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SCCA and Ministry of Justice confirm parties' freedom to choose international counsel representatives in Saudi seated arbitrations

In conjunction with the Ministry of Justice of the Kingdom of Saudi Arabia (“KSA”), the Saudi Centre for Commercial Arbitration (“SCCA”) conducted a study into KSA legislation and confirmed that parties to Saudi arbitration are free to select anyone to represent them, irrespective of their nationality or profession.

In its press release dated 16 August 2022, the SCCA distinguished arbitration from other types of dispute resolution proceedings on the basis that arbitration is grounded in the principle of party autonomy. The SCCA also reviewed applicable KSA legislation and determined that those laws (in particular, the Arbitration Law and the Enforcement Law) are consistent with the principle of autonomy in arbitration and do not contain any restrictions on the parties' freedom to choose their representatives.

This means that parties are free to select their representatives and that non-Saudis and non-lawyers can represent parties before arbitral tribunals in arbitration proceedings seated in Saudi Arabia. The SCCA clarified that representation by non-Saudis and non-lawyers in arbitration is not a ground for annulment pursuant to Article 50 of the Arbitration Law. Going forward, parties involved in arbitration may choose to appoint their go-to international arbitration law firms as sole counsel. It remains the case, however, that sole arbitrators and presidents of three-member tribunals must be legally competent and hold a degree in law or Shari'a law pursuant to Article 14 of the Arbitration Law.

The SCCA's endorsement of the parties' freedom to choose their representatives in arbitration comes at a time when KSA is actively pursuing its Vision 2030 development strategy. The establishment of KSA as an arbitration hub is a key part of implementing that strategy, which is evident from the SCCA's statement that its “*stance toward protecting*



parties' freedom to choose the person they want as their representative before arbitral tribunals is aligned with international best practices in the industry." This signals the continuing efforts of the SCCA and the KSA more broadly to appeal to international parties conducting business in the Kingdom.

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