in *Brookfield Multiplex v. DIFC Investments* [2016] DIFC CFI 020, the court appeared to consider that an agreement to arbitrate in the Emirate of Dubai would likely be an agreement to the DIFC as the seat.

Article 27(1) of the DIFC Arbitration Law provides that, in the absence of the parties' agreement, where any dispute is governed by DIFC law, the seat shall be the DIFC.

2.3 Is the arbitration agreement considered to be independent from the rest of the contract in which it is set forth?

Section 15 of the ADGM Arbitration Regulations provides that "an arbitration agreement which forms or was intended to form part of another agreement (whether or not in writing) shall not be regarded as invalid, non-existent or ineffective because that other agreement is invalid, or did not come into existence or has become ineffective, and the arbitration agreement shall for that purpose be treated as a distinct agreement." Similarly, Article 23(1) of the DIFC Arbitration Law states that "an arbitration clause which forms part of a contract shall be treated as an agreement independent of the other terms of the contract."

2.4 What are the formal requirements (if any) for an enforceable arbitration agreement?

Section 14 of the ADGM Arbitration Regulations contains form requirements. Section 14(2) requires arbitration agreements to be in writing, and such requirement is satisfied if the content of the arbitration agreement is recorded in any written form by one or more of the parties to it or by a third party with the authority of the parties to the agreement. It further specifies that an arbitration agreement which is in writing but has not been signed (whether in hardcopy or electronically) may be made binding orally or by conduct. Section 14(3) provides that the 'in writing' requirement is met by an electronic communication if the information contained therein is accessible so as to be useable for subsequent reference. Section 14(4) provides that an arbitration agreement is in writing if it is contained in an exchange of statements of claim and defence in which the existence of an arbitration agreement is alleged by one party and not denied by the other. According to Section 14(5), reference in a contract to any document containing an arbitration clause constitutes an arbitration agreement in writing, where the reference is such as to make that clause part of the contract.

Article 12(3) of the DIFC Arbitration Law provides that an arbitration agreement shall be in writing. According to Article 12(4), an arbitration agreement is in writing if its contents are recorded in any form, whether or not the arbitration agreement or contract has been concluded by conduct or by other means. Article 12(5) provides that the 'in writing' requirement is met by an electronic communication if the information contained therein is accessible so as to be useable for subsequent reference. According to Article 12(6), an arbitration agreement may be contained in an exchange of statements of claim and defence in which the existence of an agreement is alleged by one party and not denied by the other. Article 12(7) provides that the reference in a contract to any document containing an arbitration clause constitutes an arbitration agreement in writing, provided that the reference is to make that clause part of the contract.

2.5 To what extent, if at all, can a third party to the contract containing the arbitration agreement be bound by said arbitration agreement?

The subjective or personal scope of an arbitration agreement is generally limited to its parties. However, it may extend to a third party who did not enter into the arbitration agreement.

Section 17(1) of the ADGM Arbitration Regulations provides that, unless otherwise agreed by the parties, an arbitration agreement is not discharged by the death of a party and may be enforced by or against the personal representatives of that party. Section 39(1) provides that the parties are free to agree on the procedure for joining an additional party to an arbitration, provided always that the party to be joined is party to the arbitration agreement or has consented to joinder. The DIFC Arbitration Law does not contain any corresponding provision.

2.6 Are there restrictions to arbitrability? If, in the affirmative:

2.6.1 Do these restrictions relate to specific domains (such as anti-trust, employment law etc.)?

Under both the ADGM Arbitration Regulations and the DIFC Arbitration Law, the subject matter of the dispute not being capable of settlement by arbitration under the laws of, respectively, the ADGM and the DIFC, is a ground for setting aside and refusing enforcement of an award. The categories of disputes that may not be submitted to arbitration or fall within the exclusive jurisdiction of the courts are not contained in the ADGM Arbitration Regulations or the DIFC Arbitration Law.

2.6.2 Do these restrictions relate to specific persons (i.e., state entities, consumers etc.)?

Under Article 1 of the Application of English Law Regulations 2015, English common law has direct precedential value in the ADGM Courts. Article 8 of the DIFC Contract Law provides that, while any person of competent legal capacity is free to enter into a contract and determine its content, a natural person does not have competent legal capacity if that person has not attained the age of 18 years or is mentally ill or defective.

3. Intervention of domestic courts

3.1 Will the courts stay litigation if there is a valid arbitration agreement covering the dispute?

Section 16(1) of the ADGM Arbitration Regulations provides that a party may apply to the ADGM Court to stay proceedings brought in the ADGM Court if an arbitration agreement exists. Section 16(2) stipulates that the ADGM Court will grant a stay, unless it is satisfied that the arbitration agreement is null and void, inoperative, or incapable of being performed. Section 16(4) provides that the parties may commence or continue the arbitral proceedings, and the arbitral tribunal may issue an arbitral award, while the issue is pending before the ADGM Court. Section 16(6) stipulates that the foregoing applies both to arbitrations seated in the ADGM and those where no seat has been designated or determined.

Article 13(1) of the DIFC Arbitration Law also provides that a party may request the DIFC Court to dismiss or stay the proceedings regarding a dispute in respect of which an arbitration agreement exists, and the DIFC Court shall dismiss or stay the action unless it finds that the arbitration agreement is null and void, inoperative, or incapable of being performed. Article 13(2) provides that the parties may commence or continue the arbitral proceedings, and the arbitral tribunal may issue an arbitral award, while the issue is pending before the DIFC Court. Article 7 provides that Article 13 also applies where the seat is one other than the DIFC or where no seat has been determined.

3.2 How do courts treat injunctions by arbitrators enjoining such courts to stay litigation proceedings?

According to Section 28(2)(b), an arbitral tribunal may order a party to take action that would prevent, or refrain from taking action that is likely to cause, current or imminent harm or prejudice to any party or to the arbitral process itself. Section 30(1) provides that an interim measure issued by an arbitral tribunal shall be recognized as binding and enforced upon application to the competent court, irrespective of the country in which it was issued. According to Section 30(4), recognition or enforcement of an interim measure may be refused on the same grounds set forth in Section 62 for refusing recognition and enforcement of arbitral awards.

Similarly, according to Article 24(1)(b)(iii) of the DIFC Arbitration Law, an arbitral tribunal may order a party to take action that would prevent, or refrain from taking action that is likely to cause, current or imminent harm or prejudice to any party or to the arbitral process itself. Article 24(2) provides that a party in whose favor an interim measure has been granted may request from the DIFC Court of First Instance an order enforcing the arbitral tribunal's order.

3.3 On what ground(s) can the courts intervene in arbitrations seated outside of the jurisdiction? (Relates to the anti-suit injunction, but not only)

Section 8 of the ADGM Arbitration Regulations provides that Part 3 shall apply not only to arbitrations where the seat of the arbitration is the ADGM, but also where an arbitration agreement applies the ADGM Arbitration Regulations. Therefore, the ADGM Courts may intervene in foreign seated arbitrations that are agreed to be subject to the ADGM Arbitration Regulations. In any event, Section 31 provides that the ADGM Court has the same power of issuing any interim measure in relation to arbitration proceedings as it has in relation to proceedings in the ADGM Courts, even if the seat of the arbitration is outside the ADGM or undecided, or the interim measure is sought against a non-party to the arbitration agreement.

Article 24(3) of the DIFC Arbitration Law provides that the DIFC Court shall have the same power of issuing an interim measure in relation to arbitration proceedings, irrespective of whether their place is in the DIFC, as it has in relation to DIFC Court proceedings and shall exercise such power in accordance with its own procedures. Furthermore, Article 15(4) of the DIFC Courts Law provides that the DIFC Courts are empowered to hear applications for interim and protective measures related to arbitrations even seated outside the DIFC, subject to the requested measure being taken within the DIFC.

4. The conduct of the proceedings

4.1 Can parties retain outside counsel or be self-represented?

In both ADGM- and DIFC-seated arbitrations, parties are free to select their representation, including appointing outside counsel (i.e., local or foreign lawyers or non-lawyers) or being self-represented. The ADGM Arbitration Regulations define Party Representative as “any person, including an employee of a party, who appears in an arbitration on behalf of a party and makes submissions, arguments or representations to the arbitral tribunal on behalf of such party (other than as a witness or expert), whether or not they hold a legal qualification or are admitted to practice law in any jurisdiction”.

4.2 How strictly do courts control arbitrators' independence and impartiality?

Section 20 of the ADGM Arbitration Regulations provides for a duty of disclosure and that an arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to his impartiality or

independence. However, according to Section 21, the ADGM Court's control may be excluded by agreement of the parties.

Article 18(1) of the DIFC Arbitration Law requires (prospective) arbitrators to disclose any circumstances likely to give rise to justifiable doubts as to their impartiality or independence. According to Article 18(2), an arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to his impartiality or independence. Article 19(3) provides that, if a challenge is not successful, the challenging party may request the DIFC Court of First Instance to decide on the challenge.

4.3 On what grounds do courts intervene to assist in the constitution of the arbitral tribunal (in case of ad hoc arbitration)?

The ADGM and DIFC Courts will intervene to assist in the constitution of an arbitral tribunal when requested by the parties and where one of the following situations has occurred: (1) the parties have failed to agree on a sole arbitrator, or in certain cases, a three-member arbitral tribunal; (2) either party fails to appoint its party-appointed arbitrator; or (3) the two party-appointed arbitrators fail to appoint the presiding arbitrators. Section 19 of the ADGM Arbitration Regulations and Article 17 of the DIFC Arbitration Law also make provisions for situations where there are multiple parties.

4.4 Do courts have the power to issue interim measures in connection with arbitrations? If so, are they willing to consider ex parte requests?

Section 31(2) of the ADGM Arbitration Regulations provides that the ADGM Court shall have the same power of issuing any interim measure in relation to arbitration proceedings as it has in relation to proceedings in the ADGM Court. Section 31(5) provides that the ADGM Court shall act only on the application of a party to the arbitral proceedings upon notice to the other parties and to the arbitral tribunal, if the case is not one of urgency. However, in case of urgency, the ADGM Court may consider ex parte requests.

Article 24(3) of the DIFC Arbitration Law provides that the DIFC Court shall have the same power of issuing an interim measure in relation to arbitration proceedings as it has in relation to proceedings in courts and exercise such power in accordance with its own procedures. Rule 43.50 of the Rules of the DIFC Courts provides that an application for an order from the DIFC Court issuing an interim measure will be determined in accordance with the Rules set out in Part 25, and Rule 25.8 provides that the DIFC Court may grant an interim remedy on an application made without notice.

4.5 Other than arbitrators' duty to be independent and impartial, does the law regulate the conduct of the arbitration?

Chapter 6 of Part 3 of the ADGM Arbitration Regulations is on the conduct of arbitral proceedings. Section 33 of the ADGM Arbitration Regulations provides for fair treatment of the parties and that each party shall be given a reasonable opportunity to present its case. Section 34 recognizes the principle of party autonomy in the determination of rules governing the procedure. In the absence of an agreement on the procedure, the arbitral tribunal may conduct the arbitration in such manner as it considers appropriate. The arbitral tribunal must adopt procedures which are suitable to the circumstances of the particular case and consider the use of technology. Section 43(5) provides that all statements, documents, evidence or other information supplied to the arbitral tribunal by one party shall be communicated to the other party at the same time as it is supplied to the arbitral tribunal.

Chapter 5 of Part 3 of the DIFC Arbitration Law is on the conduct of arbitral proceedings. Article 25 provides for equal treatment of the parties and that each party shall be given a full opportunity of

presenting his case. Article 26 recognizes the principle of party autonomy in the determination of rules governing the procedure. Where the parties do not determine the procedure, the arbitral tribunal may, subject to the provisions of the DIFC Arbitration Law, conduct the arbitration in such manner as it considers appropriate. Article 31 requires that the parties be given sufficient advance notice of any hearing and meeting for the purposes of inspection of goods, other property or documents; that all statements, documents or other information supplied to the arbitral tribunal by one party be communicated to the other party; and that any expert report or evidentiary document on which the arbitral tribunal may rely in making its decision be communicated to the parties.

4.5.1 Does it provide for the confidentiality of arbitration proceedings?

Section 45(1) of the ADGM Arbitration Regulations prohibits the publishing, disclosing or communicating of any confidential information to third parties, unless otherwise agreed by the parties. However, Section 45(2) permits the publication, disclosure, or communication of confidential information in limited instances, including: (a) if it was made to protect a legal interest, or to enforce or challenge the award, (b) if it was made to any government body, regulatory body, court, or arbitral tribunal and the party is obliged by law to make the publication, disclosure, or communication, (c) if it was required in order for a party to comply with its financial reporting obligations or the rules of any listing authority or securities exchange, (d) if it was made to a professional or any other adviser of any of the parties, (e) if it was made to potential lenders or investors in connection with financing arrangements, or (f) if the arbitral tribunal determines that it is otherwise in the interests of justice that the publication, disclosure, or communication of information be permitted. “Confidential Information” under the ADGM Arbitration Regulations is defined as any information relating to the arbitral proceedings under the arbitration agreement or an award made in those arbitral proceedings.

Article 14 of the DIFC Arbitration Law provides that all information relating to the arbitral proceedings shall be kept confidential unless otherwise agreed by the parties or where disclosure is required by an order of the DIFC Court.

4.5.2 Does it regulate the length of arbitration proceedings?

No provision on the length of arbitration proceedings is contained in the ADGM Arbitration Regulations or the DIFC Arbitration Law.

4.5.3 Does it regulate the place where hearings and/or meetings may be held?

Under Section 35 of the ADGM Arbitration Regulations, unless agreed otherwise by the parties, the arbitral tribunal may decide to meet at any place that is considered appropriate, including by communication technology. Further, Section 43 of the ADGM Arbitration Regulations stipulates that, absent an agreement of the parties, the arbitral tribunal shall decide whether to hold a hearing and, if a hearing is to be held, determine the means by which the hearing is held, whether to hold the hearing in person or using communication technology and the appropriate stage of the proceedings to hold the hearing.

Similarly, under Article 27(2) of the DIFC Arbitration Law, unless agreed by the parties, the arbitral tribunal may decide to meet at any place it considers appropriate. Further, Article 31 of the DIFC Arbitration Law stipulates that, absent an agreement by the parties, the arbitral tribunal shall decide whether to hold a hearing and, if a hearing is to be held, whether it should be held at a physical place or through modern means of electronic communication.

4.5.4 Does it allow for arbitrators to issue interim measures? In the affirmative, under what conditions?

Both the ADGM Arbitration Regulations and the DIFC Arbitration Law allow arbitral tribunals to issue interim measures unless agreed otherwise by the parties (see Section 28 of the ADGM Arbitration Regulations and Article 24 of the DIFC Arbitration Law).

Section 28 of the ADGM Arbitration Regulations and Article 24 of the DIFC Arbitration Law require the party requesting an interim measure to demonstrate that:

- harm that is likely to occur if the interim measure is not ordered, and the harm is of the type that will not be adequately reparable by an award of damages;
- that harm will substantially outweigh any harm that is likely to result to the party opposing the interim measure if the measure is ordered; and
- there is a reasonable possibility that the requesting party will succeed on the merits of the claim.

Recently, in *Neal v. Nadir* [2024] DIFC A 001, the DIFC Court of Appeal held that interim arbitral awards issued by tribunals seated outside the DIFC are enforceable within the DIFC. The Court of Appeal considered that for the purpose of Article 42 (Recognition and Enforcement of Awards) and 43 (Recognition) of the DIFC Arbitration Law, the consistent use of an “award” included anything that was partial, interim, or final. Accordingly, the Court of Appeal held that an interim or partial award should be treated as an award for the purposes of enforcement.

4.5.5 Does it regulate the arbitrators’ right to admit/exclude evidence?

Section 34 of the ADGM Arbitration Regulations and Article 26 of the DIFC Arbitration Law empower the arbitral tribunal to determine the admissibility, relevance, materiality and weight of any evidence.

4.5.6 Does it make it mandatory to hold a hearing?

It is not mandatory under either the ADGM Arbitration Regulations or the DIFC Arbitration Law to hold a hearing, and the parties may agree that no hearing shall be held (see Section 43 of the ADGM Arbitration Regulations and Article 31 of the DIFC Arbitration Law).

4.5.7 Does it prescribe principles governing the award of interest?

Under Section 52(1) of the ADGM Arbitration Regulations, the parties are free to agree on the powers of the arbitral tribunal as regards the award of interest. Section 52(2) stipulates that, subject to any contrary agreement by the parties, the arbitral tribunal's powers to award interest shall be in accordance with the substantive law governing the claim for which an award of interest is sought. According to Section 53(3), unless otherwise agreed by the parties, and subject to any contrary provision of any applicable law, the interest may be simple or compound interest, and the arbitral tribunal may determine the period during which the interest accrues, the rate of the interest and whether it applies to the whole or part of any amount claimed or awarded, unless the parties agree otherwise or a contrary provision of any applicable law exists.

Contrastingly, the DIFC Arbitration Law does not set out any principles governing the award of interest. Arbitral tribunals appear to have applied the interest provisions under DIFC law in line with the DIFC Courts in commercial matters (e.g., Article 17(2) of the DIFC Law No. 7 of 2005; the DIFC Law of Damages and Remedies; Article 118(2) of the DIFC Law No. 6 of 2004; the DIFC Contracts Law; and DIFC Practice Direction 4 of 2017 - Interest on Judgements).

4.5.8 Does it prescribe principles governing the allocation of arbitration costs?

Section 44(4) of the ADGM Arbitration Regulations entitles arbitral tribunals to consider the conduct of the parties and the Party Representatives when making any decision allocating the costs of the arbitration between the parties. Section 55(6) of the ADGM Arbitration Regulations and Article 38(5) of the DIFC Arbitration Law provide that the arbitral tribunal may fix the costs of the arbitration in the award, including the legal costs of the successful party.

4.6 Liability

4.6.1 Do arbitrators benefit from immunity to civil liability?

Both Section 24 of the ADGM Arbitration Regulations and Article 22 of the DIFC Arbitration Law provide that arbitrators are not liable to any person for any act or omission in connection with an arbitration, unless they are shown to have caused damage by conscious and deliberate wrongdoing.

4.6.2 Are there any concerns arising from potential criminal liability for any of the participants in an arbitration proceeding?

The ADGM and the DIFC do not regulate criminal matters. In the event of corruption, arbitrators may be held criminally liable pursuant to the standard applied to public servants.

5. The award

5.1 Can parties waive the requirement for an award to provide reasons?

Under Section 55(2) of the ADGM Arbitration Regulations and Article 38(2) of the DIFC Arbitration Law, the parties may agree to waive the requirement of a reasoned award.

5.2 Can parties waive the right to seek the annulment of the award? If yes, under what conditions?

Under Section 59 of the ADGM Arbitration Regulations, the parties may expressly waive the right to bring an action for setting aside or may limit their right to one or more grounds. However, the ADGM Courts may still refuse the recognition and enforcement of the arbitral award pursuant to Article 62 of the ADGM Arbitration Regulations.

Contrastingly, the DIFC Arbitration Law does not contain any provision on the parties' exclusion agreement.

5.3 What are the typical mandatory requirements applying to the rendering of a valid award rendered at a seat in the jurisdiction?

Both Section 55 of the ADGM Arbitration Regulations and Article 38 of the DIFC Arbitration Law provide that an award must be in writing. However, unlike Article 38 of the DIFC Arbitration Law, there is no express requirement under the ADGM Arbitration Regulations that the arbitrators sign the award. Article 38(1) of the DIFC Arbitration Law permits the signatures of the majority only, provided that the

reason for any omitted signature is stated. Both Section 55(2) of the ADGM Arbitration Regulations and Article 38(3) of the DIFC Arbitration Law provide that the award shall state its date and the seat of the arbitration.

5.4 Is it possible to appeal an award (as opposed to seeking its annulment)? If yes, what are the grounds for appeal?

Section 58(2)(c) of the ADGM Arbitration Regulations indicates that the parties may agree to an arbitral process of appeal or review when there shall be no other recourse or appeal to the ADGM Court other than setting aside. Article 41(1) of the DIFC Arbitration Law provides that recourse to a DIFC Court against an arbitral award may be made only by an application for setting aside.

5.5 What procedures exist for the recognition and enforcement of awards, what time-limits apply, and is there a distinction to be made between local and foreign awards?

In terms of recognition and enforcement of awards, there is no distinction between domestic and foreign arbitral awards under the ADGM Arbitration Regulations and DIFC Arbitration Law.

Section 60 of the ADGM Arbitration Regulations provides that the provisions on recognition and enforcement of awards apply to, arbitral awards made in arbitrations where the seat of the arbitration is the ADGM, New York Convention Awards and all other arbitral awards. Section 61(1) provides that an award shall be recognized as binding and enforced within the ADGM. Section 61(2) requires the party seeking the recognition or enforcement to provide to the ADGM Court the original or a duly certified copy of the arbitral award and a copy of the arbitration agreement.

Article 42(1) of the DIFC Arbitration Law provides that an arbitral award, irrespective of the State or jurisdiction in which it was made, shall be recognized as binding within the DIFC and, upon application in writing to the DIFC Court, shall be enforced. Article 42(2) requires the original award or a duly certified copy thereof and the original arbitration agreement or a duly certified copy thereof to be supplied.

In *Carmon Reestrutura-engenharia E Serviços Técnicos Especiais, (Su) LDA v Antonio Joao Catete Lopes Cuenda* [2024] DIFC CA 003, the DIFC Court of Appeal confirmed that it has jurisdiction to grant interim relief in support of foreign proceedings, even if there is no nexus to the DIFC. In its determination, the Court of Appeal relied on the fact the DIFC Courts have express jurisdiction to ratify and enforce foreign judgments, specifically in circumstances where – for the purpose of this case – the defendant may be subject to future enforcement applications for dissipation of assets based in the DIFC. While this ruling relied on the provisions in the now-repealed DIFC Law No. 10 of 2004 and Dubai Law No. 12 of 2004 to establish jurisdiction, it will be interesting to see the DIFC Courts' position in respect of such applications for interim measures, especially in light of Article 15(4) of the DIFC Courts Law which empowers the DIFC Court to hear applications for interim and protective measures related to arbitrations even seated outside the DIFC, subject to the requested measure being taken within the DIFC.

5.6 Does the introduction of annulment or appeal proceedings automatically suspend the exercise of the right to enforce an award?

Under Section 62(2) of the ADGM Arbitration Regulations and Article 44(2) of the DIFC Arbitration Law, if an application for the setting aside or suspension of an award has been made to the court of the state or jurisdiction in which, or under the law of which, that award was made, the ADGM Court or the DIFC Court respectively, may adjourn its decision.

5.7 **When a foreign award has been annulled at its seat, does such annulment preclude the award from being enforced in the jurisdiction?**

An award that is set aside by a competent authority of the jurisdiction in which, or under the law of which, that award was made, is a ground for refusal under Section 62(1)(a)(vi) of the ADGM Arbitration Regulations and Article 44(1)(a)(v) of the DIFC Arbitration Law. This issue does not appear to have been tested yet in the ADGM or the DIFC.

5.8 **Are foreign awards readily enforceable in practice?**

In terms of recognition and enforcement of awards, there is no distinction between domestic and foreign arbitral awards under the ADGM Arbitration Regulations and DIFC Arbitration Law. However, the extent to which the DIFC and ADGM Courts may serve as a conduit in the absence of any asset against which to enforce the award for onward enforcement of awards (whether on- or offshore) for onward execution outside the DIFC requires attention.

6. **Funding arrangements**

The ADGM issued the Litigation Funding Rules 2019, which include rules on, *inter alia*, the amount of qualifying assets, scope of funding and conflicts of interest. In addition, the ADGM Arbitration Regulations regulate third party funding in arbitration proceedings. While they do not restrict third party funding, Section 37 of the ADGM Arbitration Regulations provides that a party must notify all other parties and the arbitral tribunal of the existence of any third party funding agreement and the identity of the third party funder.

Practice Direction No. 2 of 2017 on Third Party Funding in the DIFC Courts sets out requirements concerning legal proceedings in the DIFC Courts. While there are no provisions on DIFC-seated arbitrations, such an arrangement would be unlikely to be prohibited.

7. **Arbitration and technology**

7.1 **Is the validity of blockchain-based evidence recognised?**

Whether the validity of blockchain-based evidence is recognized is not directly addressed in the ADGM Arbitration Regulations or the DIFC Arbitration Law.

Under Section 34(3) of the ADGM Arbitration Regulations, arbitral tribunals have the power to determine the admissibility, relevance, materiality and weight of any evidence. Section 34(5) requires arbitral tribunals to consider the use of technology in order to enhance the efficient and expeditious conduct of the arbitration. Section 43(6) provides that any evidence may be supplied or communicated electronically.

Article 26(2) of the DIFC Arbitration Law also provides that arbitral tribunals have the power to determine the admissibility, relevance, materiality and weight of any evidence.

Notably the DIFC has also implemented its own Electronic Transactions Law (see DIFC Law No. 2 of 2017) (the "**DIFC Electronic Transactions Law**"), which stipulates in Article 10 that "[i]nformation shall not be denied legal effect, validity or enforceability solely on the ground that it is in the form of an Electronic Record". Article 14 further provides that evidence may not be excluded solely because it is in electronic form.

7.2 **Where an arbitration agreement and/or award is recorded on a blockchain, is it recognised as valid?**

The recording of an arbitration agreement and/or award on blockchain is not addressed in either the ADGM Arbitration Regulations or the DIFC Arbitration Law.

Section 14(2) of the ADGM Arbitration Regulations requires arbitration agreements to be in writing. According to Section 14(3), the requirement that an arbitration agreement be in writing is met by an electronic communication if the information contained therein is accessible so as to be useable for subsequent reference, and an electronic communication is any communication that the parties make by means of data messages.

Section 55(1) requires awards to be made in writing, and Section 55(3) indicates that an award may be signed by electronic means. According to Section 55(4), an award signed by electronic means has the same legal validity and enforceability and constitution of the original award for the purposes of enforcement as an award with manually executed signatures.

It is worth noting that, in February 2023, the ADGM Courts announced that it would be introducing blockchain technology for the purpose of enforcing commercial judgments, which would enable commercial courts to independently and instantly verify the authenticity of judgements. Arguably, this means that the ADGM Courts should have no issue in recognizing blockchain arbitration agreements and/or awards.

Article 12(3) of the DIFC Arbitration Law requires arbitration agreements to be in writing, and, according to Article 12(4), an arbitration agreement is in writing if its content is recorded in any form. Article 12(5) provides that the requirement is met by an electronic communication if the information is accessible so as to be useable for subsequent reference, and electronic communication means any communication that the parties make by means of data messages.

Article 38(1) requires awards to be made in writing and signed. Article 11 of the DIFC Electronic Transactions Law provides that where any provision set out in any other DIFC law requires information to be written or in writing, an Electronic Record satisfies that provision if it preserves a record of the information contained therein and is capable of being reproduced in tangible form, and Article 21 requires that where any provision set out in any other DIFC law requires the signature of any person, that provision is satisfied if an electronic signature is used.

7.3 Would a court consider a blockchain arbitration agreement and/or award as originals for the purposes of recognition and enforcement?

In line with the response to question 16.2 above, for ADGM-seated arbitrations, provided that a blockchain arbitration agreement or award does not conflict with the mandatory requirements under the ADGM Arbitration Regulations on the form of the arbitration agreement and/or award and any other applicable rules on the taking of evidence, then arguably, they ought to be considered originals. Similarly, for DIFC-seated arbitrations, provided that a blockchain arbitration agreement or award does not conflict with the mandatory requirements under the DIFC Arbitration Law on the form of the arbitration agreement and/or award and any other applicable rules on the taking of evidence, then arguably, they ought to be considered as originals.

7.4 Would a court consider an award that has been electronically signed (by inserting the image of a signature) or more securely digitally signed (by using encrypted electronic keys authenticated by a third party certificate) as an original for the purposes of recognition and enforcement? (Please consider both hypotheses separately.)

Section 34(5)(b) of the ADGM Arbitration Regulations permits the arbitral tribunal to use “*electronic signatures for documents submitted, exchanged or communicated*” in order to enhance the efficient and expeditious conduct of the arbitration. Similarly, Section 55 confirms that an award “*signed by electronic means shall have the same legal validity and enforceability and constitute an original award for the purposes of [recognition and enforcement pursuant to Article 61(2)(a)], as an award with manually executed signatures of [an] arbitral tribunal*”. In view of the foregoing, the ADGM Courts would likely consider that an award electronically signed, whether by inserting the image of a signature or more securely digitally signed, should be deemed as an original for the purposes of recognition and enforcement.

The DIFC Arbitration Law makes no reference to electronic signatures. However, it can be read in conjunction with Article 21 of the DIFC Electronic Transactions Law, which stipulates that where a document is required to be signed under DIFC law, electronic signatures are valid. The DIFC Electronic Transactions Law does not distinguish between digital and secure digital signatures. Accordingly, the DIFC Courts would likely consider that an award electronically signed, whether by inserting the image of a signature or more securely digitally signed, should be deemed as an original for the purposes of recognition and enforcement.

8. Is there likely to be any significant reform of the arbitration law in the near future?

The DIFC Arbitration Law and the ADGM Arbitration Regulations were revised in 2013 and 2020, respectively. At present, there are no indications that further reforms are forthcoming.

9. Compatibility of the Delos Rules with local arbitration law

We have not identified any provision in the Delos Rules that would conflict with the ADGM Arbitration Regulations or the DIFC Arbitration Law.

10. Further reading

Reed, R. and Montagu-Smith, T. (2nd edition), DIFC Courts Practice, (2024)

DIFC Academy, Laws of the DIFC - Volume 1, (2020)

ARBITRATION INFRASTRUCTURE AT THE JURISDICTION (ONSHORE AND OFFSHORE)

Leading national, regional and international arbitral institutions based out of the jurisdiction, <i>i.e.</i> , with offices and a case team?	International Chamber of Commerce (ICC) Dubai International Arbitration Centre (DIAC) Abu Dhabi International Arbitration Centre (arbitrateAD)
Main arbitration hearing facilities for in-person hearings?	Abu Dhabi Global Market Arbitration Centre (ADGMAC) Dispute Resolution Authority of the DIFC DIAC Arbitration Centre
Main reprographics facilities in reasonable proximity to the above main arbitration providers with offices in the jurisdiction?	Desco Copy & Print Centre (located in the DIFC). Spectrum Digital Print Solutions DIFC .
Leading local providers of court reporting services, and regional or international providers with offices in the jurisdiction?	Lloyd Michaux TransPerfect
Leading local interpreters for simultaneous interpretation between English and the local language, if it is not English?	TransPerfect
Other leading arbitral bodies with offices in the jurisdiction?	The MENA Representative Office of the Secretariat of ICC International Court of Arbitration (located in the ADGM in the Emirate of Abu Dhabi) The regional office of the Saudi Center for Commercial Arbitration, SCCA Dubai (located in the DIFC in the Emirate of Dubai)