Law Update – A new Arbitration Law for the UAE

Last year we discussed the prospect of a new arbitration law being enacted for the UAE (here). For practitioners in the region, the light at the end of the tunnel is near as the UAE Federal National Council approved the draft UAE Federal Arbitration Law (FAL) last week. The FAL will come into force once it is signed by His Highness Sheikh Khalifa bin Zayed Al Nahyan following which it will be officially published in the Federal Gazette.

This is not a surprising development; some may even say it is long overdue. The UAE has been attempting to enact a consolidated arbitration law for some time with the first attempt being ten years ago. The struggle lay in achieving a ‘balance’ between the provisions of the UAE Civil Procedure Code (the current arbitration law is captured in Articles 203-218 of the Code) and the need to achieve a set of arbitration rules that are consistent with internationally accepted arbitration principles. Until such time that the FAL, which is intended to replace the Articles of the UAE Civil Procedure Code, is published it is unclear if the much anticipated law has struck this balance. Moreover and given the general enthusiasm for development in the region, there is speculation how forward looking the FAL may be. For example, how involved are the courts in the arbitration process? How exhaustive are the grounds to set aside awards? Are interim awards dealt with? Are there provisions that accommodate online arbitration? We will explore these questions and the provisions of the FAL once it is officially published. For now, we understand that the FAL is closely modelled around the UNCITRAL Model Law.

Once in force, it will also be interesting to see how domestic courts interpret and apply the FAL and whether the new law has an impact on the number of challenges raised at the time of enforcement of awards.

It is anticipated that if the FAL lives up to expectations and proves itself as an arbitration friendly statute, that this could increase and secure foreign investment in the region and may even competitively position the UAE with other arbitration friendly jurisdictions such as the UK, Switzerland and Singapore.

For further information please contact:

Sadaff Habib
Solicitor
T: +971 (0) 4 356 3902
E: s.habib@beale-law.com

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