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Israeli law takes major step forward

16:12 , 17.05.16 | David H. Schapiro

This week, Israel, the "start up nation" took a major step forward in allowing foreigners to do business in Israel



Imagine trying to incorporate a company in Delaware with a Hebrew Certificate of Incorporation ? Or what about a UCC filing of a security agreement which is in Hebrew?

And how about wanting to join the board of a public company but being told that you must serve for 3 years, will have increased responsibility and risk of lawsuit, but can hardly be paid for it?

This week, Israel, the "start up nation" took a major step forward in allowing foreigners to do business in Israel and at the same time, enabling Israeli public companies to attract foreigners to join their boards of directors.

The Minister of Justice signed off on two seemingly minor and short amendments to regulations which have far reaching and dramatic implications.

Starting next month, all filings made with the Hebrew speaking Registrar of Companies in Israel can be filed in English. This means that companies can be formed, by- laws changed and security interests recorded using English, which is not an official language of the State of Israel (While Israel is a multi lingual country, it's official, legal languages are Hebrew and Arabic--not English). These documents can now be filed in English and English is the binding and governing language of the document.

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Israel's special role as one of the start up capitals of the world, coupled with dramatic M&A and foreign inbound investment have created an environment which has allowed for many traditional services in Israel to be deregulated, simplified and made user friendly. Non Hebrew speaking business people will no longer need to sign corporate documents in Hebrew, even though they have no understanding of the Hebrew language. While this happens in many countries worldwide, Israel now increases the manner in which it encourages foreigners to do business in Israel. While the new regulations require that a "convenience" translation into Hebrew be filed with the registrar, this translation is not an official translation and it is for ease of reading only.

The other amendment passed this week impacts the over 100 Israeli companies trading on stock exchanges worldwide. Since the 1990s, Israeli public companies needed to comply with corporate governance rules in Israel as well as in foreign jurisdictions. One of the most unique aspects of this double set of regulations related to the need to appoint "public sector" directors. These special directors serve for a minimum three year term, must be members of the audit committee and generally are viewed as having an extra level of corporate responsibility. The bad news is that their annual compensation was extremely limited. Under the new rules, companies trading abroad which comply with local corporate governance rules and which don't have controlling shareholders can opt out of the rule requiring public sector directors and all that this entails. I would expect that this change will trigger an increase in the number of foreigners joining the boards of Israeli dual traded companies as independent directors. This breath of fresh air will further enhance the quality of boards of directors of public companies.

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