

JUDGMENT SUMMARY

Neutral Citation	[2025] ADGMCFI 0029
Case Numbers	ADGMCFI-2020-020 and ADGMCFI-2022-299
Name of Case	NMC Healthcare LTD (in administration) (subject to a deed of company arrangement) & Others v Shetty & Others
Judge	Justice Sir Andrew Smith
Date Issued	26 November 2025
Catchwords	Set Aside Order. Federal Decree-Law No. 10 of 2025 on Anti-Money Laundering, Counter-Terrorism Financing and Counter-Proliferation Financing. Disclosure “permitted by law” (“ <i>al musarrah bih qanounan</i> ”). Permission to disclose confidential documents. Scope of confidentiality obligations.
Cases Cited	<p>NMC Healthcare Ltd (in administration) and ors v Dubai Islamic Bank PJSC and ors [2023] ADGMCFI 0013</p> <p>NMC Healthcare Ltd (in administration) and ors v Dubai Islamic Bank PJSC and ors [2023] ADGMCFI 0006</p> <p>Cairns and ors v Neopharma LLC and ors [2023] ADGMCFI 0022</p> <p>NMC Healthcare Ltd (in administration) (subject to a deed of company arrangement) and ors v Shetty and ors [2024] ADGMCFI 0016</p> <p>NMC Healthcare Ltd (in administration) and ors v Shetty and ors [2025] ADGMCFI 0007</p> <p>Federal Supreme Court Case No 305/2014</p> <p>Abu Dhabi Court of Cassation Case No 295/2017</p> <p>Advent Capital Plc v GN Ellinas Imports-Exports Ltd & Anor [2005] EWHC 1242 (Comm)</p> <p>Sans Souci Ltd v VRL Services Ltd [2012] UKPC 6</p>
Legislation and Authorities Cited	<p>Federal Law No. 10 of 1980 on the Central Bank, the Monetary System and Organisation of Banking – article 94</p> <p>Federal Law No. 5 of 1985 Concerning the Issuance of the Civil Transactions Law of the United Arab Emirates (UAE Civil Code) – articles 30 and 262</p> <p>Federal Law No. 4 of 2002 Regarding the Criminalisation of Money Laundering</p>

	<p>Federal Law No. 8 of 2004 on Financial Free Zones – article 3(1)</p> <p>Federal Law No. 12 of 2014 on the Regulation of the Audit Profession – article 12(1)</p> <p>Federal Decree-Law No. 14 of 2018 Concerning the Central Bank and the Regulation of Financial Institutions and Activities – article 120(1)</p> <p>Federal Decree-Law No. 20 of 2018 on Anti-Money Laundering, Combating the Financing of Terrorism and Financing of Illegal Terrorist Organisations (as amended) – articles 1, 9, 15, 17, 25 and 34(2)</p> <p>Federal Decree-Law No. 31 of 2021 Promulgating the Crimes and Penalties Law (UAE Penal Code) – article 432</p> <p>Federal Decree-Law No. 34 of 2021 Concerning Countering Rumours and Cybercrimes – article 44</p> <p>Federal Decree-Law No. 45 of 2021 Concerning the Protection of Personal Data – article 8</p> <p>Federal Decree-Law No. 6 of 2025 Regarding the Central Bank, Regulation of Financial Institutions and Activities, and Insurance Business – article 26(3)</p> <p>Federal Decree-Law No. 10 of 2025 on Anti-Money Laundering, Counter-Terrorism Financing and Counter-Proliferation Financing – articles 11, 18, 21, 24 and 29</p> <p>UAE Constitution – articles 54(4), 94 and 113</p> <p>Dubai Law No. 9 of 2004 Concerning the DIFC – article 4</p> <p>Abu Dhabi Law No. 4 of 2013 Concerning the ADGM (the ADGM Founding Law) – article 3</p> <p>UAE Central Bank Circular No. 24/2000 Concerning the Regulation Concerning Procedures for Anti-Money Laundering</p> <p>Cabinet Resolution No. 10 of 2019 – article 17(1)</p> <p>ADGM Court Procedure Rules 2016 – rule 8(5)</p> <p>ADGM Insolvency Regulations 2022 – section 256</p> <p>The Civil Procedure Rules 1998 (UK)</p> <p>Halsbury’s Laws of England 5th Ed Vol 96 (2024) – para. 682</p> <p>Farouqi’s Law Dictionary</p> <p>Almaany’s English Arabic Dictionary</p> <p>Soliman Al-Naseri, Introduction to Legal Sciences, Almaktab Algami’e Alhadth (2010)</p> <p>Mohamedeen Abd El-Kader, Introduction to the Study of Law, Book 1, Dar Alnahda Alarabia (2013)</p> <p>Adnan Al Sarhan et al., Introduction to the Study of Law – Theory of Law and Theory of Rights (2013)</p>
Executive Summary	<p>This Abu Dhabi Global Market (“ADGM”) Court of First Instance (Commercial & Civil Division) Judgment considered three applications concerning the disclosure of sensitive financial crime documents in</p>

	proceedings brought by NMC Healthcare Ltd (in administration) and others against Defendants including the Bank of Baroda (“ Baroda ”).
Overall Summary	<p>Background</p> <p>The Claimants filed a Set Aside Application seeking to set aside a previous Order of the Court (the “STR Order”), which prohibited Baroda from disclosing Suspicious Transaction Reports (“STRs”). The Claimants also filed a Specific Disclosure Application against Baroda for the disclosure of “Internal Reports” (being internal suspicious activity or transaction reporting forms, memoranda, or other internal compliance reports prepared pursuant to Baroda’s UAE KYC/AML Policy) and “No-STR Decisions” (being any contemporaneous record, note, or communication recording the reasons for, or outcome of, a decision by the CCO/MLRO or AMLRO not to file an external STR following an Internal Report). Baroda responded with a Cross-Application, seeking <i>inter alia</i> to amend the STR Order to specifically protect from disclosure “<i>Internal Reports</i>” that led to an STR (the “Relevant Internal Reports”).</p> <p>Analysis</p> <p><i>The Claimants’ Set Aside Application and the 2025 AML Law</i></p> <p>The need to set aside the STR Order arose because the original ruling prohibiting STR disclosure was based on the former Federal Decree-Law No. 20 of 2018 on Anti-Money Laundering (the “2018 AML Law”). Baroda accepted that the repeal of the 2018 AML Law by the Federal Decree-Law No. 10 of 2025 (the “2025 AML Law”) constituted a material change in circumstances.</p> <p>The key dispute centred on the interpretation of Article 24 of the 2025 AML Law, which maintains the confidentiality of suspicious transaction information but adds a “Further Exception” allowing disclosure in “<i>other situations permitted by law</i>” (“<i>al musarrah biha qanounan</i>”).</p> <p>Baroda argued that “<i>qanounan</i>” had a narrow meaning, referring only to laws enacted by the legislative body, and did not include Court orders. The Claimants successfully contended that, depending on its context, “<i>qanoun</i>” may bear a broader meaning covering not only primary legislation but also delegated legislation and Court orders.</p> <p>The Court accepted the Claimants’ argument, concluding that the Further Exception means that if a person discloses STRs with the Court’s permission, then they do not act in breach of the 2025 AML Law. The introduction of the Further Exception was likely intended to apply within Financial Free Zones like the ADGM, where litigation procedures are based on English Courts, allowing the judiciary to balance public interest in confidentiality with the fair disposal of cases.</p> <p>However, the Court cautioned that when the Court has before it an application for disclosure, it will need to weigh carefully the policy manifested in the 2025 AML Law that the confidential nature of reports to the Financial Information Unit (“FIU”) (established at the Central Bank, to</p>

	<p>which all STRs were to be sent by Financial Institutions and other specified entities) should be protected, and it will not make a disclosure order or give permission for disclosure without satisfying itself both that there is a realistic prospect that disclosure will assist in the just disposal of the proceedings and that the public interest in the confidentiality of information obtained by the FIU is carefully considered. In short, the Court will strive to ensure that it does not make an order that gives rise to an unnecessary risk of compromising the important work of the FIU.</p> <p><i>The Claimants’ Application for Specific Disclosure and Baroda’s Cross-Application</i></p> <p>The Court refused Baroda’s Cross-Application to prohibit disclosure of the Relevant Internal Reports. The STR Order had been narrowly directed only to reports filed under the 2018 AML Law (STRs and drafts of any such reports) and did not cover internal documents created under Baroda’s own policy, even if related to suspicious transactions.</p> <p>While the Claimants’ Specific Disclosure Application was granted, the Court noted that, if the Court had found the 2025 AML Law prohibited Court-ordered disclosure, then the Court would have concluded that the Relevant Internal Reports (which often precede an STR) should not be disclosed, as revealing them would undermine the anti-money laundering regime's purpose by allowing wrongdoers to learn their activities were suspected.</p> <p>Conclusion</p> <p>The Court held that:</p> <ol style="list-style-type: none"> 1. the Claimants’ Set Aside Application is granted on terms to be the subject of further determination; 2. the Claimants’ Specific Disclosure Application is granted on terms to be the subject of further determination; and 3. Baroda’s Cross-Application is refused. <p>The parties were instructed to seek agreement on costs, with the Claimants’ Counsel drafting the resulting Order to give effect to the Judgment.</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.