



THE NECESSITY OF FULFILLING FORMAL APPLICATION REQUIREMENTS FOR OPENING BANKRUPTCY PROCEDURES UNDER SAUDI LAW (AN ANALYTICAL STUDY)

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ABSTRACT

There is no doubt that protecting the insolvent debtor is a matter of considerable importance in the economic sphere, insofar as it helps to prevent commercial undertakings from collapsing. To this end, legislation has been enacted that allows the preparation of rescue plans as soon as early signs of economic difficulty appear in such enterprises. The Saudi Bankruptcy Law sets out the procedures to be followed for both creditor and debtor, and it establishes practical means by which the debtor's rights are clearly safeguarded, attaching multiple effects that attest to the seriousness with which these protections are pursued. Among these means is the requirement that any person involved in a bankruptcy matter comply with formal, procedural filings designed to protect -and alert- the debtor. This study seeks to shed light on that mechanism.

Keywords: Formal Applications; Debtor; Bankruptcy.

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 vision aligns with a broader regulatory orientation in the Kingdom that operationalizes principles of prevention and oversight to protect life, property, and the environment through clear frameworks (Alasmari & Zurib, 2025).

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 importance of this topic lies in several considerations, most notably:

- That addressing a debtor-protection mechanism built on fulfilling formal application requirements for opening bankruptcy procedures regulates the rights of all parties, grants both debtor and creditors visibility over the process, and enables the submission of defenses at any stage, thereby serving as a means capable of protecting rights.
- That this mechanism affords the court an opportunity to verify which of the statutorily prescribed procedures is appropriate in the circumstances.
- That highlighting this mechanism clearly demonstrates the advantages of Saudi law in safeguarding the interests of both parties and shows that its concern is not confined to the creditor to the exclusion of the debtor.

RESEARCH OBJECTIVES

- To foreground this mechanism, present it to relevant stakeholders, and then clarify its role in safeguarding the insolvent debtor’s rights.
- To set out the effects of this mechanism in protecting rights; making those effects clear to stakeholders underscores the seriousness of the protection afforded.

RESEARCH PROBLEM

Bankruptcy systems and statutes primarily aim to protect the creditor, which at times leads to neglect of the rights of the other party - the debtor.



The Saudi Bankruptcy Law has sought to remedy this by delineating practical means of protecting the debtor, among them requiring fulfillment of the formal application requirements for opening bankruptcy procedures. Notwithstanding its importance, this mechanism is not expressly articulated in the Law's text, nor has it been consolidated in a single context that reveals and clarifies it; nor has it previously been subjected to study and analysis.

PREVIOUS STUDIES

In the literature surveyed, we did not find any standalone study specifically addressing this mechanism.

RESEARCH METHODOLOGY

This study adopts an inductive reading of the provisions of the Saudi Bankruptcy Law and related regulations, as well as an analytical method to infer rules relevant to this mechanism from the pertinent legal texts.

SCOPE OF THE STUDY

The study comprises a preliminary section, four chapters, and a conclusion, as follows:

DEFINITIONS OF THE RESEARCH TITLE'S TERMS

Definition of Formal Applications in Saudi Law

We did not find a statutory definition of formal applications in Saudi law. In various legal systems, they relate to procedure and do not address the substantive right claimed or the merits of the action; accordingly, the judge considers and rules on them before examining the merits.

A ruling that the case is admissible on procedural grounds does not entail acceptance on the merits.

They may be expressed as: *"the procedural steps that the party in interest must fulfill when submitting an application to the court to open one of the bankruptcy procedures"*. (On the procedural/substantive distinction in legal usage, see Badawi, 1424; Cornu, 1418).



The Saudi Bankruptcy Law defines a bankrupt as a “*debtor whose debts have absorbed all of his assets*”. (*Saudi Bankruptcy Law, 1439 /2018, art. 1*).

PROTECTING THE DEBTOR BY REQUIRING FULFILLMENT OF FORMAL APPLICATION REQUIREMENTS IN THE PREVENTIVE SETTLEMENT PROCEDURE

Preventive settlement is an optional plan the debtor may submit, in specified cases, to the commercial court, seeking to open a preventive settlement between the debtor and creditors for a defined period, provided the requisite voting quorum of creditors - across classes - approves the proposal.

The stages begin with the debtor submitting an application to the court to open the procedure; the court then considers the application and rules to open, reject, or postpone. After execution, the debtor returns to the court to request termination. Throughout these stages, the law imposes formal procedural requirements binding on all parties. (*Saudi Bankruptcy Law; Implementing Regulations*).

PROTECTING THE DEBTOR BY REQUIRING FULFILLMENT OF FORMAL APPLICATION REQUIREMENTS IN THE FINANCIAL RESTRUCTURING PROCEDURE

Financial restructuring is 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*”.

The stages begin when the debtor, a creditor, or the competent authority submits an application to the competent commercial court to open the procedure; the court then considers the application and rules to open, reject, or postpone.

After execution, the debtor - or the trustee - returns to the court to request termination.

Throughout these stages, the law imposes formal procedural requirements binding on all parties. (*Saudi Bankruptcy Law; Implementing Regulations*).



PROTECTING THE DEBTOR BY REQUIRING FULFILLMENT OF FORMAL APPLICATION REQUIREMENTS IN THE LIQUIDATION PROCEDURE

Liquidation is a *“procedure aimed at inventorying creditors’ claims, selling the bankruptcy estate’s assets, and distributing the proceeds to creditors, under the administration of a liquidation trustee”*.

The stages begin when the debtor, a creditor, or the competent authority submits an application to the competent commercial court to open the procedure; the court may open it ex officio or upon the application of an interested party.

After execution, the trustee returns to the court to request termination.

Throughout these stages, the law imposes formal procedural requirements binding on all parties. (*Saudi Bankruptcy Law; Implementing Regulations*).

PROTECTING THE DEBTOR BY REQUIRING FULFILLMENT OF FORMAL APPLICATION REQUIREMENTS IN THE ADMINISTRATIVE LIQUIDATION PROCEDURE

Administrative liquidation is a *“procedure aimed at selling assets of the bankruptcy estate whose sale is not expected to yield proceeds sufficient to cover the costs of the liquidation procedure, or at liquidating small debtors, under the supervision of the Bankruptcy Commission”*.

The debtor or the competent authority may submit an application to the competent commercial court to open the procedure; the application is recorded upon submission together with the related information and documents. If the competent authority submits the application, the court must notify the debtor within five days from the date of submission.

If the debtor submits the application, the debtor must notify creditors as specified in the Regulations. The court may open the procedure ex officio or set a hearing to consider the application within 40 days of the filing date, and must notify the applicant and the debtor of the hearing date within five days of filing; it then rules to open, reject, or postpone.

If the ruling is to open, the court appoints the Bankruptcy Commission to carry out the tasks of



the procedure, and the debtor's authority to manage the business is stayed. The Commission must announce the court's opening ruling within five days of its date and invite creditors to submit their claims within no more than 60 days from the date of the announcement. Within five days of the opening, the Commission must notify known creditors of the ruling and invite them to submit their claims within no more than 60 days from the date of notification.

Upon completing the administrative liquidation, the Bankruptcy Commission issues a decision to terminate the procedure after completing the sale of the bankruptcy estate's assets (if any) and concluding actions in cases to which the debtor is a party, and does so within 12 months from the date of opening. The decision is deposited with the court, and entries are made in the Bankruptcy Register and the Commercial Register indicating termination within five days of the termination date.

CONCLUSION

Findings

- This class of mechanisms protects the debtor's rights after commencement of each of the prescribed procedures.
- The foregoing shows the Saudi legislator's keenness to protect the debtor by requiring fulfillment of formal application requirements in every bankruptcy procedure - an advantage of the legal system that seeks to protect the debtor from being surprised by bankruptcy actions without sufficient verification.

This mechanism is clearly manifest across all bankruptcy procedures.

Recommendations

We recommend publishing these formal requirements through all available official channels so that every interested party can consult them, act accordingly, and assert their rights by reference to them.

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