

The Middle East: A retrospective and forward-looking view

Morgan Lewis offers commentary on what lies ahead in the year 2024, highlighting trends, developments, challenges and opportunities that will impact the region.

With global summits such as COP28 and the membership of the Kingdom of Saudi Arabia (KSA) and the United Arab Emirates (UAE) to BRICS+, the Middle East region continues to be one of the world's most dynamic places to do business. Increased investment, diversification of local economies and continued regulatory and legislative developments across a range of sectors and practices, including financial services, dispute resolution, ESG issues, and data protection, will likely continue fueling to significant changes as the region continues to consolidate its position as an investment hub. We look at notable developments from 2023, and to what may lie ahead in 2024.

FINANCIAL SERVICES

The Abu Dhabi Global Market (ADGM) is fast becoming an international financial hub for global private fund managers that are drawn to the quality of the ADGM's independent regulator, the Financial Services Regulatory Authority (FSRA), prevailing common law framework, solid legal and judicial infrastructure, modeled on common law principles, an optimised fiscal landscape and access to sovereign capital. The last few years have seen a significant rise in the number of alternative investment funds and hedge funds migrating to the UAE, with some of the biggest names in the industry among those setting up shop in the ADGM.

In July 2023, the ADGM announced the



implementation of its Sustainable Finance Regulatory Framework, one of the first frameworks of its kind in the region, which came into force with immediate effect. The framework encompasses rules on sustainability-oriented investment funds, discretionary-managed portfolios, bonds, and sukuk, as well as requirements for environmental, social, and governance (ESG) disclosures by ADGM-domiciled companies. The implementation of the framework follows in the footsteps of other jurisdictions, such as the EU's Sustainable Finance Disclosure Regime (SFDR) and recent proposals from the UK to introduce sustainability disclosure requirements, and the US Securities and Exchange Commission to introduce ESG-related proposals. The measures are part of a broader range of sustainability-related regulations in the UAE, which aim to accelerate the growth of a sustainable finance ecosystem in the jurisdiction and help channel capital into projects and activities that advance the country's transition to net-zero greenhouse gas emissions.

The UAE has seen an increase in investments by sovereign wealth funds (SWFs) into regional funds and seed-and-stake arrangements in respect of new and expanding regionally based fund managers. Diversification is a common theme for many fund managers, with some seeking new opportunities across the ESG and impact investing spectrum, while others are targeting industries that may be buoyed by a financial downturn.

Another noteworthy development in 2023 was the launch by the Dubai International Financial Centre (DIFC) of its Family Wealth Centre which supports ultra-high net worth individuals and family businesses navigate digitalisation, cultural issues, governance and succession planning in order to achieve multi-generational success.

There has been an increased level of sukuk issuances in the UAE, particularly of ESG and Green sukuk. The Dubai Islamic Bank, the largest Islamic lender in the UAE, set out to raise USD billion from a sale of long five-year sustainable sukuk.

The Virtual Assets Regulatory Authority (VARA), an independent regulator, was established in March 2022 following the effect of Law No.4 of 2022 in the Emirate of Dubai to regulate cryptocurrencies, non-fungible tokens (NFTs) and other

virtual assets. All entities planning to offer crypto-related services in Dubai must seek authorisation from VARA. In addition, in 2023, the UAE's Central Bank announced the launch of its Digital Dirham strategy, with the first phase expected to be completed during the course of 2024, and the UAE's Securities and Commodities Authority overhauled the onshore funds regime with the principal purpose of reinvigorating the asset management industry and protecting UAE investors by reducing regulatory arbitrage. Such initiatives aim to position and strengthen the UAE as a leading financial hub.

The Kingdom of Saudi Arabia's new Civil Transactions Law (CTL) came into force on December 16, 2023, which operates in respect of civil transactions for the UAE. It contains provisions relating to contracts, property rights, financial transactions and dispute resolution, including amendments to labour law and data protection law and proposes amendments to the tax code. The CTL also codifies *Shari'ah* Law principles into a civil code. The CTL is expected to expand the economy through tangible measures relating to mobility, residency and the localisation of global businesses. It will apply retrospectively to all contracts and relationships subject to two exceptions.

DISPUTE RESOLUTION

Parties are showing a new level of confidence in the region's dispute resolution infrastructure, following a series of legislative reforms and improvements to the UAE's AML regime. In September 2023, the UAE introduced the amendment law, Federal Decree Law No.15 of 2023 which modified Article 10 of the Federal Arbitration Law. It qualified arbitrators who have a direct relationship with any of the parties that would prejudice their impartiality, integrity, or independence, obliges arbitral institutions to provide the necessary technology to parties in order to conduct hearings virtually and extended the scope of the confidentiality provision to the entire arbitration proceedings. Dubai has been recognised as one of the top arbitration centres globally.

The UAE Ministry of Justice issued a directive for the first time allowing the courts in Dubai to enforce judgments and orders issued by English courts. It will be well received by the business community, and we will see an increased level of



The modernisation of the Middle East's economic and legal landscape will make it easier for foreign companies to operate in the region and further attract investment."



Governments and businesses across the Middle East are increasingly recognising the importance of sustainability and are implementing initiatives to reduce their environmental impact, which will create opportunities for businesses in renewable energy, sustainable agriculture, and circular economy solutions.”

confidence for UK-based investors who are looking to enforce judgment debts from English courts or arbitration awards.

The new DIAC Mediation Rules 2023 came into force on October 1, 2023. This represents another step towards consolidating the Dubai International Arbitration Centre (DIAC)'s stance as one of the major dispute resolution services providers.

The Abu Dhabi Chamber of Commerce and Industry announced the Abu Dhabi Commercial Conciliation and Arbitration Centre will be replaced by the Abu Dhabi International Arbitration Centre, known as arbitrateAD, which will be an independent international arbitration centre based in Abu Dhabi.

In April 2023, the UAE expanded the jurisdiction of the ADGM to extend the ADGM's legal and regulatory framework to include Al Reem Island and Al Maryah Island.

DATA PROTECTION

The Dubai International Financial Centre (DIFC) has recently amended the DIFC Data Protection Law introducing new requirements on the processing of personal data via autonomous and semi-autonomous systems, such as artificial intelligence (AI). Further amendments are expected to address the increasing concerns related to the use and collection of personal data for marketing and communication purposes, and personal data breach obligations.

In November 2023, the ADGM Office of Data Protection published and adopted an Addendum to the European Commission's Standard Contractual Clauses (EU SCCs) for personal data transfers. This move makes ADGM the first in the region to issue such an Addendum to the EU clauses. The primary goal of the Addendum is to provide essential support to ADGM businesses that are involved in data transfers, especially those operating within ADGM and the EU.

The introduction of the Addendum by the ADGM Office of Data Protection aligns with the regulator's ongoing efforts to reduce the burden of costs and procedural complexities, particularly in the context of the increasing significance of international data transfers. Additionally, the ADGM Office of Data Protection has also provided supplementary guidelines to assist businesses in implementing the Addendum to their existing EU SCCs. This guidance is

expected to further streamline the process for organisations operating within the framework of these regulations.

The Gulf Cooperation Council (GCC) region's focus on technology and innovation influences how privacy laws are administered, placing emphasis on protecting the rights of consumers, employees, and other data subjects. Looking at the GCC region's approach to data protection laws, some common themes have emerged. Enforcement is taken very seriously, with penalties for violations ranging from fines to criminal charges to imprisonment. The regulatory landscape for data breaches involves stringent measures for prevention and necessitates careful consideration. In specific scenarios, this may require thorough and sometimes extensive engagement with, and possibly approval from, local authorities. These regulations are in place to ensure a high standard of data protection and management.

LOOKING AHEAD

Dubai Economic Agenda

In January 2023, the UAE unveiled a new economic agenda called D33. This forward-looking initiative is the Dubai leadership's aspiration for the future, namely, to become one of the most important global business centers and the fastest, safest, and most connected city in the world by 2033.

Another major objective of the D33 agenda is to make Dubai one of the top three international tourism and business destinations by creating a globally competitive business environment and reducing business costs. Other priorities include making Dubai one of the five leading logistic hubs in the world and one of the top four global financial centres. The D33 agenda aims to enhance the Emirate's position as a fast-growing, attractive business hub with world-class quality of life and the highest levels of security and safety for Dubai's citizens and residents.

Regulatory Reform

Governments in the Middle East are gradually implementing regulatory reforms to create a more business-friendly environment. The modernisation of the Middle East's economic and legal landscape will make it easier for foreign companies to operate in the region and further attract investment. One of the key legislative

changes from a corporate and commercial perspective has been the introduction of a 9 per cent corporate tax rate. The UAE Corporate Tax became effective for companies with financial years starting on or after June 1, 2023.

Economic Diversification

Governments across the Middle East are actively pursuing strategies to reduce their reliance on oil and gas revenues, investing in sectors such as tourism, technology, healthcare, and logistics. Diversification will create opportunities for businesses in these industries, as well as in areas such as education and training to support the workforce of the future. The UAE has come a long way towards achieving a high level of economic diversification, while Saudi Arabia has made this front and center of its strategic initiatives including Vision 2030.

Infrastructure Development

Major infrastructure projects are underway throughout the region, including airports, roads, railways, and renewable energy projects. Investment in infrastructure will improve connectivity, reduce costs, and attract businesses and talent to the region. Saudi Arabia, in particular, has undertaken several Giga-projects which form parts of the Saudi Vision 2030 plan to diversify the country's economy in order to reduce its dependence on oil.

Artificial Intelligence

The UAE government has launched the UAE Strategy for Artificial Intelligence 2031 which focuses on nine sectors where AI is expected to have the most impact, including transport, health, space, renewable energy, water, technology, education, environment, and traffic. In Saudi Arabia, the Saudi Data and Artificial Intelligence Authority focuses on data and artificial intelligence, which are significant sectors in achieving the Saudi Vision 2030. The adaptation of AI in the Middle East presents numerous opportunities including driving economic growth, enhancing efficiency and creating new job opportunities.

Fintech and Financial Inclusion

Fintech is transforming the financial sector in the Middle East, particularly in the areas of mobile payments, remittances, and microfinance which could help improve financial inclusion and drive economic

growth. Digital payment solutions are growing rapidly in the region, and the Middle East is in the stages of approving virtual assets, decentralised finance and central bank digital currency. SMEs and merchants are also using digital platforms to improve business processes and access capital.

The Middle East is rapidly adopting digital technologies, with a high smartphone penetration rate and consequently growing adoption of e-commerce, fintech, and cloud computing solutions. Digital transformation will drive innovation and productivity across industries.

Sustainability Focus

Governments and businesses across the Middle East are increasingly recognising the importance of sustainability and are implementing initiatives to reduce their environmental impact, which will create opportunities for businesses in renewable energy, sustainable agriculture, and circular economy solutions. With COP28 being hosted by the UAE, particular attention has been paid to sustainability goals in the region and making an impact globally. The agreement outlined how the global community will accelerate efforts to reduce emissions, transition away from fossil fuels, increase adaptation capacity and reform financial flows. 🏗️



Text by:

1. **ALISHIA SULLIVAN**, partner, Morgan Lewis
2. **AYMAN KHALEQ**, partner, Morgan Lewis
3. **KSENIA ANDREEVA**, partner, Morgan Lewis
4. **WILLIAM NASH**, partner, Morgan Lewis
5. **SARA K. ARANJO**, partner, Morgan Lewis