

## JUDGMENT SUMMARY

<b>Neutral Citation</b>	[2024] ADGMCFI 0020
<b>Case Numbers</b>	ADGMCFI-2020-020; ADGMCFI-2022-111 and ADGMCFI-2022-299
<b>Name of Cases</b>	NMC Healthcare LTD and associated companies Abu Dhabi Commercial Bank PJSC v Prasanth Manghat NMC Healthcare Ltd (In Administration) (Subject to a Deed of Company Arrangement) and Others v Bavaguthu Raghuram Shetty and Others
<b>Judge</b>	Justice Sir Nicholas Patten
<b>Date Issued</b>	15 December 2024
<b>Catchwords</b>	Extended standard disclosure. Extension of deadlines for extended standard disclosure. Train of inquiry disclosure. Differences between ADGM CPR and English CPR for train of inquiry disclosure.
<b>Cases Cited</b>	Berezovsky v Abramovich [2010] EWHC 2010 State of Qatar v Bank Havilland SA [2020] EWHC 1248 (Comm) Ras Al Khaimah Investment Authority v Azima [2022] EWHC 1295 (Ch)
<b>Legislation and Authorities Cited</b>	ADGM Court Procedure Rules 2016 – Rules 8, 86 and 195 English Court Procedure Rules 1998 UAE Federal Decree Law No. 14 of 2018 Concerning the Central Bank and the Regulation of Financial Institutions and Activities – Article 120 English Practice Direction 57AD – Paragraphs 6.4 and 8.3; Model D Disclosure and Model E Disclosure
<b>Executive Summary</b>	This judgment addresses several case management issues within ongoing litigation. The judgment: rules on extending deadlines for standard disclosure, sets timelines for further disclosure requests and expert evidence applications, and orders ‘train of inquiry’ disclosure. Additionally, it addresses the format of disclosure statements and schedules a future case management conference.
<b>Overall Summary</b>	<b>Background</b> This Abu Dhabi Global Market (“ADGM”) Court of First Instance (Commercial & Civil Division) judgment addresses various applications heard at a Case Management Conference (CMC) on 11 December 2024

	<p>(the “<b>December CMC</b>”). This judgment concerns the ongoing legal proceedings between: (i) Abu Dhabi Commercial Bank PJSC (“<b>ADCB</b>”) and Prasanth Manghat; and (ii) NMC Healthcare Ltd (in administration) &amp; Others (the “<b>NMC Claimants</b>”) and Bavaguthu Raghuram Shetty &amp; Others.</p> <p>Previously, at the first CMC on 14 February 2024 (the “<b>First CMC</b>”), Justice Sir Andrew Smith ordered extended standard disclosure, similar to Model D disclosure under the English CPR, and set a deadline of 25 October 2024 for disclosure. The provisions of the ADGM Court Procedure Rules 2016 (the “<b>ADGM CPR</b>”) regarding standard disclosure were disapplied. Extensions of time for disclosure by the Bank of Baroda (“<b>Baroda</b>”) and Dr Shetty had been granted, with a deadline of 20 December 2024.</p> <p><b><i>Applications Considered</i></b></p> <p>The Court considered several applications at the December CMC, including:</p> <ul style="list-style-type: none"> <li>• Baroda's application for a further extension of time until 31 January 2025 for extended standard disclosure (the “<b>Extension Application</b>”);</li> <li>• the NMC Claimants' application to restore their original application of 4 June 2024 (the “<b>4 June Application</b>”) seeking train of inquiry disclosure in relation to what are now disclosure issues 55, 63, 64, 65, 66 and 68 in the List of Disclosure Issues (“<b>LOID</b>”) dated 8 July 2024;</li> <li>• the NMC Claimants' new application for train of inquiry disclosure in relation to issue 55 of the LOID for the periods 1 to 31 May and 17 August to 16 September 2014 (the “<b>Travellex Application</b>”); and</li> <li>• ADCB's application for relief under Article 120 of the UAE Federal Decree Law No. 14 of 2018 in respect of the disclosure of a further 30 documents (the “<b>Article 120 Application</b>”).</li> </ul> <p><b><i>Analysis</i></b></p> <p><b><i>Extension of Time for Baroda's Disclosure</i></b></p> <p>Baroda sought an extension of time until 31 January 2025 to complete its extended standard disclosure due to outstanding: data from Baroda Connect, hard copy documents from its London branch, hard copy documents from its Corporate Office in India, OneDrive data, data from iPads and laptops of former employees, and email data on mobile devices. While acknowledging the progress made by Baroda, the Court considered the reasons for the remaining delays and the NMC Claimants' objections. The Court granted an extension until 20 January 2025 for Baroda to complete its standard disclosure. The Court reasoned that certain categories of documents should be available sooner, and the uncertainty surrounding data on former employees' devices might not warrant the full extension sought. The Court did not consider the material in Oman and the Central Bank of the UAE system as justification for the extension, as Baroda did not suggest they would be available even by 31 January 2025.</p> <p><b><i>Train of Inquiry Disclosure Applications</i></b></p>
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	<ul style="list-style-type: none"> <li> <p><b>The 4 June Application:</b> This Application sought train of inquiry disclosure regarding Baroda's knowledge of failures in "KYC" and 'AML' procedures in early 2019, and its knowledge of senior NMC Group employees providing false audit information. The Court noted that Justice Sir Andrew Smith had previously given liberty to restore this application following extended standard disclosure. The Court granted the 4 June Application. It considered this an exceptional case due to the seriousness of the allegations against Baroda (knowledge of NMC's deceit and silence in exchange for early repayment of NMC's liabilities) and the likelihood that relevant communications were 'off-line' and might not be captured by standard disclosure. The Application was deemed focused on specific issues and time periods. The train of inquiry disclosure pursuant to this Application is to be given by 25 February 2025.</p> </li> <li> <p><b>Travelex Application:</b> This Application sought train of inquiry disclosure related to LOID 55 for specific periods in 2014, concerning payments made from NMC Group accounts to enable Dr Shetty's acquisition of Travelex. The Court also granted the Travelex Application for similar reasons: the focused nature of the issue and time frame, the nature of the allegation (failure to carry out proper KYC/AML checks), and the potential unavailability of primary documentation. This train of inquiry disclosure is also to be given by 25 February 2025. The Court acknowledged that there is no express provision for train of inquiry disclosure in the ADGM CPR, but noted that the previous order made at the First CMC displaced Rule 86 of the ADGM CPR in favour of a form of extended standard disclosure which equates to Model D of the English, and none of the parties contested the Court's jurisdiction to order it. The Court referenced English cases: <i>Berezovsky v Abramovich</i> [2010] EWHC 2010, <i>State of Qatar v Bank Havilland SA</i> [2020] EWHC 1248 (Comm) and <i>Ras Al Khaimah Investment Authority v Azima</i> [2022] EWHC 1295 (Ch), which establish that Model E disclosure (train of inquiry) is ordered only in exceptional cases, often involving allegations of fraud or conspiracy where primary documents might be suppressed or taken off-line.</p> </li> </ul> <p><b>Article 120 Application by ADCB</b></p> <p>ADCB sought disclosure of further loan documents relating to Dr Shetty and bank documents concerning a development project involving Dr Shetty and Mr Almuhairei. Dr Shetty consented to the Article 120 Application, but Mr Almuhairei did not respond. The Court granted the Article 120 Application, holding that disclosure of the documents would be in the interests of justice and ordering the disclosure to be subject to certain restrictions on the use of the documents to protect Mr Almuhairei's confidential information.</p> <p><b>Consequential Deadlines</b></p> <p>The judgment also set new deadlines:</p> <ul style="list-style-type: none"> <li>all applications for further or specific disclosure in the JA Claim (NMC Claimants v Shetty &amp; Others) are to be made by 8.00 pm GST on 25 April 2025;</li> </ul>
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	<ul style="list-style-type: none"> <li>• all applications for further or specific disclosure in the ADCB Claim (ADCB v Manghat) are to be made by 8.00 pm GST on 28 February 2025;</li> <li>• all applications for permission to adduce expert evidence in relation to the issues identified in paragraph 5 of the 19 September 2024 Order are to be made by 8.00 pm GST on 28 March 2025; and</li> <li>• the Claimants in both the JA Claim and the ADCB Claim shall file applications regarding whether UAE law issues should be decided by submissions or expert evidence by 14 February 2025. Evidence in response to these applications shall be filed by 21 February 2025, and any reply evidence by 28 February 2025. The hearing for these applications will be listed for the first convenient date after 8 March 2025, with skeleton arguments due two days prior.</li> </ul> <p>A further case management conference is to be held before 25 February 2025.</p> <p><b>Disclosure Statements</b></p> <p>The Court agreed that disclosure statements should refer to ‘control’ rather than ‘possession’ and should include the contents mentioned in the skeleton arguments of the NMC Claimants (para. 157) and ADCB (para. 19). Mr Manghat was ordered to serve his disclosure statement in this form by 18 December 2024.</p> <p><b>Costs</b></p> <p>The NMC Claimants sought adverse costs orders against Baroda and Dr Shetty, which the Court declined to make. The costs of the 8 November 2024 CMC, the December CMC and all applications heard will be costs in the case.</p> <p><b>Conclusion</b></p> <p>The Court requested the parties to provide an agreed form of order reflecting the judgment, including the provision for a further CMC in February 2025.</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.***