

## Understanding the UAE's New Insolvency Regime

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Practical Guidance for Companies and Investors

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As businesses continue to navigate changing market conditions and increasing economic complexity, insolvency and restructuring law in the United Arab Emirates is becoming increasingly relevant for companies and investors alike. Over the past years, the UAE has fundamentally modernized its insolvency framework and moved away from its historically more restrictive approach. In particular, **Federal Decree-Law No. (51) of 2023 Promulgating the Financial Reorganization and Bankruptcy Law** introduced a more comprehensive and business-oriented regime that places greater emphasis on restructuring, financial recovery and business continuity rather than focusing solely on liquidation.

## 1. Purpose and Function of the UAE Insolvency Framework

Today, insolvency law in the UAE serves as a structured legal framework for addressing financial distress, stabilizing businesses and preserving enterprise value. It provides companies facing financial difficulties with legally regulated mechanisms to negotiate with creditors, reorganize their financial position and, where possible, continue their operations.

Without such a framework, financially distressed companies would often be left with limited and commercially unfavorable alternatives, such as:

- informal negotiations with creditors without legal protection; or
- lengthy court proceedings primarily focused on liquidation and asset enforcement.

In practice, these scenarios frequently lead to significant loss of value, including distressed asset sales, disruption of business operations, termination of commercial relationships and workforce reductions.

## 2. Development of Insolvency Law in the UAE

Prior to 2016, insolvency matters in the UAE were largely governed by **Federal Law No. (18) of 1993 concerning the Commercial Transactions Law**. The previous regime was generally regarded as creditor-focused and, in certain cases, exposed debtors and management to substantial sanctions. As a result, formal restructuring proceedings were rarely used in practice and financial distress situations were often addressed only at a late stage.

With the introduction of the UAE's first modern bankruptcy framework in 2016, the legal landscape gradually shifted towards a more structured and commercially oriented approach to financial restructuring and business recovery.

This development was further continued through Federal Decree-Law No. (51) of 2023 Promulgating the Financial Reorganization and Bankruptcy Law, which modernized and expanded the existing framework. Among others, the law introduced:

- specialized bankruptcy courts;
- a stronger focus on restructuring and business continuity; and
- clearer liability provisions applicable to directors, managers and shareholders.

### 3. Overview of the Main Insolvency Proceedings

The modern UAE insolvency framework distinguishes between three main types of proceedings, each designed to address different stages of financial distress and business viability

#### 3.1 Preventive Settlement Proceedings

Preventive Settlement Proceedings are available exclusively to the debtor and are intended for companies experiencing financial difficulties while remaining commercially viable.

The key features of this procedure include:

- continued management of the company by the existing management team;
- temporary protection against creditor actions (Moratorium); and
- continuation of existing contracts and ongoing obligations.

The purpose of these proceedings is the early stabilization of the business and the facilitation of a restructuring solution before formal insolvency occurs.

#### 3.2 Restructuring Proceedings

Restructuring Proceedings may be initiated either by the debtor or by creditors and are intended for companies facing more serious financial distress while maintaining a viable underlying business model.

Key characteristics include:

- supervision by a court-appointed trustee;
- continuation of business operations;
- preparation of a restructuring plan involving creditors; and
- creditor voting on the restructuring plan based on majority approval. Dieses Verfahren stellt den Kern des modernen Sanierungsrechts dar.

In practice, this procedure constitutes the central restructuring mechanism under the UAE insolvency regime.

#### 3.3 Bankruptcy and Liquidation Proceedings

Where a company is no longer capable of restructuring or continuing its operations, liquidation proceedings may be initiated.

Within these proceedings:

- a court-appointed trustee assumes full control over the company and its assets;
- assets are liquidated and distributed among creditors;
- interest generally ceases to accrue following the commencement of proceedings; and
- employment relationships initially continue until further decisions are made during the process.

Particularly relevant in this context is the potential personal liability exposure of directors and managers.

## 4. Procedural Framework and Key Requirements

The commencement of insolvency proceedings in the UAE is subject to specific legal requirements and procedural obligations. For example, a debtor is generally required to file for insolvency within 60 days from the cessation of payments.

The application must typically be supported by various corporate and financial documents, including in particular:

- statements of assets and liabilities;
- lists of creditors;
- financial statements; and
- proposed restructuring or settlement plans.

Following the commencement of proceedings, several procedural steps are generally initiated, including:

- appointment of a court-appointed trustee;
- preparation and verification of the creditor list; and
- creditor voting on restructuring or liquidation plans, where applicable.

## 5. Management Liability and Criminal Risks

One of the key aspects of the modern UAE insolvency framework is the enhanced liability regime applicable to directors, managers and, in certain cases, shareholders.

Personal liability may arise in particular where:

- the company's assets cover less than 20% of its liabilities;
- assets are transferred improperly or non-arm's length transactions are entered into; or
- accounting, bookkeeping or disclosure obligations are violated.

Notably, such liability may also extend to former managers and is not subject to a strict limitation period.

In addition, the law provides for criminal sanctions in certain circumstances, including:

- misappropriation of assets;
- false statements or misrepresentations;
- prejudice to creditors; and
- inadequate bookkeeping or accounting practices.

## 6. International and Practical Challenges

A key legal challenge is that the UAE does not currently have a comprehensive legal framework governing cross-border insolvency proceedings (except for the DIFC and ADGM, which have adopted the UNCITRAL Model Law). This creates legal uncertainty regarding the recognition and enforcement of foreign insolvency judgments and proceedings in the UAE.

As a result, internationally operating companies may face additional complexities when dealing with multinational restructurings, foreign insolvency proceedings or the coordination of creditor claims across multiple jurisdictions.

## 7. Conclusion: Current Relevance and Practical Considerations

Insolvency and restructuring law is becoming increasingly relevant for companies operating in the UAE.

For businesses, this means in particular:

- early action is often critical;
- structured preparation can significantly improve the prospects of a successful restructuring; and
- management decisions may give rise to substantial personal liability risks.

If your company is facing financial difficulties or if you have any questions regarding the legal options and risks outlined above, we would be pleased to assist you.

We support our clients with tailored solutions adapted to their individual circumstances in order to minimize risks and develop the most suitable strategy for their business.



## Contact for Further Information

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