The First UAE and Middle East Judgment on AI Liability: Institutional Accountability and Global Perspectives

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In what stands as potentially the first judicial decision in the United Arab Emirates, and potentially the broader Middle East, addressing institutional liability for the failure of artificial intelligence (AI) and automated systems, the Abu Dhabi Commercial Court has established a direct precedent on corporate accountability. Financial institutions deploying AI for risk management, fraud detection, and advisory services cannot rely exclusively on standard security protocols, such as a One-Time Password (OTP), to avoid liability when those systems fail. The ruling establishes that an institution will be held liable for consumer losses if its automated risk assessment model is fundamentally flawed. This judicial precedent works in tandem with the UAE Securities and Commodities Authority (SCA) regulations, the UAE's September 2024 AI policy, and an emerging global consensus: algorithmic complexity does not absolve financial institutions of their legal duty of care, and structural failures in AI models will result in direct institutional liability.

The First Regional Precedent: Abu Dhabi Commercial Court Case No. 762 of 2026

In a case of first impression regarding AI and automated risk models (Case No. 762 of 2026), the Abu Dhabi Commercial Court of First Instance ruled on a dispute involving digital fraud, consumer liability, and the failure of a bank's automated monitoring systems. The claimant was the victim of a phishing scam in which an OTP was intercepted and used to activate Apple Pay on an unrecognized device. Within minutes, multiple high-value transactions were processed, consuming a large portion of the claimant’s credit limit.

Although the claimant reported the incident to the bank within two minutes, the bank allowed the settlements to process, delayed the investigation, and ultimately rejected the claim. The bank relied on its standard terms and conditions, arguing that because the transactions were authenticated via an OTP, the liability fell squarely on the consumer.

The Court appointed a banking expert and adopted their findings, ruling that the bank had breached its duty of care. The Court determined that strict reliance on procedural authentication terms is legally insufficient when the institution fails to implement functional safeguards capable of recognizing abnormal transaction patterns.

Addressing the bank’s automated monitoring capabilities, the Court stated verbatim:

“…as the real-time fraud detection system at the bank ‘failed’ to read the three consecutive red flags (abnormal chronological sequence, speed of transactions, depletion of 67% of the credit limit within seconds), which constitutes a fundamental error in the design of the risk assessment model.”

The Court further highlighted the discrepancy between the standard of care expected from institutions utilizing advanced technologies and the bank’s actual security measures, noting verbatim:

“Furthermore, the bank’s reliance on the OTP code alone without establishing strict and comprehensive auditing scenarios when receiving a request to add a card to a digital wallet constitutes a clear banking shortcoming that contradicts the level of due diligence expected from a financial institution claiming to possess advanced artificial intelligence systems.”

Based on these findings, the Court cleared the claimant of the disputed debt and ordered the bank and the fraudulent merchant to pay compensation for the material and moral damages incurred.

UAE Financial Regulation: The SCA Framework on AI Risks

This first-of-its-kind judicial finding in Abu Dhabi is closely aligned with the regulatory groundwork previously laid by the UAE Securities and Commodities Authority (SCA). Under the Decision of the Chairman of the SCA Board of Directors No. (13/R.M) of 2021 concerning the Rulebook for Financial Activities, the UAE regulator proactively defined the operational standards and specific liabilities associated with AI in finance.

The SCA Rulebook explicitly defines “AI Risks” (مخاطر الذكاء الاصطناعي) as hazards arising from the use of AI systems or algorithms in providing financial services. Crucially, the SCA identifies several technical failures that trigger institutional accountability, including:

- **Model Drift (انحراف النماذج):** Variations caused by changing input data or data imbalances.
- **Hallucination (القرارات غير المنطقية أو غير المتوقعة):** Illogical or unexpected decisions generated by the system.
- **Explainability Loss (فقدان القدرة على تفسير المخرجات):** The inability to interpret or explain the outputs generated by the AI.
- **Algorithmic Bias (التحيز الخوارزمي):** Flaws leading to unfair or inequitable results for certain consumer categories, often due to inappropriate or outdated training data.

Furthermore, for automated systems such as Robo-Advisors, the SCA mandates rigorous “Stress Testing” (اختبار الجهد) to simulate extreme scenarios, ensuring the accuracy and stability of these algorithms. The Abu Dhabi Court's penalization of the bank for a "fundamental error in the design of the risk assessment model" directly reflects the legal consequences of failing to mitigate the AI risks codified by the SCA.

The UAE's Stance on AI Policy (September 2024)

This intersection of judicial oversight and financial regulation is further reinforced by the UAE's broader national policy. In September 2024, the UAE published its "Position on Artificial Intelligence Policy at the International Level." The policy outlines six core guiding principles for AI development: Progress, Cooperation, Society, Ethics, Sustainability, and Safety.

For financial institutions, the principles of *Ethics* and *Safety* are paramount. The UAE has adopted an 8-principle ethical framework designed to ensure fair and safe treatment for all members of society. When AI systems unfairly penalize consumers for sophisticated fraud that the institution's own algorithms failed to detect, as ruled in Case No. 762, it directly contravenes this mandate. The judgment demonstrates that the UAE views AI innovation as inseparable from robust governance, ethical deployment, and strict consumer protection.

Global AI Considerations: The Institutional Liability Landscape

This inaugural UAE judgment is not an isolated development; it represents the localized application of a growing international regulatory shift regarding institutional liability for the use of AI.

- **The European Union:** Under the EU Artificial Intelligence Act, AI systems used to evaluate creditworthiness or assess risks in financial services are classified as "high-risk." This classification requires financial institutions to implement rigorous risk management systems and maintain continuous human oversight. The framework creates a direct line of accountability, meaning institutions are liable if their AI models exhibit systemic flaws.

- **The United States:** The Consumer Financial Protection Bureau (CFPB) has issued guidance emphasizing that the deployment of complex or "black-box" AI models does not exempt financial institutions from consumer protection laws. If an automated system fails to protect consumers or violates regulations, the institution bears direct liability. The CFPB maintains that institutions cannot use technological complexity as a defense for operational failures.
- **The United Kingdom:** The UK's Financial Conduct Authority (FCA) approaches AI liability through existing frameworks such as the Consumer Duty, which requires firms to proactively deliver good outcomes and avoid foreseeable harm. If an automated fraud-detection system fails to identify obvious anomalies, the FCA considers this a breach of the firm's overarching regulatory duties, holding senior management directly accountable.

Conclusion

The first judgment on AI liability in the UAE sets a clear and operational standard for the Middle East: the integration of AI and automated decision-making into financial operations requires a highly elevated legal duty of care. As evidenced by this precedent from the Abu Dhabi Commercial Court, supported by the SCA Rulebook's codification of AI risks and the UAE's September 2024 AI policy, judiciaries and regulators will evaluate the actual operational effectiveness of algorithms rather than deferring to traditional contractual defenses.

Wasel & Wasel advises on complex commercial disputes, international arbitration, and cross-border financial *litigation within the UAE courts and the broader GCC. The firm represents financial institutions, investors, technology companies, and commercial entities in high-stakes proceedings before the UAE Federal and Emirate-level Courts. Our practice includes navigating emerging technology and AI liability claims, managing multi-jurisdictional financial disputes, and enforcing regulatory and contractual rights amidst a rapidly evolving digital economy.*

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