
KING & SPALDING

www.kslaw.com/measure

measure



The Middle East Quarterly Bulletin

Autumn 2012

The Global Rise of
District Energy

A New Era for the
UAE Investment
Funds Industry

Recent Legal
Developments in
Saudi Arabia

King & Spalding on
the Move

It is with great pleasure that I invite you to enjoy *measure*'s Autumn 2012 edition. The increased investment activity and investor confidence within the region during this year have been underwritten by a series of exciting legislative developments across several jurisdictions. Many of these break new ground, the theme of this edition of *measure*. Notably, there is a new Arbitration Law in Saudi Arabia. King & Spalding is one of the premier law firms globally for dispute resolution, and I note this development with particular interest.

The continued appetite for investment funds has not been forgotten by legislators. The issuance of new investment funds regulations dealing with the establishment, management and promotion of local funds and the promotion of foreign funds in the UAE is likely to trigger a series of related regulations intended to facilitate the maturity of the investment funds market within the UAE. We have seen significant activity in the GCC investment funds industry in the past 18 months, having advised several leading sponsors and managers on the establishment of their funds, including private equity, venture capital, real estate, debt and infrastructure funds, in addition to several hedge funds.

The region also continues to break new ground in terms of "district energy," the centralized production and distribution of heating or cooling energy. District energy schemes are taking off in the Middle East and increasingly gaining traction globally. Our lawyers are at the forefront of this movement and share their experience with you in this edition of *measure*.

King & Spalding has continued to grow its Middle East practices with the addition of a number of new lawyers during this year. I am pleased to welcome Ray Witt, Khaled Dahlawi, Lachlan Doyle and Basem Chaikhouni to our team.



Jawad I. Ali
Managing Partner - Middle East Offices and
Deputy Practice Group Leader - Middle East &
Islamic Finance Practice Group

KING & SPALDING
measure

EDITOR

Phillip Sacks
psacks@kslaw.com

SUB-EDITOR

Jawad I. Ali
jali@kslaw.com

SUBSCRIPTIONS

Rachel Twomey
rtwomey@kslaw.com

DESIGN

Laura Owens
lowens@kslaw.com

Tashi Page
tpage@kslaw.com

James Hicks
jhicks@kslaw.com

COVER PHOTOGRAPHY

Courtesy of Thinkstock Photos;
Old Diriyah, Riyadh

Volume 2: Issue 4

Copyright 2012, King & Spalding LLP. All rights reserved.

The information provided in this bulletin is intended to inform but is not a substitute for specific legal or other professional advice where warranted by each situation's facts and circumstances.

This Issue

03 Energy

The Global Rise of District Energy

Tim Burbury, Khaled Dahlawi and Lachlan Doyle discuss the role of District Energy and various models for District Energy projects.

05 Investment Funds

A New Era for the UAE Investment Funds Industry

Phillip Sacks and Nabil Issa discuss the new UAE investment funds regulations and their likely impact on the UAE funds industry.

09 Saudi Arabia

Recent Legal Developments in Saudi Arabia

Sanjarbek Abdukhalilov summarizes some of the laws and regulations recently implemented in Saudi Arabia.

12 Abu Dhabi Office Relocation

King & Spalding's Abu Dhabi and Moscow Offices Move to New — and Expanded — Offices.

13 endnotes

Upcoming Events and Our Practice

In the *Chambers Global 2012* guide, King & Spalding lawyers received 68 listings, including eight of the firm's lawyers located in the Middle East. Twenty-eight of the firm's practices were recognized as leading practices globally.

The Global Rise of District Energy

With energy efficiency savings of up to 70 percent, greenhouse gas emission reductions and opportunities to monetize assets, it is little wonder that “district energy” is quickly gaining traction globally.

President Obama has mandated an additional 40 gigawatts of district energy capacity in the US by 2020, a 50 percent increase in existing capacity. In Australia, Sydney has announced plans to develop district energy (tri-generation) precincts across the city, which is part of a wider plan to reduce Sydney’s carbon footprint by 70 percent by the year 2030. In Europe, London’s Olympic Park developed a district energy system to support both the Olympics and future surrounding developments. In Asia, various governments are promoting district energy, including Singapore, Hong Kong and the People’s Republic of China. Finally, the Middle East, continuing its fast pace of real estate development, retains its mantle as the world’s fastest-growing district energy market.

What is District Energy?

“District energy” is the collective term for the centralized production and distribution of heating or cooling energy. A centralized district energy center services a large geographic area, often entire “districts” or even cities. The energy center reduces

the temperature of a water supply (or increases it for heating) and then pumps the water through an underground pipe network. The looped pipe network connects to each building within the district, and chilled or heated water passes through an energy transfer station, where the water is then used to create chilled or heated air. As a result, individual buildings served by the district energy system do not require their own chillers or boilers. This provides space advantages and, even more important, energy efficiency advantages due to economies of scale.

Where the energy center is combined with a captive power plant (CHP Plant), the heat generated by the plant can be used for heating the water or for efficiencies within the plant itself, or where there is a cooling requirement, the surplus heat from the CHP Plant can be used to drive a highly efficient absorption chiller. Surplus electrical power generated by the CHP Plant can also be exported to the electricity grid to generate additional revenue and subsidize the cost of the project.

District energy schemes are increasingly combined with other

low- and zero-carbon technologies (biomass, solar, waste water) to create further energy efficiencies through co-location. This was the case with the London Olympic Park, where the energy center utilized both a gas-fired combined cooling, heat and power plant and biomass-fired boilers using wood chips as a sustainable biomass fuel.

General Benefits

District energy is widely recognized as a sustainable, efficient and cost-effective solution to the provision of heating, cooling and power. Its enhanced efficiency means fewer damaging greenhouse gas emissions, thereby supporting the global push for a cleaner and healthier environment. District energy has the added benefit of reducing dependence on the electricity grid and the inherent vulnerability to grid disruptions, thereby enhancing reliability of energy supply.

Project Delivery Models for District Energy Projects

Traditionally, building owners have met their cooling or heating needs by contracting with a builder to build the district energy plant and pipe networks and then contracting with a separate utility company to operate and maintain the entire district energy system.

Another model that has become common in the Middle East market over the past decade involves a customer contracting with a utility company to deliver a turnkey solution, whereby the utility company builds, operates and maintains the district energy plant and the pipe networks, with the building owner making both the initial capital investment and paying the operating expenses for the district energy system, including an agreed return on investment for the utility company.

A new model introduced to the district energy industry involves private finance under a build, operate and transfer (BOT) concession model. BOT concessions differ from more traditional models in that the private-sector partner (which may be a consortium comprising a utility company and an infrastructure fund) undertakes to finance the district energy system (through both debt and equity) in return for the right to exclusively provide cooling services over an agreed geographic district. The key distinction compared to the traditional models is the money flow – the building owner no longer paying the up-front costs. This has been an increasingly attractive model to customers in the current economic climate.

With its proven track record, the BOT concession model lends itself particularly well to utility infrastructure projects such as district energy schemes. GCC nations are no strangers to BOT concessions. Indeed, most independent power projects (IPPs), independent water and power projects (IWPPs) and wastewater treatment plants (WWTPs) in the MENA region adopt a BOT/BOO concession model.

King & Spalding has helped develop a BOT concession model for clients on several recent Middle East district energy deals. This model differs from IPPs/IWPPs/WWTPs, where a government grantor purchases the complete power or water offtake, provided the facility is made “available.”

Under the district energy BOT concession models known as an “end user” model, the private-sector party is granted a concession to exclusively provide cooling services to end users in the district. The private-sector party collects revenues

directly from end users instead of receiving a service payment from the concession grantor. In return for the concession, the concession grantor receives a royalty payment from the private-sector partner. If the district energy system is project-financed, then for “bankability” reasons the lenders may require guarantees or other forms of credit enhancement.

Key Considerations for Applying the BOT Concession Model to District Energy Projects

In the context of district energy, deals will require careful due diligence on end users’ demands for energy to ensure that plants are not overdesigned. More due diligence is required at the planning stage, because historically many projects have been overdesigned, leading to inefficiencies and overcapitalization. Another consideration is inherent in the captive nature of district energy schemes. These differ from IPPs, where if there is excess capacity not used, then that capacity can be sold to the grid. Because district energy schemes normally service a “captive” set of end users, excess cooling capacity cannot be readily diverted (e.g., to new end users) because there is no “grid” for cooling.

Conclusion

District energy schemes are taking off in the Middle East and increasingly gaining traction globally. Groups such as the International District Energy Association are increasing in size and prominence. Utility companies with expertise in power and water projects are now turning their attention to the cooling and heating market. Infrastructure funds and strategic investors are eyeing opportunities for healthy returns, particularly in unregulated



markets. And governments are encouraging the industry’s growth with policies supporting the very benefits that district energy provides. Watch this space, because district energy is clearly on the rise. |



Tim Burbury is a partner in King & Spalding’s Global Transactions Practice Group, based in Abu Dhabi. Tim has advised on more than 20 district energy schemes globally and recently advised Jabal Omar Development Company and the Tourism Development & Investment Company on all aspects of their competitively bid district energy systems. These are two of the largest district energy schemes in the Middle East. The Jabal Omar deal is also the first privately financed district energy project in the Middle East to use an “end user” BOT concession model. He can be contacted at tburbury@kslaw.com or +971 2 596 7001.

A New Era for the UAE Investment Funds Industry

A close-up photograph of a person's hand holding a silver pen, pointing at a digital financial chart on a screen. The chart displays a blue area chart and a yellow line graph. A red laser line is projected from the pen tip onto the chart. The background is dark and slightly blurred, showing more of the screen and the person's hand.

As the investment funds industry in the GCC region experiences activity not seen for several years, the UAE Securities & Commodities Authority (SCA) has issued new investment funds regulations dealing with the establishment, management and promotion of local funds and the promotion of foreign funds in the UAE.

The new SCA regulations are expected to be the first in a series of related regulations. A UAE-domiciled fund can be established only with the approval of the SCA. While offshore funds have dominated the GCC funds industry for many years, local funds may offer an attractive alternative when making investments in the GCC region. Foreign funds can be publicly or privately offered in the UAE only by a locally licensed placement agent (or in certain circumstances, by a representative office) that obtains the prior approval of the SCA.

Regulatory Background

On July 22, 2012, the Board of Directors of the SCA issued Resolution No. 37 of 2012

Concerning Regulations of Investment Funds (SCA Regulations). The SCA Regulations came into force on August 27, 2012, the day following their publication in the Official Gazette.

Prior to the implementation of the SCA Regulations, the key investment funds legislation in the UAE was Resolution No. 164-8-94 Regarding the Regulation for Investment Companies and Banking, Financial and Investment Consultation Establishments or Companies (Central Bank Regulations) issued by the Board of Directors of the Central Bank of the UAE, which had needed updating for some time.

The SCA Regulations transfer regulatory responsibility for the licensing and promotion of

investment funds from the UAE Central Bank to the SCA. However, the SCA Regulations do not deal with the licensing of fund managers and other service providers. It is therefore currently necessary for fund managers operating in the UAE to be licensed by the Central Bank under the old regime, although the SCA has indicated that it will be issuing further regulations to deal with the licensing of fund managers in due course. The SCA has also indicated that it will be issuing further regulations specifically to deal with certain types of funds, including real estate funds and exchange traded funds.

Establishment of Local Funds

The SCA Regulations provide that a UAE-domiciled fund can be established only with the approval of the SCA, and the applicant must be a UAE joint stock company or a UAE branch of a duly licensed foreign company. Applicants are required to have minimum capital of AED 10,000,000, although banks and investment companies licensed by the Central Bank are exempt from this requirement. In addition, the minimum investment in each local fund by the licensed fund sponsor is 3 percent of the fund's capital. While this may be an issue for certain smaller firms, this should not be a significant obstacle for most firms in an environment where sponsors are generally expected to make a material commitment to the fund.

Due to restrictions in the UAE companies law, a non-GCC national or entity cannot hold more than 49 percent of the shares in a UAE joint stock company, and therefore any non-GCC entity wishing to be licensed under the SCA Regulations for the establishment of a UAE-domiciled fund will need to enter into a suitable arrangement with a local partner.

The SCA Regulations do not restrict a UAE entity from establishing a foreign fund. This is good news in the UAE, where a vast majority of investment funds established by UAE sponsors and managers are formed in the Cayman Islands and other offshore financial centers.

Importantly, the SCA Regulations are silent on the corporate form of a local fund. We understand that a local fund is an unincorporated vehicle in which investors do not have an equity interest but instead have a contractual right to share in the profits and losses of the underlying investments of the fund. Given that a local fund does not have a corporate

personality, the legal title to investments could be held by the fund manager (or a special-purpose vehicle affiliated with the fund manager) rather than the fund itself, which offers interesting structuring possibilities for investment in the GCC region. The investment funds regulations of the Kingdom of Saudi Arabia offer a similar structure and have been extremely popular.

The SCA Regulations include several unusual restrictions for local funds, such as the maximum amount a fund can invest in any single company. Such restrictions would be impracticable in the context of private equity and real estate funds. However, we understand that the SCA intends to take a pragmatic approach in this regard and has the discretion to waive such restrictions under the regulations.

“The SCA Regulations do not restrict a UAE entity from establishing a foreign fund.”

Management of Funds

The new SCA Regulations do not deal with the licensing of fund managers in the UAE. Currently, persons are prohibited from conducting investment business (which includes fund management) or banking, financial and investment consultations business in the UAE unless they hold a Central Bank license. Further legislation is required to set out the regulatory framework for the licensing of fund managers domiciled or operating in the UAE and also to set out the role of the SCA in such licensing process. We are aware that the SCA intends to issue further regulations to deal with these matters, although it is not yet known when such regulations will come into force. It may therefore be possible for local and foreign entities to apply for a fund management license in due course.

Fund managers of UAE-domiciled funds must now comply with certain statutory duties

and obligations set out in the SCA Regulations. UAE-domiciled funds must also satisfy certain statutory requirements, including minimum requirements for the fund offering documents (which must be in Arabic) and the filing of audited quarterly and annual financial statements with the SCA.

Promotion of Foreign Funds

Notwithstanding the Central Bank Regulations, which prohibit funds from being publicized in the UAE without a license from the Central Bank, in practice, foreign funds have been (at least until the implementation of the SCA Regulations) marketed cross border on an informal, private-placement basis (i.e., in a discreet manner to a limited number of sophisticated and professional investors). Although such placements are technically in breach of the Central Bank Regulations, the Central Bank appears to have historically tolerated such practice.

The new SCA Regulations provide that foreign funds may be offered, marketed, distributed and

“Road shows and other marketing presentations in the UAE are strictly prohibited unless conducted by a duly licensed placement agent.”

advertised (promoted) in a public or private offering in the UAE only with the approval of the SCA and that any such promotion may be carried out only by banks or investment companies licensed by the Central Bank, companies licensed by the SCA (although we understand that the SCA is not in a position to grant such licenses until it issues further regulations) or representative offices of foreign companies (provided that any promotion by a representative office shall be on a private-placement basis only to institutional investors with a minimum subscription of AED 10,000,000 per investor).

The minimum subscription amount per investor in a foreign fund approved by the SCA

to be promoted in a private offering in the UAE is AED 500,000; it is AED 1,000,000 for funds established in a free zone outside the UAE. The SCA Regulations do not define “free zone,” although we understand that in the coming months the SCA will be issuing a list of free zones that is likely to include certain offshore financial centers such as the Cayman Islands.

The SCA Regulations state that the SCA will issue its decision approving or rejecting an application regarding the promotion of a foreign fund within 30 business days. However, we understand that the SCA aims to issue its decision well within this period and has recently granted approvals within five days. The SCA has indicated that it will accept applications (and accompanying fund documents) in English.

The SCA Regulations do not appear to prohibit the promotion of fund interests to UAE investors where such promotion occurs entirely outside the UAE, such that offering documents are received by the investor outside the UAE (although it may be permissible for a UAE investor to receive offering documents by email or through a secure website), any meetings regarding the foreign fund with the investor are held outside the UAE and any subscription agreements are executed outside the UAE. Road shows and other marketing presentations in the UAE are strictly prohibited unless conducted by a duly licensed placement agent. Furthermore, the SCA Regulations do not expressly prohibit reverse solicitation of fund interests.

Given that the SCA Regulations have been implemented only recently, it remains to be seen whether the SCA will strictly enforce the placement restrictions contained therein, and it will be interesting to see whether a new tolerated practice for cross-border marketing of investment funds will develop.

Local Placement Agents

The new SCA Regulations give an opportunity for locally licensed firms to capitalize on their ability to promote foreign funds to UAE investors in an environment where global and regional managers are lining up to raise capital. However, it is important to note that the SCA Regulations impose certain obligations on local promoters of foreign funds, including an obligation to exercise care in the selection of foreign funds to be promoted in the UAE and an obligation to follow up on the performance of the fund to ensure

protection of the investors' funds. Such strict obligations may affect the desire of certain local firms to promote foreign funds and may affect placement fees.

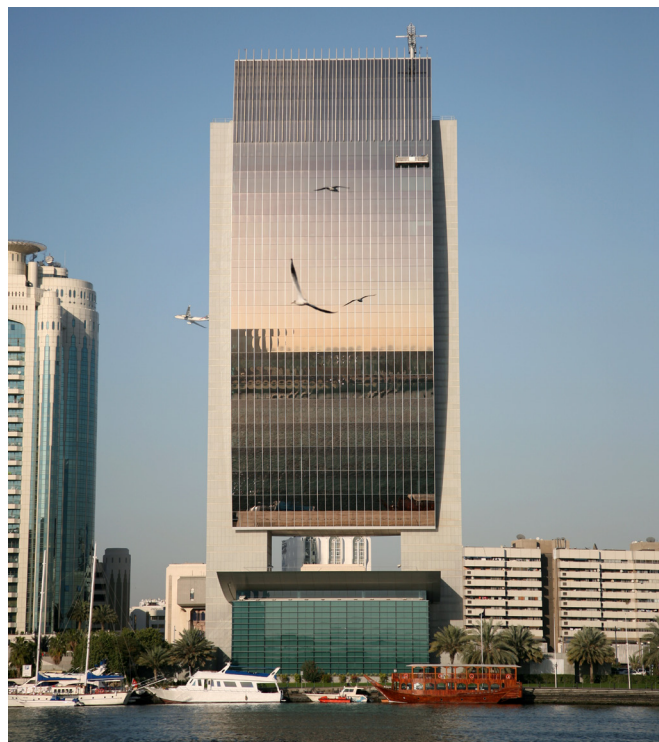
Criticisms

One of the main criticisms of the new SCA Regulations is that they do not provide any licensing exemptions for investment funds being offered on a private-placement basis to sophisticated investors such as financial institutions and high-net-worth individuals. While UAE investors ought to be protected by appropriate securities legislation, most sophisticated jurisdictions provide certain safe harbors for investment funds offered on a private-placement basis to certain types of investors. If foreign fund managers and promoters must now engage a local promoter to promote their funds in the UAE, this may increase the cost of placing such funds in the UAE, and such costs may be passed on to investors through subscription or similar fees.

A large number of global, regional and local fund sponsors and managers are based in the Dubai International Financial Centre (DIFC). The new restrictions on the private placement of foreign funds in the UAE (which capture DIFC funds and other foreign funds managed by DIFC managers) are likely to inconvenience certain DIFC firms that target UAE investors. There is likely to be some pressure on the SCA to develop some form of passport or mutual recognition for funds that are either domiciled in the DIFC or promoted by DIFC-licensed entities. We are also aware that the SCA intends to issue further regulations in the coming months that will allow it to grant fund promotion licenses. It may therefore be possible for local and foreign entities (including DIFC firms) to apply for a fund promotion license in due course.

Concluding Remarks

The introduction of the SCA Regulations is a step in the right direction, although further regulation is required to deal with certain licensing matters. The SCA Regulations will help promote the growth of the UAE funds industry and will bolster consumer protection by providing a more certain legal and regulatory framework, which has been needed for some time. Having said this, the ultimate success of the SCA Regulations will depend largely on how the



SCA implements and enforces such regulations. One thing is for certain: The SCA Regulations will dramatically change how investment funds are established and promoted in the UAE. |



Phillip Sacks is a senior associate in King & Spalding's Dubai office. Phillip regularly advises fund sponsors and managers on the structuring and establishment of investment funds of all types, including private equity, venture capital, real estate, infrastructure and listed equities funds. He can be contacted at psacks@kslaw.com or +971 4 377 9916.



Nabil Issa is a partner in King & Spalding's Riyadh and Dubai offices. Nabil is one of the market leaders for structuring and establishing investment funds and other vehicles in the GCC with a particular focus on Saudi Arabia. He can be contacted at nissa@kslaw.com or +971 4 377 9909.

Recent Legal Developments in Saudi Arabia

This year there have been some notable legal developments in the Kingdom of Saudi Arabia. This article provides an overview of some of the new laws and regulations that have been introduced during 2012.

New Arbitration Law

The new Arbitration Law was approved in April 2012 by Royal Decree No. M46/1403 and replaces the Arbitration Law of 1983 in its entirety. It is hoped that the new Arbitration Law will encourage parties to use arbitration within the Kingdom. The 1983 Arbitration Law was seen as lacking sufficient detail to give the parties confidence in the arbitration process. It was perceived that there were significant practical challenges in terms of conducting arbitration within the Kingdom and that there were barriers to the enforcement of an arbitral award through the Saudi courts. The 2012 Arbitration Law builds on the international best practice to create a new arbitration system.

The parties may agree to arbitration by incorporating industry-standard arbitration clauses in their contracts or by referring to the arbitration rules issued by arbitration institutions (e.g., LCIA, ICC). If the parties have not agreed on a particular set of arbitration rules to apply to their contract, the arbitration procedure set out in the 2012 Arbitration Law will apply by default. Arbitration need not be conducted in Arabic if the parties or the arbitral tribunal have elected to use another language (e.g., English). This provision is particularly useful for international parties and where the underlying contracts are not concluded in Arabic. The arbitral tribunal must apply the substantive law chosen by the parties in the relevant agreement.

The arbitration panel must comprise one or more arbitrators, provided that the number of arbitrators is odd, otherwise arbitration will be invalid. The arbitrator must have a university degree in *shari'ah* law. If the panel consists of multiple arbitrators, this requirement is satisfied if the chairman of the panel holds such a degree.

There have also been some welcome changes to the ways in which arbitral awards are made. An arbitration award must be issued within the deadline agreed by the parties or, failing such agreement, within one year from the date of the commencement of arbitration, subject to the tribunal's power to extend this by further six months and the parties' ability to agree to longer extensions. Any party seeking to overturn the award must lodge an annulment application with the competent court within 60 days. Limited grounds for invalidation of an arbitration award (e.g., the arbitrators were not appointed in accordance with the arbitration agreement) are listed in Article 50. The appellant may not argue that the award violates *shari'ah* law or public order. These arguments can be raised only by the court itself. Unlike the 1983 Arbitration Law, under the 2012 Arbitration Law the court may not

examine the merits of the dispute in considering whether or not to annul the award. Any court decision to annul the award may be appealed. This should give parties some degree of certainty and confidence in the arbitration process.

Subject to the invalidation process, arbitral awards made under the 2012 Arbitration Law acquire the force of *res judicata* and become enforceable. In practice, the award will need to be enforced through the courts by obtaining an enforcement order. The execution of the award may not be ordered unless the relevant court has verified the following:

- That the award does not contradict a judgment or decision issued by a court and the other relevant authority in Saudi Arabia having jurisdiction over the subject matter of the dispute.
- That the award does not violate *shari'ah* law and public order in Saudi Arabia.
- That the award was validly notified to the defendant.

In summary, the 2012 Arbitration Law is a step forward in aligning the Saudi arbitration practice with international standards and removing many of the challenges posed by the 1983 Arbitration Law. The test for the 2012 Arbitration Law will be whether it can win the confidence of businesses, especially foreign investors, and encourage arbitration in Saudi Arabia going forward.

SAMA Committee

The Committee for the Settlement of Banking Disputes, under the *aegis* of the Saudi Arabian Monetary Agency (the "Committee"), has traditionally been known to have jurisdiction over banking disputes in Saudi Arabia, but there has been uncertainty as to its exact status and the parameters of its mandate. Royal Order 37441, dated 1 July 2012, clarified the status of the Committee and introduced a few changes in its work. The name of the Committee has been changed to "Committee for Banking Disputes" and this reflects the simplification and clarification that the Royal Order seeks to introduce. It is not yet clear whether the Committee's jurisdiction will extend to disputes arising from *shari'ah*-compliant financing structures.

The Committee and each circuit will have three members. There will be one alternate member to allow a rotation. All members must have a legal qualification and experience in financial transactions. One member must also be *shari'ah*-qualified. The term of appointment is four years.

The Committee's decisions will be passed by majority vote. The Royal Order further envisages

the establishment of an appellate committee called the Committee of Appeal for Banking Disputes and Violations (the “Appeal Committee”), which will hear appeals in respect of decisions of both the Committee and the Committee for Resolution of Violation of the Banking Control Law. The Appeal Committee’s decisions will not be subject to any appeal. The parties will have 30 days to appeal to the Appeal Committee, otherwise any decision of the Committee will be non-appealable before any other authority in Saudi Arabia.

The Committee has wide enforcement powers, including the power to freeze a debtor’s bank accounts, restrict the debtor from dealing with the governmental bodies and banks, and issue travel bans. The competent authorities of Saudi Arabia will be required to implement the Committee’s decisions and sanctions.

Changes to the Listing Rules

In January 2012, the Saudi Arabian Capital Markets Authority (CMA) published revised Listing Rules. The revised Listing Rules follow the public consultation launched by the CMA in May 2011 and contain a number of changes that will operate to create a more international-standard regime within the Kingdom and open up the market for a wider range of securities. The listing of convertible debt instruments, contractually based securities and warrants is now permissible.

It is now mandatory for issuers to appoint independent financial and legal advisers, each of whom must satisfy a new independence test set out in the Listing Rules. Further, offers of securities must be fully underwritten, and underwriters must comply with the CMA’s Prudential Rules. The disclosure obligations of issuers have also been broadened. All disclosures made to the market and to the CMA must be clear, fair and not misleading. The Listing Rules now provide investors with a withdrawal right or a right to amend their subscription application where they have subscribed for securities prior to the publication of a supplementary prospectus related to the offering.

The Listing Rules now permit cross listings of a foreign issuer’s securities on the Saudi Stock Exchange. However, this is in the CMA’s discretion and provided that the listing rules applicable in the foreign issuer’s jurisdiction of primary listing are at least equivalent to the Listing Rules. The Listing Rules do not provide any guidance as to which jurisdictions the CMA considers to be equivalent for this purpose. It is also not clear which provisions of the Listing Rules foreign issuers seeking cross listing on the Saudi Stock Exchange will be required to comply with.



There are now specific conditions that must be met by issuers seeking to increase their capital through a rights issue, capitalization issue or capital increase to acquire a company or an asset. On rights issues, the prospectus must contain a detailed breakdown of the use of proceeds. It should be noted that the Listing Rules now provide that no more than 25 percent of the total proceeds of a rights issue can be used for general investment purposes.

Mortgage Law

On 2 July 2012, the Kingdom of Saudi Arabia enacted the long-debated ‘real estate mortgage law’. The ‘real estate mortgage law’, which has been debated for over a decade, was held up due to the global real estate market crises, the concerns on providing mortgages within the Kingdom in a *shari’ah*-compliant manner and balancing the rights of both the borrower and the financier. The ‘real estate mortgage law’ is actually a package of five separate laws, collectively referred to as the “Real Estate and Financing Laws”. In our next issue of *measure*, we shall summarize and discuss the new laws in detail.

Conclusion

The above developments show the continuing progress and development of the legal system within the Kingdom of Saudi Arabia. |



Sanjarbek Abdukhalilov is a senior associate in the Riyadh office specializing in mergers and acquisitions, private equity and joint ventures. He can be reached at sabdukhalilov@kslaw.com, or at +966 1 466 9463.

Abu Dhabi Office Relocation

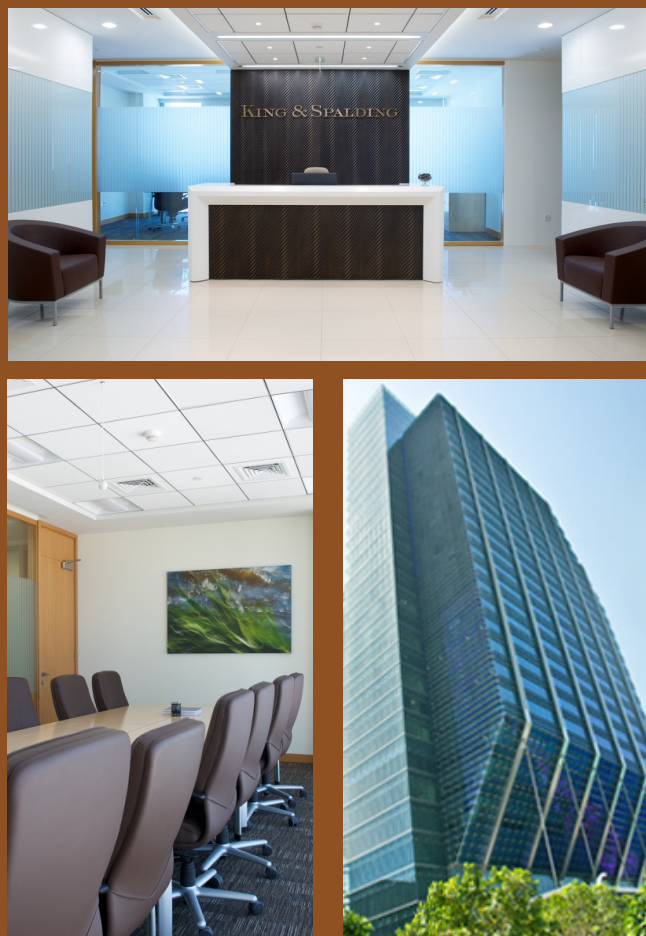
The firm's Abu Dhabi office recently moved to larger premises in the city's new state-of-the-art financial district located at Sowwah Square. King & Spalding opened our Abu Dhabi office, our third office in the region, in 2008. As we expand our presence in Abu Dhabi, we look forward to continuing to serve the global needs of our clients.

King & Spalding's Abu Dhabi office address:
Level 15, Al Sila Tower
Sowwah Square
P.O. Box 130522
Abu Dhabi

New Office in Moscow

In May 2012, King & Spalding's Moscow office moved to a new and expanded location in the heart of historical Moscow Center. Following a long history of representing Russia and the other CIS countries, King & Spalding established its Moscow office in 2011. The firm's 17th location worldwide, the office provides on-the-ground Russian, English and U.S. law capabilities and works closely with our transactional, disputes and government advocacy and public policy lawyers in Europe, Asia, the Middle East and the United States.

King & Spalding offices in Abu Dhabi



King & Spalding's new office space in Moscow



Upcoming Events

Quarterly Energy Forum:

Mega Projects: Building Them On Time, On Budget

16 October 2012

Online webinar

Presenters: Scott Greer and Craig Ledet (King & Spalding);
Scott Gray (Navigant Consulting); Mark Mallett (Freeport LNG)

European Real Estate Summit

19-21 November 2012

Riyadh, Kuwait and Doha

Presenters: King & Spalding lawyers from London, Paris
and Frankfurt

About our Middle East Practice

With more than 20 lawyers in the Middle East, King & Spalding offers extensive experience in Islamic finance, construction, energy, real estate, private equity and international arbitration in the Middle East, North Africa and Asia. The firm has long been considered a leader in Islamic finance, having pioneered many of the *Shari'ah*-compliant financial products that exist today. Our energy practice is known worldwide for its oil and gas work, particularly in the area of liquefied natural gas, and also has a strong base in electric power, petrochemicals and renewable energy. Our corporate lawyers have advised on some of the most complex and high-profile private equity investments and M&A transactions in the MENA region and are consistently recognized in *Chambers Global* and *The Legal 500*. In the 2012 edition of the *Chambers Global* guide, King & Spalding was consistently ranked among the top law firms practicing in the Middle East.

About King & Spalding

Celebrating more than 125 years of service, King & Spalding is an international law firm that represents a broad array of clients, including half of the Fortune Global 100, with 800 lawyers in 17 offices in the United States, Europe, the Middle East and Asia. The firm has handled matters in over 160 countries on six continents and is consistently recognized for the results it obtains, uncompromising commitment to quality and dedication to understanding the business and culture of its clients. More information is available at www.kslaw.com.

We are green

We share your concern for the environment. To minimize our environmental footprint, *measure* is distributed in electronic format. Please feel free to email it on to a friend or colleague.

Update your details

measure is intended to inform and update. If you change your email address, please email or fax Rachel Twomey so that we may update our records.

Rachel Twomey

rtwomey@kslaw.com

Fax: +971 4 377 9955

Abu Dhabi

Atlanta

Austin

Charlotte

Dubai

Frankfurt

Geneva

Houston

Moscow

London

New York

Paris

Riyadh

San Francisco

Silicon Valley

Singapore

Washington, D.C.

Abu Dhabi

Level 15, Al Sila Tower

Sowwah Square

P.O. Box 130522

Abu Dhabi, UAE

Tel: +971 2 596 7000

Fax: +971 2 596 7077

Dubai

Al Fattan Currency House

Tower 2, Level 24

DIFC | Dubai International
Financial Centre

P.O. Box 506547

Dubai, UAE

Tel: +971 4 377 9900

Fax: +971 4 377 9955

Riyadh*

Kingdom Centre

20th Floor

King Fahad Road

P.O. Box 14702

Riyadh 11434

Saudi Arabia

Tel: +966 1 466 9400

Fax: +966 1 211 0033

*Affiliated Office