Watch out for some big M&A plays in 2017: Regional economies could build on some high-profile deals done this year

By Hardeep Plahe and Fraser Dawson

From a geopolitical perspective, 2016 has been one of the least predictable years in living memory and, unfortunately, the signs for 2017 don't promise change any time soon. Thankfully the "legal" world has been slightly less erratic ...

Increasing litigation

With a sustained low oil price and continued market volatility, we have seen an increase in requests for contentious advice, particularly in the banking and construction sectors. We have also noticed an increase in multi-jurisdictional enforcement efforts. This year also witnessed a steady growth in international arbitration, which remains the method of choice for resolving disputes for many parties.

Moreover, we have observed a growth in fraud-related claims, shareholder disputes, construction disputes and claims made under warranties and indemnities following M&A (mergers and acquisitions) transactions completed earlier in the decade. Activity in the DIFC Courts also continues to gain momentum given their pragmatic approach and positioning as a gateway to enforcement in the broader UAE. We expect these trends to continue in 2017.

Slow year for M&A

It was a fairly slow year in terms of deal-flow in the MENA region although there were exceptions: the largest and most important of which being the $2.4 billion (Dh8.82 billion) purchase of a majority stake in Americana by Mohammad Alabbar's investment vehicle, Adeptio. The health care, education, retail and F&B sectors remain of most interest to buyers.

Most investment professionals are bearish about 2017. However, there are several rumoured "marquee" deals such as the potential sale of Souq.com which, if successful, may lead to greater M&A activity.

UAE consolidation

The last 12 months have seen a move to consolidation in the UAE, in particular the FGB/NBAD merger and the IPIC/Mubadala merger, all of which are scheduled to complete in 2017. Further consolidation is expected in the UAE banking sector — the main drivers being SWFs (sovereign wealth funds) and other prominent investors seeking to strengthen balance-sheets. We expect consolidation to continue in 2017.

Squeezed liquidity and alternative capital

This was a patchy year for many banks, with perceived liquidity issues and tougher credit conditions for borrowers. One trend we have seen this year is the involvement of alternative capital providers: Mezzanine debt funding houses and others have stepped into the gaps created by the reduction in liquidity of the senior bank market.

This has been particularly noticeable in Dubai's real estate sector, where innovative structures are able to provide new alternatives to last-mile and other development financing. We think the continued uncertainty in the markets will lead to an increase in borrowers seeking to tap these alternative sources of more flexible capital, through both the regional providers as well as the many funds based in London.

UAE Insolvency Law

In September, the UAE Insolvency law was approved by the federal cabinet and is likely to come into effect in early 2017. It aims to provide a comprehensive legal framework to help distressed companies in the UAE avoid insolvency and liquidation, protect the rights of both creditors and debtors in insolvency situations, includes measures to prioritise rights of secured creditors and enables companies to restructure without unanimous creditor approval.

Albeit, the processes are still largely overseen by the courts. We, therefore, need to see how the courts will interpret the new law to determine its impact.

Iran sanctions

In January, following the International Atomic Energy Agency's determination that Iran had met its initial obligations, the Iran nuclear deal was implemented which triggered the most significant sanctions relief in history. UN and EU sanctions on Iran largely fell away, while the US provided important relief to the extra-territorial components of its sanctions.

Since then Iranian trade (including in petroleum products) has expanded substantially and numerous global companies have announced investments and other deals. However, the continuing overhang of aspects of US sanctions — especially the prohibition on the use of the US financial system for Iran-related transactions — remains a challenge and the November 8 election of Iran-deal critic Donald Trump has also increased the levels of perceived risk associated with large-scale engagements in the country.

At present, 2017 is looking to be an uncertain year.

Saudi Arabia

In a much-anticipated move, Saudi Arabia outlined plans to diversify its economy beyond the oil and gas industry. The National Transformation Plan, a pivotal element of Vision 2030, outlines tough reform proposals that include the privatisation of government entities, principally the oil giant Aramco (with a planned float of around 5 per cent in an initial public offering planned for 2018), reforming monetary and fiscal policies by increasing government debt, slashing public payroll and increasing the contribution of the private sector to health care spending.

In a bid to rein in the budget deficit, in October, the Kingdom raised $17.5 billion in the biggest ever bond sale from an emerging-market nation and it is expected that other GCC members may follow suit. Recently, the Kingdom also announced plans to introduce a value-added tax by 2018 which would be coupled with increased taxes on certain consumer goods and potentially a tax on remittances.

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