



Enforcement in Dubai Just Got Easier

The Dubai International Financial Centre (DIFC) is a gateway to judgment enforcement across the Middle East, and the process for creditors to collect just got easier. Our global Claim Monetization & Dilution team, stationed in Dubai and around the world, explain how this can save creditors significant time and money.

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The enforcement process in the Dubai International Financial Centre (DIFC) Courts has just become a lot smoother because decisions have removed two significant barriers to enforcement that have arisen over the last few years. These moves can potentially save creditors years of delay and significant legal costs.

Barrier No. 1: The Impact of Joint Judicial Committee (JJC)

In 2016, the Emirate of Dubai established the JJC to rule upon conflicts of jurisdiction between the 'onshore' courts and the DIFC Courts and decide which was the appropriate jurisdiction to hear the dispute. While the JJC has decided several genuine conflicts of jurisdiction, parties have more often used it for abusive behavior. When faced with a DIFC enforcement action, defendants will often launch frivolous, competing proceedings in the onshore courts and petition the JJC to impose an automatic and indefinite stay of the DIFC action. This often leads to considerable wasted costs and significant delays giving debtors further opportunities to dissipate or conceal assets.

Two recent decisions in the DIFC Courts suggest there has to be a real and genuine conflict of jurisdiction in order to stay the DIFC proceedings. While the DIFC Courts will continue to respect the JJC, they will now investigate the underlying complaint to ensure there is a genuine conflict of jurisdiction. In the absence of a conflict, there should be no stay order in the DIFC Court proceedings.

Barrier No. 2: Limitations on the Riyadh Convention for Cross-Border Enforcement

The Riyadh Convention permits creditors to enforce DIFC judgments across the Middle East from the Kingdom of Saudi Arabia to Morocco, widening the geographical scope of a DIFC enforcement order. In an earlier decision, the DIFC Court held that alternative service on legal counsel for a sovereign state was non-compliant with the Riyadh Convention and that service had to go through the domestic courts of the receiving state. The domestic courts of that state may be less inclined to assist with the enforcement of a significant award against the domestic sovereign. Without effective service, the judgment is unenforceable.

In a recent decision, the DIFC Court held that the Riyadh Convention was not binding on the DIFC Courts and so they could order alternative service (on the debtor's lawyers for example) or dispense with it altogether.

What do these Developments mean for Judgment and Award Creditors?

These two recent DIFC Court rulings are important for enforcement in Dubai and the wider Middle East. The DIFC Courts are attractive because they provide litigants with an element of certainty and these recent decisions have helped to remove potential roadblocks to enforcement, enhancing the DIFC's reputation as a pro-enforcement jurisdiction and further opening up the region as an effective route to successful monetization.

About Kobre & Kim's Claim Monetization & Dilution Team

Kobre & Kim is a global law firm focused on cross-border disputes and investigations, often involving fraud and misconduct. By avoiding repeat client relationships, and the conflicts of interest that come with them, we maintain our independence as advocates ready to litigate against virtually any institution.

The firm's claim monetization and claim dilution team has significant experience acting on behalf of judgment and arbitration award debtors to develop and implement enforcement defense strategies to dilute and protect entities against aggressive, high-value judgments. We are guided by an in-depth understanding of the latest asset structuring techniques and defensive litigation strategies that judgment/award debtors can deploy.

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Many of our cases involve closely coordinated cross-border proceedings, and we are able either to advocate directly or to work cooperatively with local counsel, in jurisdictions in the U.S., UK, EMEA, Asia, Latin America and key offshore financial centers.