

CONSULTATION PAPER NO 6 OF 2015

6 JANUARY 2015

REAL PROPERTY REGULATIONS & STRATA TITLE REGULATIONS

WHY ARE WE ISSUING THIS PAPER?

1. The Board of Directors (the "**Board**") of Abu Dhabi Global Market ("**ADGM**" or the "**Global Market**") has issued this Paper to invite public comment on the Board's proposals to adopt the following new regulations for ADGM:
 - (a) Real Property Regulations (the "**Real Property Regulations**"), and
 - (b) Strata Title Regulations (the "**Strata Title Regulations**"; the Real Property Regulations and the Strata Title Regulations are referred to herein collectively as the "**Regulations**").

Proposed drafts of the Regulations are attached as Annex A and Annex B to this Consultation Paper.

WHO SHOULD READ THIS PAPER?

2. The proposals in this Consultation Paper would be of interest to individuals, organisations and investors with an interest in establishing a presence in ADGM or otherwise doing business in ADGM, and their professional advisors.

HOW TO PROVIDE COMMENTS

3. All comments should be in writing and sent to the address or email specified below. If sending your comments by email, please use the Consultation Paper number in the subject line. You may, if relevant, identify the organisation you represent in providing your comments. The Board reserves the right to publish, including on its website, any comments you provide, unless you expressly request otherwise at the time of making comments. Comments supported by reasoning and evidence will be given more weight by the Board.

WHAT HAPPENS NEXT?

4. The deadline for providing comments on this proposal is 5 February 2015. Once we receive your comments, we will consider whether any modifications are required to this proposal. We will then proceed to enact the Regulations. You should not act on these proposals until the relevant regulations are issued by the Board. We shall issue a notice on our website telling you when this happens.

COMMENTS TO BE ADDRESSED TO:

Consultation Paper No. 6 of 2015

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BACKGROUND

5. The Global Market was established pursuant to Abu Dhabi Law No. 4 of 2013 as a financial free zone in the Emirate of Abu Dhabi, with its own civil and commercial Regulations. ADGM will offer market participants a world-class legal system and regulatory regime
6. The land of the Global Market includes the entirety of Al Maryah Island (formerly Sowwah Island), comprising approximately 114 hectares in total land area. The majority of the Global Market is currently undeveloped, with several projects in various stages of development. The intention of ADGM is to make the balance of the Global Market property available to a wide range of market participants and for the range of uses expected of a world-class financial centre.

REAL PROPERTY REGULATIONS

7. Freehold (i.e., fee simple) ownership of the Global Market land will continue to be governed by the prevailing laws of the Emirate of Abu Dhabi, as they stand from time to time. All other interests in Global Market land, including leasehold interests, in easements and mortgages, would be governed by these Regulations.
8. Real property or real estate has traditionally been governed by the law of the situs. The Regulations carry forward this concept while reflecting the overall legal approach adopted for the Global Market. The Regulations thus recognize the supremacy of the law of the Emirate of Abu Dhabi relating to ownership and transfer of freehold interest in land and overlay a self-contained system for registration and regulation of interests in land. This common-law system recognizes various traditional estates in land such as leaseholds, easements, tenancies in common, joint tenancies and life estates, and is intended to be generally familiar to, and accepted by, real estate investors and their legal advisors from a broad variety of jurisdictions.

ISSUES FOR CONSIDERATION

Q1: SHOULD THE REGULATIONS PERTAINING TO REAL ESTATE EMBODY A "STAND ALONE" COMMON LAW SYSTEM OF REAL PROPERTY LAW?

9. The Real Property Regulations reflect a modified "torrens"-type real property registration regime. The Registration Bureau, already established by Article (11) of Law No. (4) of 2013 of the Emirate of Abu Dhabi, will, under the direction of the Registrar, be responsible for registering the various estates and interests in real property which are eligible for registration. A failure to register an instrument where registration is required does not render the instrument void as a contract between the parties thereto. The Registrar will issue certificates of title from time to time evidencing interests in real property.
10. We considered various alternative registration regimes, but believe that the system adopted will best facilitate transfers of interests and certainty of ownership of real property.

ISSUES FOR CONSIDERATION

Q2: WE WOULD LIKE YOUR VIEW WHETHER A MODIFIED "TORRENS"-TYPE REAL PROPERTY REGISTRATION REGIME SHOULD BE ADOPTED IN THE GLOBAL MARKET IN LIEU OF ANOTHER REGIME.

STRATA TITLE REGULATIONS

11. The Strata Title Regulations are designed to work in tandem with the Real Estate Regulations and to permit the stratification of real property interests (what would be referred to in some jurisdictions as condominium ownership) of a site.
12. The Strata Title Regulations also present a system for the establishment of strata developments by an original developer, construction of the strata development, sale of strata lots to individual lot owners (which together comprise a body corporate), and administration of the strata development through a Board of Managers appointed by the body corporate.

ISSUES FOR CONSIDERATION

Q3: WE WOULD LIKE YOUR VIEW WHETHER THE SYSTEM OF STRATA DEVELOPMENT SET FORTH IN THE STRATA TITLE REGULATIONS WILL BE SUITABLE FOR MARKET PARTICIPANTS.

Q4: WE WOULD LIKE YOUR VIEW WHETHER THE PROVISIONS FOR ADMINISTRATION OF A STRATA DEVELOPMENT BY A BODY CORPORATE ACTING PRINCIPALLY THROUGH A BOARD OF MANAGERS WILL BE SUITABLE FOR MARKET PARTICIPANTS.

ANNEX A: PROPOSED REAL PROPERTY REGULATIONS

ANNEX B PROPOSED STRATA TITLE REGULATIONS