

Insolvency and Creditor Rights Systems in MENA

Initial Results of the Hawkamah-World Bank Task Force Survey

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Dr. Nasser Saidi,
Chief Economist
DIFC Authority

1. Potential Impact of the Current Crisis on MENA Countries
2. Role of Insolvency Systems in Mitigating Impact of the Crisis
3. Initial Results of Hawkamah-WB-INSOL Survey of Insolvency Systems in MENA Countries

The crisis may affect MENA countries through:

- Direct & Indirect exposure to foreign banks/financial institutions and investments and risks of sudden stop of capital flows
- Contagion effects and exposure to global bond markets and external financing risks
- Crisis has induced a recession in US, EU, Japan leading to MENA vulnerability through real sector

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- Exposure to the global bond market (access, pricing) will increase some MENA countries' vulnerability to the crisis.
 - Projected financing requirements:
 - Jordan: 32% GDP (2008) & 25% GDP (2009)
 - Lebanon: 34% GDP (2008) & 25% GDP (2009)
 - Other countries with smaller financing needs face less risk.

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- In addition to oil prices, the following real sector economic transactions may increase MENA vulnerability to the crisis:
 - Decline in International Trade
 - Decline in Tourism
 - Decline in Foreign Direct Investment
 - Countries with ties to Europe are most vulnerable including Tunisia, Morocco and Egypt
 - Decline in Remittances affecting labour exporting countries

- Given MENA's exposure to the crisis, countries must take preventative measures to mitigate the economic & financial impact of the crisis.
- The MENA countries will be going through an adjustment process; need to ensure a 'soft landing'
- Effective insolvency systems, based on developed legal frameworks, relying on a sound judicial system and on the availability of lawyers and accountants experienced in insolvency proceedings, play a critical role for orderly exit of insolvent corporations and for the efficient reallocation of resources.
- Well established Insolvency regimes & Creditor Rights Systems and frameworks are a key standard for sound financial systems

**Strengthening insolvency laws
is crucial.**

- Hawkamah launched a Task Force on Insolvency and Creditor Rights System with the World Bank, INSOL and the OECD

Objectives

- Take stock of the Insolvency Regimes existing in the MENA countries
- Develop a MENA Policy Brief on Insolvency and Creditor Rights Framework
- Identify priorities and propose concrete policy recommendations.

2008 Hawkamah/ World Bank / INSOL/ OECD survey:

- 11 MENA Jurisdictions Insolvency Systems

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|-----------------------------------|---------------|
| -DIFC | -Palestine |
| -Egypt | -Saudi Arabia |
| -Jordan | -UAE |
| -Kuwait | -Yemen |
| -Oman | -Qatar |
| -Lebanon (results being analysed) | |

- Countries scored out of a total of 155 possible points
- Survey questionnaire responses filled by lawyers, insolvency professionals and governments

Survey Questionnaire



172 Questions covering the following topics:

Part A: Legal Framework for Creditor Rights

Part B: Risk Management and Corporate Workouts

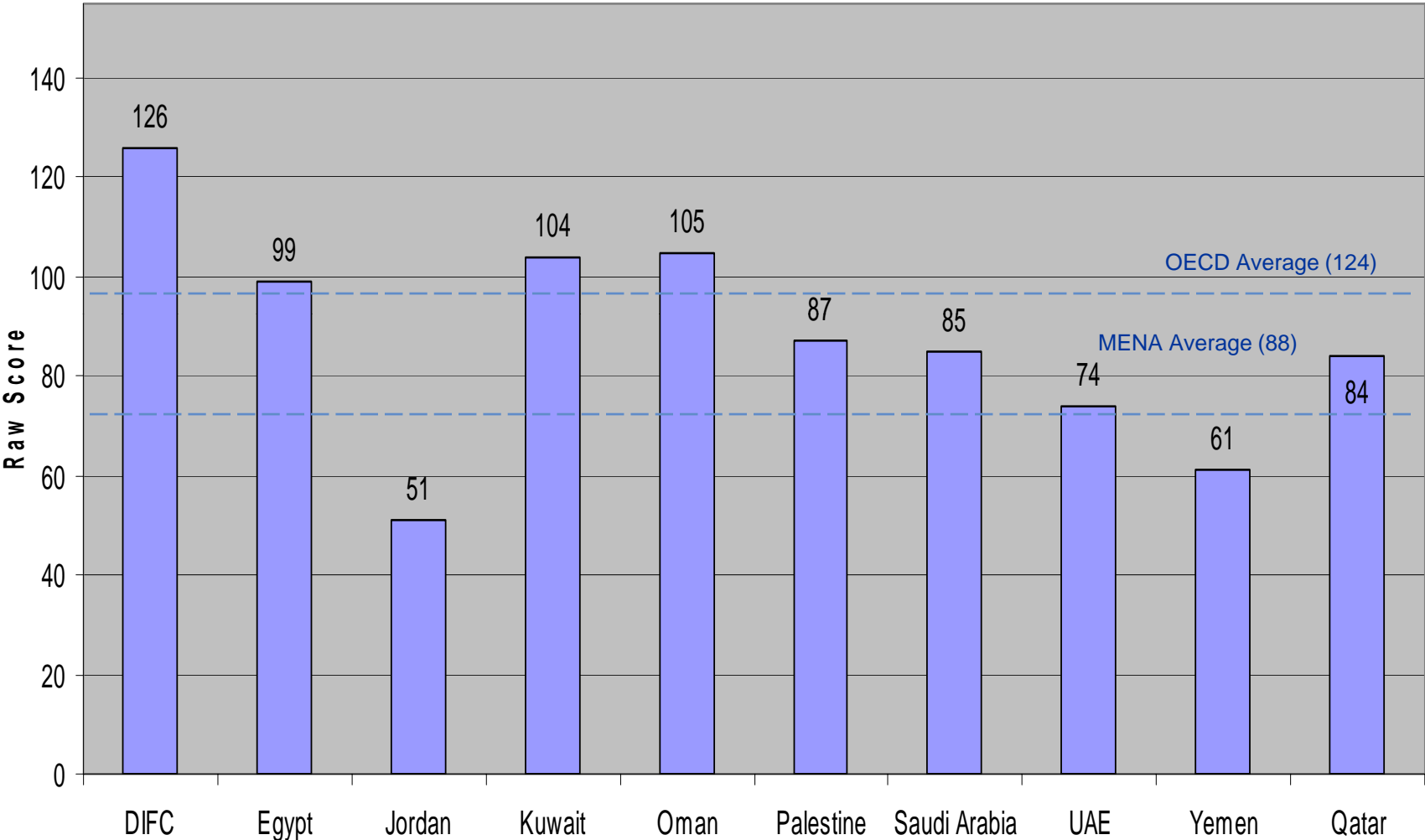
Part C: Legal Framework for Insolvency

Part D: Re-organisation Proceedings

Part E: Implementation of the Insolvency Systems

Based on World Bank: PRINCIPLES FOR EFFECTIVE INSOLVENCY
AND CREDITOR RIGHTS SYSTEMS (Revised) 2005

Overall Survey Results: scored out of a total of 155 possible points

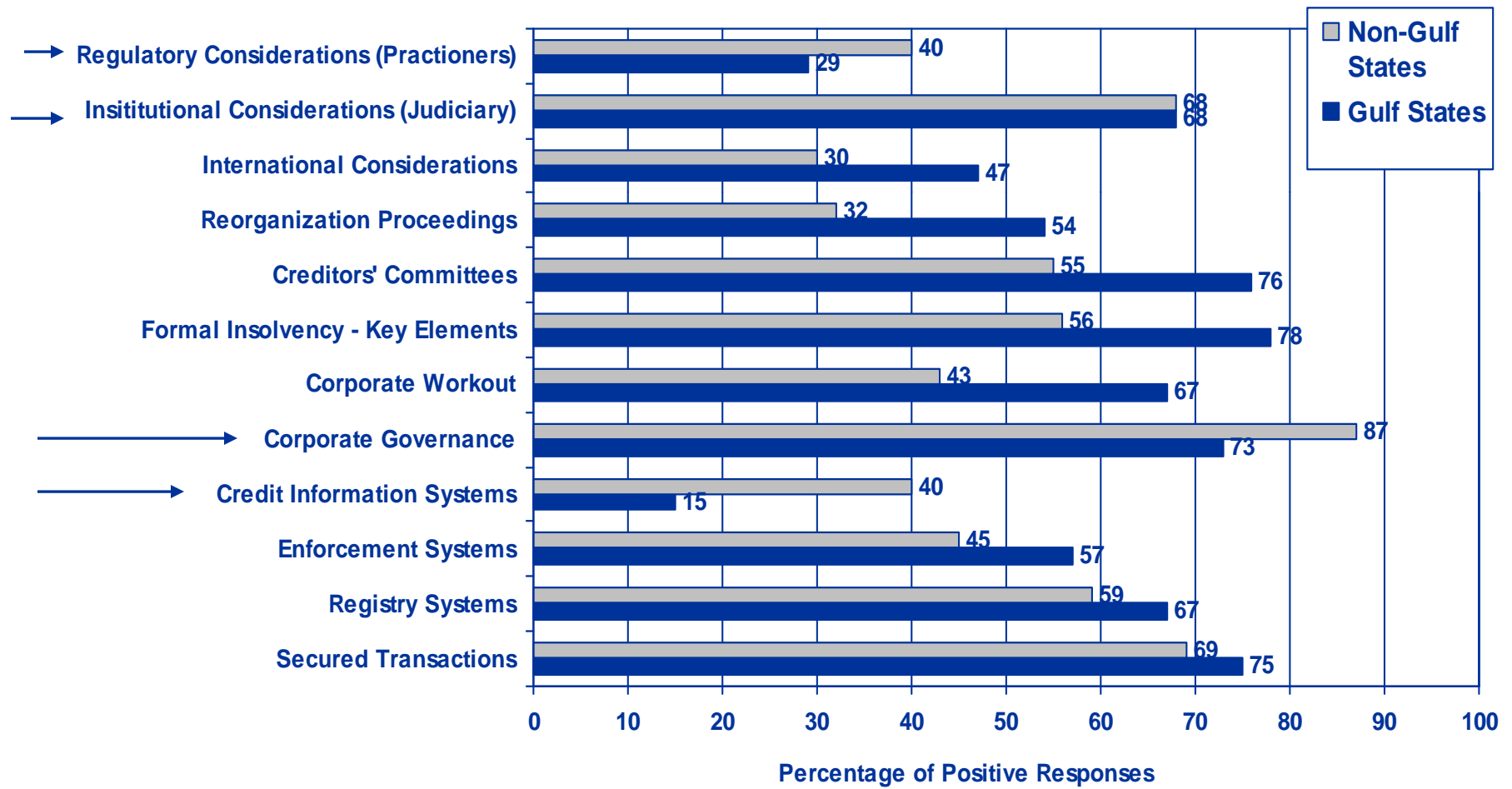


Results for Gulf v. Non-Gulf States



Gulf States have stronger insolvency laws in all but four areas.

Both Gulf and Non-Gulf States have room for improvement.



Specific Areas of Strength in MENA

MENA Insolvency Laws address the following most strongly:

- Laws provide for efficient, transparent and reliable methods of satisfying creditors' rights
- Clear rules governing priority of claims over security exist
- Laws identify courts or tribunals in which insolvency proceedings should be commenced
- Control of the insolvency estate must be immediately transferred to the insolvency practitioner
- Unsecured creditors can lodge their claims cheaply and quickly
- Courts are freely accessible by all parties
- Judges have rules to deal conflicts of interest
- Courts have sufficient authority to address abuse of the court

Strength of Insolvency Laws by Country



Strongest MENA Jurisdictions

- DIFC - 126*
- Oman - 106
- Kuwait – 105

Weakest MENA Jurisdictions

- Jordan - 51
- Yemen - 61
- UAE - 74

These results reflect the laws as drafted. Domestic implementation of laws affects results.

*Of a possible 155. The average of all MENA countries was 88. OECD average is 124.

Strength of Insolvency Laws by Issue



Strongest Issues in MENA

Corporate Governance – 81*
Secured Transactions - 71
Creditors' Committees – 71

Weakest Issues in MENA

Credit Information Systems – 28
Regulation of Practitioners – 37
International Considerations - 38

*of a possible 100

Overall Survey Results-DIFC Score DIFC

- DIFC scored the most points in the **overall survey results** (126 Points out of total 155 possible points; MENA average 88).
- DIFC was the second highest scorer in the area of **contract avoidance**. (89% positive answers provided; the MENA Average is 65%).
- DIFC was the highest scorer in the area of **insolvency representatives**. (86% positive answers provided; the MENA Average is 65%).
- DIFC scored the second highest points in the area of **oversight management in reorganisations** (80% positive answers provided against the MENA Average of 45%).

Some takeaways

- **Gulf States have stronger insolvency laws in all but four areas.**
- **Both Gulf and Non-Gulf States have room for improvement**
- **DIFC insolvency framework is robust and highest rated in the region**
- **Given MENA's exposure to the crisis, countries must take preventative measures to mitigate the economic impact of the crisis.**
- **Strengthening and modernising insolvency laws is crucial to mitigate risks and effects of financial crisis on MENA countries.**

Next Steps

- **Finalise Analysis of MENA Survey**
- **High Level Regional Conference & Policy Discussion: 26-27 May 2009**
- **Publication: MENA Insolvency Guide & Policy Recommendations**