International Comparative Legal Guides

Fintech 2021

A practical cross-border insight into fintech law

Fifth Edition

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1 The Fintech Landscape

1.1 Please describe the types of fintech businesses that are active in your jurisdiction and the state of the development of the market, including in response to the COVID-19 pandemic. Are there any notable fintech innovation trends of the past year within particular sub-sectors (e.g. payments, asset management, peer-to-peer lending or investment, insurance and blockchain applications)?

Determining what is or is not a "fintech" business is notoriously difficult and not always necessary, but for purposes of this chapter we will be using the term in its conventional sense, meaning a business that uses technology (usually software) to provide, support or facilitate financial services in novel ways or with novel features. This typically means businesses that do any of the following (by no means an exhaustive list):

- Online/mobile trading platforms.
- Crowdfunding platform.
- Financial advice using technology/apps.
- Money transfer services.
- Payment processing (any of the many stages in this process).
- Online banking of any kind.
- Insurance advice, acquisition and management using technology/apps.
- Dealings in cryptoassets, cryptocurrencies or ICOs of any kind.
- Development of back-end (non-customer facing) software for conventional banks and financial service providers to support any of its service offerings.

The trends in the UAE do not always mirror global trends, as the UAE's regulatory environment can give rise to significant barriers to entry, especially in the financial services space, as will be described further in this chapter.

With the above in mind, we have generally seen the following trends or notable events over the last year:

- An analysis published by the Milken Institute regarding the rise of fintech in the Middle East asserts that most of the investment in the region has streamed to the payments sector. This is consistent with global fintech trends, where fast, efficient, safe payment platforms have been a major focus, given their universal importance.
- Remittances are a key growth area of UAE fintech. The UAE has always been a major user of remittances due to its large expatriate population. Three-quarters of expat remittances out of the UAE were transferred through money exchange companies. India, Pakistan and the Philippines were the top three receiving countries.
- Islamic fintech is growing and is expected to reach USD 128 billion by 2025 (according to the Global Islamic Fintech Report (**GIFR**) 2021). According to the GIFR, payments, deposits and lending and raising funds lead the growing segments of Islamic fintech. The GIFR also conducted a global survey with approximately 100 respondents. A main challenge in the industry identified by the respondents is the lack of capital, customer education and sourcing talent.
- Regulatory developments have been occurring in the cryptoasset space.
- In a press release issued on 28 November 2020, the Dubai International Financial Centre (**DIFC**) reported that they have attracted close to 90 fintech companies in 2020. As of November 2020, the DIFC was home to more than 240 fintech-related firms, representing over 50% of all fintech entities in the Gulf Cooperation Council (**GCC**) (DIFC Press Release on 28 November 2020, https://www.difc.ae/newsroom/news/difc-fintech-hive-and-fintech-aviv-reach-landmark-agreement/).

1.2 Are there any types of fintech business that are at present prohibited or restricted in your jurisdiction (for example cryptocurrency-based businesses)?

Generally, the following activities are regulated in the DIFC, Abu Dhabi Global Market (**ADGM**) and the remainder of the UAE (**UAE Onshore**) (list is not exhaustive):

- Providing credit.
- Providing money services.
- Accepting deposits.
- Marketing and sale of securities (or security-like products).
- Managing assets.
- Advising on financial products.
- Digital banking.
- Digital money exchange.
- Digital payments and payment processing.
- Crowdfunding.
- Dealings in cryptocurrencies and tokens.

No fintech business is prohibited as such (unless the underlying subject matter itself is prohibited under the laws of the UAE, such as gambling or pornography), but most are subject to significant regulatory requirements and barriers to entry because they tend to constitute activities that are subject to the UAE's banking, insurance, financial services or securities regulations, all of which are regulated.

In 2017, the UAE Central Bank published its Regulatory Framework for Stored Values and Electronic Payment Systems (the **Electronic Payment Regulation**) which regulates a number of digital payment services (e.g. money remittances, peer-to-peer digital payment transactions and retail credit and debit digital payment transactions). The Electronic Payment Regulation contained a provision stating that all virtual currencies (and transactions) are prohibited. However, shortly after its publication, the Governor of the Central Bank issued a statement stating that the Electronic Payment Regulation was not intended to prohibit the use or acceptance of digital currency (the context of the statement was in reference to Bitcoin).

In UAE Onshore, there is a general prohibition on marketing unregistered collective investment schemes (i.e., funds) unless they have been appropriately registered with the Securities and Commodities Authority (**SCA**) (subject to narrow, limited exemptions). In the DIFC, there is a prohibition on marketing unregistered funds in the DIFC except through a DFSA-licensed intermediary with the appropriate type of licence, unless an exemption applies. The prohibition on the offer or sale of a fund only applies where such activity is carried out in or from the DIFC. Similar provisions exist with regards to the ADGM. These are very significant barriers to any form of public fundraising in the UAE.

2 Funding For Fintech

2.1 Broadly, what types of funding are available for new and growing businesses in your jurisdiction (covering both equity and debt)?

There are a number of funding arrangements available to fintech businesses in the UAE. Below are two common examples:

Seed Investment: Initial investment in fintech businesses may be provided by family and friends of the founders and other high-net-worth individuals (angel investors) in return for an equity stake. Such seed investment is often used to fund the establishment and early growth of the business before larger investment is available. Such investment must not be solicited publicly or broadly, and must be limited to "friends and family" without publicity, to avoid falling afoul of the UAE's regulations on marketing of securities.

Bank Debt: Once established and it has a track record, a fintech company may seek funding in the form of bank debt, either on a secured or unsecured basis depending on the creditworthiness and asset base of the business.

Soliciting funds from public sources in the UAE is subject to significant regulation and tends to be prohibitive.

2.2 Are there any special incentive schemes for investment in tech/fintech businesses, or in small/medium-sized businesses more generally, in your jurisdiction, e.g. tax incentive schemes for enterprise investment or venture capital investment?

While the UAE is generally considered attractive for businesses for many reasons, there are no financial incentives specifically directed at the fintech sector. Non-financial incentives for fintech businesses to choose the UAE are its access to a large, affluent and sophisticated customer base, its utility as base for access to the broader GCC market, and the UAE's progressive (even aggressive) supporting and adoption of new technologies, thereby creating a strong ecosystem of fintech providers and service providers to that industry.

2.3 In brief, what conditions need to be satisfied for a business to IPO in your jurisdiction?

Under UAE law, for a company to offer its shares to the public, such company must be or take up the legal form of a "public joint stock company". Accordingly, a company wishing to execute an IPO will be either a newly incorporated public joint stock company, or an existing private joint stock company or limited liability company that undergoes a conversion process to become a public joint stock company.

The IPO process in the UAE, to some extent, differs according to the business and structure of the company undergoing the IPO process, in which Emirate the company has its place of business and on which market the company will be listed.

Generally speaking, UAE companies that choose to go public usually seek to list on global markets (London's AIM is popular). This is not a direct listing, but a listing of a foreign (offshore) corporation which in turn owns/controls the UAE operating entity. UAE start-ups do not need to worry about this at the outset, as the restructuring process to achieve "IPO readiness" will always need to occur in any event.

2.4 Have there been any notable exits (sale of business or IPO) by the founders of fintech businesses in your jurisdiction?

The year of 2020 saw a number of notable transactions despite the COVID-19 pandemic. Early in 2020, Uber completed a USD 3.1 billion acquisition of the Dubai-based ride hailing app Careem.

In 2017, Amazon acquired PAYFORT as part of the Souq Group acquisition. PAYFORT was established in 2013 in the MENA region. In December 2020, Amazon announced the launch of Amazon Payment Services in the MENA region. Dubai-based Amazon Payment Services is a payment processing service.

Also in 2021, the Dubai-based investment advisory platform Sarwa is reportedly expanding to Saudi Arabia after receiving the fintech experimental permit from Saudi's Capital Markets Authority (**CMA**). This development arises nearly one year after Sarwa raised USD 8.4 million in one of the largest funding rounds for a consumer fintech in the MENA region.

An article published by Fintech News Middle East highlights seven fintech start-ups that show promise in the UAE and MENA region for the year 2021. The companies listed include notable names in the region such as Sarwa, as mentioned above, as well as less established names such as Tabby, a relatively young buy-now-pay-later fintech start-up based in Dubai, and MidChains, which is an upcoming regulated digital asset investment exchange based in the ADGM. In addition, the article lists Mamo Pay, which was founded by former Google employees and now offers a Dubai peer-to-peer payment app, and Rise, a neobanking platform with financial products and educational material for migrant and domestic workers in the GCC region. Telr and NymCard are also mentioned on the list as fintech start-ups to keep an eye on in the year 2021.

3 Fintech Regulation

3.1 Please briefly describe the regulatory framework(s) for fintech businesses operating in your jurisdiction, and the type of fintech activities that are regulated.

We will address the UAE Onshore regulatory framework, and then each of the ADGM and DIFC. See also our response to question 1.2 for additional context.

Securities and capital market-related activities conducted UAE Onshore are regulated by the SCA. In contrast, the UAE Central Bank regulates banking and lending institutions and payment activities while the Insurance Authority oversees and regulates all insurance activities including insurance-based investment contracts often sold by independent financial advisors in the UAE. Each of these regulators may in turn regulate the fintech industry in so far as relevant to their respective subject matters of oversight and regulation. The SCA and the Central Bank are the key UAE Onshore regulators.

The Central Bank issued the Electronic Payment Regulation in 2017 which is the governing regulation for payment service providers in the UAE. The Electronic Payment Regulation mandates that entities seeking to be licensed as payment service providers must obtain approval and receive the relevant licence before dealing with payment systems. There are two categories of payment service providers that must obtain the requisite licences under the Electronic Payment Regulation: Payment Service Providers (**PSP**); and Payment System Operators (**PSO**). A PSO is an entity which operates either a fund transfer system or any other system which could be characterised as facilitating the circulation of digital money in the UAE. In contrast, a PSP is an entity which is licensed or authorised to provide digital payment. Pursuant to the Electronic Payment Regulation, there are four main types of PSPs. These include the Retail PSP, the Micropayments PSP, the Government PSP and the Non-issuing PSP. The relevant licensing requirements to be complied with by the respective entity would be dependent on the classification of that entity.

The SCA published a consultation draft of its first FinTech Regulatory Sandbox Guidelines pursuant to the Decision of the Chairman of the SCA Board of Directors No. 28 of 2018 Approving the FinTech Regulatory Framework (**SCA FinTech Draft Regulations**). The SCA FinTech Draft Regulations open the possibility for a test environment for innovative products, solutions, services and business models. The SCA FinTech Draft Regulations introduce the concept of FinTech Pilot Licences. FinTech Pilot Licences allow entities to work in a controlled "sandbox" environment. In addition to the SCA FinTech Draft Regulations, see also our response to question 3.2 relating to regulation of cryptoassets (including by the SCA).

We move now to the ADGM and DIFC. Both operate under English common law principles and have taken a different regulatory approach than that taken by UAE Onshore regulators.

Financial services carried out in the ADGM fall under the purview of the Financial Services Regulatory Authority (**FSRA**). The main regulatory framework for financial services and fintech is the Financial Services and Markets Regulations 2015 as well as any amendments (**FSMR**). In addition, the following instruments provide guidance with respect to financial services regulation in the ADGM:

- Rulebooks of the FSRA.
- FSRA's Guidance & Policies Manual.
- Guidance Regulation of Digital Security Offerings and Virtual Assets under the Financial Services and Markets Regulations.
- Guidance Regulation of Digital Securities Activity in ADGM.
- Guidance Regulation of Virtual Asset Activities in ADGM.
- Guidance Regulatory Framework for Private Financing Platforms.
- Supplementary Guidance.

In the DIFC, the DFSA regulates financial activities and expressly prohibits financial services unless they are otherwise authorised by the DFSA. The main regulatory framework for regulation of financial services in the DIFC is DIFC Law No. 1 of 2004 and any amendments thereto (**Regulatory Law**) with guidance on the same in the DFSA Handbook. The DFSA considers financial services to include the following activities: accepting deposits; providing credit; money services; managing assets; advising on financial products; managing collective investment funds; operating an exchange; insurance; trust services; and fund administration, among others, covering many activities that are conventionally pursued by fintech companies.

3.2 Is there any regulation in your jurisdiction specifically directed at cryptocurrencies or cryptoassets?

Cryptocurrency and cryptoasset regulation has been an area of much activity over the past year.

Providers who wish to offer cryptoassets within the UAE must be licensed by the SCA. On 1 November 2020, the SCA published the SCA Chairman's Decision No. 23 of 2020 Concerning Crypto Assets Activities Regulation (the **SCA Regulation**) with effect 30 days after publication. The SCA further published Administrative Decision No. 11 of 2021 concerning the Guidance for Crypto Assets Regulations (the **SCA Guidance**). The SCA Regulation aims to regulate the offering, issuing, listing and trading of cryptoassets in the UAE and related financial activities. The SCA Guidance provides further context and details as to the procedures and fees for licences and for operating a cryptocurrency or cryptoasset business in UAE Onshore, and demonstrates that the SCA has committed significant effort and resources to its approach to the regulation of cryptoassets.

The SCA has currently created two classes of investor to whom cryptoassets may be offered. The first classification is Qualified Investors, which is broadly defined as a natural or legal person who is able to manage their/its own investments according to certain conditions. Examples of Qualified Investors include institutional investors such as banks, financial institutions or investment companies, any person who holds more than AED 75 million in assets or who maintains a net turnover of AED 150 million. In addition, where an individual holds either AED 4 million in funds or maintains an annual income of over AED 1 million, and where the licensee can verify that said individual possesses sufficient knowledge and understanding about the risks of investing in cryptoassets, that individual may also be classified as a Qualified Investor. The second class of person is, predictably, Non- Qualified Investors. In order to issue to Non-Qualified Investors, issuers must file documents with the SCA in advance of offering cryptoassets to Qualified Investors, and obtain SCA approval (a prospectus/white paper disclosure process).

The Guidance Regulation of Crypto Asset Activities in the ADGM (**ADGM Guidance**) which is regulated by the FSRA is one of the most detailed guidelines for the regulation of cryptoassets and cryptocurrencies in the UAE. The FSMR is responsible for regulating cryptoasset activities in the ADGM.

Pursuant to the ADGM Guidance, there are some restrictions on which cryptoassets are allowed and the ADGM Guidance addresses a range of risks which are associated with cryptoasset activities, including risks related to money laundering and anti-terrorism financing, financial crime, consumer protection, data protection, intellectual property (**IP**), custody and exchange operations. Under the ADGM Guidance, the FSRA regulates entities operating cryptoasset businesses, including activities which are undertaken by cryptoasset exchanges, custodians and also other potential intermediaries.

The DFSA has announced plans to draw up a regulatory framework for the DIFC's nascent cryptocurrency sector as well. At this stage, the details of any such plan remain unclear. The regulations are rumoured to come into effect some time in 2022, and will apply to digital assets and cryptocurrencies. In a statement, the DFSA said that it will be creating "a regulatory regime for digital assets (such as tokenized securities and crypto-currencies)".

In addition, the Dubai Multi Commodities Centre (**DMCC**) (another Dubai free zone, but not a financial free zone) has entered into a memorandum of understanding (**MOU**) with the SCA to establish a regulatory framework for the offering, issuance, listing and trading of cryptoassets in the DMCC.

3.3 Are financial regulators and policy-makers in your jurisdiction receptive to fintech innovation and technology-driven new entrants to regulated financial services markets, and if so how is this manifested? Are there any regulatory 'sandbox' options for fintechs in your jurisdiction?

The ADGM and the DIFC have both introduced similar concepts which allow fintech companies to develop and test their products in a controlled environment without immediately subjecting them to the regulatory requirements that would otherwise be applicable to such entities.

For the ADGM this concept is the Regulatory Laboratory (**RegLab**). In practice, the RegLab framework is applicable to two categories of fintech entities. The first category includes entities which have a fintech product that has not been tested in the UAE market and who wish to test the product in a controlled environment in the ADGM without attracting the full weight of regulatory requirements. The second category of fintech entities under the RegLab framework include those that may already be offering their fintech product in the market, but wish to continue researching and developing the product within the secure confines of the RegLab.

The DIFC has a similar concept to the RegLab which is the FinTech Hive accelerator programme under which the Innovation Testing Licence (**ITL**) was introduced. The DIFC FinTech Hive accelerator programme is comprised of a curriculum in which a group of selected finalists work closely with financial institutions to test and develop their solutions. Fintech firms can apply for an ITL which is a restricted class of financial services licence that enables the fintech firm to test their new products, services and business models in a controlled environment where the rules applicable are limited to those appropriate for testing and without attracting the full compliance of regulatory requirements that would otherwise be applicable.

3.4 What, if any, regulatory hurdles must fintech businesses (or financial services businesses offering fintech products and services) which are established outside your jurisdiction overcome in order to access new customers in your jurisdiction?

A key question for any foreign business that wishes to access UAE-based customers is whether they need to be licensed in the UAE in order to carry out the activities required to do so. This is not always clear, and this uncertainty presents a challenge. The UAE's legal framework was not drafted with the internet age in mind, and as such, it applies to online business by analogy in most cases. This is difficult to do, or to predict, when it comes to determining whether a company located outside of the UAE that interacts with UAE customers over the internet is "doing business in the UAE". It is context specific analysis and will depend on whether the company deliberately marketed to UAE customers, if their website content suggests a UAE focus, how much of their business comes from the UAE, among any other factors that appear relevant in the circumstances.

Aside from licensing issues, an entity may be required to store data collected from UAE customers physically inside the UAE. This would require the establishment of a physical presence, or contracting with service providers in the UAE to host the entity's servers, or data, or other elements of the entity's platform/offering.

4 Other Regulatory Regimes / Non-Financial Regulation

4.1 Does your jurisdiction regulate the collection/use/transmission of personal data, and if yes, what is the legal basis for such regulation and how does this apply to fintech businesses operating in your jurisdiction?

As of the date of writing, UAE Onshore has no comprehensive data protection law. Rather, several laws and regulations of general application incidentally address issues relevant to data protection, and collectively they form a patchwork. Many of these laws were drafted in the 1980s and 1990s and they do not expressly address issues relevant to online interaction. In addition, there are various confidentiality or data protection regulations application on a sector-specific basis (the insurance sector, banking sector, so-called "internet of things" businesses (providers of connected devices), PSPs and PSO under the Electronic Payment Regulation noted above, the medical sector, accounting, legal services, among others, all have different, separately regulated obligations relating to data protection). A general obligation of confidentiality was also contained in the UAE Penal Code (being Federal Law No. 3 of 1987, as amended).

ADGM and DIFC: The ADGM and DIFC have their own comprehensive data protection laws governing the collection, use, processing and transmission of personal data by entities working in their respective zones, and each reflects global best practice as of the date of writing.

4.2 Do your data privacy laws apply to organisations established outside of your jurisdiction? Do your data privacy laws restrict international transfers of data?

Data privacy provisions in the UAE do not apply to entities established outside of the UAE (free zones and UAE Onshore).

Subject to sector specific limitations and requirements, generally, pursuant to Article 379 of the UAE Penal Code, personal data may be transferred to third parties inside and/or outside of the UAE if the data subjects have consented in writing to such transfer, or otherwise as allowed by law.

The ADGM and DIFC data protection laws require entities to (amongst others) impose conditions concerning the disclosure of personal data to third parties and the transfer of personal data outside the respective zone. Transfers of data internationally are restricted by DIFC and ADGM law, whereby the transferee must be in an approved jurisdiction, failing which assurances as to data protection equivalency must be provided to satisfy the DIFC or ADGM, respectively.

4.3 Please briefly describe the sanctions that apply for failing to comply with your data privacy laws.

Criminal and civil sanctions for privacy breach are stipulated in numerous sources of UAE law such as the Penal Code, Cyber Crimes Law and Credit Information Law. Criminal sanctions for unauthorised access or disclosure of confidential information are imprisonment (in some cases, for at least two years), a fine (which varies widely, from AED 20,000 to AED 1,000,000), or both.

The DIFC and ADGM each have prescribed sanctions (Article 62 for the DIFC and Part VII for ADGM) which impose significant fines for non-compliance of the respective data protection regulations.

4.4 Does your jurisdiction have cyber security laws or regulations that may apply to fintech businesses operating in your jurisdiction?

All UAE businesses (and individuals) are required to comply with the provisions of the UAE Cyber Crimes Law (Federal Law No. 5/2012 on Combatting Cybercrimes) which broadly relate to information technology security, state security and commercial and financial issues deriving from the use of the internet or information technology infrastructure. The Cyber Crimes Law has extraterritorial effect.

4.5 Please describe any AML and other financial crime requirements that may apply to fintech businesses in your jurisdiction.

Providers of financial services in the UAE, including fintech companies, are subject to the UAE's anti-money laundering and anti-terrorist financing laws. Such laws impose mandatory "know your client" and due diligence requirements, reporting requirements for red-flag transactions, record-keeping requirements, and significant criminal liability for failures to comply. For fintech companies, compliance obligations can include ensuring their products and services are secure and cannot be used for money laundering or anonymity in financial transactions.

4.6 Are there any other regulatory regimes that may apply to fintech businesses operating in your jurisdiction?

See questions 4.4 and 4.5.

5 Accessing Talent

5.1 In broad terms, what is the legal framework around the hiring and dismissal of staff in your jurisdiction? Are there any particularly onerous requirements or restrictions that are frequently encountered by businesses?

The primary law governing employment in the UAE is Federal Law No. 8 of 1980 Regulating Labour Relations, as amended (the Labour Law), and applicable ministerial orders implementing its provisions. These statutes and regulations apply to all employees working in the UAE, including foreign nationals. Also:

- employees working for a company with a place of business in the DIFC and who are based in, or ordinarily work in, the DIFC are subject to the DIFC Employment Law; and
- employees working for a company with a place of business in the ADGM are subject to the ADGM Employment Regulations.

Employees working in one of the many free zones in the UAE, including foreign nationals, are subject to the Labour Law in addition to employment regulations introduced in the relevant free zone. Where the free zone regulations are not consistent with the Labour Law, the Labour Law provisions take precedence unless they are less favourable than the relevant free zone regulations.

All non-UAE national employees working in the UAE require an employment permit, and a UAE residency visa, sponsored by their employer.

Generally, the UAE is an "at-will employment" jurisdiction, and employees can be terminated with or without cause at any time, subject to the employer paying the required severance.

There are no requirements that we would describe as particularly onerous relating to hiring or sponsoring employees. The UAE is a popular expat jurisdiction and most employees in the UAE are foreign nationals.

5.2 What, if any, mandatory employment benefits must be provided to staff?

The Labour Law provides benefits to employees that cannot be waived by contract. Among these benefits are:

- an assurance via the Wage Protection System that salaries will be paid on a monthly basis;
- entitlement to overtime compensation (non-managerial roles);
- severance payments on termination;
- generous vacation allowance;
- mandatory health insurance coverage;
- repatriation benefits; and
- an administrative and judicial grievance procedure where fees are waived for employees.

5.3 What, if any, hurdles must businesses overcome to bring employees from outside your jurisdiction into your jurisdiction? Is there a special route for obtaining permission for individuals who wish to work for fintech businesses?

Before granting an employment permit to a foreign national, the Ministry of Human Resources and Emiratisation may consider whether there are any unemployed nationals who are capable of performing the job that the foreign national employee will be employed to do. Generally, this is not an obstacle in most cases.

After an employee enters the UAE on an entry permit for employment purposes, the employer must apply for a labour card (if employed in a non-free zone) or an ID card (if employed in a free zone) within 60 days of arrival. Labour cards for non-free zone employment are usually valid for two years. ID cards for employees within a free zone are usually valid for three years. The employee will then take a mandatory health test (blood and chest x-ray) to screen for communicable diseases, and upon clearance, will obtain a UAE residency visa (which allows free travel in and out of the UAE).

There is no special route for employees of fintech companies.

6 Technology

6.1 Please briefly describe how innovations and inventions are protected in your jurisdiction.

Innovations and inventions can be protected under the UAE's IP laws. These consist primarily of the Trademark Law, Copyright Law and Patent Law, each discussed briefly here.

Federal Law No. 37 of 1992 on Trademarks (**Trademark Law**) regulates trademarks registered in the UAE (whether owned or licensed). Pursuant to the Trademark Law, trademarks must be registered with the Ministry of Economy in order to benefit from protection. Trademarks are deemed to include names, words, signatures, letters, figures, graphics, logos titles, hallmarks, seals, pictures, patterns, announcements, packs or any other marks or groups of marks intended to be used either to distinguish goods, products or services or to indicate that certain services, goods or products belong to the owner of the trademark.

Federal Law No. 7 of 2002 on Copyrights and Related Rights (**Copyright Law**) governs copyright in intellectual works which are considered to be any original work in the areas of literature, arts or science, whatever its description, form of expression, significance or purpose. Some examples of intellectual works protected under the Copyright Law include, books, articles, and other literature, and most relevantly, software. Copyright in any intellectual work arises automatically without the need for registration, but a party can choose to register their copyright with the Ministry of Economy as well, if desired.

Federal Law No. 31 of 2016, promulgated by Law No. 17 of 2002 on Regulation and Protection of Industrial Property of Patents (**Patent Law**) regulates patent filing and protection in the UAE. Patent protection in the UAE can be granted for any novel invention resulting from an innovative idea or innovative improvement of an existing invention in all fields of technology, provided that such an idea or innovative improvement has a scientific basis and is practically applicable. Patents must be registered with the Ministry of Economy in order to benefit from protection.

6.2 Please briefly describe how ownership of IP operates in your jurisdiction.

The owner of an IP right would need to register said product or right with the Ministry of Economy in order to assert ownership in the UAE, save for copyright, which arises automatically upon creation of the work. The various types of rights mentioned above may be protected for a period of time prescribed by the applicable law. If a foreign owner of an IP right that has not registered its ownership in the UAE wishes to challenge a party that has registered the same similar IP rights in the UAE, it may do so before the UAE courts and will be obligated to prove its prior claim.

6.3 In order to protect or enforce IP rights in your jurisdiction, do you need to own local/national rights or are you able to enforce other rights (for example, do any treaties or multi-jurisdictional rights apply)?

Generally speaking, the IP holder would need to register the IP rights in the UAE as described under question 6.1 above with the UAE Ministry of Economy in order to enjoy protection, and to facilitate enforcement against third parties (although enforcement is not impossible if proof of prior registration and use in another country can be provided, although the analysis is case by case).

The UAE is party to a variety of multilateral IP conventions and treaties including, for example, the World Intellectual Property Organization Convention, the Patent Cooperation Treaty 1970, and the Paris Convention for the Protection of Industrial Property 1883, the Berne Convention and the WIPO Convention and WIPO Copyright Treaty. There is expedited registration of IP rights within the GCC states, pursuant to the Economic Agreement Between GCC States. The GCC has also been pressing for a unified GCC Trademark Law, but the UAE has yet to implement this.

6.4 How do you exploit/monetise IP in your jurisdiction and are there any particular rules or restrictions regarding such exploitation/monetisation?

IP rights in the UAE may be exploited and or monetised directly by their owner in the course of the owner's business, or can be licensed to third parties. There are no particular restrictions on such monetisation.

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James heads the data privacy and cyber security practice at Afridi & Angell. He advises companies in the TMT sector on industry-specific regulatory compliance as well as on general corporate and commercial matters. Prior to joining Afridi & Angell, James gained in-depth technology outsourcing experience while working as in-house counsel with one of Canada's leading technology companies.

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