

# RASMANDATE

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## IN THIS ISSUE

### Cover Story

Key Amendments to Trust and  
Foundation Laws

Legal & Regulatory Update

Major Spotlight Deal

What Kept Us Busy

Thought Leadership

The Use of ADRs in Fintech

What Our Clients Say About Us

Roundup

Meet our new team member

1  
3  
4  
5  
6  
10  
11

## COVER STORY

### KEY AMENDMENTS TO TRUST AND FOUNDATION LAWS IN DIFC

#### In this article:

- Trust Law Amendments
- Foundation Law Amendments
- Impact of Amendments

Dubai International Financial Centre (DIFC) has introduced significant amendments to its trust and foundation laws aimed at enhancing regulatory clarity, flexibility, and governance within its legal framework.

These amendments, reflecting the evolving needs of the financial landscape, seek to bolster trust and foundation structures, providing greater certainty to stakeholders and reinforcing DIFC's position as a leading international financial centre.

**Trust Law Amendments:**

- **Clarification on Founder Responsibilities:** Amendments provide clarity on the role and responsibilities of trust founders, ensuring effective governance and administration. Provisions for the appointment and removal of founders have been introduced, promoting transparency and accountability in trust structures.
- **Enhanced Governance Provisions:** The amendments strengthen governance structures within trusts, emphasizing accountability, transparency, and oversight. These measures aim to align trust operations with best practices, instilling investor confidence and trust in the DIFC's regulatory environment.
- **Flexibility in Beneficiary Designations:** The amendments offer greater flexibility in beneficiary designations, allowing trusts to adapt to changing circumstances. This flexibility empowers founders to customize trust structures to meet specific objectives while ensuring compliance with regulatory requirements.
- **Enhanced Creditor Protection:** Amendments to provisions governing creditors' claims in discretionary trusts clarify the rights and limitations of creditors in accessing trust assets. This enhances creditor protection while maintaining the integrity of trust structures within the DIFC.

- **Strengthened Recognition of Foreign Judgments:** The amendments strengthen provisions related to the recognition and enforcement of foreign judgments concerning DIFC trusts. This ensures cross-border legal certainty and facilitates international transactions, promoting trust in the DIFC's legal system.

### **Foundation Law Amendments:**

- **Founder Responsibilities Clarification:** The amendments clarify the responsibilities of foundation founders, including provisions for their appointment and removal. This ensures effective governance and administration of foundations, promoting transparency and accountability.
- **Enhanced Governance Provisions:** Provisions have been introduced to strengthen governance structures within foundations, emphasizing accountability, transparency, and oversight. This enhances regulatory oversight and investor confidence in foundation structures.
- **Flexibility in Beneficiary Designations:** Foundation law amendments offer greater flexibility in beneficiary designations, enabling foundations to adapt to changing circumstances. This provides founders with more options to tailor foundation structures to meet their specific objectives.

**Enhanced Reporting Requirements:** The amendments introduce enhanced reporting requirements for foundations, ensuring greater transparency and accountability. Regular reporting on foundation activities and financial performance enhances trust in foundation operations.



Improved Regulatory Oversight: Amendments enhance regulatory oversight of foundations, empowering authorities to monitor compliance with regulatory requirements and take enforcement actions where necessary. This strengthens investor confidence in foundation structures within the DIFC.

### **Impact of Amendments:**

In conclusion, the revisions to the DIFC Trust and Foundation Laws represent a significant stride forward in enhancing wealth management capabilities within the region. By fortifying the regulatory framework and responding adeptly to the evolving needs of private clients, DIFC solidifies its position as a premier destination for wealth structuring solutions. These amendments not only demonstrate DIFC's commitment to innovation but also underscore its unwavering dedication to providing top-tier services in the realm of private wealth management.



## LEGAL & REGULATORY UPDATE

**CRO DAX Middle East (Crypto.com ) FZE (“Crypto.com”) has achieved full operational status in the UAE following approval from Dubai’s Virtual Asset Regulatory Authority (VARA).**

Crypto.com is authorized to offer a range of Virtual Assets Licensed Activities, namely Exchange Services, Broker-Dealer Services, Management and Investment Services, and Lending and Borrowing Services. The license, issued on 03/04/2024, grants Crypto.com the authority to serve institutional investors, qualified investors and retail investors.

Notably, Crypto.com announced that it is launching the Crypto.com Exchange for institutional investors as its first operational milestone.

“We are incredibly supportive of the steps Dubai is taking to progress the crypto industry, both in-market and abroad,” said Stuart Isted, General Manager, Middle East and Africa of Crypto.com. “But this is still just the beginning, and we look forward to continuing to work closely with VARA in our collective efforts to effectively and responsibly advance the sector.”

This marks a significant milestone in the expansion of Crypto.com presence into the VA market and demonstrates its readiness to contribute positively to the ongoing development of the industry.





## MAJOR SPOTLIGHT DEAL

In the dynamic landscape of estate and asset management in the United Arab Emirates (UAE), foundations have emerged as a pivotal tool, offering unparalleled benefits and opportunities for individuals and businesses alike. At Rasma Legal, we take pride in spearheading this transformative journey, providing unmatched expertise in establishing foundations tailored to the unique needs of our clients.

Since their inception in the UAE, foundations have evolved into a cornerstone of the country's wealth management framework. With a footprint extending across prominent free zones such as the Dubai International Financial Centre (DIFC), Abu Dhabi Global Market (ADGM), and Ras Al Khaimah International Corporate Centre (RAKICC), they offer a robust platform for safeguarding assets and facilitating seamless succession planning.

Our firm stands at the forefront of this evolution, offering comprehensive services that encompass every stage of the foundation establishment process. From advising on critical decisions like founder appointment and council member selection to navigating the intricacies of DIFC Foundation regulations, including data protection measures, and meticulously drafting the foundation's constitutional documents, ensuring compliance with all legal requirements and client preferences, we provide our



clients with the expertise and support needed to navigate these complexities with confidence. At Rasma Legal, we understand that each client's journey is unique. That's why our approach is tailored to meet the individual needs and aspirations of those we serve. Whether you're looking to safeguard your assets for future generations or exploring new avenues for growth and impact, our experienced team is here to guide you every step of the way.

Empower your vision, secure your legacy, and embark on a journey of success Rasma Legal. Get in touch with us today to discover how we can assist you in establishing your foundation and unlocking a world of possibilities.

## WHAT KEPT US BUSY

Our team wrapped up an inspiring two days at the World Blockchain Summit 2024! It was a privilege of engaging with global experts and visionaries, gaining insights into the latest tech initiatives in today's dynamic digital landscape.



The summit provided a platform to learn from industry leaders about best practices in blockchain technology, exploring its transformative potential across diverse sectors.



Our team had a fantastic time at the two day event, Global Blockchain Congress – GBC, Dubai! It was an insightful event bringing together key players in the blockchain industry. We are delighted to have engaged with various stakeholders and learned about the latest trends and innovations shaping the future of blockchain and digital assets.







## The Use of ADRs in Fintech

In the ever-evolving landscape of financial technology (fintech), innovation serves as the vital force propelling the financial services industry forward. Fintech, characterized by its disruptive nature, holds the potential to profoundly shape the future of financial services for years to come. However, this presents a challenge for legal specialists and practitioners, including lawyers and judges, who may find it difficult to keep up with these developments.

### THOUGHT LEADERSHIP

This could potentially hinder the growth of fintech actors if they ever found themselves in a dispute.

Navigating the conventional routes of national court systems in most countries can lead to difficult administrative hurdles and to unexpected costs and delays. Moreover, the appointed judge might not align with the specific needs of the parties involved, leading to delays or further complicating the resolution process.

In this context, Alternative Dispute Resolution (ADRs) emerges as a compelling solution, offering the parties the flexibility to tailor the resolution process to their specific needs.

Notably, the fintech sector is leaning towards adopting ADRs. This can be discerned from the terms of use of prominent virtual assets exchange and custodial platforms such as Binance and Metamask, both of which have incorporated arbitration clauses.

These clauses stipulated that any conflicts arising from the use of their platforms will be subject to arbitration.

In this article, we will explore why ADRs can attract fintech entrepreneurs, and what are the challenges they may encounter taking this road.

### **Advantages of ADRs in Fintech**

ADRs encompass various resolution techniques, mainly mediation, arbitration and expert determination, all of which prioritize speed, confidentiality and expertise. These three key elements are crucial to fintech actors, who need to solve their cases at a speed that matches the rapid evolution of the fintech and virtual assets industry.

Confidentiality is also vital, safeguarding innovative data and ideas from leaks and public disclosures. Finally, of utmost importance is the expertise of the decision-makers tasked with resolving fintech cases, given the inherent complexity of such cases. Through ADR, parties gain the autonomy to select their mediators, arbitrators, or expert determinators.

## **THOUGHT LEADERSHIP**

This unique aspect not only instills a deeper sense of involvement and responsibility in the resolution process but also ensures that the chosen expert possesses skills directly relevant to the fintech landscape.

In contrast, this element of choice does not exist in a “traditional” court system, where parties could appear before a judge who doesn’t necessarily have the requisite expertise in order to efficiently solve such cases with agility.

A growing number of ADR institutions are recognizing the importance of fintech-related matters, exemplified by organizations such as the World Intellectual Property Organization (WIPO). With over 2000 independent mediators, arbitrators and experts from more than ninety jurisdictions, WIPO’s Mediation and Arbitration Center offers a robust platform for resolving disputes within the dynamic fintech sphere. Moreover, initiatives such as LawTech, backed by the United Kingdom’s Ministry of Justice, underscore a commitment to fostering technological innovations within the legal sector.



LawTech's "Digital Dispute Resolution Rules" guide arbitrators and experts, providing a framework for swift and tailored solutions to the intricacies of fintech cases. This convergence of expertise and innovation signifies a paradigm shift in dispute resolution, empowering parties to navigate the complexities of fintech with confidence and efficiency.

As fintech startups continue to proliferate, a rise in the adoption of ADRs is foreseeable both globally and within the UAE, given their capacity to provide tailored solutions and expedited processes. It is also worth mentioning that most UAE free zones, such as the Abu Dhabi Global Market (ADGM) and the Dubai International Financial Centre (DIFC) have established their own arbitration courts and rules. The Dubai International Arbitration Center (DIAC) has also joined forces with the London International Arbitration Center (LIAC) and is now administered by it, showing motive to strengthen the arbitration sector in the DIFC.

## **The Lingering Challenges Confronting Fintech Companies**

## **THOUGHT LEADERSHIP**

Two primary disadvantages persist in ADRs; the first being enforcement challenges, and the second, cost considerations.

While it is not always the case, ADR methods, specifically arbitration, can entail significant expenses. However, these costs may be mitigated by the speed of the arbitration process (as cases conclude quickly, resulting in lower legal fees) and by the flexibility to select the number of arbitrators overseeing the case. For instance, opting for a single arbitrator, incurs lower costs compared to convening a panel of three.

The second disadvantage would be the enforcement of the ADR decisions. In mediation, the parties have the discretion to choose whether to adhere to the mediator's advice.

Conversely, in arbitration, if a party refuses to abide by the arbitrator's or expert's decision, enforcement has to be sought through national courts. While court involvement in enforcing an award may introduce some delays, the pro-arbitration legislations present now in many countries bring some sort of

reassurance to the parties involved. For example, most countries, including the UAE, are signatories to the New York Convention of 1958 that sets rules for the enforcement of foreign arbitration awards.

In this regard, it is noteworthy to highlight that domestic arbitration awards are usually enforced according to the laws of the jurisdiction where they were rendered. For instance, the UAE Arbitration Law of 2018 specifies in Article 52 that an arbitration award issued in respect of this law is as enforceable as a court judgment. It also limits the grounds upon which an arbitration award can be challenged and set aside by the court in Article 53. Thus, judges are bound by specific legal parameters when considering whether to annul an award.

## Conclusion

The relentless march of fintech is disrupting conventional sectors that were once considered the epitome of progress. Amidst these advancements, it has become evident that "traditional" court systems are being challenged,

## THOUGHT LEADERSHIP

paving the way for the ascendance of agile and adaptable Alternative Dispute Resolution (ADR) mechanisms.

The future suggests a significant increase in ADR fintech cases, both globally and within the dynamic landscape of the United Arab Emirates (UAE). As technology continues to reshape the financial landscape, embracing ADR not only reflects the industry's evolution but also ensures expeditious and effective dispute resolution in an era defined by innovation and rapid change.



**AUTHORED BY**

**Peter Haber**  
**Junior Associate**



## WHAT OUR CLIENTS SAY ABOUT US

*"I am very grateful to The Rasma Legal Team for their excellent service and professionalism. They handled my Dubai-based company setup and work visa application with utmost care, and efficiency, and helped me secure a work visa record time. Their team is very knowledgeable, friendly, and responsive. They guided me through every step of the process. I highly recommend The Rasma Legal Group to anyone looking for a reliable and experienced law firm."*

**-Ramzi Rasamny**

*"Outstanding service overall! Working with Rasma legal was swift, professional, and they kept me informed every step of the way. Highly recommended for anyone looking for a hassle-free experience. Thank you Rasma Legal."*

**-Rudy Wehbe**

## ROUNDUP

## MEET OUR NEW TEAM MEMBER

We are delighted to announce that Melissa Wehbe has joined our legal team as an Associate at Rasma Legal. With over five years of extensive legal experience across a wide range of disciplines, Melissa brings expertise and a strong track record of success to our firm.

Melissa's proficiency spans various legal domains, including disputes resolution, litigation, corporate law, commercial law, civil law, property and real estate law, criminal law, and construction law. Her versatility and profound understanding of corporate and commercial legal intricacies make her a valuable addition to our team.

Prior to joining us, Melissa has been instrumental in managing disputes and litigation matters alongside esteemed partners. She has also provided insightful counsel on corporate matters within Saudi Law, particularly in construction and commercial cases.

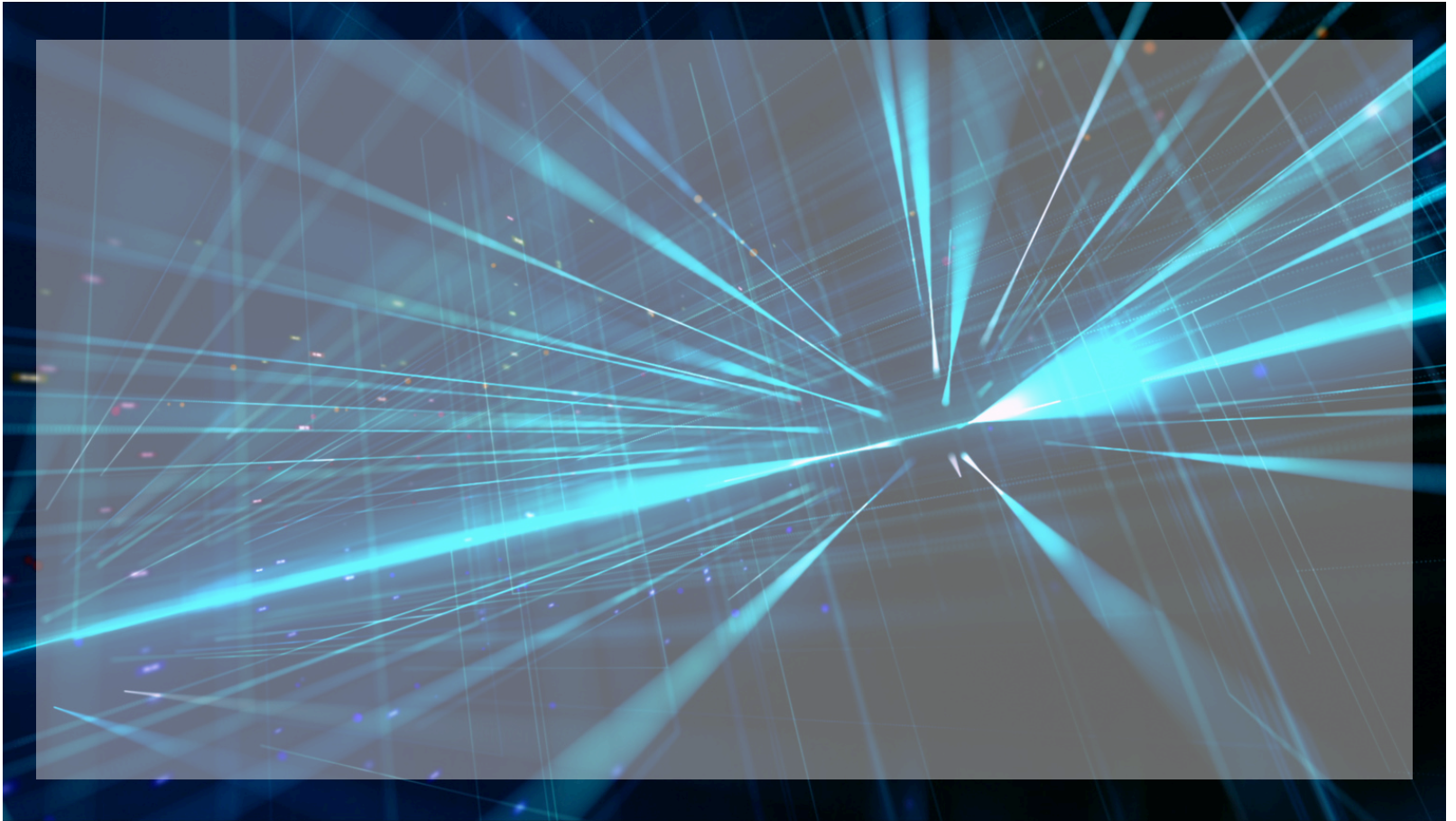


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# DRIVING CHANGE THROUGH INNOVATIVE EXPERTISE



**Rasma Legal**, founded by **Mazen Rasamny**, is a multi-service law firm catering to the innovation economy. The firm is headquartered in the **United Arab Emirates (UAE)** and has branches in **Saudi Arabia (KSA)** and **Lebanon**. Led by the expertise and leadership of Mazen Rasamny, Rasma Legal stands as a beacon of legal excellence, equipped to guide clients through their diverse legal undertakings. Having an extensive legal background spanning over **23+ years**, Mazen Rasamny brings a wealth of knowledge and experience to the table. The firm is focused on **innovation** and **growth** and has been instrumental in providing comprehensive legal services to entrepreneurs and start-ups in areas such as **M&A, Corporate and Commercial laws, Debt & Equity Capital Markets, Banking & Finance (including Project Finance), Corporate & Financial Restructuring, Energy, Infrastructure, and Project Development**. The firm has also been recognized by several leading legal publications such as **Asian Legal Business, IFLR1000, The Legal 500, Legal Era, The Law** and **more**.

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