



**PROTECTING THE DEBTOR BY MEANS OF SETTLEMENT IN THE
PREVENTIVE SETTLEMENT AND FINANCIAL RESTRUCTURING
PROCEDURES UNDER THE SAUDI BANKRUPTCY LAW (AN ANALYTICAL
STUDY)**

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ABSTRACT

There is no doubt that protecting the insolvent debtor is a matter of great importance in the economic sphere, as it helps prevent enterprises from collapsing. Accordingly, legislation has been enacted to allow the preparation of rescue plans as soon as early signs of economic difficulty appear in commercial undertakings. The Saudi Bankruptcy Law lays down procedures applicable to both creditor and debtor and introduces practical mechanisms that clearly safeguard the debtor's rights, attaching multiple legal effects that signal the legislator's seriousness in giving effect to such protection. Among these mechanisms is enabling settlement (ṣulḥ) within the preventive settlement and financial restructuring procedures, this study highlights that mechanism.

Keywords: Protection; Debtor; Bankruptcy; Settlement; Preventive Settlement; Financial Restructuring, Saudi Arabia.

INTRODUCTION

Modern legal systems have sought to delineate mechanisms for rescuing commercial enterprises from collapse and bankruptcy. They have instituted frameworks that permit the preparation of debtor-rescue plans as soon as early signs of economic difficulties appear, whether in corporate entities or for individual merchants. The Kingdom of Saudi Arabia has paid close attention to legislation governing commerce and its stability, including measures designed to protect the rights of creditors and debtors and to safeguard those rights, striving to give each party its due without prejudice to the other. Among these measures are those



concerned with informing the debtor of the rules and procedures of litigation. This study aims to highlight this measure and demonstrate its protective effect. We have entitled it: “Protecting the Debtor by Informing Them of Litigation Rules and Procedures under the Saudi Bankruptcy Law: An Analytical Study”.

SIGNIFICANCE OF THE STUDY

The significance of this research lies in several considerations, most notably:

- That examining a mechanism for protecting the debtor’s rights by apprising them of litigation rules, and identifying its effects while grounding it in law, enhances the mechanism’s strength and rigor.
- That highlighting this mechanism clearly demonstrates the advantages of Saudi law in safeguarding the interests of both parties, showing that its concern extends beyond the creditor to include the debtor as well. Comparative sectoral evidence in the Kingdom confirms this preventive approach, which rests on transparent procedures and effective institutional oversight (Alasmari & Zurib, 2025).

RESEARCH OBJECTIVES

The objectives we sought to achieve in this study are as follows:

- To foreground this mechanism, present it to the relevant stakeholders, and subsequently elucidate its role in safeguarding the rights of the insolvent debtor.
- To delineate the effects of this mechanism in protecting rights; presenting these effects to stakeholders provides a clear indication of the seriousness and efficacy of the protection it affords.

RESEARCH PROBLEM

The problem addressed in this study stems from the fact that insolvency and bankruptcy regimes primarily aim to protect the creditor, which at times results in neglect of the rights of the other party, the debtor. The Saudi Bankruptcy Law has sought to remedy this by delineating a set of practical mechanisms to protect the debtor, among them acquainting the debtor with the rules and procedures of litigation. Notwithstanding its importance, this mechanism is not expressly articulated in the text of the Law, nor has it been consolidated within a single,



coherent framework that surfaces and clarifies it; moreover, it has not previously been subjected to systematic study and analysis.

PREVIOUS STUDIES

Based on our survey of the literature, we did not find any standalone study devoted specifically to this mechanism.

RESEARCH METHODOLOGY

This study employs an inductive examination of the provisions of the Saudi Bankruptcy Law and the related implementing regulations, together with an analytical method that infers the rules pertinent to this mechanism from the relevant legal texts.

DEFINING THE TERMS IN THE RESEARCH TITLE

Definition of “Protection” in Saudi Law

We did not find a specialized, technical definition of the term protection in Saudi legislation; rather, the term aligns with its established linguistic sense. Cornu’s Dictionary of Legal Terms defines protection as “a precaution based on safeguarding a person or property against risks, and ensuring their security and safety through legal or material means” (Cornu, 1418, p. 726).

For purposes of the Saudi Bankruptcy Law, the concept of protection may be expressed as, preventing creditors or others from unlawfully infringing the debtor’s rights or assets, pursuant to the provisions and procedures of the Bankruptcy Law (Saudi Bankruptcy Law, 1439).

Definition of “Debtor” in Saudi Law

In legal doctrine, a debtor is “one who must perform the obligation or pay compensation” (Badawi, 1424, p. 78). The Saudi Bankruptcy Law defines the debtor as a person in whose liability a debt is established, and defines debt as a financial obligation fixed in the debtor’s liability (Saudi Bankruptcy Law, 1439).

Definition of “Bankruptcy/ Insolvency” in Saudi Law

The Saudi Bankruptcy Law defines a bankrupt (insolvent) person as a debtor whose debts have absorbed all of his assets (Saudi Bankruptcy Law, 1439).



- Informing the Debtor of Litigation Rules and Procedures in the Preventive Settlement under Saudi Law.

Preventive settlement is an optional plan that the debtor may submit, in specified circumstances, to the commercial court. It comprises a petition to open a preventive settlement between the debtor and the creditors for a defined period, contingent upon approval by the requisite voting quorum of creditors across their various classes.

A close reading of the provisions of the Bankruptcy Law governing the preventive settlement shows that the Law sets out in detail the steps the debtor must take upon bankruptcy, distress, or when experiencing financial turbulence that could lead to distress. It also prescribes the controls applicable to the proposal submitted to the court, together with the acts forming part of this procedure (Saudi Bankruptcy Law, 1439, arts. 13 (1) – (2), 15–19, 25 (1); Implementing Regulations of the Saudi Bankruptcy Law, 1439, arts. 37 (1), 38–41; Rules on Information and Documents, 1440, art. 7).

All of these provisions clearly demonstrate the legislator’s concern with informing the debtor of the rules of pleading and procedure, and with walking the debtor through those rules step by step so they can understand their rights and navigate the procedure in a lawful manner (Saudi Bankruptcy Law, 1439 AH, arts. 13–19, 25(1)). It is also noteworthy that small debtors within the preventive settlement are subject - albeit in a simplified manner - to the same procedural obligations prescribed for this procedure (Saudi Bankruptcy Law, 1439, ch. 6, arts. 137–141).

Consequently, what is said about this protective mechanism in relation to ordinary debtors applies to small debtors as well.

- Informing the Debtor of Litigation Rules and Procedures in the Financial Restructuring Procedure under Saudi Law

Financial restructuring is defined as “a procedure designed to facilitate the debtor’s reaching an agreement with creditors to reorganize the financial affairs of the business, under the supervision of a financial restructuring trustee” (Saudi Bankruptcy Law, 1439 /2018, art. 1). The Bankruptcy Law devotes an entire chapter to setting out the rules governing this procedure (Saudi Bankruptcy Law, 1439 AH/2018, ch. 4, arts. 42–91; Bankruptcy Commission, 1440/2019, art. 4).



A close reading of that chapter - together with the related rules -shows extensive, detailed guidance that informs the debtor of the rules and steps of litigation, thereby reflecting the legislator's commitment to protecting the debtor by expressly apprising them of pleading requirements within the financial restructuring process and by assigning oversight to the trustee (Saudi Bankruptcy Law, 1439 AH/2018, ch. 4, arts. 42–91; Bankruptcy Commission, 1440 /2019, art. 4).

It bears emphasis that the trustee is a legally trained specialist who is tasked with safeguarding the debtor from prejudice and executing the procedure fairly for all parties, including the debtor (Saudi Bankruptcy Law, 1439 AH/2018, ch. 4, arts. 42–91). It is also noteworthy that small debtors in financial restructuring are subject—albeit in a streamlined fashion—to the same procedural obligations prescribed for this procedure (Saudi Bankruptcy Law, 1439 AH/2018, ch. 7, arts. 142–159).

Consequently, the observations made here regarding this protective mechanism apply to small debtors as well.

- Informing the Debtor of Litigation Rules and Procedures in the Liquidation Procedure under Saudi Law

The liquidation procedure is, “A procedure aimed at inventorying creditors’ claims, selling the assets of the bankruptcy estate, and distributing its proceeds to creditors, under the management of a liquidation trustee]”. (Bankruptcy Law, Article 1).

The Bankruptcy Law and its related regulations have addressed this procedure in detail, devoting an entire chapter to it and specifying the matters the debtor must observe throughout. (Bankruptcy Law, Chapter Five, Articles 92–126; Implementing Regulations of the Saudi Bankruptcy Law, Article 4 (1) and Article 49)

Upon examining these provisions, we find that the legislator has sought to inform the debtor of the rules governing this procedure. It is also worth noting that, for small debtors in liquidation, the legislator has prescribed - albeit in general terms - the same procedural steps to be followed in this procedure. (Saudi Bankruptcy Law, Chapter Eight, Articles 160–166) Accordingly, what has been said regarding this mechanism as it relates to the debtor applies to them as well.



- Informing the Debtor of Litigation Rules and Procedures in the Administrative Liquidation Procedure under Saudi Law

The administrative liquidation procedure is: “A procedure aimed at selling assets of the bankruptcy estate whose sale is not expected to produce proceeds sufficient to cover the expenses of the liquidation procedure, or the liquidation of small debtors, under the supervision of the Bankruptcy Commission”. (Bankruptcy Law, Article 1)

The Saudi Bankruptcy Law and its related regulations have shown concern for protecting the debtor in this procedure and have devoted an entire chapter to discussing it. (Bankruptcy Law, Chapter Nine, Articles 167–181; Rules on Information and Documents, Article 10)

Here, the debtor-protection mechanism appears quite clearly: the Bankruptcy Commission assumes the debtor’s position, and it is a body legally specialized in resolving such cases. In doing so, it protects the debtor from legal errors that might lead to the loss of some or all of their rights. Upon assuming the debtor’s tasks and managing the business, it announces the liquidation, receives creditors’ claims, sells the assets of the bankruptcy estate, and concludes the procedure. This, however, is not the place to set out the detailed rules governing these steps.

CONCLUSION

Findings

This study yielded several important findings, as follows:

- This type of mechanism is designed to protect the debtor’s rights prior to the initiation of any of the prescribed procedures.
- From the foregoing, we infer the Saudi legislator’s keenness to protect the debtor by informing them of the rules and procedures of litigation in each bankruptcy proceeding. This constitutes a positive feature of the law, as it seeks to preempt complications and avert the loss of rights that might otherwise occur were these procedural provisions not set out in detail. Accordingly, this protective mechanism is clearly manifest across all bankruptcy procedures.

Recommendations

We recommend disseminating these rules through all available official channels so that every interested party may access them, act in accordance with them, and assert their rights thereunder.



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