



ABU DHABI GLOBAL MARKET COURTS
محاكم سوق أبوظبي العالمي

ADGM COURTS

PRACTICE DIRECTION 4

PARTICULAR CLAIMS OTHER THAN SMALL CLAIMS





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PRACTICE DIRECTION 4

PARTICULAR CLAIMS OTHER THAN SMALL CLAIMS

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This Practice Direction is to be read with, and subject to, the ADGM Court Procedure Rules 2016 and the Divisions and Jurisdiction (Court of First Instance) Rules 2015. Except as provided otherwise in this Practice Direction, terms have the meanings set out in the ADGM Court Procedure Rules 2016.

This Practice Direction must be read in conjunction with other Practice Directions including, in particular, **Practice Direction 2 – Making and Answering a Claim**.

A. EMPLOYMENT CLAIMS

- 4.1. A claimant claiming damages or seeking other relief in employment related matters must include the following details in the statement of case:
- (a) all documents which record any of the terms of employment between the claimant and the defendant, including letters of offer and acceptance of employment, contracts or agreements for employment and any variations to the terms during the period of employment; and
 - (b) the claimant's rate of remuneration prior to the commencement of the claim.

B. GROUP LITIGATION ORDERS

Procedures [r.63(2)]

- 4.2. If a claimant alleges that there are, or are likely to be, a number of claimants making similar claims which give rise to common or related issues of fact or law ("the GLO issues") the claimant may apply, before or after the commencement of a proceeding in the Court, for a Group Litigation Order ("a GLO").
- 4.3. The application for a GLO must be made by application notice.
- 4.4. The application notice must specify:
- (a) each issue of fact or law which the claimant alleges is a GLO issue;



- (b) each pending proceeding in the Court in which that GLO issue arises or is likely to arise;
- (c) the claimant's estimate of the number of persons who have made or are likely to make claims raising one or more of those GLO issues;
- (d) what steps the claimant will allege should be taken to identify which claims are to be managed as a group under the GLO; and
- (e) the terms on which a person may enter a claim on the group register to be managed as one of the group of claims managed under the GLO.

No default judgment [r.40(1)(e)]

4.5. A claimant whose claim is entered on the group register may not obtain a default judgment under Rule 39 without the permission of the Court.

C. CLAIMS FOR DAMAGES FOR PERSONAL INJURY

Additional matters to be stated in claim form [r.189]

4.6. A claimant claiming damages for personal injury must set out the following matters in the statement of case:

- (a) date of birth;
- (b) business, profession or occupation at the time of the injury for which he claims damages;
- (c) what amounts are claimed for past costs or expenses, including medical, hospital and like expenses;
- (d) whether the claimant claims any amount for past loss of income and, if so,
 - (i) the period of the loss and the amount claimed; and
 - (ii) the claimant's total income in the 12 months immediately preceding the injury for which damages are claimed, and the source and amount of each part of that income;
- (e) whether the claimant claims any amount for loss of future earning capacity and, if so,
 - (i) the annual earnings the claimant claims that the damages should be based on; and



- (ii) the discount rate that should be applied to yield a net present value of the alleged loss;
- (f) whether the claimant claims provisional damages; and
- (g) whether the claimant claims that part or all of the damages claimed should take the form of periodical payments.

Claims for provisional damages [r.186 and r.187]

- 4.7. In any case where a claimant claims provisional damages, the claimant must identify in the statement of case:
- (a) why section 35 of the Regulations applies;
 - (b) the disease or type of deterioration which the claimant claims the Court should assume, when assessing damages, that the claimant will not develop or suffer; and
 - (c) the period within which, or the date from which, the claimant claims that the Court should permit a subsequent application for damages to be made if the claimant develops that disease or suffers that type of deterioration.

Claims for damages in the form of periodical payments [r.188 and r.189]

- 4.8. In any case where a claimant claims damages in the form of periodical payments, the claimant must identify in the statement of case:
- (a) why section 51 of the Regulations applies; and
 - (b) why the claimant seeks an award of damages in the form of periodical payments.
- 4.9. The factors to which the Court shall have regard when deciding whether to make an award of damages in the form of periodical payments include:
- (a) the scale of the annual payments taking into account any deduction for contributory negligence;
 - (b) the form of award preferred by the claimant including:
 - (i) the reason for the claimant's preference;
 - (ii) the nature of any financial advice the claimant received when considering whether to claim damages by way of periodical payments; and



(iii) the form of award preferred by the defendant.

4.10. An order awarding damages in the form of periodical payments must state:

- (a) the annual amount awarded, how each payment is to be made during the year and at what intervals;
- (b) the amount awarded for future loss of earnings and other income;
- (c) the amount allowed for future care and medical costs and other recurring or capital costs;
- (d) that the claimant's annual future pecuniary losses, as assessed by the Court, are to be paid for the duration of the claimant's life, or such other period as the Court orders; and
- (e) that the amount of the payments shall vary annually by reference to a stated index unless the Court otherwise orders.

4.11. If an amount awarded for future loss of earnings and other income is to increase or decrease on a certain date, the order must also specify:

- (a) the date on which the increase or decrease is to take effect; and
- (b) the method by which the amount of the increase or decrease is to be calculated.

4.12. In deciding whether special circumstances make an assignment or change of periodical payments necessary, the Court must have regard to such of matters as are relevant to the particular case, bearing in mind the need to ensure that the claimant receives the fullest possible use of and benefit from the payments.

D. JUDICIAL REVIEW

Application for permission [r.218(2)] and content of claim form [r.219(2)]

4.13. An application for permission to bring a claim for judicial review is made by filing a claim form for judicial review in accordance with **Form CFI 4**.

4.14. The claim form is to be served in accordance with Rule 220(2).

4.15. The claim form must state, in numbered paragraphs:

- (a) what ADGM enactment, decision, action or failure to act the claimant challenges;



- (b) what interest the claimant has in the matter to which the application relates;
- (c) the grounds for the claimant's challenge;
- (d) where the claimant challenges the lawfulness of a decision, action or failure to act, what person or authority the claimant alleges made the decision, took the action or failed to act;
- (e) what other person or persons is or are interested in the matter to which the application relates;
- (f) what relief the claimant would seek from the Court;
- (g) where the claimant seeks to make a claim for damages, restitution or the recovery of any sum due, the grounds for that claim; and
- (h) the source, nature and extent of the financial resources available, or likely to be available, to the claimant to meet liabilities arising in connection with the application.

Acknowledgment of service [r.221]

- 4.16. An acknowledgement of service of a claim for judicial review must be in accordance with **Form CFI 7**.

Service of evidence [r.229]

- 4.17. Evidence on which the claimant seeks to rely, whether in support of his application for permission, or his claim if permission is given, must be served with the claim form.
- 4.18. Evidence on which a defendant seeks to rely, whether in opposition to the application for permission or the claim, must be served within 21 days after the defendant files and serves an acknowledgment of service.

Powers of Court [r.230]

- 4.19. The Court may decide, at a preliminary hearing, to refuse permission to bring a claim for judicial review if the Court considers that:
- (a) the claimant has no real prospect of succeeding in the claim for judicial review and there is no other compelling reason why the application for permission should be disposed of after a hearing;



- (b) it is highly likely that the outcome for the claimant would not have been substantially different if the conduct complained of had not occurred; or
- (c) the claimant is likely to be unable to meet an order for costs if the claim for judicial review is dismissed.

No default judgment [r.40(1)(e)]

4.20. A claimant for judicial review may not obtain a default judgment under Rule 39.

Obligations of disclosure of documents

4.21. Unless the Court otherwise orders, neither the claimant nor any defendant to a claim for judicial review need provide disclosure of documents.

E. APPLICATIONS UNDER AN ADGM ENACTMENT

4.22. ADGM Enactments, including Article 13(8) of *Abu Dhabi Law No. 4 of 2013* and the *Insolvency Regulations 2015*, provide for certain applications to be made to the Court.

4.23. An application of the kind referred to in paragraph 4.22 of this Practice Direction is to be made in accordance with any provision made by the relevant ADGM Enactment, but subject to any contrary provision made by an ADGM Enactment, may be made by filing a claim form in accordance with **Form CFI 1** or **Form CFI 3**.

4.24. Further proceedings in a claim of a kind referred to in paragraph 4.22 of this Practice Direction shall be in accordance with the provisions of the relevant ADGM Enactment or otherwise in accordance with the directions of the Court.

F. DERIVATIVE CLAIMS [r.59 and r.60]

Documents required to be served on the company

4.25. Rule 59(3) provides that a derivative claim is commenced by issuing a claim form. A claimant must use **Form CFI 6** when making a derivative claim. The company must be made a defendant to the claim.



- 4.26. In order to seek permission to continue the claim, as required under Rule 60(1), a claimant must file an application notice in accordance with **Form CFI 12** (“permission application”). The company must not be made a respondent to the permission application.
- 4.27. The permission application must be supported by the written evidence that the claimant relies upon to seek the Courts’ permission to continue with the claim.
- 4.28. The claimant must notify the company of the claim and the permission application by serving a copy of the following documents upon the company at least 14 days before the date allocated for the hearing of the permission application:
- (a) the claim form;
 - (b) the permission application; and
 - (c) the written evidence in support of the permission application.
- 4.29. A permission application will ordinarily be decided on the papers without further argument or submission.

G. ARBITRATION

Enforcement of an award [r.232 and r.233]

- 4.30. An application for enforcement of an award must be supported by written evidence exhibiting at least the following documents:
- (a) a copy of the executed arbitration agreement; and
 - (b) a copy of the award which it is sought to have enforced.
- 4.31. If an order giving permission to enforce an award is to be served within the jurisdiction, it must be served in the same way a claim form may be served under Rule 17.
- 4.32. If an order giving permission to enforce an award is to be served out of the jurisdiction, it must be served in the same way an arbitration claim form would be served out of the jurisdiction.

Privacy of arbitration claims [r.231(5)]

- 4.33. All arbitration claims are to be heard in closed court unless the Court orders otherwise.



Interest on awards [r.235]

- 4.34. An applicant seeking to enforce an award of interest the whole or part of which relates to a period after the date of the award must file a statement setting out the following particulars:
- (a) whether simple or compound interest was awarded;
 - (b) where rests were provided for, specify them;
 - (c) the rate or rates of interest claimed;
 - (d) the period or periods for which each rate of interest is claimed; and
 - (e) why that rate or those rates should be allowed.

H. RECEIVERS

Application for appointment of receiver [r.238(2)]

- 4.35. An application for the appointment of a receiver must state:
- (a) who is to be appointed receiver;
 - (b) what property the receiver is to take into possession or under control;
 - (c) for what period the receiver is to act; and
 - (d) what powers, if any, the receiver is to have to deal with or dispose of property.

Remuneration of receiver [r.243(4)]

- 4.36. The remuneration of a receiver shall be fixed at such sum as is reasonable and proportionate in all the circumstances taking into account the nature, extent and complexity of the receiver's duties.

No default judgment [r.40(1)(e)]

- 4.37. A claimant for appointment of a receiver may not obtain a default judgment under Rule 39.



I. ENFORCEMENT

Methods of enforcing judgment or order for payment of money [r.246]

4.38. A judgment or order for the payment of money (including a judgment or order for the payment of costs) may be enforced by any one or more of the following methods:

- (a) taking control of goods;
- (b) attachment of earnings; and/or
- (c) obtaining a third party debt order.

Enforcement of decisions of bodies other than the Court [r.250 and r.251]

4.39. A party seeking to enforce a decision of a court, tribunal, panel, body or person other than the Court must commence that action by filing an enforcement application in accordance with **Form CFI 25**.

4.40. An enforcement application must state the name and address of the person against whom it is sought to enforce the decision and the amount that remains unpaid. A copy of the decision must also be filed with the enforcement application.

4.41. Where an ADGM enactment provides that a decision may be enforced in the same manner as an order of the Court of First Instance if it is registered, the person seeking such enforcement must file an enforcement application in accordance with **Form CFI 25** which must state the following matters:

- (a) the statutory provision under which the enforcement application is made;
- (b) the name and address of the person against whom it is sought to enforce the decision; and
- (c) if the decision requires that person to pay a sum of money, the amount that remains unpaid.

4.42. Paragraphs 4.39 to 4.41 apply *mutatis mutandis* to the enforcement of a compromise.

Application to obtain information from judgment debtor [r.253(3) and r.256]



- 4.43. An application to obtain information from a judgment debtor must be made by application notice filed in the proceeding in which the relevant judgment or order was obtained.
- 4.44. An application to obtain information from a judgment debtor must state:
- (a) the judgment or order to which the application relates;
 - (b) the amount of the judgment debt (including any interest which has accrued) which the judgment creditor alleges to be outstanding; and
 - (c) the information which the judgment creditor seeks from the judgment debtor.
- 4.45. A party who obtains an order that a person attend Court must, unless the Court otherwise orders, serve the order on that person by personal service in accordance with Rule 16 and must, no later than 7 days before the date on which the person is required to attend Court, file proof of service of the order.

Judgment creditor's affidavit [r.258(1)]

- 4.46. The affidavit or affidavits required to be filed under Rule 258(1) must:
- (a) provide details of how and when the order was served;
 - (b) state either that the person ordered to attend the Court has not requested payment of his travelling expenses or the judgment creditor has paid a sum in accordance with such a request; and
 - (c) stating how much of the judgment debt remains unpaid.

Application for third party debt order [r.261]

- 4.47. An application for a third party debt order must be made by application notice filed in the proceeding in which the relevant judgment or order was obtained.
- 4.48. An application for a third party debt order must state:
- (a) the name and address of the judgment debtor;
 - (b) the judgment or order to which the application relates;
 - (c) the amount of the judgment debt (including any interest which has accrued) which the judgment creditor alleges to be outstanding;
 - (d) if the judgment debt is payable by instalments, the amount of any instalments which have fallen due and remain unpaid;



- (e) the name and address of the third party, and if the third party is a bank, the branch and account number, if known;
- (f) the nature and extent of the debt which the judgment creditor alleges that the third party owes to the judgment debtor; and
- (g) the judgment creditor's estimate of his costs of the application for a third party debt order.

Interim third party debt order [r.262]

4.49. The amount of money specified in an interim third party debt order as the amount which the third party must retain is to be calculated as the sum of:

- (a) the amount of the judgment debt outstanding at the date of the order (including interest accrued to that date);
- (b) an amount equal to a further seven day's interest on the judgment debt; and
- (c) the estimate made by the Judge or Court officer making the interim third party debt order of the amount of the judgment creditor's costs of the application.

Service of interim third party debt order and associated documents [r.263]

4.50. Within 3 days of the making of an interim third party debt order the judgment creditor must serve on the third party and the judgment debtor a copy of the interim third party order together with a copy of the application notice and any documents filed in support of the application.

Obligations of third party served with interim order [r.264]

4.51. Within 7 days of being served with an interim third party debt order, the third party must file and serve on the judgment creditor a written statement disclosing:

- (a) every account which the judgment debtor holds with the third party, stating the balance of each account;
- (b) whether the third party claims not to owe any money to the judgment debtor;
- (c) whether the third party claims to owe less than the amount specified in the interim order; and



- (d) whether the third party claims to be unable to comply with the order and, if so, for what reason.

Service of evidence on objection to making final order [r.266(3)]

- 4.52. Written evidence to be relied on under Rule 266(1) by a judgment debtor or by a third party must be filed and served on the judgment creditor and on the judgment debtor or third party (as the case requires) within 14 days of the service of an interim third party debt order.
- 4.53. Written evidence to be relied on under Rule 266(2) by a judgment creditor must be filed and served on the judgment debtor and on the third party within 7 days of the third party serving notice in accordance with Rule 264(3).

Application for money in court [r.268(1)]

- 4.54. If money is standing to the credit of a judgment debtor in Court, a judgment creditor may apply, by application notice filed in the proceeding in which the creditor obtained the judgment or order on which he relies, and served on the judgment debtor, for an order that the money in Court, or so much of it as is sufficient to satisfy the judgment or order and the costs of the application, be paid to him.

J. CHARGING ORDERS, STOP ORDERS AND STOP NOTICES

Application for charging order [r.270]

- 4.55. An application for a charging order must be made by application notice in accordance with **Form CFI 12** and be verified by a statement of truth.
- 4.56. An application for a charging order must state:
 - (a) the name and address of the judgment debtor;
 - (b) the judgment or order of the Court which the applicant seeks to enforce by charging order;
 - (c) the amount of money due or to become due under that judgment or order payment of which the applicant seeks to secure by charging order;
 - (d) if the judgment debt is payable by instalments, the amount of any instalments which have fallen due and remain unpaid;
 - (e) whether the judgment creditor knows of the existence of any other creditors of the judgment debtor, their names (if known);



- (f) precisely what asset or assets it is sought to charge; and
- (g) the nature of the judgment debtor's interest in the asset (or in each asset) which the applicant alleges to be sufficient to enable a charging order to be made in respect of that asset.

Service of interim charging order and associated documents [r.272]

- 4.57. Within 3 days of the making of an interim charging order the judgment creditor must serve on the judgment debtor a copy of the order together with a copy of the application notice and all documents filed in support of the application.

Amount of liability for breach of interim order [r.273(3)]

- 4.58. A person served with an interim charging order relating to securities who, without the permission of the Court, permits any transfer of any of the securities will be liable to pay to the judgment creditor such amount as is just and equitable having regard, *inter alia*, to the fair market value of those securities.
- 4.59. A person served with an interim charging order relating to securities who, without the permission of the Court, pays any dividend, interest or redemption payment relating to them will be liable to pay to the judgment creditor an amount equal to the amount of that dividend, interest or redemption payment.

Application to object to making final charging order [r.275(1)]

- 4.60. Any person who objects to the Court making a final charging order may apply to the Court by filing an application notice stating the ground or grounds of objection.
- 4.61. An application notice filed in accordance with paragraph 4.60 of this Practice Direction must be served, together with the material on which the objector relies in support of his objection, on the judgment creditor, the judgment debtor and each person served with the interim charging order.

Procedure for enforcement of charging order by sale [r.276(2)]

- 4.62. A judgment creditor seeking an order for the sale of property to enforce a charging order must use the Rule 30 procedure and file a claim form in accordance with **Form CFI 3**.
- 4.63. The judgment creditor must comply with Rule 32 regarding the filing and service of written evidence required under the Rule 30 procedure.
- 4.64. The written evidence filed in support of the claim must:



- (a) identify the charging order and the property to be sold;
- (b) state the amount in respect of which the charge was imposed and the amount due at the date of the issue of the claim;
- (c) verify, so far as known, the debtor's title to the property charged;
- (d) state, so far as the claimant is able to identify: the names and addresses of any other creditors who have a prior charge or other security over the property; and the amount owed to each creditor;
- (e) give an estimate of the price which would be obtained on sale of the property;
- (f) if the claim relates to land, give details of every person who to the best of the claimant's knowledge is in possession of the property.

Charging order against the property of a partnership

4.65. For the purpose of paragraph 4.56 of this Practice Direction (service of interim charging order) the specified documents must in the case of a judgment debtor that is a partnership be served on:

- (a) the member of the partnership within ADGM or the Emirate;
- (b) a person authorised by a partner; or
- (c) some other person having control or management of the partnership business.

4.66. Where an order requires a partnership to appear before the Court, it will be sufficient for a partner to appear before the Court.

Application for a stop order [r.278]

4.67. An application for a stop order must be made by application notice.

4.68. An application for a stop order must:

- (a) identify the funds in court or the securities in respect of which a stop order is sought;
- (b) state whether the applicant claims as a person having a mortgage or charge on the interest of any person in the funds or as a person to whom that interest has been assigned or as a person who is a judgment creditor of the person entitled to that interest; and



- (c) whether the applicant claims to be a person beneficially entitled to the securities.

Content of a stop order relating to securities [r.280]

4.69. A stop order relating to securities may prohibit all or any of the following steps:

- (a) the registration of any transfer of the securities;
- (b) the making of any payment by way of dividend, interest or otherwise in respect of the securities.

Evidence on request for stop notice [r.282(2)]

4.70. A request for a stop notice must be accompanied by written evidence setting out the following matters:

- (a) the securities in respect of which the stop notice is sought; and
- (b) the person or persons upon whom it is proposed to serve the stop notice.

K. CONTEMPT

Application for penalty

4.71. The application notice making a penalty application under Rules 288 and 290 must state:

- (a) what judgment, order or undertaking it is alleged that the respondent has disobeyed;
- (b) when and how a copy of the judgment or order, or judgment or order recording the undertaking, was served on the person alleged to have disobeyed the judgment, order or undertaking or, if the judgment or order was not served, when the Court dispensed with service; and
- (c) when and how the respondent is alleged to have disobeyed that judgment, order or undertaking.

Service of application for penalty [r.288 and r.290]

4.72. A penalty application made under Rules 288 and 290 must be accompanied by the following statements and documents:



- (a) the claimant must identify the acts matters and circumstances alleged to constitute an interference with the due administration of justice and identify what proceedings in a court, panel or tribunal the claimant alleges have been, or may have been, affected by that conduct; and
- (b) any document which the claimant proposes to tender in evidence at the trial of the application.

4.73. A penalty application made under Rule 290 must be served personally on the respondent unless the Court gives permission to serve it in some other manner.

No default judgment [r 40(1)(e)]

4.74. A claimant for a penalty under Rule 290 may not obtain a default judgment under Rule 39.

L. RECIPROCAL RECOGNITION AND ENFORCEMENT OF JUDGMENTS OF OTHER JURISDICTIONS

4.75. The following directions apply unless otherwise provided for in an applicable treaty, agreement, memorandum of understanding or memorandum of guidance (whether or not any such memorandum be of binding effect) with the relevant jurisdiction.

Applications for registration [r.298]

4.76. An application for registration of a judgment of the judicial authorities of the Emirate and the Emirate Members of the United Arab Emirates is made by filing a claim form in accordance with **Form CFI 29**.

4.77. An application for registration of a recognised court's judgment (other than a judgment of the judicial authorities of the Emirate and the Emirate Members of the United Arab Emirates) is made by filing a claim form in accordance with **Form CFI 27**, together with an affidavit in support of the application setting out the following information:

- (a) the name of the judgment creditor and his address for service within ADGM;
- (b) the name of the judgment debtor and his address or place of business, if known;
- (c) confirmation that the judgment is a money judgment;
- (d) the amount in respect of which the judgment remains unsatisfied;



- (e) the grounds on which the judgment creditor is entitled to enforce the judgment;
- (f) whether the judgment can be enforced by execution in the country where it was given;
- (g) where the judgment contains different provisions, some but not all of which can be registered for enforcement, details of those provisions in respect of which it is sought to register the judgment;
- (h) where interest is recoverable under the State in which the judgment was given:
 - (i) the law of that State under which interest has become due under the judgment;
 - (ii) the amount of interest which has accrued up to the date of the application; and
 - (iii) the rate of interest, the date from which it is recoverable and the date on which it ceases to accrue; and
- (i) any matter which, if the judgment debtor was represented, the judgment debtor would wish the Court to be aware of. This includes any matters which might tend to undermine the judgment creditor's application.

Security for costs [r.299]

4.78. Rule 299 provides that a judgment creditor may apply for security for costs as if the judgment creditor was a claimant. Practice Direction 7.16 sets out certain circumstances in which the Court may conclude that it would be just to order security for costs to an applicant.

M. ENFORCEMENT OF THE COURTS' JUDGMENTS

4.79. The following directions apply unless otherwise provided for in an applicable treaty, agreement, memorandum of understanding or memorandum of guidance (whether or not such memorandum be of binding effect) with the relevant jurisdiction.

4.80. An application by a judgment creditor seeking to enforce a judgment of the Court by the Court's deputisation to the judicial authorities of the Emirate must be made in accordance with **Form CFI 30**.¹

¹ Amended 4 April 2018.



Applications for certified copies of judgments [r.302]

- 4.81. In this section “judgment” includes decisions, orders, or arbitral awards that have been recognised by the Court.
- 4.82. An application for a certified copy of an ADGM Courts’ judgment must be made in accordance with **Form CFI 24** and must be supported by the following:
- (a) a copy of the judgment which the applicant seeks to enforce;
 - (b) where the applicant seeks to enforce an arbitral award, a copy of any order of the Court recognising the award;
 - (c) a draft of any execution letter which is sought;
 - (d) translations of the documents referred to in (a), (b) and (c) of this paragraph into the official language of the court or entity through which enforcement is to be carried out;
 - (e) a statement that the judgment is final and executory and the grounds on which that is said to be the case;
 - (f) if interest is claimed on the judgment debt, a statement setting out details of:
 - (i) the amount of interest claimed and the sum on which it is claimed;
 - (ii) the date range over which interest has accrued;
 - (iii) the rate, or if applicable, rates of interest applied during the period in which interest has accrued.