

legal review of saudi courts judgment enforcement in selected countries

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Can Saudi Judgment be enforceable in the following countries? (USA, UK, France, Switzerland, and Egypt.)

Is it possible to execute on an account in Swiss banks?

First, we would like to divide the Enforcement of Saudi Judgment outside the Kingdom to two types of Judgments:

-1 Arbitration Awards:

Regarding this type of arbitrators' awards, we would like to note that **Saudi Arabia and other countries such as the United Kingdom, United States of America, Egypt, France, and Switzerland** are all parties of the New York Convention 1958 ("the Convention"), the Convention on the Recognition and Enforcement of Foreign Arbitral Awards. The Convention stipulates that all signatories recognize the arbitrators' rulings issued by those countries. These countries agreed on several conditions that are almost repeated by many of them, namely that the arbitration awards do not contradict with public policies and are issued by a formed body with jurisdiction to consider the dispute, so there is no doubt about the implementation of arbitration awards issued by Saudi Arabia abroad, specifically in countries considered to be parties to the New York Convention.

-2 Judgments Issued by Saudi Courts:

Enforcing judgments issued by Saudi courts in foreign countries differs from one country to another as each country has its own requirements and procedures to enforce foreign judgments, and these requirements and procedures of implementation is explained **as follows:**



United State of America

In general, there are no bilateral or multilateral agreements between Saudi Arabia and the United States in terms of judgments enforceability. However, there has been recognition of enforcing judgments between both countries according to certain conditions and requirements as described below. In 1962, total of 32 states signed the Uniform Foreign Money-Judgments Act of 1962 ("1962 UFMJA"), which was created to regulate and organize the mechanism for recognition of foreign judgments to implement them. The 1962 UFMJA stipulates that the judgments should be related to certain amount of money and the judgment must be final and enforceable in the country that issued the judgment. In 2005, the UFMJA 1962 was updated and adopted and signed by 19 states, called Uniform Foreign Country Money Judgments Act of 2005 ("2005 UFMJA"). However, some states are still operating under the UFMJA 1962, some have adopted the new law, which is the 2005 UFMJA, and other states adopted neither act.

Condition's for implementing foreign judgments in USA:

- The foreign judgment must be final.
- The judgment must be approved before it comes enforceable.
- The foreign judgment must be enforceable in the foreign country where it was issued.
- The court issued the judgment must have jurisdiction over the case.
- Must be a civil case and for a sum of money.
- The foreign judgment must not conflict with the public policy.
- Reciprocity Doctrine applies.

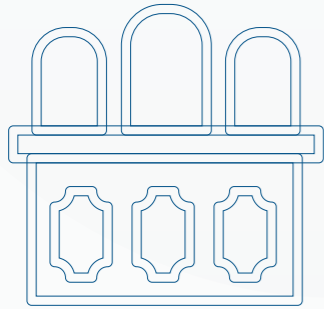
Foreign judgements enforceability exemptions:

Fines and sanctions judgments

Tax-related judgments.

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Statute of limitations for judgment recognition and enforcement:



The statute of limitation varies from one state to another depending on what model act was adopted by those states. The UFMJA 1962 statute of limitations is different from the newly enacted 2005 UFMJA, which makes each states have its own statute of limitations depending on which model act was adopted, **as specified below:**

☒ **2005 Model Act**

15 years from the effective date of the foreign court judgment in the foreign country.

☒ **1962 Model Act**

The act did not address the statute of limitations. Leaving states to regulate its own laws in this regard.

☒ **States that haven't adopted any Act**

Each state applies its own statute of limitations.

In general, jurisdiction in the United States differs from one state to another, each state has its own legal system for hearing foreign courts decisions; for example, if the defendant assets are located in NY, NY courts will have jurisdiction over the defendant's assets.

- ☒ Most states require the party seeking to implement the foreign judgement to file a lawsuit in a court that has jurisdiction.
- ☒ An application for implementation can be filed in state or federal courts; if the application was filed in a federal court, the federal court will apply the law of that state in the absence of a federal law or question.

Jurisdiction (Competent Court):



United Kingdom

UK courts do not require the reciprocity doctrine in terms of recognition and enforcement of foreign judgments. In general, the requirements to enforce foreign judgments are few and differs from each treaty. For enforcing EU countries judgments, such requirements are relatively few in order to in order to make European judgments treated the same as UK judgments.

Requirements for enforcing foreign judgments in UK:

01

☒ A replica of foreign judgment.

02

☒ The foreign judgment must be translated to English.

03

☒ Statement or Certificate from the foreign court explains and shows that the judgment is applicable and enforceable in the country where the court initiated the decision.

Conditions for accepting the implementation of a foreign judgment:



The judgment must be final.



The foreign judgment must not conflict with any local or existing foreign judgment.



The foreign judgment doesn't violate the public policy of the country.



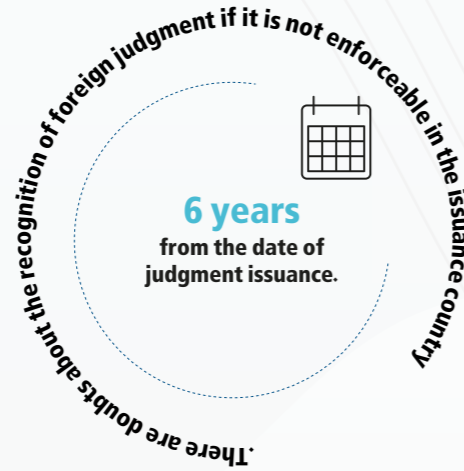
The defendant has been properly informed of the proceedings. If the judgment was in absentia, then it must provide document which shows that the absent party has received notice and had the opportunity present his/her defense.



The court issued the judgment must have jurisdiction.

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Statutes of Limitation:



Other conditions to enforce foreign judgements:

- ☒ Judgements must not be obtained fraudulently.
- ☒ Judgements must not be contrary to the Human Rights Act (1998).
- ☒ Judgments must not be a fine or penalty.

If the foreign judgment is against a state, the principle of sovereign immunity applies.

Jurisdiction with respect to foreign judgments:

- ☒ Supreme Court, Royal Court Division.

The procedures and time frame to enforce forging judgment:

- ☒ An application must be submitted to the head of the Royal Court of the Supreme Court and usually the process takes few weeks. However, if the person decides to cancel the application the process may take longer.
- ☒ Once a foreign judgment is enforced in UK, such enforceability will be treated as the decision was initiated from UK courts.
- ☒ A precedent case in Saudi Arabia, Case No. 1265/B 1432, indicates that UK courts enforces Saudi judgments in UK according to the aforementioned requirements.



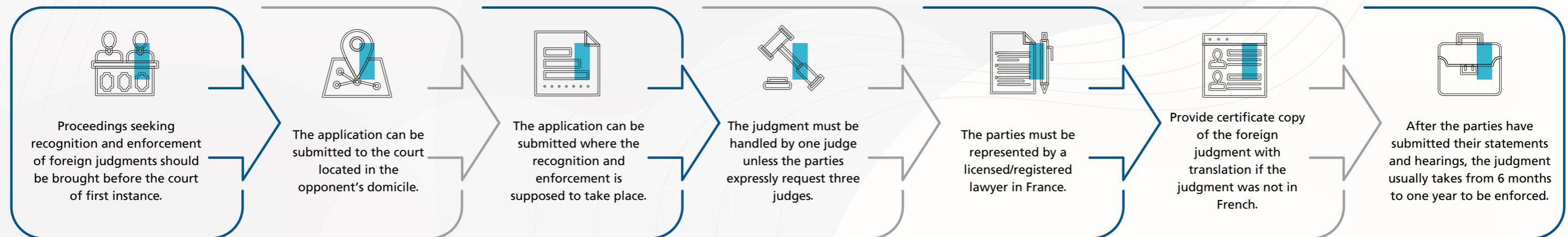
France

In general, France enforces foreign judgments once such foreign judgments meet certain requirements. In fact, France has enforced a Saudi foreign judgments according to a judicial precedent.

Conditions for the implementation of a foreign judgment in France:

- ☒ The judgment must be issued from a competent court.
- ☒ The judgment issued by court that have jurisdiction over the case.
- ☒ The judgment can be enforceable in the country issued the judgment.
- ☒ The judgment must not violate the public policy.

Steps to Enforce the Judgment in France



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Objection to the foreign judgment:

To object the foreign judgment enforcement in France, the party who is objecting has to show **the following:**



If the judgment conflicts with the conditions mentioned above.



If the judgment was not in accordance with French public international policies, which includes **the following:**

- ☒ Neutrality and independency of the court issued the judgment.
- ☒ Provide the necessary service to the defendant.
- ☒ Equality for all parties to submit their defenses during the proceedings.



The judgment was obtained in a Fraudulent or corrupt manner.



If the judgment conflicts with another judgment (for the same parties and the same subject).

Jurisdiction: (competent court)

The application to enforce the foreign judgment must be submitted to the court of first instance and the enforcement proceedings can only be challenged before the court of first instance.



Switzerland

In Switzerland, there are no bilateral or multilateral agreement between Saudi Arabia and Switzerland in terms of judgments enforcement. The Private International Law in Switzerland stated and discussed the recognition and enforceability of foreign judgment as follows:

Conditions for the implantation of a foreign judgment in Switzerland:

- ☒ The judgment must be final.
- ☒ The court issued the judgment must have jurisdiction.
- ☒ **The judgment must not violate the following:**



The Public policy of Switzerland.



The parties in the case were properly represented and able to defend themselves.



The judgment was initiated in Switzerland between the same parties.

The requirements and the enforcement process:



- ☒ The application for the recognition and enforcement of foreign judgment must be submitted to the competent authority of the province where foreign judgment is recognized, and the application must be accompanied by **the following:**
- ☒ A complete and certified copy of the judgment.
- ☒ Statement that shows the judgment is final.
- ☒ If the judgment was in absentia, then a document showing that the absent party has received notice and had the opportunity to present his/her defense must be provided.
- ☒ **The party objecting the recognition and enforcement has the right to be heard again.**

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Implementation on bank accounts in Switzerland:

The implementation on a bank account in Switzerland is highly restricted due to the high confidentiality of bank statements under the Swiss Law. Disclosing customers information to a third party is considered as criminal offence. However, there are cases (exceptions) in which bank information can be disclosed **as following:**

- ☒ If the client agrees himself without coercion.
- ☒ If such disclosure is required by law; such as the case under the 1998 Money Laundering Act, where the bank is required to disclose information to the Money Laundering Office.
- ☒ When such disclosure is a court order, which is usually the case is in civil and criminal cases.
- ☒ If the bank or company is bankrupt.

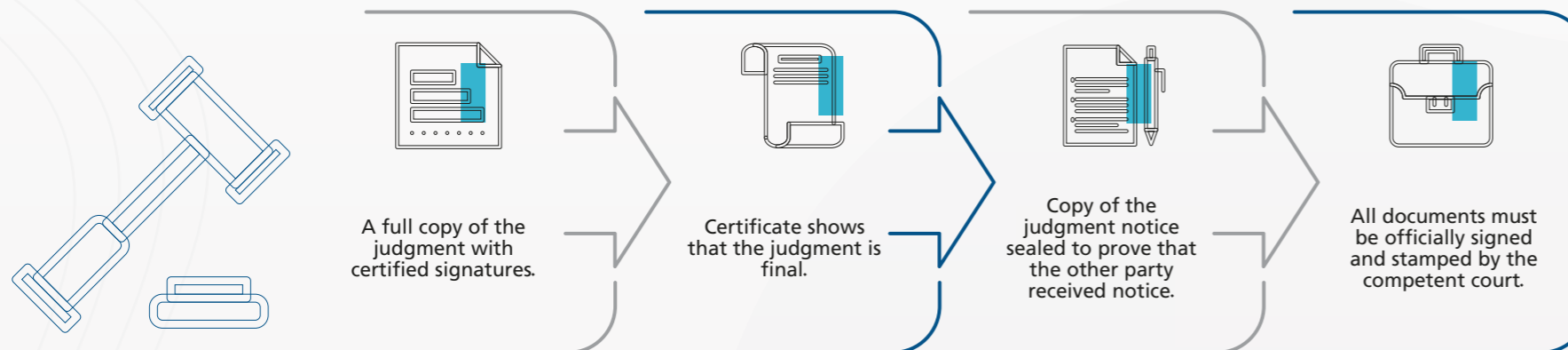
Although there are exceptional cases mentioned above, it is difficult to apply and prove these cases and therefore it is very difficult to disclose bank information in practice as it must also be proven that there is an account for the customer in a Swiss bank (the name of the bank must be mentioned) before the Swiss courts.



Egypt

As for Egypt, there wasn't previous treaties between Saudi Arabia and Egypt concerning judicial matters until 2014 when Egypt joined the Riyadh Convention for Judicial Cooperation, which was issued by Resolution no. 278 of 2014 23 Shawwal 1435.

Steps to enforce Saudi judgments in Egypt:



To object the recognition of foreign judgment is as follows:

- ☒ If the judgment conflicts with Islamic law, the constitution, or the public laws in the country enforcing the judgment.
- ☒ If the procedure of representing minors or people lacking legal capacity were improper.
- ☒ A judgment of the same dispute and same parties has been issued in the country that enforcing the judgment.
- ☒ If the dispute in force was heard in the country that will implement the judgment and the date of the case is filed in the country that will hear the case prior to the date it was filed in the country issuing the judgment.

In conclusion

The judgments issued in Saudi Arabia can be enforced in the above-mentioned countries; however, foreign judgments may not be enforceable if there was any conflict with the laws or regulations or if it does not meet the requirements of the country enforcing the judgment. As for Switzerland, it is the only country where implementing foreign judgments on a bank account is highly restricted since the confidentiality of customers data are protected under Swiss law.