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Main Subject



MoF reviews the final draft of the federal bankruptcy law

The final draft of the federal bankruptcy law was approved on the 4th of September 2016, during a media round table held at the Ministry's premises in Abu Dhabi, by the UAE Cabinet, under the directives of His Highness Sheikh Khalifa bin Zayed Al Nahyan, UAE President, and His Highness Sheikh Mohammad bin Rashid Al Maktoum, UAE Vice President and Prime Minister, and Ruler of Dubai. The Ministry of Finance has worked to introduce a law which is based on modern legislative and economic principles, while taking global economic and business developments into consideration. These efforts have led to the implementation of the bankruptcy law, and distinguished it from similar legislation on a regional level, as well as in developed countries. The law was designed to regulate various bankruptcy cases, and determine the legal tools required to restructure debtors'

finances in accordance with clear terms and an established legal framework.

The law stipulates the role of the “Committee of Financial Restructuring”, which includes: overseeing the procedures of any consensual out-of-court financial restructuring, preparing an approved list of bankruptcy experts, appointing Trustees in Bankruptcy, who will also be available for all court proceedings. Having qualified experts in fields of bankruptcy and financial restructuring will enhance the effectiveness of the law.

The Committee also has the responsibility of overseeing the appointment of financial restructuring experts, and establishing as well as maintaining a national electronic database of individuals who have had bankruptcy rulings against them, including restrictions set by the court or loss of eligibility. The Committee is also responsible for suggesting amendments to the law and determining any fees incurred as well as any other tasks or mandates assigned by the UAE Cabinet.

The law identifies different ways to avoid bankruptcy cases and the liquidation of debtors’ assets, including consensual out-of-court financial restructuring, composition procedures, financial restructuring and the potential to secure new loans under terms set by the law. The draft bankruptcy law, which will help the country to meet current business requirements, enhance the willingness of lenders to provide credit and boost confidence by improving the ease of doing business. The law seeks to safeguard the rights of both creditors and borrowers in insolvency situations, by introducing the correct legislative actions. The law will allow insolvent borrowers to restructure their finances and pay their debts without disrupting business operations, in accordance with clear and transparent legal terms and conditions, making it unique and the first law of its kind in the Arab world.

The bankruptcy law will support the UAE’s strategic plans to develop its economic, financial and legislative structure. The law will also enhance the UAE’s global competitiveness in international ranking reports, which will support sustainable economic growth.



Interview with HE Obaid Humaid Al Tayer, Minister of State for Financial Affairs on Bankruptcy Law

1. What are the key factors that were taken into consideration when preparing the Bankruptcy law?

Enhancing the UAE's global competitiveness, developing a strong economy for the UAE and protecting the rights of the members of the commercial sociality by safeguarding the rights of both creditors and borrowers in insolvency situations; these are some of the key factors that we have taken into consideration when drafting the new bankruptcy law. By introducing the correct legislative actions, the new bankruptcy law will increase confidence in the markets, and therefore, this will enhance the willingness of lenders to provide credit, and that should also lead to improving the ease of doing business.

The new law has been designated to be a separate law detached from the Commercial Transactions Law, thus it should be regarded as an important legal initiative for the UAE, which resulted from the contribution and cooperation of various UAE government departments and legal authorities. The Ministry of Finance has undertaken the mission of introducing a law that meets the modern legislative and economic standards, while taking global economic and business developments into consideration. These efforts have led to the implementation of the new bankruptcy law, and distinguished it from similar legislations in the region and worldwide. The law was designed to administrate various types of bankruptcy cases, and regulated the legal tools required to restructure debtors' finances in accordance with clear terms and an established legal framework.

2. What is the future outlook on the Bankruptcy Law?

The new bankruptcy law is expected to play an important role and to be one of the most important pillars of the national economy as it will provide protection for all concerned parties and will play a pivotal role in bringing new capital to a safe and attractive investment environment. Also, the law will allow insolvent borrowers to restructure their finances and pay their debts without disrupting business operations, in accordance with clear and transparent legal terms and conditions, making it unique and the first law of its kind in the Arab world.

Mature economies have proven the need to implement a modern bankruptcy law in each country that wishes to strengthen its economic status. The aim behind the federal bankruptcy law is to attract capital, in a safe and attractive investment environment and provide protective legislation and legal acts, to help establish a clear and transparent legal framework that protects all parties, achieves balance between creditors and debtors, and prioritises creditors with guarantees over any debts.

3. What are the preventative tools provided by the law to avoid bankruptcy?

The law identifies different ways to avoid bankruptcy cases and the liquidation of debtors' assets, including consensual out-of-court financial restructuring, composition procedures, financial restructuring and the potential to secure new loans under terms set by the law.

The law also features a consensual out-of-court financial restructuring tool. This will be used under the supervision of a "Financial Restructuring Committee" (FRC), to be established under the directives of the new law. The FRC will appoint experts to help provide debtors with alternative solutions to avoid bankruptcy, and the early liquidation of their assets. This tool is available for financial institutions licensed by regulatory authorities such as the UAE Central Bank and the Securities and Commodities Authority (SCA). These entities have the right to submit a request for financial restructuring to the CFR, which will appoint experts to provide technical consultancy to restructure the debts. A special system will be implemented for financial restructuring procedures in cooperation with regulatory authorities.

4. Does the law imprison the debtor in times of financial distress or bankruptcy?

The law does not imprison the debtor for merely being in a composition procedure, financial restructuring or bankruptcy situation. In fact the new law protects the rights and freedom of the debtor during bankruptcy proceedings. However, like any other modern law, the UAE federal bankruptcy law outlines the consequences for committing fraudulent acts or intentional embezzlement.

The law outlines a number of consequences for committing fraudulent bankruptcy acts, which include a prison sentence of up to five years as well as fines of up to AED one million. The practices that lead to these consequences include: the debtor announcing bankruptcy and concealing or destroying some or all of their financial books, and/or embezzling part of the money or concealing it, and/or providing false information about their current debts, and/or receiving the composition procedure or financial restructuring through fraud, and/or receiving any other settlement in a fraudulent manner.

5. Will the law be applied on bankruptcy cases filed in Courts prior to the issuance of the new law?

The law will not apply to bankruptcy cases filed in Courts prior to the issuance of the new law, but will follow procedures stated in the Commercial Transaction Law. The new law however, is expected to influence the Court's view of any procedures.

6. How is the law implemented on companies in the UAE?

The law is implemented on: companies that were established under commercial company laws as well the companies who were not established under the commercial company law, semi or fully owned companies by the federal or the local government where their establishment legislatures are under this law, companies and institutions established in free zones and which do not have provisions to regulate composition procedures or restructuring bankruptcy according to the Federal law No. 8 of 2004 concerning financial free zones, any trader and licensed civil company.



MoF issues the federal general budget financial performance report for the first half of 2016

Ministries:

The total amount of revenues approved for 2016 accounted for AED 48,557 million, and an additional AED 48,576 million for expenditure. The actual revenues accounted for AED 29,065 million and expenditures for AED 20,913 million. The net surplus accounted for AED 8,152. The below chart demonstrates comparative figures between the actual expenditures and revenues of the first half of 2016 and the estimated expenditures and revenues of 2016.

The spending methodology for the general budget is based on rationalising spending and is directed towards vital sectors to optimise use of government resources.

