A free trade agreement with the US encourages tariff eliminations

Free to trade

A look at trade deals, investment incentives and free zones

JORDAN-US FREE TRADE AGREEMENT (JUSFTA): The JUSTFA was signed on October 24, 2000 and entered into force on December 17, 2001. It marks a turning point in the economic relationship between the two countries and in the history of bilateral trade agreements for both countries, as it was only the second such bilateral agreement between the US and any other country, after that with Israel.

The JUSFTA was designed to achieve significant and extensive liberalisation across a wide spectrum of trade issues. The major provisions addressed in the JUSFTA include:

- Tariffs: the JUSFTA eliminates duties and commercial barriers to bilateral trade in goods and services originating in the US and Jordan;
- Intellectual property rights: the JUSFTA includes additional intellectual property standards of protection for copyright, patent, and trademark-related commitments;
- Electronic commerce: the JUSFTA promotes a liberalised trade environment for electronic commerce (e-commerce);
- Trade-related environment: the JUSFTA includes provisions to implement environmental protection laws;
- Labour provisions: the JUSFTA includes provisions to protect workers' rights;
- Services: the JUSFTA provides liberalisation in certain sectors of trade; and
- Consultation and dispute settlements: the JUSFTA provides for a dispute settlement panel that will issue legal interpretations of the JUSFTA after consultation with both countries.

Rules of origin were specifically applied to the JUSFTA to determine from which country a product is imported, especially when two or more countries contribute to the production of the product, and they were designed to limit access to the benefits of the agreement to the two contracting countries. Since the US already has a bilateral investment treaty (BIT) with Jordan, the JUSFTA does not include an investment chapter.

Despite the ground-breaking nature of the JUSFTA deal, since its signing there has been a growing concern that it carries imbalances in the area of intellectual property rights, resulting from the Jordanian policymakers' lack of familiarity with the issue, and the lack of internal consultation when Jordan acceded to the World Trade Organisation (WTO) and negotiated the JUSFTA. There has been also some concern with the seemingly low level of benefits extracted by small and medium-sized Jordanian industries from the JUSFTA towards penetration of the US market.

The JUSFTA has some groundbreaking provisions. Its inclusion of terms on labour and environment became standard practice for all future FTAs signed by the US. Further, its inclusion of higher international standards to be applied by Jordan in intellectual property rights protection ushered in an era of what is now known as the TRIPS-plus standard.

This broadly means that the standard of protection for intellectual property rights is higher than that demanded or contemplated by the WTO TRIPS agreement, which Jordan has acceded to shortly before signing the JUSFTA.

OVERVIEW: The following analysis discusses the main areas of the JUSFTA, which are related to trade or are potentially related to the handling of intellectual property rights and is not intended as a complete review of its various provisions.

Article 2 eliminated all tariff barriers for the majority of goods traded between Jordan and the US within 10 years of the JUSFTA's entry into force. Strict rules of origin apply to the goods benefitting from that tariff elimination. The JUSFTA uses an elaborate and detailed schedule to assign a large number of goods into varying categories, with duties removed for each category according to a separate timeline. It also places a 35% domestic quantitative requirement on goods benefitting from the tariff elimination.

Article 3 deals with the trade in services and liberates access into major sectors such as health, education and tourism, all subject to the two countries' obligations under the General Agreement in Trade in Services (GATS). Article 4, the longest of all the JUSFTA articles, deals with intellectual property rights and will be discussed separately below.

Article 5 emphasises the inappropriateness of encouraging "trade by relaxing domestic environmental laws". Both countries are therefore asked to strive to ensure that they do not waive or otherwise "derogate from, or offer to waive or otherwise derogate from, such laws as an encouragement for trade with" one another.

The language used recognises the right of each party to "establish its own levels of domestic environmental protection and environmental development policies and priorities, and to adopt or modify accordingly its environmental laws".

Compliance under Article 5 was tempered with the right of each party to "exercise discretion with respect to investigatory, prosecutorial, regulatory and compliance matters and to make decisions regarding the allocation of resources to enforcement with respect to other environmental matters determined to have higher priorities". Actions of either party are in compliance if they reflect a "reasonable exercise of such discretion" as self-regulation and monitoring were considered good enough.

Article 6 deals with labour issues and invokes both party's obligations under the International Labour Organisation (ILO), as well as the ILO's Declaration of Fundamental Principles and Rights at Work and its follow-up. The ILO, however, uses the same self-regulating standard of each party's right to establish its own domestic labour standards, and to adopt or modify accordingly its labour laws and regulations.

The compliance standard for this article is also very flexible and is based on the right of each party to "exercise discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters and to make decisions regarding the allocation of resources to enforcement with respect to other labour matters determined to have higher priorities".

Article 7 of the trade agreement organises electronic commerce, a burgeoning field at the time the JUSFTA was drafted and then ratified. The article specifically prohibits the parties from engaging in three types of activities, namely:

- Deviating from its existing practice of not imposing Customs duties on electronic transmissions;
- Imposing unnecessary barriers on electronic transmissions, including digitised products; and
- Impeding the supply through electronic means of services subject to a commitment under Article 3 of the JUSFTA.

Article 14 of the agreement deals with rules of origin and cooperation in Customs administration, which addresses in very broad terms the rules regarding the eligibility for the preferential tariff treatment provided for under the JUSFTA.

The JUSFTA encourages the right of each country to set its own environmental laws to encourage trade

Article 15 envisions the creation of a joint committee composed of three members to "supervise the proper implementation of the JUSFTA and to review the trade relationship between the US and Jordan". As to the structure of the joint committee, the JUSFTA provides that:

- The joint committee shall be composed of representatives of the parties and shall be headed by (i) the US trade representative and (ii) Jordan's minister who is primarily responsible for international trade, or their designees; and
- The joint committee may establish and delegate responsibilities to ad hoc and standing committees or working groups, and seek the advice of non-governmental persons or groups.

INTELLECTUAL PROPERTY RIGHTS: Section 4, which covers the issues related to intellectual property in the JUSFTA, is the longest and one of the most detailed of all its sections. The section's intent to establish a high standard of intellectual property rights protection is evident from the first sentence, which calls for the steps requested under section 4 to be "a minimum". Section 4 addresses several areas ranging from copyright, patents, trademarks and geographical indications as to the enforcement of intellectual property and transition periods. Along the way the language used sets standards for intellectual property rights protection that exceed the limits demanded by the WTO's TRIPS agreement, and thus setting in motion a TRIPS-plus standard. The sections below will address some of those elements.

INITIAL PROVISIONS: Paragraph 1 of section 4 of the JUSFTA incorporates by reference the following provisions, which must also be considered binding on both:

- Articles 1 through 6 of the Joint Recommendation Concerning Provisions on the Protection of Well-Known Marks (1999) adopted by the Assembly of the Paris Union for the Protection of Industrial Property and the General Assembly of World

Intellectual Property Organisation (WIPO), which deals with the definition of well-known marks and the various factors that will cause a trademark to become well-known, and sets parameters for their effective protection;

- Articles 1 through 22 of the International Convention of the Protection of New Varieties of Plants (1991, UPOV convention), which provides recognition of the rights of plant breeders;
- Articles 1 through 14 of the WIPO Copyright Treaty (1996, WCT) with the exception of Articles 1(4) and 6(2) of the treaty provided that this exception should not prejudice the obligations to the WCT treaty itself, the Berne Convention for the Protection of Literary and Artistic Works (1971, Bern Convention) and the TRIPS agreement, which provides additional protections for copyright deemed necessary due to advances in information including to databases, and rights of rental and distribution; and
- Articles 1 through 23 of the WIPO Performance and Phonograms Treaty (1996, WPPT), with the exception of Articles 5, 8(2), 12(2) and 15 of the WPPT treaty without prejudice to each party's rights and duties under the WPPT, the Bern Convention and TRIPS, which deals with the intellectual property rights of two types of beneficiaries, namely performers and producers of phonograms.

Additionally, each party is required to use its best efforts to ratify the Patent Cooperation Treaty (1984, PCT) and the Madrid Protocol Concerning the International Registration of Marks (1989). Jordan is not yet a member of the PCT. It is expected that the regulations needed to implement the amendment be issued and the subsequent formal accession to the PCT will occur shortly afterwards.

Furthermore, both parties are requested to "accord to nationals of the other party treatment no less favourable than it accords to its own nationals with regard to the protection and enjoyment of all intellectual property rights and any benefits derived therefrom". Such requirement is satisfied in all laws relating to intellectual property in Jordan.

TRADEMARKS & GEOGRAPHICAL INDICATIONS: Geographical indication requirements are all met and satisfied under the law enacted for WTO accession, but the JUSFTA does indicate that the definition of trademarks may include geographical indications. In that regard the Jordanian trademarks and geographical indications laws are in compliance with the requirements of the TRIPS agreement.

The JUSFTA did, however, introduce several new requirements in the field of trademarks. These obligations include:

- The commitment to join the Protocol Relating to the Madrid Agreement Concerning International Registration of Marks;
- The requirement to give effect to articles 1 through 6 of the Joint Recommendation Concerning Provisions on the Protection of Well-Known Marks (1999) adopted by the Assembly of the Paris Union for the Protection of Industrial Property and the General Assembly of WIPO, which deals with the definition of well-known marks and the various factors that will cause a trademark to become well-known, and sets parameters for their effective protection;
- The requirement not to require recordal of trademark licences to establish the validity of the licence or to assert any rights in a trademark; and
- The requirement to raise the maximum criminal fine to JD6000 ($8520)

COPYRIGHTS & RELATED RIGHTS: The JUSFTA added significant requirements, and thus higher standards of protection, through the language of the JUSFTA itself and through its request that international agreements discussed earlier be implemented. Those requirements include:

- The right of performers and producers of phonograms to prohibit unauthorised broadcasting of their works;
- Control of right holders over allowing or denying the importation of the protected work(s), whether the work is pirated or an authorised version;
- The obligation to combat technology that is intended to circumvent the effective technological measures that are used by performers or producers in connection with the exercise of their rights;
- That governmental agencies use only computer software authorised for intended use. Pursuant to Article 4(15) of the JUSFTA both parties must actively regulate the acquisition and management of software for government use; and
- To increase the criminal fines to JD6000 ($8520).

The Jordanian Authors Rights Law No. 22 was amended in 1999 to comply with the TRIPS agreement requirement, and then again in 2001, 2003, and 2005 to bring it in closer compliance with the JUSFTA requirements. The criminal fines were increased to a maximum of JD6000 ($8520), and provisions were added to protect performers.

Furthermore, the law prohibited technological means aimed at circumventing any technology or procedure or means such as coding and restricting copies that are used by the right holders to forbid others from benefitting illegally from these rights.

PATENTS & COMPULSORY LICENSING: A new Patent Law was enacted in 1999 to comply with the WTO TRIPS agreement obligations. In 2001 new patent regulations were introduced to help facilitate the process of filing for a patent. While the 1999 law is in compliance with the TRIPS agreement obligations, the JUSFTA introduced several requirements in the field of patents and regulated products. The main new obligations are outlined below:

- Jordan shall make available an extension of the patent term to compensate the patent owner for unreasonable curtailment of the patent term as a result of the marketing approval process as per Article 4(23) of the JUSFTA;
- The Commitment to the join the PCT; and
- Jordan to clarify that the exclusion from patent protection of "mathematical methods" in article

4(b) of Jordan's Patent Law does not include such "methods" as business methods or computer-related inventions.

FREE ZONES & SPECIAL ECONOMIC ZONES: To promote foreign investment, the Jordanian government has chosen to establish various special zones in the kingdom that offer investors special incentives not otherwise available in the country. Four special legal frameworks have been enacted in the past 20 years, namely, the Development Areas Law, the Free Zones Corporation Law, the Aqaba Special Economic Zone Law and the Industrial Estates Corporation Law. Recently, the Council of Ministers decided to bring the development areas, the industrial estates and the free zones corporations under the umbrella of the Development Areas Commission.

DEVELOPMENT AREAS LAW: The Development Areas Law No. 2 of 2008 (the "Development Areas Law") governs all matters relating to the establishment, management and operation of development areas. Pursuant to the Development Areas Law, development areas are established, and their boundaries are determined, by a decision from the Council of Ministers ("development areas"). The Development Areas Law affords investors that are incorporated and registered within the development areas ("registered entity") an array of exemptions and benefits. Such exemptions and benefits include, inter alia, the following:

- Preferential income tax rate of 5% applicable to all entities except banks, financial companies, insurance and reinsurance companies and land transport companies;
- 0% sales tax on goods and services purchased or imported by the Registered Entity;
- Tax exemptions on export of goods and services, where such exemptions are effected in Jordan;
- Exemption from Social Services Tax and Dividend Tax on shares and equity;
- Restrictions relating to the ratio of foreign ownership provided for in the Jordanian investment laws shall not apply;
- Subject to the relevant provision of the Development Areas Law, all materials, instruments, machines and appliances forming part of the construction, establishment, equipment and furnishing of all projects established by registered entities shall be exempt from all Customs, duties and other fees and taxes;
- Profits from transit trade in development areas shall be exempt from income tax, provided that such trade is carried out in public warehouses established in the development area; and
- The incorporation of free zones (highlighted below) within the development areas.

The Development Areas Law establishes a Development Areas Commission (the "Commission"), which is the body responsible for, inter alia, the following matters:

- Drawing up the general policy of development areas;

Various special zones in the kingdom offer investors incentives not available elsewhere

- Regulating the investment environment in development areas and regulating and monitoring the economic activities within such areas;
- Protecting the environment, water resources and other resources;
- Regulating municipal affairs and regulating the Customs procedures to be applied by the Ministry of Finance; and
- Dealing with all labour-related matters and liaising with the Ministry of Labour.

The Commission shall be subordinated to the prime minister, and shall abide by the rules, regulations and procedures issued by the Council of Ministers. The Commission may delegate its tasks to any entity (the "master developer") pursuant to an agreement executed between both parties. Furthermore, the Commission shall be administered and supervised by the Board of Commissioners (the "Board"), which shall be comprised of five members appointed by a decision of the Council of Ministers based upon the recommendation of the prime minister. The Board shall exercise all powers entrusted to the Commission, including, inter alia, the following:

- Registering enterprises, issuing licences and certificates;
- Approving the annual budget of the Commission;
- Preparing draft legislation and submitting the same to the Council of Ministers;
- Approving the financial statement of the Commission; and
- Appropriating lands and real estates required for the functions of the Commission and the development areas.

FREE ZONES CORPORATION LAW: The Free Zones Corporation Law No. 32 of 1984 (the "Free Zones Law") establishes various free zones, wherein goods are placed for storage and manufacturing purposes and whereby all taxes and fees payable thereon are suspended, as if these goods were outside the kingdom ("free zones"). The Free Zones Law established

The kingdom's free zones are categorised as either public, private or joint

the Free Zone Corporation (the "Corporation"), which is an independent entity responsible for managing the affairs of the free zones. The Corporation's Board of Directors ("Free Zones Board") supervises and administers the Corporation, and the members of the Free Zones Board are appointed by the Council of Ministers based on the recommendation of the minister of finance. Free zones may be categorised into one of three types:

- Public free zones, which are free zones where investment is administered by the Corporation;
- Private free zones, which are free zones administered by any party from the private sector under the supervision of the Corporation; or
- Joint free zones, which are free zones established jointly between the kingdom and other countries, or between parties of the public and private sectors, pursuant to an agreement executed between both parties.

The Free Zones Law affords entities incorporated and registered within free zones ("free zone entity") an array of exemptions and benefits. Such exemptions and benefits include, inter alia, the following:

- Exemptions and privileges offered to ministries and governmental departments;
- Profits generated from (i) exporting goods outside Jordan; (ii) transit trade profits; and (iii) selling or transferring goods within the free zones, shall be exempt from income tax;
- Salaries and allowances of non-Jordanian employees working within the free zones shall be exempted from income and social services tax;
- Exemptions from import fees and Customs duties, including all taxes and duties applicable on goods imported to or exported from the free zones;
- Building and real estate construction completed within the free zones shall be exempted from licensing fees, building taxes and land taxes;
- Products generated for sale and consumption in Jordan, originating from industrial projects established in the free zones, shall be exempt from Customs duties up to the limit of such products' cost, raw material and domestic expenditures as estimated by the free zone's director-general and the relevant ministerial representative; and
- A certain percentage of products exported outside Jordan may be brought back in for consumption in Jordan's domestic market, provided that the Free Zones Board's approval is obtained.

The Corporation's tasks and duties include, inter alia, the following:

- Establishing free zones and cancelling the same;
- Establishing warehouses, stores, and any other establishments necessary for managing and developing the free zones;
- Managing, investing and developing free zones;
- Implementing all conditions relating to Customs control and foreign exchange control;
- Registering establishments and companies at any free zone; and
- Issuing licences and approvals related to the exercise of economic activity in the free zones.

The Free Zones Board shall have the following duties and authorities:

- Laying down the general policy of the Corporation;
- Preparing plans and programmes necessary for development and qualifying the free zones to attract investors;
- Studying free zones investment applications for establishing industrial commercial and storage projects;
- Providing all necessary insurance arrangements;
- Determining service fees;
- Executing agreements and contracts concerning loans, with the Council of Ministers' approval;
- Approving the draft budget; and
- Preparing draft laws and regulations.

AQABA SPECIAL ECONOMIC ZONE: The Aqaba Special Economic Zone was established pursuant to Law No. 32 (2000). In order to benefit from the array of advantages and exemptions in the Aqaba Special Economic Zone (Aqaba Free Zone), an entity must be registered with the Aqaba Special Economic Zone Authority (ASEZA). The following entities may be registered with ASEZA:

- Companies registered with the Companies Controller in accordance with the Jordanian Companies Law;
- Foreign companies registered with ASEZA;
- Companies registered with the Companies Controller in accordance with the Jordanian Companies Law whose offices are located in the Aqaba Free Zone and outside Jordan;
- Sole proprietorships registered in the commercial register in accordance with the Jordanian Commercial Law and in compliance with the Jordanian laws and regulations;
- Professional institutions operating outside the Aqaba Free Zone in Jordan;
- Non-commercial association operating outside the Aqaba Free Zone in Jordan pursuant to a decision

by the Aqaba Free Zone Board of Commissioners (the "Board");
- Companies and institutions registered with the Free Zones Corporation in Jordan.

A company registered with ASEZA (the "registered company") shall enjoy the following exemptions afforded to it pursuant to the provisions of the Aqaba Special Economic Zone Law (the "ASEZ Law"):
- Foreign companies registered with ASEZA shall be exempted from registering with the Companies Control Department at the Ministry of Industry and Trade;
- Upon the satisfaction of certain conditions, the Council of Ministers may partially exempt Customs duties on goods originating in the Aqaba Free Zone when such goods are transported for consumption outside the Aqaba Free Zone but within Jordan;
- The ASEZ shall be deemed a territory outside the perimeters of Jordanian Customs territory and shall not be subject to Customs' legislation except as otherwise stipulated under the ASEZ Law;
- Goods manufactured in the ASEZ that have been transported into other parts of Jordan shall be treated as domestic products;
- The registered company shall enjoy tax, fees and Customs exemptions unless otherwise stated in the ASEZ Law on Customs duties, importation duties, other duties applicable to importing goods into the ASEZ, income tax, social services tax, tax imposed on dividends generated from stocks and bonds in the ASEZ or outside Jordan, land and building tax for any property owned by the company within the ASEZ, and vehicles used in the ASEZ under a temporary entry status may be exempt from Customs duties and general sales tax;
- The income of the registered company attained from activities in the zone or outside Jordan shall be subject to income tax at 5%.

The following sources of income shall be exempt from the 5% income tax provision referenced above:
- Profits generated from capital;
- Profits generated from the sale and purchase of land, real estate, shares and bonds;
- Income generated from agricultural, gardening and afforestation investment in land;
- Income generated from investments in poultry, cattle, fish or the breeding of bees;
- Income generated from the products manufactured by manual labour; and
- Income generated from a concession or agreement granted by the government which has been exempted from tax duties under the terms of the concession or government agreement.

INDUSTRIAL ESTATES CORPORATION LAW: The Industrial Estates Corporation Law No. 59 of 1985 (the "Industrial Estates Law"), which replaced the Industrial Estates Corporation Law No. 34 of 1980, established the Jordanian Industrial Estates Corporation (JIEC). Industrial estates are zones marked as industrial areas pursuant to the relevant laws, and which are specifically created for the purposes of hosting the necessary industries and services ("industrial estates"). Companies incorporated within such industrial estates enjoy various benefits and exemptions, including, inter alia, the following:
- Two years exemptions from income and social services tax;
- Total exemptions from buildings and land tax;
- Exemptions or reduction on most municipalities' fees; and
- Exemptions and benefits stipulated under the applicable Jordanian investment laws.

The aim of establishing the JIEC is to study, plan, construct and manage industrial estates in the country and encourage the establishment of industrial projects in various parts of Jordan. The JIEC authorities and privileges include the following:
- Owning, leasing and purchasing the necessary land for constructing industrial estates;
- Managing all matters within the industrial estates;
- Undertaking the duties of regulatory bodies pursuant to the Provisional Law for Planning Cities, Towns and Buildings No. 79 of 1966;
- Constructing all necessary establishments in industrial estates and providing the necessary services for the same;
- Approving the implantation of licensed manufacturing;
- Setting the required principles for land leases and the sale of the same to industrial investors, including the execution of all contracts required for the same; and
- Contracting with contractors, experts and consultants, including legal counsel and engineers for the purposes of undertaking its business; and
- Borrowing from available sources.

JIEC is managed by a board of directors ("JIEC Board"), and the board is comprised of various members appointed pursuant to the Industrial Estates Law. The Board's obligations and authorities include, inter alia, the following:
- Setting the general policy for the JIEC;
- Preparing the plans and programs for developing industrial estates;
- Approving applications for the construction of factories in industrial estates in accordance with the licences granted by the Ministry of Industry and Trade;
- Determining the price of leasing land within industrial estates;
- Drawing-up executive instructions for employing workers in the JIEC;
- Appointing JIEC's auditors;
- Establishing industrial estates within the kingdom with the approval of the Council of Ministers;
- Preparing laws and regulations for JIEC and amendments thereto;
- Approving agreements and contracts with JIEC; and
- All other authorities that are related to JIEC's goals.

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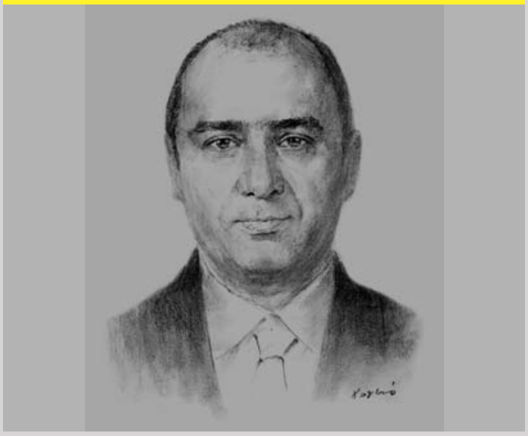

Khaled Asfour

At home and abroad

Khaled Asfour, Managing Partner, Ali Sharif Zu'bi Advocates & Legal Consultants, on multiple securities regulators

The securities trading and services legal framework was significantly changed towards the end of 2008 by the enactment of the Law Regulating Dealings in Foreign Exchanges of 2008 (FEX Law). Previously, it was regulated mainly under the Securities Law of 2002 (Securities Law). The FEX Law was enacted to regulate the activities of persons and companies acting as intermediaries for Jordanian residents with respect to trading on foreign stock exchanges.

The FEX Law was enacted as a reaction by the government to the improper practices of certain local small companies that were set up to invest the funds of Jordanian investors in securities listed on stock exchanges abroad. The activities of such firms remained unregulated for a long time, especially in light of an announcement a few years ago by the Jordan Securities Commission (JSC), which was established pursuant to the Securities Law, that it effectively only regulates the activities and services related to investment in Jordanian securities. The void created by this announcement and the lack of regulation resulted in abuse and fraud towards small, unsophisticated investors.

The FEX Law applies to any person who undertakes on behalf of others any work or activity that is related directly or indirectly to dealings in any foreign exchanges or acting as an intermediary in connection with such dealings. The FEX Law establishes an independent Board for the Regulation of Dealings in Foreign Exchanges (FEX Board), which is responsible for licensing, supervising, controlling and regulating companies that deal on foreign exchanges. The FEX Law provides that any company that will provide any type of activity or that will act as an intermediary in connection with dealings in securities listed on foreign exchanges will need to obtain a licence from the FEX Board.

There are mainly three exemptions from the application of the FEX Law: companies that are licensed by the JSC in accordance with the Securities Law; any foreign bank or foreign financial firm that deals in foreign exchanges that the Council of Ministers resolves to exempt from application of the FEX Law; and any dealings that a person executes on behalf of another where a special relationship exists between them, the type of such relationship to be determined by the Council of Ministers. The enactment of the FEX Law has resolved the immediate problem that was facing the Jordanian market, namely the fraud that was being conducted against small Jordanian investors, but the FEX Law has problems. It has created confusion with respect to the regulation of the activities of foreign financial institutions that provide investment financial services and offer securities to Jordanian investors on a cross-border basis.

There is significant overlap between the Securities Law and the FEX Law. The Securities Law, by its terms, applies to all securities including foreign securities being marketed and sold in Jordan. There are arguments that the announcement made by the JSC does not change this fact and care should be taken by foreign financial institutions not to violate the Securities Law even though they are in compliance with the FEX Law. The Securities Law provides that the provision of securities-related financial services, including investment advice or the offer of securities, would require a licence from the JSC. There is no distinction between providing these services locally or on a cross-border basis. On the assumption that a foreign financial institution wishes to offer financial advice services or offer foreign securities to Jordanian investors, it can easily comply with the FEX Law by obtaining an exemption under the FEX Law on the basis that it is a licensed financial institution in its home jurisdiction. It is not clear how this exemption affects the legality of its proposed activities under the Securities Law and whether it is a substitute for the licence required from the JSC.

The FEX Law, by creating the FEX Board, effectively created a second securities commission that deals only in foreign securities. The FEX Board needs to be properly staffed and financed and this could prove to be burdensome financially and practically. Thus, the Securities Law and the FEX Law need to be reconciled soon.