

14 December 2009

Questions and Answers Provided by the Department of Legal Affairs Related to the Ruler's Decree Establishing a Tribunal to Decide the Disputes Related to the Settlement of the Financial Position of Dubai World and its Subsidiaries

1. What is the Decree?

HH Sheikh Mohammed Bin Rashid Al Maktoum, Prime Minister of UAE and Ruler of Dubai, has established a Tribunal and reorganization code to decide the disputes related to the settlement of the financial position of Dubai World and its subsidiaries.

2. When is the Decree effective?

The Decree No. 57 of 2009 is effective as of 13 December 2009, the date on which it was signed by the Ruler of Dubai.

3. What does the Decree do?

The Decree establishes a three-judge tribunal which is empowered to supervise the financial reorganization of Dubai World and its subsidiaries. In addition, the Decree establishes a transparent legal code, based on internationally accepted standards, to govern the reorganization of Dubai World and its subsidiaries.

4. Why is the Decree necessary?

Dubai World is a decree corporation, meaning it was established through a decree of the Ruler of Dubai, and consequently has a unique legal status. Among other matters, the obligations of Dubai World are not guaranteed by the Government.

Due to its status as a decree corporation, Dubai World does not have the ability to seek protection under the provisions of the UAE Commercial Code that govern bankruptcy and insolvency (*see* Part 5 (Bankruptcy and Composition) of Law No. 18 of 1993 (UAE Commercial Transactions Law)).

Because of the absence of a reorganization law applicable to Dubai World, the Government of Dubai developed the Decree, which provides a legal framework for the restructuring of the obligations of Dubai World and its subsidiaries. The Government's intention was to develop a law that would permit a restructuring of the obligations of Dubai World and its subsidiaries in accordance with international best practices following a fair, equitable and transparent legal process.

5. Who sits on the Tribunal?

The Tribunal is composed of:

- Sir Anthony Evans, Chief Justice of the DIFC Courts. Sir Evans is a former High Court Judge of England and Wales.
- Michael Hwang, SC, Deputy Chief Justice of the DIFC Courts. Judge Hwang is a former Judicial Commissioner of the Supreme Court of Singapore and partner at the law firm of Allen & Gledhill.

- Justice Sir John Murray Chadwick, Judge of the DIFC Courts. Judge Chadwick is a former Judge of the Court of Appeal of England and Wales and is a world renowned bankruptcy and insolvency specialist.

In addition, the Decree permits the Chief Justice of the DIFC Courts to recommend to the Ruler of Dubai additional judges to be included in the Tribunal. These additional appointments would seek to further broaden the experience base and international stature of the Tribunal.

6. What law will the Tribunal apply?

The Tribunal will be governed by the law set forth in the Schedule to the Decree. The Schedule is based upon the following:

- DIFC Law No (3) of 2009 Concerning the law of Insolvency, according to the amendments stated in the Schedule to the Decree;
- The Regulations Issued by the Board of Directors of the DIFCA Concerning DIFC Insolvency Regulation, according to the amendments stated in the Schedule to the Decree;
- DIFC Law No (10) of 2004 Concerning the Court of DIFC, according to the amendments stated in the Schedule to the Decree;
- Legislation in force in the Emirate;
- Commercial custom; and
- Principles of justice, and rules of righteousness and equity.

7. What is the Dubai International Financial Centre (DIFC)?

The DIFC, which was opened in September 2004, is an international financial centre located in Dubai. Most of the world's leading international investment and commercial banks are licensed to operate in the DIFC.

Financial services in the DIFC are regulated to international standards by the Dubai Financial Services Authority (DFSA).

NASDAQ Dubai (formerly known as the Dubai International Financial Exchange or DIFX), opened in the DIFC in September 2005.

Companies licensed to operate in the DIFC are subject to the laws of the DIFC and the DIFC has its own court system, called DIFC Courts, to adjudicate disputes relating to DIFC-licensed firms.

8. Why did the Decree choose to base its law on the DIFC law, rules and regulations?

The Government decided to base the law of the Decree on the insolvency laws, rules and regulations of the DIFC because it determined that such laws, rules and regulations were comprehensive and reflected international standards. In addition, such laws, rules and regulations were in English rather than Arabic, which the Government determined would facilitate a complex financial reorganization involving investors and professionals from all over the world.

However, the Government determined that the existing DIFC laws, rules and regulations needed additional modifications to allow them to work effectively for a reorganization involving an enterprise as large and complex as Dubai World. The modifications included provisions to provide for an automatic stay or moratorium, provisions to allow the Tribunal to approve priority financing during the course of a reorganization, provisions enabling Dubai World and its subsidiaries to continue to benefit from existing contracts, and provisions enabling the formation of appropriate classes of creditors and provisions specifying the approvals required for a voluntary company arrangement.

9. Where will the Tribunal hold hearings?

The Tribunal will hold its hearings in the courtroom of the DIFC Courts of the Dubai International Financial Centre.

10. Will Proceedings be public?

All proceedings before the Tribunal will be open to the public and the press, except that upon application and hearing, the Tribunal may order that certain proceedings be conducted on a private basis.

11. What is the jurisdiction of the Tribunal?

The Tribunal has jurisdiction to hear and decide any proceedings commenced against Dubai World, any of its subsidiaries or any person relating to the settlement of the financial obligations of Dubai World and/or any of its subsidiaries.

12. Which Dubai World subsidiaries will be subject to the Tribunal?

The Decree will be available to Dubai World and any of its subsidiaries. However, it is expected that only entities that require protection from creditors or require the assistance of the Tribunal to restructure their debts will actually file under the Decree.

13. How are judgments of the Tribunal made?

The Tribunal will issue its judgments by the majority votes of its Judges.

14. What is the status of the judgments of the Tribunal?

The judgments of the Tribunal are final, irrevocable and not subject to any appeal. All judgments may be executed and enforced by a competent courts in the Emirate of Dubai and wherever else necessary.

15. How will the Tribunal be administered?

The Registrar of the Court of the Dubai International Financial Centre will act as the registrar for the Tribunal. The Registrar will maintain a publicly available register of all pleadings filed under the Decree.