

# Sponsored briefing: Israel adopts the UNCITRAL Model Law

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Middle East and Africa Yigal Arnon & Co Sponsored briefing

**Inbar Hakimian-Nahari of Yigal Arnon & Co explains how Israel's new law provides clarity and makes it easier for foreign companies and investors operating in the country**

In September 2019, the Insolvency and Economic Rehabilitation Law, 5778-2018 will come into force in Israel. The new law is a comprehensive insolvency legislation for individuals and corporations, which includes extensive changes to the current insolvency legal framework, while also incorporating customary practice and legal precedents.



The contemporary Israeli economy is rapidly increasing its profile in the global economy, and has seen growth in activity by both local and foreign players in its capital markets, initial public offerings and start-ups. This welcome development necessitated that the Israeli legislator include regulation of international insolvency proceedings by adopting certain parts of the Model Law on Cross-Border Insolvency (1997) into Chapter 9 of the new law. The Model Law, developed by UNCITRAL, was already adopted by 44 countries.

The legislator's reasons for adopting the Model Law principles were: promoting co-operation between Israeli and foreign authorities regarding international insolvency proceedings; increasing legal certainty in areas of trade and investments; protecting creditors, third parties and even debtor interests; assuring that the value of debtors' assets will be maximised for the benefit of the insolvency proceeding; and assisting in rehabilitation of financially distressed businesses, thus protecting investments and maintaining employment.

Chapter 9 of the new law adopts a direct-access principle regarding: assistance requests of foreign authorities from the appropriate Israeli authority or an Israeli-appointed trustee, regarding foreign proceedings and vice versa (thereby cutting the red tape); provisions regarding simultaneous foreign and Israeli insolvency proceedings of the same debtor; and parties' interests in opening or participating in Israeli insolvency proceedings.

The new law distinguishes between a 'primary foreign proceeding' (PFP) conducted where the debtor's centre of main interests is located and a 'secondary foreign proceeding' conducted elsewhere, provided that the economic activity concerns commerce or the provision of services, and involves the employment of local manpower.

Israel's recognition of a PFP would automatically suspend repayment of the debtor's past debts and stay local proceedings against him. However, recognition of PFP does not prevent opening of insolvency proceedings that are limited to assets in Israel and Israeli courts will likely seek for balance of remedies awarded to a foreign authority.

Interestingly, the legislator deliberately chose to omit the principle of reciprocity, holding it would be improper to demand that legal assistance only be given in foreign insolvency proceedings from countries that provide similar assistance to Israeli proceedings.

The new law provides guidelines as to dealing with matters that were not previously addressed in the Israeli legislation and led the courts to come up with their own original solutions. It is expected that the legal certainty this law provides will make it easier for foreign corporations and investors to operate in the Israeli market.

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