



**IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION**

CAUSE NO. FSD OF 2022 ()

IN THE MATTER OF THE COMPANIES ACT (2022 REVISION)

**AND IN THE MATTER OF THE FOREIGN BANKRUPTCY PROCEEDINGS
(INTERNATIONAL CO-OPERATION) RULES, 2018**

AND IN THE MATTER OF AWAL BANK BSC (IN LIQUIDATION)

PETITION

TO THE GRAND COURT

The humble petition of Charles Russell Speechlys LLP (the "**Petitioner**"), of 5 Fleet Place, London, England, EC4M 7RD, United Kingdom, shows that: -

Introduction

1. This Petition is presented in relation to Awal Bank BSC, in Liquidation, of The Manama Centre, Government Avenue, P.O. Box 1735, Manama, Kingdom Of Bahrain ("**Awal Bank**").
2. For the reasons set out below, the Petitioner applies in its capacity as liquidator and "foreign representative" of Awal Bank within the meaning of section 240 of the *Companies Act (2022 Revision)* (the "**Act**") for an order recognising its rights to act in the Cayman Islands on behalf of and in the name of Awal Bank as a "debtor" pursuant to section 241(1)(a) of the Act and for other associated relief pursuant to section 241(1)(b)-(e) of the Act.

Particulars of Awal Bank's Incorporation

3. Awal Bank is a foreign banking company incorporated in the Kingdom of Bahrain licensed by the Central Bank of Bahrain and registered under Commercial Registration No. 54255-1.

Nature and Place of Awal Bank's Business

4. Awal Bank's Centre of Main Interest ("**COMI**") is in Bahrain. Awal Bank's only offices (where its administration was conducted and where its management teams were based) are in Bahrain, at The Manama Centre, Government Avenue, P.O. Box 1735, Manama, Kingdom of Bahrain. To the best of the Petitioner's knowledge, this office address was the principal point of contact and correspondence address for Awal Bank's clients. In short, that is where Awal Bank could be "found".
5. Awal Bank carried out "Regulated Services" in Bahrain, as that term is defined in Article 39(a) of *Decree Law No. 64 of 2006, the Bahraini Central Bank of Bahrain and Financial Institutions Law* ("**CBBFIL**"). Awal Bank is licensed by the Central Bank of Bahrain and is subject to the regulation of the Central Bank of Bahrain under the provisions of the CBBFIL.
6. Awal Bank's only banking licences are held in Bahrain. Awal Bank is not authorised to do business in the Cayman Islands. Awal Bank does not maintain and has never maintained any offices, employees or agents in the Cayman Islands. It maintains no telephone number or mailing address in the Cayman Islands, nor does it solicit business in the Cayman Islands or otherwise advertise or market its services in the Cayman Islands.
7. Awal Bank was not a traditional retail bank. It was principally an investment company whose main business was the investment of assets it holds in Bahrain and elsewhere. In respect of its activities outside Bahrain, it conducted those activities pursuant to an offshore banking licence granted by the Kingdom of Bahrain. Without this licence, Awal Bank could not legitimately have undertaken any business outside Bahrain under Bahraini law.
8. Awal Bank does not have any branches outside Bahrain or any offices or physical presence as such.
9. Awal Bank also provided wholesale banking services in Bahrain, including the acceptance of deposits and the making of loans. Its counterparties and customers were primarily other banks, located mainly in the Middle East and in Europe.
10. Awal Bank has three shareholders: Maan Al Sanea, who previously served as Chairman of the Board of Directors and the Executive Committee; Saad Investments Company Limited ("**SICL**") (based in the Cayman Islands, where it is currently in official liquidation under the supervision of this Court); and Saad Trading, Contracting and Financial Services Company ("**STCFSC**") (based in Al Khobar, Saudi Arabia). SICL and STCFSC are also owned, directly or indirectly, by Maan Al Sanea. Maan Al Sanea, who is a resident of Saudi Arabia, is the beneficial owner of Awal Bank.
11. Prior to being placed into Administration, Awal Bank was controlled by the Al-Sanea family, led by Maan Al Sanea. Maan Al Sanea and his family also control a group of

companies known as the Saad Group comprising various companies registered in Bahrain, Saudi Arabia, the Cayman Islands and the United Arab Emirates.

The Authority by which the Petitioner was appointed as “Liquidator” / “Foreign Representative”

12. The Central Bank of Bahrain is the government entity responsible for regulating the financial services industry in Bahrain. As stated above, Awal Bank is a Bahrain based bank that carried out “Regulated Services” in Bahrain, as that term is defined in the CBBFIL. Article 39(a) of the CBBFIL defines “*Regulated Services*” as “*financial services provided by financial institutions*”. Awal Bank is thus licensed by the Central Bank of Bahrain and is subject to regulation of the Central Bank of Bahrain pursuant to the CBBFIL.
13. Article 136 of the CBBFIL, entitled “*Reasons for Placing a Licensee Under Administration*” provides that the Central Bank of Bahrain “*may, pursuant to a justified resolution, assume the administration of a Licensee or may appoint another person (the “External Administrator”) to conduct the administration of a Licensee on behalf of the Central Bank*”. As per Article 136(a) of the CBBFIL the grounds recognised for placing a Licensee under administration are:
 - a. If the Licensee becomes insolvent or appears most likely to be insolvent.
 - b. If the license is amended or cancelled.
 - c. If the Licensee continued to provide regulated services which resulted in inflicting damages to financial services industry in the Kingdom.
14. As per Article 133 of the CBBFIL, a Licensee is deemed to be insolvent if “*his financial position becomes unstable and he stops paying his due debts other than administrative fines and whatever type of tax.*”
15. In early 2009, Awal Bank began experiencing liquidity pressures. By late May 2009, a group of Awal Bank’s major creditors agreed to enter into a standstill agreement while Awal Bank attempted to restructure its debt.
16. By the summer of 2009, the Central Bank of Bahrain decided to exercise powers granted under Part Seven of the CBBFIL, entitled “*Information Gathering, Inspection Visits and Judicial Investigation*” to request information and reports from Awal Bank. Awal Bank’s officers were summoned to appear before the Central Bank of Bahrain to answer questions about Awal Bank’s financial affairs.
17. On 30 July 2009, by way of Decision/Resolution No. 38 and acting under authority granted by the CBBFIL, the Governor of the Central Bank of Bahrain placed Awal Bank in administration. Resolution No. 38 stated that the action of the Governor was necessary because:
 - a. Awal Bank had become insolvent, and

- b. Awal Bank's continuance to provide Regulated Services is expected to cause damage to the financial services industry in the Kingdom of Bahrain.
18. Once the Central Bank of Bahrain assumes administration of a Licensee, it has two options: (a) it can administer the proceedings itself or (b) it can appoint an External Administrator, as per Article 136(a) of the CBBFIL.
19. On 6 August 2009, by way of Decision/Resolution No. 44 and acting under authority granted by the CBBFIL, the Governor of the Central Bank of Bahrain appointed the Petitioner (then known Charles Russell LLP), a British law firm with a Bahrain office, to serve as External Administrator of Awal Bank. The appointment became effective on 10 August 2009.
20. Decision/Resolution No. 44 of 2009 appointed the Petitioner as the External Administrator for two reasons:
 - a. The insolvency of Awal Bank, and
 - b. The risk of damage to the financial services industry in the Kingdom of Bahrain, in case of Awal Bank's continuance to provide its regulated services.
21. Decision/Resolution No. 38 of 2009 sets out the decision of the Central Bank of Bahrain to commence the "*foreign bankruptcy proceeding*" [as that term is defined in section 240 of the Act] with Awal Bank as "debtor" [as that term is defined in section 240 of the Act].
22. Decision/Resolution No. 44 of 2009 sets out the decision of the Central Bank of Bahrain appointing the Petitioner as the "*foreign representative*" of the foreign bankruptcy proceeding as that term is defined in section 240 of the Act.
23. The default period of administration under Bahrain law is two years, after which time the administrator is obliged to submit a petition to the Bahraini Court, with the approval of the Central Bank of Bahrain, either for (a) compulsory liquidation of the bank, or (2) termination of the administration and restoration of the bank to its management and shareholders.
24. On the applications of the Petitioner in its capacity as External Administrator of Awal Bank, the Bahraini Court issued extensions of the two-year period extending Awal Bank's Bahraini Administration Proceeding for additional two-year periods in 2011, 2013, 2015, 2017, and 2019.
25. On 20 July 2022, in anticipation of the 28 July 2022 expiry of the administration under the last extension, and with no objection from any creditor, the Petitioner submitted to the Bahraini Court a petition for compulsory liquidation of Awal Bank in accordance with Articles 144 and 145 of CBB Law.
26. By way of judgment, dated 8 November 2022, the Bahraini Court ordered the dissolution and liquidation of Awal Bank ("**Liquidation Judgment**"). As such, by operation of Bahraini law and pursuant to the Liquidation Judgment, Awal Bank's Bahraini Administration Proceeding concluded and the liquidation of Awal Bank commenced.

Powers and Duties of the Petitioner as Foreign Representative under the Law of Bahrain

27. The Petitioner is a top 50 law firm in the United Kingdom with more than 1,000 staff in offices in London, Geneva, and Bahrain, among other locations. One of the Petitioner's areas of specialisation is insolvency and restructuring, including cross-border insolvencies.
28. Part 10 of the CBBFIL, entitled "*Insolvency of the Licensee, and Placing It Under Administration and Compulsory Liquidation*" governed the Administration of Awal Bank.
29. The Bahrain Court ordered the dissolution and liquidation of Awal Bank and appointed the Petitioner as a liquidator of Awal Bank on 8 November 2022.
30. The Petitioner's primary duty is to take control of the assets of Awal Bank's estate, reduce them to cash, and makes distributions to creditors, as per Articles 145(d) & 149(a) of the CBBFIL. The Petitioner (as liquidator) is obligated to determine claims on a timetable set by the Bahraini Court and the liquidator's decisions are subject to judicial review in accordance with Article 152 of the CBBFIL. The liquidator must submit a proposal on the "*conduct of the liquidation*" to the Bahraini Court, and creditors, shareholders, and all other interested parties, and these parties have standing to challenge any proposal, pursuant to Article 153 of the CBBFIL.
31. The priority order for any distribution to creditors is mandated by Article 156 of the CBBFIL, as follows:
 - a. The Administrator's fees and reasonable expenses incurred by the Administrator during the administration period of the Licensee, and the wages and salaries of the officers and employees of the Licensee up to the date on which the petition for compulsory liquidation was filed at the Bahraini Court or the date of termination of the relevant contract of employment whichever is earlier;
 - b. The liquidator's fees and reasonable expenses incurred by the liquidator during the period of liquidation;
 - c. Fees and taxes due to the Government, its organisations, Agencies and the Central Bank of Bahrain;
 - d. Deposits and loans taken with the approval of the Central Bank of Bahrain to protect the Licensee from insolvency;
 - e. Deposits of value not exceeding twenty thousand (20,000) Bahraini Dinars per depositor;
 - f. Other deposits that exceed the amount stated in the previous item and all other unsecured debts due upon the Licensee; and
 - g. Amounts due to the shareholders in proportion to their respective shares.

32. Article 157 of the CBBFIL requires the liquidator, upon completion of distribution, to submit a final accounting to the Bahraini Court and the Central Bank of Bahrain.
33. The liquidator's powers provided by virtue of the CBBFIL are broad in nature and pursuant to article 147(a) of CBBFIL the liquidator has all the necessary powers to carry out the compulsory liquidation of the licensee and the right to take any necessary measures to complete the process of such liquidation.
34. The primary duties of the liquidator are to ensure that the assets and properties of the licensee are properly accounted for, collected, realised and distributed to the licensee's creditors and, that the surplus, if any, shall be distributed to the entitled persons.
35. The Awal Bank Liquidation thus encompasses all assets of Awal Bank. Likewise, all creditors of Awal Bank, foreign or domestic, are entitled to file their claims in the Bahraini Liquidation proceeding. The aim of the CBBFIL is to grant the Liquidator full powers to treat all creditors fairly and comprehensively.
36. The CBBFIL provides that a licensee placed in administration is entitled to a suspension of all legal proceedings brought against it. Specifically, Article 142 of the CBBFIL provides as follows:

"During the period of administration, no action may be taken to enforce any security over the property of the Licensee and no legal proceedings or any other measures may be commenced or continued against the Licensee or its property except with the approval of the Administrator or in the course of executing a court judgment or order issued before the date on which the Licensee was placed under administration".
37. Unlike in an administration, there is no express statutory moratorium in a liquidation under Bahraini law. However, a moratorium is implied in the Bahrain Liquidation Proceeding by virtue of all creditors have a specific time period in which they are required to submit their claims to the liquidator. Any creditors whose claims fall outside the relevant claims submission deadline would be barred from participating in the relevant distributions in the liquidation. However, this would not be applicable to secured creditors who have a security right against a specific asset as set out in Article 156 (c) of CBBFIL.
38. Additionally (and as previously referred to above), the liquidator maintains the broad powers to "...carry out the liquidation of the Licensee, and shall have the right to take any necessary measures to complete the process of such liquidation" in accordance with Article 141 (a) of CBBFIL. This would enable a liquidator to request the Bahraini Court to impose a moratorium over any enforcement actions by creditors, which would be subject to the discretion of the Bahraini Court to consider whether enforcing and continuing a moratorium would be in the interest of the liquidator, company under liquidation and concerned third parties.

Reasons for Seeking a Declaratory Order and Relief Pursuant to Section 241(1)(b)-(e) of the Act

39. As set out above, a liquidation under Bahraini law is similar to a liquidation under Cayman law.
40. Recognition of the Petitioner as Awal Bank's foreign representative will be consistent with and continue the declaratory relief ordered by this Honourable Court on 16 November 2009, in Grand Court Cause No. FSD 4 of 2009.
41. In the premises, the Petitioner respectfully seeks a declaration from this Honourable Court in terms that it is entitled to act on behalf of or in the name of Awal Bank in the Cayman Islands.
42. The Petitioner requests that this Honourable Court make the following orders ancillary to the Awal Bank Liquidation in Bahrain pursuant to section 241 of the Act:-
 - a. recognising the right of the Petitioner to act in the Cayman Islands on behalf of and in the name of Awal Bank;
 - b. enjoining the commencement or staying the continuation of legal proceedings against Awal Bank;
 - c. staying the enforcement of any judgment against Awal Bank;
 - d. requiring a person in possession of information relating to the business or affairs of Awal Bank to be examined by and produce documents to the Petitioner; and
 - e. ordering the turnover to the Petitioner of any property belonging to Awal Bank.
43. Granting the requested Orders under section 241 of the Act, will be consistent with and continue the declaratory orders of the Honourable Mr. Justice Foster of this Honourable Court, dated 16 November 2009, in Grand Court Cause No. FSD 4 of 2009.
44. By granting the requested Orders under section 241 of the Act, the Court will facilitate the most economic and expeditious liquidation of Awal Bank's estate, and will be consistent with the points of guidance set out in section 242 of the Act.
45. An order under paragraph 241(1)(a) of the Act is the first step to achieving the goals set out in section 242 of the Act.
46. The liquidation strategy is that there should be a central insolvency proceeding in Bahrain. That centralised procedure is for the benefit of all creditors, worldwide. It would be contrary to the creditors' interests to have a fragmented liquidation conducted piecemeal in different jurisdictions.
47. Reliance is also placed on the "comity" factor found in section 242(1)(g) of the Act. An application for a recognition order is currently being applied for in the English High Court, pursuant to the UNCITRAL Model Law on Cross Border Insolvency. Parallel recognition

- in Cayman would not only promote comity, but would also ensure consistency across the various jurisdictions and a central, uniform point of contact for all creditors.
48. Whilst section 241(1)(b) of the Act gives the Court a discretion to stay proceedings, and although there are no proceedings currently pending against Awal Bank in Cayman, the Court is nonetheless asked to give a direction in general terms for a stay under section 241(1)(b), again in the interests of comity and consistency.
 49. An order under section 241(1)(c) would be required, not only to achieve consistency with any stay directed under section 241(1)(b) of the Act, but also to preserve assets for distribution.
 50. Geographically, Bahrain is the obvious choice for the core insolvency proceedings. Awal Bank's head office is in Bahrain, as are most of its employees and officers. Moreover, Awal Bank (and its owner, the Al Sanea family) had strong links with neighbouring Saudi Arabia, where significant assets are thought to be located.
 51. Awal Bank is the sole shareholder of the following Cayman Island companies ("**Awal Subsidiaries**") that are all currently in official liquidation under the supervision of this Court:
 - a. Awal Feeder 1 Fund;
 - b. Awal Finance Company Limited;
 - c. Awal Finance Company (No. 2) Limited;
 - d. Awal Finance Company (No. 3) Limited;
 - e. Awal Finance Company (No. 4) Limited; and
 - f. Awal Finance Company (No. 5) Limited.
 52. The Awal Subsidiaries are all currently in official liquidation under the control of Geoffrey Lambert Carton-Kelly of FRP Advisory Trading Ltd., Bruce Alexander Mackay of RSM UK Restructuring Advisory LLP and Christopher Dorrien Johnson and Russell Homer of Chris Johnson Associates Ltd in their capacity as joint official liquidators of the Awal Subsidiaries. Awal Bank is a liquidation committee member of each of the Awal Subsidiaries' liquidation committees.
 53. The Awal Subsidiaries were the 13th through 18th defendants in Grand Court in Cause Number FSD 54 of 2009 (formerly Cause No. 359 of 2009) and the 13th through 18th respondents in CICA 15 of 2018 and are all wholly owned subsidiaries of Awal Bank. Their assets and liabilities are included in the consolidated balance sheet and accounts of Awal Bank.
 54. Awal Bank, through the Awal Subsidiaries, has a sum of approximately \$180 million in banks located in the Cayman Islands. This cash is to be collected in by Awal Bank from accounts held at Butterfield Bank. As the AHAB Proceedings have concluded, and the Cayman liquidations of the Awal Subsidiaries are coming to an end, the cash currently

being held by the Awal Subsidiaries in the Cayman Islands bank accounts is to be distributed from the Awal Subsidiaries to Awal Bank.

55. Awal Bank has a significant creditor claim with the joint official liquidators of Singularis Holdings Limited (In Official Liquidation) ("**Singularis**"). Singularis was one of the defendants in FSD 54 of 2009, one of the respondents in CICA 15 of 2018, and is in official liquidation under the supervision of this Court. It is anticipated that the official liquidators of Singularis may distribute an interim dividend in the next month or so. Awal Bank is a member of the Liquidation Committee of Singularis.
56. It is both necessary and appropriate that relief should be granted in the terms of sections 241(a) to (e) of the Act to ensure equitable treatment of all creditors who are competing for Awal Bank's assets and to prevent disruption of this process, as well as to prevent dissipation of assets.

YOUR PETITIONER THEREFORE HUMBLY PRAYS THAT:-

57. The Court recognises the right of the Petitioner, as *foreign representative*, to act in the Cayman Islands on behalf of and in the name of Awal Bank;
58. The Court enjoins the commencement or stays any continuing legal proceedings against Awal Bank;
59. The Court stays the enforcement of any judgment against Awal Bank;
60. The Court requires a person in possession of information relating to the business or affairs of Awal Bank to be examined by and produce documents to the Petitioner;
61. The Court orders the delivery up to the Petitioner of any and all property belonging to Awal Bank; and
62. Such further or other orders or directions as are required.

AND your Petitioners will ever pray, etc.

DATED the 8th day of December 2022.



BROADHURST LLC

Attorneys-at-Law for and on behalf of the Petitioner

NOTE: This petition is not intended to be served.

This **PETITION** was presented by Broadhurst LLC, Attorneys for the Petitioner, whose address for service is 4th Floor, Monaco Towers, 54 Edward Street, George Town, PO Box 2503, Grand Cayman, Cayman Islands, KY1-1104 (Ref: ICL/707-1).

NOTICE OF HEARING

TAKE NOTICE THAT the hearing of this petition will take place at the Law Courts, George Town, Grand Cayman, on the 18th day of *January* at ~~10:00 am/pm~~.

Any correspondence or communication with the Court relating to the hearing of this Petition should be addressed to the Registrar of the Financial Services Division of the Grand Court at PO Box 495, Grand Cayman, KY1-1106, telephone 345 949 4296.