

Foreword | March 2021

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Welcome to the March issue of Law Update.

This month's focus is on Africa, a sleeping giant in the world of trade and investment. Africa's economy is robust and this, together with increasing political stability and its expanding middle class with growing disposable income, presents a fertile environment in which to do business. The Africa Free Continent Trade Area (AfCFTA) under which trading commenced on 1 January 2021, coupled with the economic impact of the pandemic in other parts of the world, have steered investors in the direction of Africa as other global economies have been stifled by the impact of multiple restrictions.

Africa plays a large part in our firm's long term strategy. We made the first step in building our business and serving our clients in Africa with the opening of an office in Egypt in 2015 and have continued to develop our networks and contacts in Africa since then. Our experts will discuss the importance of working together with local law firms in the various African jurisdictions and how Al Tamimi & Company can add true value to clients investing on the continent, utilising the strong know-how and expertise of our team, alongside our network of 'best friend' firms.

In this issue our experts on Africa across our MENA offices explore a number of current themes and how they impact doing business on the continent. These include AfCFTA, data protection laws in various African jurisdictions, the legal challenges confronting private equity firms doing deals in Africa, the growth of the venture capital ecosystem in sub-Saharan Africa, opportunities that the UAE may offer to potential investors into Africa when structuring their deals, an overview of data protection laws in Africa, the impact of COVID-19 and whether employers in key African jurisdictions can mandate vaccinations, and arbitration under the rules of the Common Market for Eastern and Southern Africa (COMESA) and the revised arbitration framework under the Organization for the Harmonization of Business Law in Africa (OHADA) system.

Moving on from Africa to other jurisdictions in the Middle East, the [Bahrain](#) office gives a brief update on the amendments to the Kingdom's Mediation Law. They underline the value Bahrain attributes to the benefit of mediation but at the same time it is advised that one familiarises oneself with the pros and cons of mediation and general dispute resolution to understand what would be the most commercially advantageous route to pursue.

Our [Banking & Finance](#) team looks at what lies ahead once LIBOR (considered the most important benchmark interest rate in the world) is phased out at the end of this year, the transition to alternative benchmarks and how that can be managed and implemented.

This month our [Judgments](#)' section reviews a number of key decisions which clearly set out a pathway for future facts and cases of a similar ilk.

Our [International Litigation Team](#) examines a recent decision regarding the treatment of performance bonds and guarantees by the DIFC Courts against the backdrop of a number of the Courts' decisions. The decisions demonstrate the Courts welcomed willingness to ensure that valid calls on performance bonds and guarantees can be enforced efficiently and quickly and without undue delay.

The Courts of Abu Dhabi handed down a much debated decision which confirmed the necessity of notifying insurers of the risks which occur during the effective term of a contract of insurance under the Maritime Commercial Law. Ultimately, it came down to parties being expected to act in good faith, and in this instance, the Claimant was expected to do so by keeping the insurance company apprised of risks which

may have occurred on board during the term of the insurance contract. Although the decision is subject to appeal, for now, it remains clear that failure to be less than transparent about risks incurred, could result in claims being dismissed on the basis of a technicality.

I hope you enjoy this issue. Should you have any comments or questions, please do not hesitate to reach out.