

United Arab Emirates' New Law on Pledges of Property and Moveables to Come Into Effect

On December 12, 2016, the government of the United Arab Emirates (UAE) issued Federal Law No. 20 of 2016, titled the Law on Mortgage over Moveables as Guarantee for Debts (the "Pledge Law"). The Pledge Law, expected to take effect on March 12, 2017, has been a work in progress for a relatively long time and is expected to result in significant changes in the UAE's financing industry.

Previously, pledges over movable assets were introduced and governed by the UAE's Commercial Transactions Law (Federal Law No. 18 of 1993). Under the Commercial Transactions Law, for a possessory pledge to be effective and enforceable, the pledge must be perfected by executing a written pledge agreement and delivering the relevant pledged asset by the pledgor to the pledgee (either actual or constructive). Pledged assets must be in existence (not future assets) and must be indentified. This requirement created several difficulties, especially in relation to pledges over receivables and bank accounts.

The two most significant changes introduced by the Pledge Law are as follows: (i) It is no longer necessary for a lender to take possession of a movable asset in order to perfect the pledge over that movable asset; and (ii) it is now possible to pledge the amounts deposited in bank accounts and account receivables and set such amounts off against any outstanding dues on the pledgee without the need for a court order. This means that, under the Pledge Law, it will no longer be

necessary to appoint a pledgor or a third party as a custodian on the pledged assets in order to take possession of any pledged movable assets (as required under the Commercial Transaction Law).

For a pledge to be perfected, the Pledge Law requires that it be recorded in a register. The register will be formed and managed by a public authority to be determined by the UAE cabinet by way of executive regulations (which are expected to be issued within six (6) months from the effective date of the Pledge Law). Until such time, the applicability of the Pledge Law remains subject to the issuance and application of the executive regulations.

Clients planning to obtain or grant security over movable assets should pay close attention to the application of the Pledge Law and should monitor future announcements regarding the issuance of executive regulations related to the application of the new law.

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