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Fintech

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Contributing Editors:
David Ives, David Shone & James Cook
Slaughter and May

glg Global Legal Group

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International Comparative Legal Guides

United Arab Emirates

Abdus Samad

Alex Vromans

Zaid Mahomed

Afridi & Angell

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 and ESG (Environmental, Social and Governance) objectives. 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 the 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 platforms.
- 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 crypto assets, 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 past few years:

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 and 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, Egypt and Pakistan are currently the top three receiving countries.

Islamic fintech is growing and is expected to reach USD 179 billion by 2026 (according to the Global Islamic Fintech Report (GIFR) 2022). 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 taking place in the crypto-asset space.

The Dubai Virtual Assets Regulatory Authority (VARA) has issued its Virtual Assets and Related Activities Regulations 2023 (VARA Regulations), which set out a comprehensive Virtual Asset Framework built on the principles of economic sustainability and cross-border financial security.

In a press release issued on 28 February 2023, the Dubai International Financial Centre (DIFC) reported that during the year 2022, investment in the DIFC's fintech and innovation community exceeded USD 615 million and the total number of active firms in the sector grew 36% to 686. Moreover, according to the DIFC FinTech Hive's 2022 FinTech Report, the Fintech and Innovation sector in the Middle East, Africa and South Asia (MEASA) region is growing at pace with a market value forecasted to double in size from USD 135.9 billion in 2021 to USD 266.9 million in 2027 (DIFC Press Release on 28 November 2020, https://www.difc.ae/newsroom/news/investment-surges-difc-fintech-firms-ahead-dubai-fintech-summit).

A number of amendments to the current DIFC laws, including the Foundations Law 2018, have been proposed by the DIFC Laws Amendment Law, DIFC Law 2 of 2023. One significant change is adding the phrase "digital assets" to the list of assets that a DIFC Foundation may possess. This suggests that a DIFC Foundation is able to hold, manage and distribute digital assets, which include tokens, cryptocurrencies, smart contracts and other electronic documents that have intrinsic worth or related rights.

A fintech collaboration agreement has been signed by the Monetary Authority of Hong Kong and the Financial Services Regulatory Authority (FSRA) of the Abu Dhabi Global Market (ADGM). As per the agreement, the two bodies will collaborate on Proof-of-Concept initiatives to link the Global Market's SME Financing Platform with the Authority's Commercial Data Interchange. In order to address possible pain points in cross-border financial services, such as small- and medium-sized enterprise (SME) account opening and financing to facilitate cross-border trading, the two regulators will also investigate use cases for cross-border data exchange with user consent.

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, 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), 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.

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)?

Fintech companies rely on venture capital and private equity models for their funding like other startups and mid-sized companies, but the following may be viewed as being more closely associated with fintech as an industry:

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 credit-worthiness 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 a base for access to the broader Gulf Cooperation Council (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 converts to become a public joint stock company.

The IPO process in the UAE will vary, to some extent, on the basis of:

1. the business and the structure of the company (which is undergoing the IPO process);
2. which Emirate the company has its place of business; and
3. which market the company will be listed.

While there have been efforts to encourage the growth and development of the UAE equity capital markets, generally speaking, UAE companies will still typically look to go public by seeking a listing on one of the leading foreign (non-UAE) capital markets. This is typically not a direct listing of the UAE business, but a listing of a foreign (offshore) corporation which in turn owns/controls the UAE operating entity. UAE startups 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 and will likely be driven by market-specific requirements depending on the venue ultimately selected for a listing.

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

While there have not been any notable exits in the fintech space in the UAE, fintech businesses have continued to attract interest from investors.

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 in the UAE (excluding those undertaken in or from the ADGM or the DIFC) are regulated by the Securities And Commodities Authority (SCA). The UAE Central Bank regulates banking, lending and payment activities. When the UAE Central Bank and the UAE Insurance Authority merged in 2020, the UAE Central Bank took control of and began regulating all insurance-related activities, including the sale of investment contracts based on insurance that are frequently made by independent financial advisors in the

UAE. Each of these regulators may in turn regulate the fintech industry insofar as their relevance to their respective subject matters of oversight and regulation. The SCA and the Central Bank are the key regulators for fintech businesses operating in the UAE (excluding the ADGM and the DIFC).

On 30 September 2020, the Stored Value Facilities Regulation (the SVF Regulation) was published by the Central Bank of the United Arab Emirates. The SVF Regulation replaced the Electronic Payment Regulation issued on 13 December 2016 (the Framework). The SVF Regulation applies to all companies licensed under the Framework, and those seeking to conduct stored value facility (SVF) activities under the Regulation. Applicants for an SVF licence must be incorporated within mainland UAE or a free zone, but not the DIFC or ADGM (i.e., the financial free zones). According to the SVF Regulation, an SVF is a facility where a customer can pay an amount to the SVF issuer in exchange for storing that money there. In exchange for the SVF, this pre-paid amount can be given to the issuer via debit card, credit card, bank account transfer, reward points, crypto assets or virtual assets. The SVF itself might be made up of virtual or digital assets, points from rewards programmes, top-up payments, online transfers or other values. Under the SVF Regulation, there is a single licensing category: an SVF licence. The SVF Regulation's requirements for corporate governance, general risk management and controls, as well as financial resources, including a minimum paid-up capital of at least AED 15 million and an aggregate capital of funds of at least 5% of the total float received by the SVF from customers, will need to be carefully considered by licensees. According to the Regulation, both virtual and cryptocurrency assets may be utilised as a stored value when buying other goods and services.

In January 2021, the Central Bank issued the Large Value Payment Systems Regulations (Circular 9 of 2020) (LVPS Regulations). The LVPS Regulations focus on Large Value Payment Systems (LVPS), which are financial infrastructure systems that support financial and wholesale activities in the UAE. The LVPS Regulations detail licensing criteria for LVPS in addition to ongoing obligations and requirements for a designated LVPS. The LVPS Regulations apply to LVPS that are operated in the UAE or LVPS and accept the clearing or settlement of transfer orders denominated in the AED currency both in the UAE and outside the UAE. They do not apply to LVPS incorporated in the DIFC or ADGM. LVPS wishing to operate in the UAE require a prior licence from the Central Bank.

In June 2021, the UAE Central Bank issued the Retail Payment Services and Card Scheme Regulations (the RPSCS Regulations) to create a regulatory framework for the licensing of payment services onshore in the UAE. The RPSCS Regulations include a detailed suite of requirements and conditions for the grant of a licence, depending on the particular services being offered and the category of customers being targeted. The RPSCS Regulations are specifically stated to exclude SVF from the scope of their application and accordingly SVF continues to be subject to the SVF Regulation as discussed above.

At the end of 2021, the Central Bank, the SCA, the Dubai Financial Services Authority (DFSA) and the FSRA of the ADGM (the Regulators) jointly issued "Guidelines for Financial Institutions Adopting Enabling Technologies". The Guidelines outline cross-sectoral principles and best practices for financial institutions to follow when implementing enabling technologies for the development or offering of innovative products and services. Application Programming Interfaces, Big Data Analytics and Artificial Intelligence (AI), Biometrics, Cloud Computing and Distributed Ledger Technology are some of the enabling technologies. Regardless of the financial activities carried out, the Guidelines will apply to all financial institutions that use the enabling technologies and are regulated and overseen by any of the Regulators.

We move now to the ADGM and DIFC.

Financial services carried out in the ADGM fall under the purview of the 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 the ADGM.
- Guidance Regulation of Virtual Asset Activities in the 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 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.

Cryptocurrency and crypto-asset regulation has been an area of much activity over the past year. The issuance of Dubai Law 4 of 2022 regulating Virtual Assets in Dubai (VA Law) in March 2022 strengthened Dubai's position as a global hub for digital assets. The VA Law also established VARA. VARA is a regulatory body established by the government of Dubai to oversee and regulate the virtual assets industry. In line with its mandate, VARA has issued a number of rulebooks, in particular the Compliance and Risk Management Rulebook (CRM), which sets out the regulatory framework for virtual asset service providers (VASPs) operating in Dubai. The CRM is a comprehensive regulatory framework that sets out the requirements and standards that VASPs must comply with to operate in Dubai. The CRM covers a wide range of issues, including licensing, customer due diligence (CDD), risk management, compliance and reporting. All VASPs operating in Dubai must be licensed by VARA. To obtain a licence from VARA, VASPs must meet a number of requirements including, but not limited to, demonstrating that they have adequate financial resources to operate their business and having effective governance and internal control.

The CRM requires VASPs to implement robust CDD procedures to identify and verify the identity of their customers.

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

On 1 November 2020, the SCA published the SCA Chairman's Decision 23 of 2020 Concerning Crypto Assets Activities Regulation (the SCA Regulation) with effect 30 days after publication. The SCA further published Administrative

Decision 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 crypto assets 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 crypto-asset business in UAE Onshore, and demonstrates that the SCA has committed significant effort and resources to its approach to the regulation of crypto assets.

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 crypto assets and cryptocurrencies in the UAE. The FSMR is responsible for regulating crypto-asset activities in the ADGM.

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

On 1 November 2022, the DFSA's Crypto Token Regime in the DIFC came into effect (the Crypto Token Regime). The Crypto Token Regime is thorough, addressing risks related to consumer protection, market integrity, custody and financial resources for service providers in addition to anti-money laundering and combatting the financing of terrorism (AML/CFT) concerns associated with trading, clearing, holding or transferring cryptocurrency tokens. To enable businesses in the DIFC to offer products and services relating to crypto tokens, the DFSA has expanded the scope of several present financial services operations, including advising, dealing, arranging, trading and custody. Companies considering expanding or maintaining a virtual asset business in the DIFC should seek counsel to determine whether they need a licence from the DFSA under the Crypto Token Regime. Furthermore, the DFSA General Module also provides guidance with respect to requirements for crypto tokens.

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 that 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 comprises 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?

UAE Onshore: On 26 September 2021, Federal Decree-Law 45 of 2021 (the Data Protection Law) was issued. The Data Protection Law came into effect on 2 January 2022.

The Data Protection Law applies to the processing of "personal data":

- of any data subject who resides or has a place of business in the UAE;
- by any data controller or data processor established in the UAE (regardless of whether the processing of personal data is carried out inside or outside of the UAE); or
- by any data controller or data processor established outside of the UAE, but who carries out processing of personal data within the UAE.

Personal data is defined broadly under the Data Protection Law (broadly in line with other international privacy legislation) as any data relating to an identified or identifiable natural person. An identifiable person is one who can be identified directly or indirectly using identifiers such as name, voice, picture, identification number, online identifier, geographic location or one or more specific features that express the physical, psychological, economic, cultural or social identity of such person.

ADGM and DIFC: The ADGM and the DIFC each have their own comprehensive data protection regimes governing the collection, use, processing and transmission of personal data by entities working in their respective zones.

The UAE Central Bank's SVF Regulation requires licensees to maintain adequate systems and policies related to data protection to ensure the protection of information from unauthorised access, ensure encryption of sensitive data, retrieval access controls must also be enforced to ensure confidentiality and integrity of the databases. The SVF Regulation also requires licences to implement an information retention and disposal policy to limit the data storage amount and retention time. In addition, the Retail Payment Systems (RPS) Regulation also imposes data protection, security and integrity obligations on RPS licensees.

The VARA Regulations mandate that fintech companies that fall under the purview of the regulations and function as VASPs adhere to activity-specific rulebooks in addition to the five mandatory rulebooks set forth by VARA regarding the provision of virtual asset activities. Most notably, VASPs must abide by applicable UAE data protection and privacy laws as stipulated in VARA's mandatory rulebook on technology and information. This includes appointing a data protection officer, establishing an organisational function in charge of managing and protecting personal data, notifying authorities of data breaches, and implementing other controls and procedures.

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?

See question 4.1.

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, and if not, other measures must be put in place to ensure that appropriate protection is available for the rights of the data subject.

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

In addition to sanctions prescribed by the dedicated privacy legislation already discussed, UAE law prescribes criminal and civil sanctions for a breach of privacy. These are stipulated in numerous sources of UAE law such as the Crimes and Penalties Law (Federal Decree-Law 31 of 2021), the Fight Against Rumors and Cybercrime Law (Federal Decree-Law 34 of 2021) and the Credit Information Law (Federal Law 6 of 2010). 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 million), or both.

The DIFC and ADGM each have prescribed sanctions that impose significant monetary penalties 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 Fight Against Rumors and Cybercrime Law, 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 Fight Against Rumors and Cybercrime 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 AML/CFT 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 (for example, AI)?

See questions 4.4 and 4.5.

The UAE government is working towards accelerating the pace of AI adoption. In March 2022, the DIFC launched an AI and coding licence in cooperation with the UAE AI Office. The licence aims to achieve the vision and the goals of the UAE's AI Strategy 2031. The AI Strategy aims to make it easier for the AI industry to be regulated and for AI technologies and processes to be adopted in order to offer government services more effectively.

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 relations in the UAE is Federal Law 33 of 2021 on the Regulation of 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.

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. Similarly, employees working for a company with a place of business in the ADGM are subject to the analogous ADGM regulations concerning employment.

Employees working in one of the many free zones in the UAE, including foreign nationals, are subject to the Labour Law in addition to any employment regulations introduced in the relevant free zone. Not all free zones have additional employment regulations and most will simply defer to the Labour Law in matters concerning employment.

All non-UAE national employees working in the UAE require an employment permit, and a UAE residency visa in order to remain in the UAE.

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 private sector 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 (though note that not all free zone employees are required to be paid through the Wage Protection System);
- entitlement to overtime compensation (applicable for non-managerial roles);
- severance payments on termination of employment;
- a statutory vacation allowance;
- mandatory health insurance coverage paid-for by the employer;
- 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?

The UAE has recently introduced minimum Emiratisation requirements for businesses operating "onshore" in the UAE. Broadly, businesses that have 20 or more employees will need to evaluate the Emiratisation requirements that apply to them. To the extent Emiratisation requirements apply, these must be satisfied on an ongoing and continuous basis failing which a substantial fine is applied on an automatic basis by the UAE Ministry of Human Resources and Emiratisation.

There is no special route for employees of fintech companies. All applicants for a UAE residence visa will need to go through a basic health check to test for specific contagious diseases and also complete biometric registration with the immigration authorities.

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 Federal Law 36 of 2021 on Trademarks (Trademark Law), Federal Law 38 of 2021 on Copyrights and Related Rights (Copyright Law) and Federal Law 11 of 2021 on the Regulation and Protection of Industrial Property Rights (Patent Law), each discussed briefly below.

The 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.

The 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.

The Patent Law regulates patent filing and protection in the UAE. Article 5 of the Patent Law defines the terms for obtaining a patent, stating that "a patent shall be granted for each new invention contrived from a creative idea or creative enhancement, forms an inventive step and is capable of industrial application".

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, protection for 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, 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.

Abdus Samad is a corporate lawyer based in Afridi & Angell's Dubai office. He specialises in M&A and corporate transactions and has extensive knowledge and experience in cross-border matters, including complex acquisitions and divestures for a broad range of public and private sector clients.
Abdus has been ranked as a "Rising Star" for commercial, corporate and M&A in *The Legal 500 EMEA*.

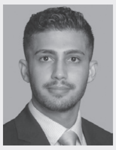
Afridi & Angell
Jumeirah Emirates Towers
Office Tower, Level 35
Sheikh Zayed Road
United Arab Emirates

Tel: +971 4 330 3900
Email: asamad@afridi-angell.com
LinkedIn: www.linkedin.com/in/abdus-samad-4520892b

Alex Vromans is an associate in the corporate commercial group. She advises on incorporation of new companies in the UAE (including UAE free zones), M&As, and on maintenance of existing companies. She also assists in drafting memoranda and conducting research and liaises with government departments on relevant filings and approvals. Alex is a member of the Law Society of Ontario, Canada. She completed her articles at Afridi & Angell prior to joining as an associate.

Afridi & Angell
Jumeirah Emirates Towers
Office Tower, Level 35
Sheikh Zayed Road
United Arab Emirates

Tel: +971 4 330 3900
Email: alex@afridi-angell.com
LinkedIn: www.linkedin.com/in/alex-vromans-729b4a113



Zaid Mahomed joined Afridi & Angell in 2019 as an associate in the corporate commercial group. He specialises in corporate and commercial law. Zaid has provided assistance on the sale of assets, registering of business entities, and corporate structuring and restructuring. He has also been involved in an array of due diligence investigations.
Prior to joining Afridi & Angell, Zaid trained at and was an associate with a leading international firm in South Africa.

Afridi & Angell
Jumeirah Emirates Towers
Office Tower, Level 35
Sheikh Zayed Road
United Arab Emirates

Tel: +971 4 330 3900
Email: zmahomed@afridi-angell.com
LinkedIn: www.linkedin.com/in/zaid-mahomed

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