

JUDGMENT SUMMARY

Neutral Citation	[2022] ADGMCFI 0002
Case Number	ADGMCFI-2020-020
Name of Case	NMC Healthcare LTD and associated companies
Judge	Justice Sir Andrew Smith
Date Issued	1 April 2022
Catchwords	Deeds of Company Arrangement. Exercise of discretion to grant declarations to facilitate the recognition and enforcement of the DOCAs in other jurisdictions.
Cases Cited	Padden v Arbuthnot Pensions & Investments Ltd [2004] EWCA Civ 582 Financial Services Authority v Rourke [2001] EWHC 704 (Ch.) Egeneonu v Egeneonu [2017] EWHC 43 (Fam.)
Legislation and Authorities Cited	ADGM Insolvency Regulations 2015 – Section 95(7) ADGM Courts, Civil Evidence, Judgments, Enforcement and Judicial Appointments Regulations 2015 – Section 16(2)(b) Abu Dhabi Law No. 4 of 2013, as amended by Abu Dhabi Law No. 12 of 2020 (the “ADGM Founding Law”) – Article 13(7) ADGM Divisions and Jurisdiction (Court of First Instance) Rules 2015 – Rule 2(2)
Executive Summary	This judgment considered an application for declarations concerning Deeds of Company Arrangement (“ DOCAs ”) for 35 companies related to NMC Healthcare LTD. The Joint Administrators sought these declarations to facilitate recognition and enforcement of the DOCAs in other jurisdictions, confirming they were executed according to the ADGM Insolvency Regulations 2015. The judgment explains the Court’s jurisdiction to grant such declarations and confirms that, despite no active dispute, the declarations serve a useful purpose in assisting other courts that may consider the DOCAs.
Overall Summary	Background This Abu Dhabi Global Market (“ ADGM ”) Court of First Instance (Commercial & Civil Division) judgment concerns an application made by the Joint Administrators (the “ JAs ”) of 35 companies, including NMC Healthcare LTD Healthcare, all registered in the ADGM. These companies were placed into administration by a Court Order on 27 September 2021. The companies entered into Deeds of Company Arrangement (“ DOCAs ”) on 21 September 2021, with amended DOCAs for four companies on 27

	<p>October 2021. Restructuring arrangements were implemented under the DOCAs on 25 March 2022.</p> <p>The JAs applied to the Court for declarations confirming that the DOCAs were duly executed in accordance with the applicable ADGM Insolvency Regulations 2015 (the "IR"). The primary purpose of this application was to facilitate the recognition and enforcement of the DOCAs in other jurisdictions. The JAs were not seeking to alter the effect of the DOCAs or impact the rights of creditors and members of the companies to challenge the JAs' conduct under the IR.</p> <p>Analysis and Conclusion</p> <p>The Court confirmed the Court's jurisdiction to make the declarations under Article 13(7) of Abu Dhabi Law No. 4 of 2013, as amended by Abu Dhabi Law No. 12 of 2020, which covers claims involving ADGM establishments and contracts performed in the ADGM. The decision to grant declarations is a discretionary power. Although there was no real and present dispute before the Court in this case, the Court concluded that granting the declarations would serve a useful purpose.</p> <p>The Court found it proper to make the declarations to facilitate the determination of potential disputes in other courts. Several factors supported this decision: (i) the administration orders were made under the IR; (ii) the Court has been responsible for supervising the administration; (iii) the DOCAs are expressly governed by ADGM law; and (iv) the DOCAs stipulate that ADGM Courts have exclusive jurisdiction over disputes, including validity.</p> <p>The Court emphasised that the declarations are intended to assist other courts and authorities by setting out the ADGM Court's understanding of the standing and effect of the DOCAs, but are not intended to bind those other courts or detract from their jurisdiction.</p> <p>Satisfied that the declarations sought were justified on their merits and would faithfully reflect the effect and meaning of the DOCAs, the Court granted the application.</p>
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This statement is not intended to be a substitute for the reasons of the Court or to be used in any later consideration of the Court's reasons.