

LEGAL ALERT

**DIFC Freezing Orders in Support of
Foreign Proceedings: Uncertainty
Following DIFC Courts Law 2025**

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The UAE is a complex but increasingly important jurisdiction for cross-border enforcement. It combines an onshore Islamic civil law system conducted in Arabic with offshore English-language common law courts in the Dubai International Financial Centre (DIFC) and the Abu Dhabi Global Market (ADGM). The interaction between these distinct legal systems makes enforcement challenging, demanding specialist expertise and careful strategy. At the same time, the overlap between these systems provides creditors with a wider range of options to obtain freezing orders and pursue enforcement in support of domestic, foreign, or arbitral proceedings.

The DIFC Courts can play a key role in the freezing of assets and other interim relief in support of foreign proceedings. However, an area of uncertainty has arisen where the assets are not located in the DIFC, and the order is intended for enforcement onshore. Sometimes described as the Courts' "free-standing" and "conduit" jurisdiction, this issue has been the subject of shifting case law over the years. Despite what appeared to be some certainty in late 2024, the legal position as of 2025 is again unsettled, even after the enactment of new legislation in March 2025 that was intended to provide clarity.

The DIFC remains a powerful tool for cross-border enforcement. But like any tool, it must be used with precision. The evolving legal landscape requires careful planning and a clear strategy for achieving enforcement objectives.

DIFC's "Free Standing" Jurisdiction to Support Enforcement

Over the past three years, the DIFC Courts' approach to deciding whether they have a "free-standing" jurisdiction to grant freezing orders or other interim reliefs in support of foreign proceedings, where the respondent has no connection to the DIFC, has given rise to a series of significant decisions.

In late 2022, building on earlier authority such as *Lateef v. Liela* [2020] DIFC ARB 017 (13 December 2020), the DIFC Court of First Instance in *Jones v. Jones* [2022] DIFC CFI 043 (14 September 2022) reaffirmed its free-standing jurisdiction to grant freezing orders in support of foreign proceedings, even where the respondent had no connection to the DIFC. That position rested partly on an adoption of the "enforcement principle" expressed in *Convoy Collateral Ltd v. Broad Idea International Ltd* [2021] UKPC 24, which held that a court ought to grant a freezing injunction in support of foreign proceedings if there were a real risk of dissipation that would frustrate enforcement of a future judgment within the enforcing court's jurisdiction. As such, if a future judgment were later enforceable in the DIFC, interim relief should be granted to applicants beforehand to ensure that the DIFC Courts' future jurisdiction to enforce that judgment would not be frustrated.

One year later, in *Sandra Holding Ltd. v. Al Saleh* [2023] DIFC CA 003 (6 September 2023), the DIFC Court of Appeal overturned *Jones*, holding that the DIFC does not have a free-standing jurisdiction to issue freezing orders in support of foreign proceedings unless such jurisdiction is expressly provided by statute or Court rule. The Court found that neither the relevant statute (the Judicial Authority Law) nor the Court's rules conferred such jurisdiction. As a result, the DIFC's ability to grant freezing orders in support of foreign proceedings appeared to be limited to cases with a nexus to the DIFC, or where a foreign judgment or arbitral award is already in place and enforcement proceedings are already underway in the DIFC.

The following year, *Sandra Holding* was then overturned in *Carmon v. Cuenda* [2024] DIFC CA 003 (26 November 2024). The Court found that *Sandra Holding* had taken a “wrong turning” by adopting an “unduly restrictive view” of the Court’s powers. In *Carmon*, the Court reaffirmed that the DIFC Courts’ jurisdiction to recognise and enforce foreign judgments includes an implied power to grant freezing orders to prevent that jurisdiction from being thwarted. Relief may be available even before a foreign judgment is issued and without a present DIFC asset link or other nexus, provided there is a good arguable case that a judgment capable of enforcement in the DIFC will be obtained.

New DIFC Courts Law 2025 and Nadil: Further Uncertainty

Following what appeared to be a welcome settlement of the law in *Carmon*, the DIFC Courts Law 2025 was then enacted on 3 March 2025, introducing new uncertainty just weeks later.

In *Nadil v. Nameer* DIFC CA [2025] (13 June 2025), the applicants sought a UAE-wide freezing order from the DIFC Court of First Instance in support of foreign proceedings in which the first respondent was a defendant. The second respondent, who was not a party to the foreign proceedings, was alleged to hold assets on behalf of the first respondent. Both respondents resided in onshore Dubai, and neither had any connection to the DIFC. The applicants’ stated intention was to use the DIFC order as a conduit for enforcement onshore.

On 17 April 2025, the Court of First Instance refused relief for lack of jurisdiction, reading the new DIFC Courts Law 2025 as requiring a direct link to the DIFC, such as the presence of assets or parties with a sufficient connection to the DIFC. The Court read this requirement through the jurisdictional gateways now set out in Articles 14 and 31 of the DIFC Courts Law 2025 (replacing the former gateways contained in Article 5(A) of the Judicial Authority Law 2004).

However, permission to appeal was quickly granted on 21 April 2025, and on 13 June 2025, the Court of Appeal set aside the refusal to grant the freezing order and granted the order itself. The Court did so on the basis that, even if there was some uncertainty in the law, it was at least “strongly arguable” that the DIFC Courts retained jurisdiction to grant freezing orders in support of foreign proceedings in circumstances such as those arose in *Nadil*. That threshold was sufficient to justify granting the orders *ex parte* at first instance. However, the underlying question on jurisdiction itself was adjourned to allow the respondents to take up the point should they wish. As far as we are aware, this has not yet been raised as an argument by the respondents.

Looking Ahead

The recent shifts in DIFC jurisprudence have again created some uncertainty for creditors seeking relief in the UAE. However, in our view, the Court of Appeal’s decision in *Nadil* makes reasonably clear that interim relief is likely to remain available in support of foreign proceedings, even in the absence of a direct DIFC connection. That said, applicants should expect the jurisdictional position to remain unsettled for now and open to challenge.

Against that backdrop, we continue to emphasise to clients the importance of an enforcement strategy that begins with a clear understanding of the interaction between the DIFC and onshore courts and how jurisdictional issues can play out in practice. Delays and setbacks in the UAE often stem not from weak claims but from early missteps on jurisdiction or poor anticipation of these issues. By the time those errors are discovered, assets may have moved, counterparties may have been alerted, and the tactical advantage may have been lost.

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