Securing moveable assets in the UAE: In March, the UAE Cabinet issued regulations implementing the finer details of the new regime for security over moveable assets under Federal Law No.20 of 2016 on the Mortgage of Movable Assets to Secure a Debt. The regime allows lenders to take non-possessory security over a range of present and future moveable assets (including receivables, bank accounts, bearer instruments, equipment, fixtures and other goods), to register that security (which ensures priority) and the ability to enforce using self-help remedies. Cabinet Decree No.5 of 2018 clarifies further details of the form and content of the security agreement, together with the information, procedure and fees to register the security at the Emirates Movable Collateral Registry and to search the register. The Emirates Movable Collateral Registry, which is now live, is the online register for the registration of security interests (and other rights) in movable assets granted in accordance with Federal Law No.20 of 2016. The Emirates Movable Collateral Registry is organised under the Emirates Movable Collateral Registry Corporation (under the management of Emirates Development Bank) and established pursuant to Federal Law No.20 of 2016 and Cabinet Decree No.6 of 2018. The deadline for secured lenders to register existing possessory security over moveable assets passed on 15 March, being one year from the date Federal Law No.20 of 2016 came into force.

Basel III implementation in the UAE: From 1 January, the financial services regulators in the UAE introduced revised prudential regimes for banks regulated in their jurisdictions in line with revised rules outlined by the Basel Committee on Banking Supervision in Basel III. Building on the existing capital adequacy and liquidity regimes onshore in the UAE and the financial free zones in the UAE, the Dubai International Financial Centre (“DIFC”) and the Abu Dhabi Global Market (“ADGM”):

- the UAE Central Bank issued Circular No. 52/2017 (read more);
- the Dubai Financial Services Authority in the DIFC revised the Prudential Investment Business (PIB) Module of the DFSA Rulebook; and
- the ADGM Financial Services Regulatory Authority introduced several enhancements to its “Prudential – Investment, Insurance Intermediation and Banking Rules”.

The reforms introduce changes to minimum capital requirements, new capital buffers, leverage and liquidity coverage ratios and disclosure and monitoring requirements.

UAE establishes the Bankruptcy Law’s Financial Restructuring Committee: The Financial Restructuring Committee has been established by the UAE Cabinet to oversee procedures under the UAE Bankruptcy Law (Federal Decree No.9 of 2016) by Cabinet Resolution No.4 of 2018, issued in March. The committee performs consultative and administrative functions, including maintaining a register of insolvency experts, determining criteria for the registration of experts and their fees and maintaining a register of entities subject to procedures under the UAE Bankruptcy Law. Consisting of nine members, the committee is chaired by the Undersecretary of the Ministry of Finance and the members are selected from Federal authorities and local governments. Several proceedings have been commenced under the Bankruptcy Law since it came into force in December 2016. We have issued a series of notes on the Bankruptcy Law in which we provide an overview of its main features. This series is available via our Knowledge Portal.

New Saudi Arabian Bankruptcy Law: Modernised bankruptcy and reorganisation procedures enacted in February will soon become available to financially troubled debtors in the Kingdom of Saudi Arabia. The new bankruptcy law (Royal Decree No. M/05 dated 28/05/1439H (13/02/2018G)) (the “Bankruptcy Law”) and implementing regulations yet to be issued under it, will come into force no later than 20 August 2018 (which is 180 days from the date it was published in the Official Gazette (06/06/1439H (21/02/2018G)). It will replace the existing bankruptcy regime in the Commercial Courts Law (Royal Decree No 32 dated 15/01/1350H (corresponding to 01/06/1931G)) and the Settlement Against Bankruptcy Law (Royal Decree No. M/16 dated 04/09/1416H (corresponding to 24/01/1996G)). The three new procedures are available under the Bankruptcy Law, which draw on aspects of international “best practice”:

- Preventative settlement: a pre-insolvency procedure initiated by the debtor to enable a debtor to restructure its debts by way of a court-approved plan. The debtor remains in control of the business and the debtor may apply
for a moratorium on the enforcement of claims for up to 180 days. The procedure is controlled by the courts with input from various office holders, predominantly a trustee and experts.

- **Reorganisation**: a rescue procedure to assist debtors to reach a settlement with creditors if the debtors are likely to suffer financial difficulty leading to default, are defaulting or are insolvent. The debtor, any creditors or competent authority can apply for the process which is operated under the supervision of the court and with significant input from a bankruptcy trustee. A moratorium on the enforcement of claims is automatically put in place during the procedure. If approved, the rehabilitation plan may allow the debtor to terminate contracts and cram down unsecured creditors (among other things).

- **Liquidation**: a liquidation regime for insolvent debtors, administered by a bankruptcy trustee. The debtor’s business is brought to an end and its assets are divided up among creditors and shareholders, according to the priority of their claims. The debtor, any of its creditor or government authority may in apply to put a debtor into liquidation.

A new bankruptcy register and a bankruptcy committee tasked with overseeing the bankruptcy procedures expected to be established. The bankruptcy procedures can be used by foreign or local natural persons performing commercial, professional or profit-seeking activities in the Kingdom, commercial and professional companies and non-Saudi natural or legal person investors with assets in the Kingdom.

**New rules for offering and listing securities in Saudi Arabia**: From 1 April, new Rules of Offering Securities and Continuing Obligations issued pursuant to a resolution on 27 December 2017 by the Saudi Arabian Capital Markets Authority (CMA) under the Capital Market Law issued by the Royal Decree Number (M/30) Dated 2/6/1424H came into force. Key changes include:

- any joint stock company is eligible to list on the Nomu Parallel Market (a parallel market launched in the Kingdom for small and medium-sized enterprises) (under the previous regime only a Saudi Arabian joint stock company or GCC-incorporated joint stock company owned by a majority of GCC shareholders could list);

- “non-resident foreigners” (which include foreign investor registered with the CMA to invest in securities listed in the Saudi Stock Exchange) are now included in the list of permitted investors in the Parallel Market (this change came into effect on 1 January);

- a broader definition of “exempt offers”, which now includes an offer of securities to sophisticated investors of less than SAR10million (provided that such offer is not made more than once by a particular issuer in any twelve-month period);

- a shareholders’ circular is required in the case of a capital reduction;

- an increase in time permitted for disclosure from the end of the same day to the end of three trading days where there is a change in shareholding of 5% or more; and

- new tests assess whether there is likely to be a material change as a result of reverse takeovers and demergers (where shareholder approval may be required if certain thresholds are met).

**Reciprocal enforcement of judgments in Abu Dhabi and ADGM free zone**: a new Memorandum of Understanding (“MoU”) sets out the framework for the reciprocal enforcement of judgments, decisions and orders and the arbitral awards ratified or recognised by the onshore civil law courts in Abu Dhabi and the common law courts in Abu Dhabi’s financial free zone, ADGM. Announced by ADGM in a press release on 4 April 2018, the MoU was signed by the Abu Dhabi Judicial Department and Abu Dhabi Global Market Courts (“ADGM Courts”) on 11 February 2018 (and became effective on that date). The advantage for parties who litigate or arbitrate their disputes in ADGM is ease of enforcement onshore in Abu Dhabi - any resulting judgment, decision, order or ratified arbitral award may be referred in the prescribed manner for enforcement against assets onshore in Abu Dhabi and should be enforced without review of the merits (and versa). This development, coupled with the ADGM Courts’ English language, common law system and the recently established ADGM Arbitration Centre, may make the ADGM increasingly attractive to international parties as a forum for dispute resolution. The framework for the enforcement of ADGM Court judgments is increasingly comprehensive, with the new MoU governing local enforcement within the Emirate and a series of Memoranda of Guidance setting out the enforcement procedure in a range of international courts.
Oman considers companies law revisions: The State Council in Oman considered a draft companies law at meetings held in March, which is reportedly intended to amend the current Commercial Companies Law No.4 of 1974 (as amended). There is no public information on the timetable for the new law to come into force.

Bahrain signs FATCA agreement: In March, Bahrain signed a Model 1 Intergovernmental Agreement (IGA) with the United States (US), addressing the implementation of the US tax rules known as FATCA. Copies of the IGAs are available on the US Department of the Treasury website FATCA site. Bahrain has agreed a Model 1 IGA agreed in substance with the US and is treated as having an IGA in effect as from 30 June 2014 (read more). FATCA introduces withholding and reporting requirements for “foreign” (i.e. non-US) financial institutions and certain other non-financial foreign entities. Read more about FATCA.

Global: New model jurisdiction and governing law clauses for use with ISDA Master Agreements: The International Swaps and Derivatives Association (ISDA) has published the 2018 ISDA Choice of Court and Governing Law Guide. The Guide contains new model exclusive, and non-exclusive, jurisdiction clauses and a revised model governing law clause. These can be used to replace the standard provisions in either the 1992 or 2002 Master Agreements. Linklaters is pleased to have advised ISDA on the consultation process and the drafting of the Guide. Read more.