

Results of first ever Middle East North Africa Insolvency Law survey will be released this month

Hawkamah- supported Insolvency Taskforce to present policy options on how MENA countries can adopt legal insolvency frameworks

The Dubai International Financial Centre based Hawkamah Institute for Corporate Governance, will organize the first ever regional conference on insolvency and creditor rights next month.

The conference, being held in association with World Bank, INSOL International, Abu Dhabi Chamber of Commerce and Industry and the OECD, will be the platform for the release of the Middle East North Africa (MENA) Insolvency Law Survey Results. It will be held in Abu Dhabi at the Hilton Hotel on May 27. Insolvency systems provide a pre-determined set of rules and institutions concerned with the recognition of insolvency, the resultant liquidation or rehabilitation of the insolvent firm, and the allocation of the financial consequences between the stakeholders. They also permit lenders to more accurately price risk and encourage cash flow lending rather than relationship or politically-directed lending, and discipline managers to allocate scarce resources efficiently.

Government policymakers and regulators, judges and lawyers, restructuring and insolvency professionals, bankers and accountants and auditors and financial forensic experts from the MENA region and internationally will examine the functioning of formal and informal processes relating to corporate financial difficulty, insolvency and the judicial and administrative involvement in these processes. Also under

discussion will be creditor and debtor rights and interests, risk management and corporate workout mechanisms, reorganization proceedings and implementation of insolvency systems in the eleven jurisdictions included in the survey which included Lebanon, the UAE, Egypt, Jordan, KSA, Bahrain, Qatar, Oman, Yemen, and Palestine, in addition to the Insolvency Law at the DIFC.

Dr. Nasser Saidi, Director of Hawkamah, stated: "Our survey and analysis represent a benchmark, the first ever attempt at examining and appraising insolvency regimes and creditor rights in the MENA region. Sound insolvency standards are a major building block of the institutional and market infrastructure to ensure sound financial systems.

"Hawkamah, and its partners in this regional initiative, will be presenting the results of the state of insolvency laws in the MENA region, and in consultation with regional and national stakeholders, we hope that government representatives and regulators will be developing recommendations to modernize insolvency frameworks tailor-made to the needs of the countries in the region in the light of best international practice and experience," he added.

The survey and the formulation of recommended policy options have been the work of the regional task force on insolvency and creditor rights, with Hawkamah acting as the secretariat.

Dr Saidi pointed out that the global financial crisis has highlighted the importance of updating and developing the region's insolvency and creditor rights systems. "We, at Hawkamah, have been striving to bring about global best practices to our region. Our focus on MENA insolvency regimes is part of our efforts at strengthening the institutional and market infrastructure for our regional banking and financial industry and to support our business sector in adjusting to the challenges of the increasingly global economic and financial crisis.

"We believe that addressing and modernizing the region's insolvency and creditor rights framework is one of the key

policy issues facing the corporate sector –both bank and non-bank businesses- and the region’s financial markets.,” he added.

Mahesh Uttamchandani, Senior Counsel at the World Bank explained that the World Bank, Hawkamah, OECD and INSOL International had developed a detailed questionnaire based on the World Bank’s Report on Observance of Standards and Codes programme.

The questionnaire consisted of 172 queries covering the areas of Legal Framework for Creditors Rights, Risk Management and Corporate Workout, Legal Framework for Insolvency, and Reorganizations, Proceeding and Implementation of the Insolvency System. The questionnaire was circulated to 15 MENA countries of which a response from 11 jurisdictions has been received.

“Some very interesting trends have emerged from the survey and we shall share them with representatives of governments, regulators and market practitioners who are being brought together by Hawkamah from across the region to discuss a forward-looking agenda on modernizing the region’s insolvency framework,” Uttamchandani said.

He stressed that the support of regulators, legislators and market practitioners are key to any progress on modernizing insolvency frameworks. “The ultimate goal of the World Bank, Hawkamah, OECD and INSOL International is to get more countries to complete the insolvency questionnaire so that the region can uniformly address the issue with a complementary framework that is contemporary and effective, Uttamchandani added.