

# BANKING & FINANCE

Nadia Kettani, Kettani Law Firm



## About Nadia Kettani

Nadia obtained her Juris Doctorate at Hassan II University of Casablanca and a double Masters degree in Civil and Business law. Nadia continuously avails herself to her clients, and represents them with a lot of dedication and enthusiasm. As a business executive, she understands the importance of responsiveness, and is committed to providing efficient and cost-effective legal services to her clients. Nadia represents most multinational and blue-chip companies investing in Morocco. Her clients include European, Anglo Saxon, Gulf and Asian Companies.

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According to Deloitte's 2016 banking industry outlook, several aspects of the global banking sector have been experiencing, and are set to experience, serious existential threats. As change is spurred across the globe, uncertainty surrounding the future of the banking sector is rife, and questions are arising about the next decade of banking.

Here to give Lawyer Monthly her perspective on banking & finance landscape in Morocco, is Nadia Kettani of the Kettani Law Firm. Nadia discusses the daily operations of the firm, the latest legislative changes in the Moroccan banking sector, and talks about the challenged involved in financing projects in the North African region.

Kettani Law Firm (KLF) is a major Moroccan business law firm founded in 1971 by Professor Azzedine Kettani who was admitted to practice as a lawyer in 1968 and is approved by the High Court of Justice of the Kingdom of Morocco. He was joined in 1992 – after internships in France and the United States – by Nadia Kettani, who is the Head of the International Consulting Department while supervising some areas of the Litigation Department; and Rita Kettani in 1993, who is the Head of the Commercial Department, the Litigation Department and the Labour Law Department. The firm acts for banks and

other financial institutions, international businesses, major public and private companies and government departments.

**Who are the clients you regularly deal with on banking matters and what kind of challenges do they bring to the firm?**

KLF assists both multinational and large local companies whether they are banks of private entities. With respect to international clients, one of the main challenges is that the clients are familiar mostly with common law and do not necessarily fully understand the environment of civil/continental law. Therefore, international clients wish to apply foreign law, which is not always accepted or understood in Morocco, although both private entities and public ones are more and more open to the idea. In addition, multinationals systematically want to apply international arbitration as a dispute resolution clause, which is not always accepted,

although more accepted in Morocco.

**Over the past 30 years, what would you say have been the most impacting banking directives/regulations to change the Moroccan financial landscape?**

Over the past 30 years, all banking laws and regulations in Morocco have been updated and upgraded. The banking Law itself has been amended in order to become investor friendly and open to new types of products, such as the Islamic finance for instance. With respect to capital markets, laws and directives have been upgraded to International standards and supported by a complete reform of the 'Office des Changes' (IGODC), which also became investor friendly. Multinationals can buy local debt as much as local clients can buy international debt, both without the prior authorization of the exchange control office. Consequently, Moroccan banks and multinational companies are able to offer investment in a standardized and efficient legal context. The recognition by Morocco of tools such as ISDA's master agreement templates allows Moroccan actors to use international legal instruments, and international players to offer those a safe legal environment.

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**Please tell me about the regulatory developments that have affected financial services in Morocco most recently.**

Several laws have affected financial services in the past years. Most recently Moroccan authorities passed a Law relating to debt securitisation, a Law relating to the real estate collective investment scheme (OPCI) (passed but not yet applicable), and Islamic financial products.

**What trends have you noticed with consultancy clients over the last year? What challenges have they raised and how have you navigated these?**

Over the last year, consultancy clients have continued to approach Morocco, as it is the safest country in the region, but act carefully. Indeed, most of them investigate prior to their investment and eventually invest in stages.

Other more specific aspects usually relate to the enforcement by a foreign investor of the limitation of liability and the liquidated damage clause or the nature of security package that can benefit to a foreign player.

**How do you believe Morocco's infrastructure development, and other projects, could make the nation more appealing to FDI?**

Morocco cumulates a fine-tuned legal system (notably in the field of renewable energy law and public-private partnership with recent laws that have been passed) and a dynamic governmental strategy. To cite a few examples, the Moroccan government adopted the Green Plan strategy ('Maroc Vert') relating to the agriculture sector for the years to come. The Green Morocco Plan's strategy concerns a sector which contributes 19% of the GNP, with 15% from agriculture and 4% from agro-industries.

The Government also adopted a solar plan ('Plan Solaire'), launched in 2009. This project is part of Morocco's energy strategy, which focuses on the development of renewable energy and sustainable development. These long-term governmental strategies aim at encouraging investments in expanding sectors. **LM**

The challenges are the same as the ones raised on a regular basis, i.e. applicability of foreign law as governing law; enforcement and implementation of contracts as well as the enforcement of arbitration awards or foreign judgments.

**As a thought leader, how are you and your firm helping towards the successful expansion of project financing in Morocco?**

Kettani Law Firm has participated in most project finance deals in Morocco, whether in the energy sector or others. It has developed a legal know-how as it has had the opportunity to act for sponsors, lenders or EPC contractors.

All legal aspects are therefore covered and mastered by KLF, with the most salient ones being in energy projects; for instance the quiet enjoyment, the access right or the surface right concept.