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Legislative Update

New UAE Banking Law Clarifies Digital Finance but Leaves Guarantee Requirements Uncertain

By [William Watson](#), [Sam Manful](#), [Charles Anderson](#) and [Alexandra Wingrove](#)

The UAE's legal and financial sectors have welcomed the introduction of "Federal Decree Law No. 6 of 2025 Regarding the Central Bank, Regulation of Financial Institutions and Activities, and Insurance Business" (the New Banking Law) for providing regulatory clarity on the operation of the UAE banking framework and how it intersects with the current digital landscape.

The New Banking Law, which came into effect on Sept. 16, repeals and replaces two laws: Federal Decree-Law No (14) of 2018, which governed the Central Bank of the UAE (CBUAE) and the conduct of banks and financial institutions; and Federal Decree-Law No (48) of 2023, which regulated insurance activities in the UAE (the Old Banking Law).

New Banking Law Updates in a Snapshot:

- The New Banking Law permits the CBUAE to impose financial penalties on those providing unlicensed financial activities of up to 1 billion AED (\$272.3 million), a significant increase from the previous maximum fine of 200 million AED (\$54.5 million) under the previous law, reflecting the growth and robustness of the UAE's financial regime.
- The New Banking Law introduces a number of key developments compared to the Old Banking Law, including expanding the scope of what constitutes a "licensed financial service" to include providing payment services using virtual assets and digital banking operations more broadly. Notably, the New Banking Law brings "any person carrying on, offering, issuing, or facilitating, whether directly or indirectly a licensed financial activity – regardless of the medium, technology or form employed" under the CBUAE's regulatory supervision and oversight. This marks a shift from the previous regime under which the third-party technology providers involved in making and receiving payments predominantly fell outside of the CBUAE's remit.
- Certain technology-related platforms, protocols and infrastructure that facilitate or enable payment services now fall within the CBUAE's supervision and will require licensing under the New Banking Law's requirements.
- Importantly, the New Banking Law expressly includes the dirham, in physical *or digital* form, as the official national currency in the UAE.

Ambiguity on Guarantees

- The Old Banking Law required financial institutions and banks to obtain "sufficient" guarantees for credit facilities. The wording in the Old Banking Law caused continued

uncertainty within the UAE market as to what would constitute a “sufficient” guarantee and whether all facilities required guarantees and security, regardless of the credit rating of the relevant borrower. The same provision was also largely reflected in Article 409(2) of Federal Law No. 50 of 2022 (the Commercial Transactions Law), which requires financial institutions to obtain “adequate” securities or collateral against loans granted by them — a position which would therefore extend to all lending by financial institutions falling under the remit of the Commercial Transactions Law. The New Banking Law retains an obligation on licensed financial institutions to “obtain and maintain adequate guarantees” but clarifies that this requirement applies for all types of facilities provided to “natural persons and sole proprietorship companies” (commensurable with the customer’s income).

- The language in the Commercial Companies Law and New Banking Law generally can be construed as permitting the provision of credit support through security or guarantees for the repayment of loans. However, the ambiguous language has already resulted in extensive debate in the financing community as to (i) what constitutes a “sufficient” or “adequate” guarantee, (ii) how this sufficiency/adequacy could be determined or evaluated and (iii) whether such a requirement has retrospective effect. Attempts to clarify this ambiguity have had mixed results at best. The Judicial Department of Abu Dhabi issued Circular No. 9 of 2022 and Explanatory Circular No. 3 of 2023 which advised that Article 121 applies retrospectively to all credit facilities entered into. It also differentiated between a “pure personal guarantee” (which is potentially unenforceable under the law) and an “in kind guarantee” — which is what the law should be interpreted to permit. However, the Abu Dhabi courts have provided alternative judgements which go against this guidance, suggesting that Article 121 of the Old Banking Law does not have retrospective effect and does not apply to credit facilities predating Jan. 2, 2023.
- Since failure to obtain *and maintain* “sufficient” or “adequate” guarantees means that any claim related to the credit facility will be inadmissible in court, it remains uncertain how the courts will interpret such provisions. In the meantime, we expect all banks and financial institutions will continue to structure financings following a comprehensive credit and security evaluation.

Implications and Next Steps

The New Banking Law demonstrates the UAE’s intent to further clarify regulations on the provision of financial activities and insurance. Regulated entities have until Sept. 16, 2026, to bring their activities into compliance with the New Banking Law.



If you have any questions concerning these developing issues, please do not hesitate to contact any of the following Paul Hastings Abu Dhabi lawyers:

William Watson
+971-2-403-2817

williamwatson@paulhastings.com

Sam Manful
+971-2-403-2810

sammanful@paulhastings.com
m

Alexandra Wingrove
+971-2-403-2812

alexandrawingrove@paulhastings.com
o

Charles Anderson
+971-2-403-2802

charlesanderson@paulhastings.com
m

Paul Hastings LLP

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