Access to Justice in Eastern Europe
ISSN 2663-0575 (Print)
ISSN 2663-0583 (Online)
http://ajee-journal.com

RESEARCH ARTICLE

Research Article

RESTRUCTURING OF COMPANIES: AN INSIGHT INTO SAUDI ARABIAN BANKRUPTCY LAW

Haifa Alkhenaifer and Jawahitha Sarabdeen*

ABSTRACT

Background*: In 2018, Saudi Arabia enacted a new Bankruptcy Law, shifting its insolvency framework from a liquidation-oriented regime to one prioritising corporate rescue. By introducing preventive settlement and financial restructuring procedures, alongside mechanisms like automatic and conditional moratoriums, the law aims to balance business continuity with creditor protection. Despite these developments, there is a lack of research evaluating these mechanisms against global standards. This study addresses this gap by analysing how Saudi Arabia's restructuring procedures balance stakeholder interests and promote economic stability.*

Method*: This study employs doctrinal, comparative, and case study methods. The doctrinal approach examines primary and secondary legal sources. At the same time, the comparative analysis contrasts Saudi Arabia's corporate restructuring rules with those of the UK, the UAE, and the EU. The theoretical framework is underpinned by institutional theory, which explains the adaptation of national legal systems to global standards, and the creditor-debtor agency theory, which is used to assess the balance of stakeholder interests within insolvency proceedings.*

DOI:

https://doi.org/10.33327/AJEE-18-9.4-a0002006

Date of submission: 02 Feb 2026
Date of acceptance: 30 Jun 2026
Online first publication: 29 Aug 2026

Disclaimer:

The authors declare that their opinions and views expressed in this manuscript are free from any influence from any organisations.

***Results and Conclusions**: The findings reveal that while Saudi Arabia successfully aligns with international restructuring practices, its system remains overly court-centric and discretionary compared to EU frameworks. For legal practitioners and businesses, the court's rigorous approach requires strict compliance with procedural requirements but ultimately boosts investor confidence. To effectively manage complex restructurings, the study recommends limiting court intervention by making moratoriums non-discretionary. Furthermore, the Saudi framework should introduce class-based voting to prevent minority obstruction, establish standardised rules for prioritising new financing, and broaden debt discharge provisions.*

1 INTRODUCTION

In the past few decades, rescuing companies and helping them recover during financial trouble has become more important in international insolvency discussions. Organisations like the World Bank, UNCITRAL, and the IMF have supported reforms to business rescue to improve economic stability and the relationship between creditors and debtors.[1] Similar to the Company Voluntary Arrangement (CVA) and Administration of the United Kingdom and the Preventive Composition, the Bankruptcy Law in Saudi Arabia includes a Protective Settlement Procedure defined under the law as: 'a procedure which aims to facilitate an agreement between the debtor and his creditors to settle his debts, where the debtor maintains the right to manage his business.'[2] The Financial Restructuring Procedure enables financially distressed companies to reorganise their obligations under the oversight of a court-appointed trustee. It ensures a fair and supervised restructuring process.[3] The restructuring provisions facilitate aligning the Saudi Arabian legal framework with international practices. Strong moratoriums and automatic stay clauses effectively shield businesses from creditor actions during restructuring.

The Saudi Bankruptcy Law 2018 provides two important insolvency-related rescue measures: preventive settlement and financial restructuring to strengthen corporate rescue mechanisms.[4] The rescue mechanisms are based on international best practices to provide struggling businesses with alternative options.[5] The Saudi Arabian bankruptcy law commenced with the introduction of the Law of Commercial Courts of 1931,[6] followed in

1 Faisal Ibrahim F Alfawzan, 'Critical Examination of Saudi Restructuring Law in the Light of United Kingdom and United States Experiences' (PhD thesis, University of Leeds 2022).

2 Saudi Arabia Royal Decree no M/50 of 28/05/1439H 'Bankruptcy Law' (adopted 14 February 2018) art 1 <https://laws.moj.gov.sa/en/legislation/_ZXh1it653k5JuoCi4LEZQ> accessed 25 May 2026.

3 ibid

4 Fahad Alarifi, 'The Bankruptcy Law of Saudi Arabia: Policy, Operation, and Comparison' (2021) 7(3) PSU Research Review 201, doi:10.1108/prr-02-2021-0011.

5 Faisal Alfawzan, 'Moratorium As a Crucial Component of Corporate Restructuring Under Saudi Bankruptcy Law: Critical Examination with Reference to the UK and US Experiences' (2024) 39(4) Arab Law Quarterly 355, doi:10.1163/15730255-bja10158.

6 Saudi Arabia Royal Decree no M/32 of 15/01/1350H 'Commercial Court Law' (adopted 2 June 1931).

1995 by the Protective Settlement of Bankruptcy Law.[7] However, Saudi Arabia's new comprehensive 2018 law abrogated all the previous bankruptcy laws and provides an opportunity to reorganise businesses through preventive settlement and financial restructuring.[8] Alboheth argued that the new law favours debtors, unlike earlier laws that favoured creditors.[9] However, a close examination of the law shows that it takes a balanced approach. Some sections help debtors, while others protect creditors' rights, demonstrating that the law seeks to consider both sides fairly.[10]

The bankruptcy law promotes business rehabilitation and debtor protection. For example, the provisions concerning secured creditors and priority claims demonstrate a continued commitment to creditor rights. The same types of arrangements can be seen in the UK Administration and CVA,[11] which help companies restructure without immediate liquidation.[12] Preventive and financial restructuring tools are used in other countries, such as the United States.[13] In the EU, the law before the 2019 Directive was not debtor- or restructuring-friendly; the EU Preventive Restructuring Frameworks Directive (EU) 2019/1023[14] changed the traditional approach and introduced a restructuring framework that is debtor-friendly, like the USA's Chapter 11.[15] The Directive introduces pre-bankruptcy mechanisms to help companies in distress. The law comprises insolvency and restructuring law to address the needs of businesses.[16] It is a 'hybrid' restructuring procedure that combines out-of-court and in-court elements to allow informal negotiation between the

---

7 Saudi Arabia Royal Decree no M/16 of 4/9/1416H 'Bankruptcy Protective Settlement Law' (adopted 24 January 1996).

8 Center for Legal Studies and Research, 'The Evolution of Saudi Bankruptcy Law Based on International Best Practices' (*Saudi Center for Legal Studies and Research*, 21 May 2025) [in Arabic] <https://iamaeg.net/ar/publications/articles/the-saudi-bankruptcy-law> accessed 25 May 2026.

9 Hamza E Albaheth, 'Corporate Rescue Culture in Saudi Arabia and Egypt: A Comparative Review of New Bankruptcy Laws' (2021) 16(2) International Journal of Criminal Justice Sciences 103, doi:10.5281/zenodo.4756064.

10 Saudi Arabia Royal Decree no M/50 (n 2).

11 UK Insolvency Act 1986, c 45, pt I (Company Voluntary Arrangements), pt II (Administration) <https://www.legislation.gov.uk/ukpga/1986/45/contents> accessed 25 May 2026.

12 UK Government, 'Company Voluntary Arrangements' (*GOV.UK*, 2026) <https://www.gov.uk/company-voluntary-arrangements> accessed 25 May 2026.

13 Center for Legal Studies and Research (n 8).

14 Directive (EU) 2019/1023 of the European Parliament and of the Council of 20 June 2019 on Preventive Restructuring Frameworks, on Discharge of Debt and Disqualifications, and on Measures to Increase the Efficiency of Procedures Concerning Restructuring, Insolvency, and Discharge of Debt, and Amending Directive (EU) 2017/1132 (Directive on Restructuring and Insolvency) [2019] OJ L172/18.

15 US Code, title 11, ch 11 <https://www.govinfo.gov/app/collection/uscode> accessed 25 May 2026.

16 David Christoph Ehmke and others, 'The European Union Preventive Restructuring Framework: A Hole in One?' (2019) 28(2) International Insolvency Review184, doi:10.1002/iir.1344; Stephan Madaus, 'Leaving the Shadows of US Bankruptcy Law: A Proposal to Divide the Realms of Insolvency and Restructuring Law' (2018) 19(3) European Business Organization Law Review 615, doi:10.1007/s40804-018-0113-7.

debtor and its creditors. It allows judicial and administrative authorities to oversee the restructuring process and compliance with the Directive.[17]

The research is significant because of the global shift toward preventive restructuring and rescue-based regulation, as well as the lack of literature in this area. To address the research objective, this study investigated literature on insolvency law, focusing on recent post-reform work that assesses the philosophy, regulatory direction, and contemporary relevance. The key literature concerns the European Union's Preventive Restructuring Directive 2019/1023. The Directive modernised restructuring across the EU, including Germany. It emphasised early intervention mechanisms to reduce liquidations.[18] The German StaRUG framework,[19] that followed the EU Directive, hailed the introduction of sophisticated tools like cross-class cramdown and early restructuring access. However, it may increase procedural costs and affect accessibility for small businesses.[20] Nonetheless, Teti et al. found that preventive restructuring helps companies survive amid weaker financial performance.[21] The EU Directive provides debtors with a second chance through restructuring tools to maximise business value.[22]

There is a dearth of literature on Saudi restructuring law. With the introduction of the new law, some argue that the Bankruptcy Law 2018 is important for diversifying the economy and improving investor confidence.[23] The literature also analysed the Bankruptcy Law and the challenges in implementing it, comparing it with UK laws.[24] However, no comparative study has been conducted as part of a case study. Hence, this research will fill the gap in the literature.

---

17 Karen McMaster and others, 'Litigation, Legislation, and Case Law Developments Shape European Restructuring Markets' (*A&O Shearman*, 25 January 2025) <https://www.aoshearman.com/en/insights/litigation-legislation-and-case-law-developments-shape-european-restructuring-markets> accessed 25 May 2026.

18 Jessica Schmidt, 'Preventive Restructuring Frameworks: Jurisdiction, Recognition and Applicable Law' (2022) 31(1) International Insolvency Review 81, doi:10.1002/iir.1447.

19 German Act on the Stabilisation and Restructuring Framework for Companies 'Unternehmensstabilisierungs- und –restrukturierungsgesetz' (StaRUG) (adopted 22 December 12.2020) [2020] BGBl I 3256 <https://www.gesetze-im-internet.de/starug/BJNR325610020.html> accessed 25 May 2026.

20 Horst Eidenmüller, 'What Can Restructuring Laws Do? Geopolitical Shocks, the New German Restructuring Regime, and the Limits of Restructuring Laws' (2023) 24(2) European Business Organization Law Review 231, doi:10.1007/s40804-023-00271-9.

21 Emanuele Teti and others, 'The Efficiency of Preventive Restructuring Procedures: Evidence from France' (2024) 33(2) Strategic Change 79, doi:10.1002/jsc.2564.

22 Ana Maria Fagetan, 'Corporate Insolvency Laws in Selected Jurisdictions: US, England, France, and Germany: A Comparative Perspective' (2025) *14*(2) *Laws* 21, doi:10.3390/laws14020021.

23 Alfawzan, 'Moratorium (n 5).

24 Abdullah Nasser A Aldahmash, 'The Petition for a Liquidation Procedure and the administrative Liquidation Procedure: A Comparative Analysis Study in Saudi and UK Insolvency Law' (2026) 68(4) International Journal of Law and Management 628, doi:10.1108/IJLMA-10-2024-0384.

This study analysed the restructuring provisions under Saudi Law and compared them with those of the United Kingdom, the United Arab Emirates, and the European Union Directive. It is intended to identify any gaps in Saudi Arabia's legal framework and suggest changes to strengthen Saudi Arabia's business rescue options. As such, the research addressed the following research questions:

1. Do Saudi restructuring rules support business rescue while trying to balance the rights of creditors and debtors?
2. Compared with the laws in the UK, the UAE, and the EU, where do Saudi laws stand?
3. What kind of legal or procedural changes can be made to improve the current restructuring process in Saudi Arabia?

The originality of this research lies in the analysis of four jurisdictions from different legal traditions at different stages of bankruptcy law development. The research is novel, as it assessed Saudi Arabian law alongside that of the Gulf Cooperation Council (GCC) countries and advanced restructuring principles in Europe and the UK. Further, the research addressed business restructuring rather than liquidation and examined the possibility of legal transplantation of concepts available in the UK and the EU. The theoretical contribution of this research is significant, as the study advanced comparative insolvency scholarship by using institutional theory and creditor-debtor agency theory to understand the convergence of insolvency law. The functional comparison of the main aspects of restructuring provides insights into the effectiveness and transferability of the concepts.

The rest of the study is organised as follows. Section 3 examines the moratorium mechanism; Section 4 analyses creditor voting procedures; Section 5 explores access to debtor financing; Section 6 discusses debt discharge and fresh-start mechanisms, and Section 7 concludes the study with recommendations.

2 METHODOLOGY

This study adopted doctrinal, comparative, and case study methods to assess corporate restructuring rules in Saudi Arabia and compare them with those of the United Kingdom, the United Arab Emirates, and the EU.[25] The doctrinal research method examines primary legal sources such as legislation and regulations, alongside secondary sources, including scholarly literature, policy reports, and legal commentaries.[26] The UK and the

25 Mark Van Hoecke, 'Methodology of Comparative Legal Research' (2015) Law and Method, doi:10.5553/rem/.000010; Yusuff Jelili Amuda and Shahad Ahmed Al-Nasser, Amuda YJ and Al-Nasser SA, 'Exploring Encounters and Prodigies of Islamic Banks in Non-Muslim States: Towards Enhancing Regulatory Frameworks of the Islamic Banking System' (2024) 68(2) International Journal of Law and Management 245, doi:10.1108/IJLMA-11-2023-0250.

26 Terry Hutchinson and Nigel Duncan, 'Defining and Describing What We Do: Doctrinal Legal Research' (2012) 17(1) Deakin Law Review 83, doi:10.21153/dlr2012vol17no1art70.

EU have been selected because they have passed complex restructuring laws. The EU Directive provides better coordination in insolvency than interfering with national laws. The EU Restructuring Directive affected all EU countries, including the UK, a former EU member.[27] Saudi Arabia can learn from them to improve its legal framework. The UAE shared similar cultural, economic, and regional priorities and undertook significant insolvency reforms to help the economy and attract investors. A comparison will help to identify best practices and potential legislative improvements.

Overall, comparative analysis will help to identify the strengths, weaknesses, and developmental opportunities within restructuring frameworks, particularly in creditor-debtor rights and corporate rescue mechanisms. A comparative analysis was used to understand legal development in advanced and similar countries, providing possible recommendations to improve Saudi Arabia's legislative framework.[28] The doctrinal, comparative approach can help suggest procedural and legal enhancements to the restructuring of businesses in line with international standards.

This study is based on two main theories: institutional theory[29] and creditor-debtor agency theory.[30] Institutional theory helps explain how legal systems develop and adapt to global standards. This phenomenon is especially relevant to the 2018 introduction of bankruptcy law in Saudi Arabia. The creditor-debtor agency theory focuses on the struggle between debtors who want to retain control of their business and creditors who want to get paid, especially when the company is facing insolvency or undergoing restructuring.[31] In this study, institutional theory influenced changes in Saudi bankruptcy law by introducing standard practices in restructuring and bankruptcy. The creditor-debtor theory is incorporated into Saudi Arabia's insolvency laws, which balance protecting debtors, respecting creditor rights, and helping companies keep operating by comparing them to practices in other countries.

The doctrinal and comparative legal research methodology used to understand and assess restructuring legal frameworks is supported by institutional theory, creditor-debtor agency

27 Reinhard Bork, 'Pre-Insolvency Moratoria: A Legal Comparison' [2021] European Insolvency and Restructuring Journal 1, doi:10.54195/eirj.15090.

28 Dalia Kadry Ahmed Abdelaziz, 'The Reliability of Witness Testimony in Violent Crimes in the Context of Post-Traumatic Stress Disorder: An Analytical Study Through Legal Practices' (2025) 4(1) Journal of Ecohumanism 4281, doi:10.62754/joe.v4i1.6311; Houda Alhoussari, 'Between Urgency and Exception: Rethinking Legal Responses to the Ecological Crisis' (2025) *14*(2) *Laws* 26, doi:10.3390/laws14020026; Jawahitha Sarabdeen, 'Saudi Arabian Legal Framework on the Use of Social Media in Entrepreneurial Marketing' (2025) 12 Social Sciences & Humanities Open 102242, doi:10.1016/j.ssaho.2025.102242.

29 Maria Roszkowska-Menkes, 'Institutional Theory' in Samuel O Idowu and others (eds), *Encyclopedia of Sustainable Management* (Springer Cham 2023) 1983, doi:10.1007/978-3-031-25984-5_389.

30 Simone M Sepe, 'Directors' Duty to Creditors and the Debt Contract' (2007) 1(2) Journal of Business & Technology Law 553.

31 ibid

theory, and stakeholder relationships within insolvency proceedings. Integrating these methodologies and theories helps connect findings to the research. The doctrinal analysis examines restructuring laws and procedures; the comparative approach identifies the philosophical and institutional differences between the Saudi legal system and other legal systems. Institutional theory links governance and restructuring to economic reforms.[32] Whereas the creditor-debtor agency theory is used to assess stakeholder relationships and creditor protection.[33] The conclusions are derived from the methodology, and the theories can guide reform recommendations.

3 MORATORIUM MECHANISM

A key restructuring tool is the moratorium, or automatic stay. A moratorium is a mechanism that prevents creditors from exercising their claims while a company works to recover. That is, it grants temporarily distressed companies relief by suspending all creditor enforcement actions and legal proceedings against the company and its assets.[34] Preventive settlements are vulnerable to creditor pressure since automatic stays apply to financial restructuring in Saudi Arabia.[35] Under the Saudi Bankruptcy Law, preventive settlement procedures do not automatically trigger a moratorium. Instead, the debtor must formally request a moratorium from the Commercial Court, accompanied by a report from an appointed officeholder indicating that the proposed settlement is likely to be accepted by creditors and is feasible to implement. If the court allows the request and grants the moratorium, the court may impose a moratorium for up to ninety days, extendable by thirty-day increments. However, the total duration cannot exceed 180 days.[36]

In contrast, financial restructuring procedures under the same law automatically impose a moratorium upon initiation, providing immediate and comprehensive protection against creditor enforcement actions.[37] Hence, in preventive settlements, debtors may be more vulnerable to creditor pressure as protection from enforcement actions is not guaranteed and depends on the court's approval. Bankruptcy law is less rigid and takes a balanced

32 Douglass C North, *Institutions, Institutional Change and Economic Performance* (CUP 2012) doi:10.1017/CBO9780511808678.

33 Michael C Jensen and William H Meckling, 'Theory of the Firm: Managerial Behavior, Agency Costs, and Ownership Structure' (1976) 3(4) *Journal of Financial Economics* 305, doi:10.1016/0304-405X(76)90026-X.

34 Alfawzan, 'Moratorium (n 5).

35 Albaheth (n 9).

36 Saudi Arabia Royal Decree no M/50 (n 2) art 18.

37 Amar Meher, 'Saudi Arabia: Key Developments of the Bankruptcy Law and Latest Trends' (*Global Restructuring Review (GRR)*, 11 April 2024) <https://globalrestructuringreview.com/review/europe-middle-east-and-africa-restructuring-review/2024/article/saudi-arabia-key-developments-of-the-bankruptcy-law-and-latest-trends> accessed 25 May 2026.

approach, allowing an automatic moratorium during financial restructuring rather than preventive settlement procedures.

UAE and UK laws also took a similar approach to the Saudi mechanism. However, they focused more on the type of creditors than the type of bankruptcy procedure. The UK imposes liabilities in Section 214 of the Insolvency Act 1986[38] if the directors did not stop trading or take appropriate measures to protect creditors.[39] Failure will lead to sanctions for wrongful trading.[40] The debtor can initiate the CVA process to continue trading or can apply for restructuring or a scheme of arrangement. However, if the company is in liquidation, the liquidator can propose any of the processes. The involvement of a restructuring practitioner is mandatory, unlike in Germany, where they are appointed if the moratorium affects creditors' rights and they want to use the cross-class cramdown rule.[41]

EU Preventive Restructuring Frameworks Directive (EU) 2019/1023 models Chapter 11[42] features of the debtor-in-possession regime, including the stay of creditors and cross-class cramdown, to obtain possible approvals for restructuring. It requires member countries to have an early-warning tool to help companies in financial difficulty. The tool should provide a framework for operating during the reconstruction process and controlling assets. It should also allow companies to seek a moratorium while negotiating a restructuring plan. Article 6 allows a stay of enforcement of all claims for up to four months. The stay can be extended if necessary.

The Saudi and EU systems provide the moratorium as a stabilising mechanism, though they differ significantly in their philosophies and applications.[43] In Saudi Arabia, the moratorium in preventive settlement procedures is discretionary, and in general, the application is highly court-centric to ensure fairness. The EU system seems to be structured and provides clear procedures for predictability and less judicial intervention.[44]

38 UK Insolvency Act (n 11) s 214.
39 Eugenio Vaccari, 'Changes to UK Insolvency Rules in the Wake of Covid-19: A Much-Needed Help for Businesses or an Unjustified Harm to the Rule of Law?' in Carla Ferstman and Andrew Fagan (eds), *Covid-19, Law and Human Rights: Essex Dialogues* (A Project of the School of Law and Human Rights Centre, University of Essex 2020) 127, doi:10.5526/xgeg-xs42_017.
40 Mingyang Chen, 'A Shift in the Duties of Directors when the Company is on the Verge of Bankruptcy' (2023) 2(2) International Journal of Asian and African Studies 39, doi:10.32996/ijaas.2023.2.2.4.
41 Bork (n 27).
42 Directive (EU) 2019/1023 (n 14).
43 Eidenmüller (n 20).
44 Schmidt (n 18).

4 CREDITOR VOTING

In corporate restructuring, countries have different rules for determining whether creditor approval is required. In Saudi Arabia, the Bankruptcy Law specifies that a financial restructuring plan needs to be approved by creditors in the same class who hold two-thirds of the total debt value.[45] Nevertheless, for approval to count, those supporting the vote must also include creditors who hold more than half of the debt from unrelated parties, if any. In contrast, the United Kingdom distinguishes between two mechanisms:

1. A scheme of arrangement: all classes of creditors must approve the plan by a vote of those holding not less than 75% in value within each class.[46]

2. In a restructuring plan under Part 26A of the Companies Act 2006, a class is considered to have approved the plan if creditors holding 75% of the value of claims within that class vote in favour without a numerical majority.[47]

In the United Arab Emirates, a group of creditors is considered to have accepted a restructuring plan if most of them vote in favour and their claims make up at least two-thirds of the total debt in that group.[48]

In the EU,[49] Article 9 of the Directive requires creditors and shareholders to vote on the restructuring plan. The plan requires placing stakeholders of interest in the same class at the same level (Art. 9(4)). The class voting shall not exceed 75% of the claims or interests in each class, and the number of affected parties (Art. 9(6)). A restructuring plan is accepted if the required voting is met (Art. 9(6)). If the plan does not receive the required vote from all the classes, Art. 11 can be invoked, allowing a judicial or administrative authority to confirm the plan upon dissenting classes, provided certain conditions are met. This is referred to as cross-class cramdown (Art. 11(1)). The claimants can be invited to freeride on others' expenses if the restructuring plan is reasonable. The Directive provides Member States with flexibility to choose between the EU Relative Priority Rule (RPR) (Art. 11(1)(c)) and the Absolute Priority Rule (APR) (Art. 11(2)). To invoke cramdown, it is necessary to show that the structuring plan followed the assigned procedure, met the best interest of the dissenting affected parties, the plan is approved by at least one of the affected parties, the dissenting parties are treated fairly like any others in the class and better than the junior class and no class of affected parties receive more than the full amount of its claim.

45 Saudi Arabia Royal Decree no M/50 (n 2) art 31 (2).
46 UK Companies Act 2006, c 46, s 899 <https://www.legislation.gov.uk/ukpga/2006/46/enacted/data.xht?view=snippet&wrap=true> accessed 25 May 2026.
47 ibid, s 901F.
48 UAE Federal Decree-Law no 9 of 2016 'On Bankruptcy' (adopted 20 September 2016) art 102 <https://uaelegislation.gov.ae/en/legislations/1475/download> accessed 25 May 2026.
49 Directive (EU) 2019/1023 (n 14).

The classification of affected parties under the Directive applies to all creditors; member countries may create exceptions for Small and Medium-sized Enterprises, as stated in Article 9, as they have a simple capital structure. The classes of creditors can ensure fairness among creditors and help control undue influence when the plan is adopted. The affected parties, according to Article 2(1), are creditors whose interests are affected by the restructuring plan. The Directive, however, allows national law to include employees and shareholders as affected parties under Article 11. Nonetheless, some parties can be excluded from voting rights under Article 9(3) (a) to (c) of the Directive. The problem is that the affected parties with voting rights may not participate in the process. For instance, in the *Purdue Pharma* case in the US, the restructuring plan was approved, though the majority of the affected parties did not vote.[50] However, the plan is binding under Recital 64; member countries can address the non-voting issue.

The classification of affected parties is based on common interest; though the Directive does not define common interest, Member States can introduce their own definitions. The common interests must be sufficiently present, and they should be treated equally in proportion (Articles 9 and 10). The judicial or administrative authority will not approve the restructuring plan if common interest criteria are not met. According to Article 9, there must be at least two classes, such as secured and unsecured, though more classes are possible with subordinated claims. The Directive is also unclear about the criteria for inclusion in the secured creditor category. Member States should draft the detailed criteria. The secured creditors are those with security, and if their claims are reduced or curtailed, they could be disadvantaged.

All unsecured claims for which separate classes are not established can, in principle, be included in this class. The Directive dispenses with a further subdivision of unsecured creditors according to their respective interests. It leaves the division of unsecured creditors into one or more classes to the implementation of the Member States. An unsecured class may be created in accordance with Article 8. Among the affected parties, employees and shareholders may be included under Article 2, Paragraph 1(2), of the Directive. If employees are not included among the affected parties, their claims should be settled before the restructuring process (Recital 43). As for shareholders, Member States may decide whether they can be included among the affected parties. They should also ensure that the shareholders do not unduly affect the restructuring plan (Article 12).

Under US law, the APR applies only to dissenting classes of unsecured creditors and shareholders. However, Germany's APR covers all ranks of claimants. In addition, the Directive also allows the adoption of a strict or a flexible APR. The APR is said to act as a waterfall, with creditors of the highest priority receiving their share, followed by those in the hierarchy. However, many are sceptical about APR due to its complex and costly

50 Melissa B Jacoby, 'Sorting Bugs and Features of Mass Tort Bankruptcy' (2022) 101(7) Texas Law Review 1745.

valuation. It only addresses the distribution of values to all stakeholders, but it fails to address the amount to be distributed. A dispute could arise over the values each class could receive from the surplus. A strict application of APR may result in an unfair distribution to older equity holders, such as founders, leading to a holdout. Therefore, it may be critical to provide equity interests to certain individuals as part of a mitigated APR. The mitigated APR can be adopted if there are reasonable grounds for doing so and the dissenting creditors or shareholders will not be affected.[51]

This comparison shows how countries use different voting rules and approval thresholds to protect creditors and make the insolvency process more efficient. Though Saudi Arabia and the EU followed certain voting rules, the EU provided an elaborate architecture based on class-based voting, cramdown, and control of minority obstruction. It also provides predictability.[52]

5 ACCESS TO DEBTOR FINANCING

Under the Bankruptcy Law, the competent court may authorise new financing during restructuring or preventive settlement proceedings. Such a request can only be approved if the court is convinced that new financing is necessary.[53] The new financing may be granted as a priority over unsecured debts. This financing may be secured by unencumbered assets or by a junior lien on encumbered assets.[54]

The UK partially allows creditors to provide new financing secured by the company's assets to meet the capital requirement of restructuring. The UAE resembles Saudi Arabia's approach in allowing the court to approve financing in preventive settlement or financial restructuring. The new financing may be granted priority over the current unsecured debts and secured by the available pledged assets, subject to being second in line after the current ongoing pledges. The EU Directive states that new financing obtained during restructuring will be protected if the restructuring fails (Article 17). EU courts could review the financial arrangement to assess the need, reasonableness, and creditor interest. This could reduce risks and create creditor confidence. It could also promote market-based financing rather than liquidation.[55] The law also allows new financing during restructuring proceedings, subject to court approval that considers creditor interests. The courts may assign priority status on a case-by-case basis. Thus, the Saudi approach is more cautious and court-driven. This may affect market confidence.

51 Axel Krohn, 'Rethinking Priority: The Dawn of the Relative Priority Rule and the New 'Best Interests of Creditors' Test in the European Union' (2021) 30(1) International Insolvency Review 75, doi:10.1002/iir.1398.
52 Fagetan (n 22).
53 Saudi Arabia Royal Decree no M/50 (n 2) s 10.
54 Center for Legal Studies and Research (n 8).
55 Schmidt (n 18).

6 DEBT DISCHARGE AND FRESH-START MECHANISMS

UK insolvency systems allow a complete debt discharge following a restructuring plan, subject to certain conditions.[56] In Saudi Arabia, the Bankruptcy Law provides a procedure that may allow debts to be discharged after liquidation. This discharge is under 'certain circumstances', meaning that a full 'fresh start' is not guaranteed to all debtors.[57] In Saudi Arabia, a discharge may be possible following a restructuring plan or a court-supervised liquidation. The discharge is also subject to the good conduct of the debtor and the interest of the creditor. Certain debts may be excluded, depending on the court's assessment. Hence, the Saudi Arabian legal framework is cautious regarding debtor rehabilitation, considering economic and creditor interests.[58]

The UAE allows for clear discharge and a fresh start after all payments specified in the restructuring report are cleared.[59] However, there are specific exceptions where discharge is not permitted.[60] The EU allows a full discharge under Part III of the Directive. While debt discharge systems help businesses recover, the economic impact of insolvency laws significantly affects investor confidence, business stability, and foreign direct investment (FDI).

The EU Directive discharges debts within the maximum period **specified under** Article 20. The discharge is allowed at the end of repayment plans or liquidation if the debtor has, in good faith, followed the procedures, and there is no misconduct or fraud on the part of the debtor. This serves as a form of debt rehabilitation, enabling debtors to be reintegrated into economic activities.[61] The discussion on laws and regulations highlighted the availability of restructuring laws, including key issues such as moratorium, voting mechanisms, access to debt financing, and debt discharge. The results of this discussion reflect the theoretical differences that led to legal and procedural differences.

The comparative analysis of UK, UAE, and EU laws on restructuring reveals several strengths of Saudi Law. The comparison shows that Saudi Arabia has improved its insolvency system to outperform other jurisdictions in areas such as specialised sector courts, judicial authorities, and specialised training for judges and court personnel. The Saudi Bankruptcy Law was introduced in 2018, enabling progress toward establishing

---

56 Insolvency Service, 'What You Need to Know About Bankruptcy' (*GOV.UK*, 5 April 2023) <https://insolvencyservice.blog.gov.uk/2023/04/05/what-you-need-to-know-about-bankruptcy/> accessed 25 May 2026.

57 Fahad Abuhimed, 'The New Saudi Insolvency Law and Its Implementing Regulations' (*AS&H Clifford Chance*, 26 July 2018) <https://www.ashcliffordchance.com/en/publications/the-new-saudi-insolvency-law-and-its-implementing-regulations.html> accessed 25 May 2026.

58 Alfawzan, 'Moratorium (n 5).

59 UAE Federal Decree-Law no 51 of 2023 'Promulgating the Financial and Bankruptcy Law' (adopted 2 October 2023) art 248 <https://uaelegislation.gov.ae/en/legislations/2190/download> accessed 25 May 2026.

60 ibid, art 250.

61 Schmidt (n 18).

special business courts, forming a bankruptcy commission, improving judges' training, and providing clear, stable laws. These changes show that the system is moving closer to international standards. The law also seeks to balance the rights of debtors and creditors, enabling insolvency procedures to be initiated early or voluntarily. One important feature is the automatic moratorium, which helps protect asset value and creates a controlled environment for companies to try restructuring. The automatic stay in financial restructuring and the conditional moratorium in preventive settlement show that the law mainly aims to help companies survive, not shut them down. These parts of the law support the economy, build creditors' trust in the system, and help businesses keep running.

The analysis of the laws further showed that balancing the various parties' interests creates a business-friendly legal environment. In a debtor-friendly regulatory environment, creditors will be less likely to pursue debt discovery, as all income obtained through bankruptcy is used to give the business a second chance. A creditor-friendly legislative environment will enable successful restructuring by ensuring access to bank and other creditor resources and allowing the debt to be restructured on terms favourable to the debtor.[62]

In a debtor-friendly environment, businesses can run and benefit from a moratorium; in a creditor-friendly environment, a special administrator runs the business, and creditors are shielded from actions. Additionally, 'cross-class cramdown' forces a dissenting class of creditors to accept, and to give creditors the right to appoint or remove the examiner and to decide on assets and their handling.[63]

Overall, the inclusion of preventive settlements, financial restructuring, and liquidation, along with the use of automatic and short moratoriums, protects their economic value. This shows a significant change from the old system, which focused more on liquidation, similar to the EU. The UAE improved its bankruptcy law with Federal Decree-Law No. 9 of 2016. The system now includes tools such as restructuring and preventive composition. As in Saudi Arabia, courts play a significant role. The law also allows for a pause (moratorium) before a restructuring plan is accepted. The government is trying to improve the process by training judges and creating special courts, but there are still some issues with applications.

The UK has a strong insolvency system, with the Insolvency Act of 1986 and the Corporate Insolvency and Governance Act of 2020. The laws provide companies with a few ways to restructure, including CVAs and restructuring similar to Chapter 11 in the US. The law also provides automatic moratoriums, rules for creditor voting, and restructuring by creditor

62 Przemysław Banasik and others, 'The Pro-Debtor and Pro-Creditor Models: Comparison of the Effectiveness of Bankruptcy Law' (2022) 66(4) Kwartalnik Nauk o Przedsiębiorstwie17, doi:10.33119/KNoP.2022.66.4.2.

63 Aurelio Gurrea-Martínez, *The Myth of Debtor-Friendly or Creditor-Friendly Insolvency Systems: Evidence from a New Global Insolvency Index* (Research Paper 4, Singapore Management University Yong Pung How School of Law 2023) doi:10.2139/ssrn.4557414.

groups, which clarify the process and make it more flexible. In the EU, the Directive imposes an obligation on directors to consider the interests of creditors, shareholders, and other stakeholders and to avoid insolvency. It also requires the directors to avoid reckless activities that will affect business interests (Article 19). In terms of stakeholder protection, the Directive ensures that quality information is provided to the stakeholders. It also provides automatic moratoriums, rules on creditor voting, and restructuring by creditor groups. A court is empowered to overrule all groups that refuse the plan. This is known as 'cross-class cramdown'. The restructuring court must confirm the plan, though voting need not take place there. Once the plan is confirmed, new financings can be obtained, and they are protected from insolvency claims and lender liability.

Although the systems in Saudi Arabia and the UAE are still developing, especially in how courts apply the law and how confident creditors are about the process, both countries have made significant progress and are working to meet international standards. Compared to them, the UK is more advanced in legal and practical areas, and the EU is still developing, like Saudi Arabia and the UAE. The EU Preventive Restructuring Directive was tested in courts across various Member States.[64] For example, Germany adopted the Directive in the StaRUG (Unternehmensstabilisierungs- und Restrukturierungs-Gesetz), and it has been tested in court and continues to develop. It was suggested that, to avoid restricting outcomes, it is necessary to work in parallel with the UK restructuring plan if the restructuring involves UK creditors, given the UK 'rule in Gibbs'. The English court will not recognise a foreign restructuring process that compromises the English-law debt of a creditor who has not participated. Similarly, in Spain, the Madrid courts in the *Single Home* case ruled that if more than one restructuring plan is submitted to the court, the restructuring plan approved by the majority and filed first with the court may be considered the approved plan.[65] The analysis shows that laws and directives now support the idea of business rescue, reflecting a global trend of helping companies before they collapse.

Regarding the automatic suspension of claims during financial restructuring, the suspension lasts 180 days and can be extended once. In a preventive settlement, the moratorium only begins after the court approves it and the trustee files a report. It also requires approval from all creditors, which is difficult to obtain, making it challenging to use. Even though the law tries to help the debtor, this rule may limit the real benefit. Nonetheless, the law protects businesses by giving them some time to reorganise. In the UAE, the law also provides an automatic moratorium, but creditors still have more freedom. If the court allows it, secured creditors can start enforcement actions. This shows that the law seeks to balance the interests of both debtors and creditors, but it can also create problems for debtors seeking complete protection from legal claims.

64 McMaster and others (n 17).
65 ibid

In the UK, the rules for moratoriums are more advanced and flexible. Under the Corporate Insolvency and Governance Act 2020, the court can stop a creditor's action if it might harm the restructuring process, even if legal steps have already started.[66] This shows that the UK takes a more practical approach, where courts and professionals work together to help companies recover earlier. In the EU, the Directive also allows a moratorium and facilitates cooperation between debtors and creditors to achieve better business outcomes.[67]

In short, the UAE uses a mixed system with court involvement; the UK and EU follow a more business-focused, flexible approach; and Saudi Arabia sticks to a more formal process that requires complete agreement. These differences show that each country has its own legal framework for helping businesses in financial trouble. Some systems focus on rules, and others give more control to judges or experts.

7 CONCLUSION AND RECOMMENDATIONS

This study highlights the transformation of Saudi Arabia's insolvency framework through the 2018 Bankruptcy Law. By adopting mechanisms such as the Preventive Settlement and Financial Restructuring procedures, Saudi Arabia demonstrates a deliberate shift from a liquidation-oriented regime to one prioritising business rescue and economic continuity. Similar to the UK, the EU, and the UAE, Saudi law exhibits a nuanced and structured approach that blends international best practices with local legal culture, especially in its treatment of moratoriums, the creditor-debtor balance, and access to debtor financing. The law provides an opportunity to manage complex, high-value restructurings transparently and effectively.

The study found that one of the significant developments in Saudi Arabia and the EU is the availability of a moratorium to support successful restructuring. However, they differ in terms of philosophy and application. In Saudi Arabia, the moratorium on preventive settlement procedures is discretionary and highly court-centric, whereas in the EU, it is structured with less court intervention. It was also found that there were differences in voting rules and approval thresholds to protect creditors. However, the EU introduced class-based voting and control over minority obstruction; such advanced provisions are absent in Saudi Arabian law.

The case study further revealed that if new financing is necessary during the restructuring process, both Saudi Arabia and the EU grant priority status to such financing. However,

66 UK Insolvency Act (n 11) pt A1, s A4(4).

67 Tibor Tajti, 'The Restructuring-Bankruptcy Stigma Nexus: In Light of the 2019 Preventive Restructuring Directive of the EU' in Oleksiy Kononov and Thomas Mastrullo (eds), *La transposition de la Directive (UE) 2019/1023 dite 'restructuration et insolvabilité': La place du débiteur et du créancier* (Larcier-Intersentia 2025) 29.

the priority considerations differ between jurisdictions. There are also provisions on debt discharge in both jurisdictions. However, in the EU, debt discharge is certain after the maximum period, provided certain conditions are met, while in Saudi Arabia, debts can be excluded from discharge.

Though Saudi Arabia's 2018 Bankruptcy Law can help creditors recover funds, it cannot handle complex, significant cases involving international creditors in an organised manner. There is a need for further improvement to standardise the law to implement the restructuring successfully:

1. The provisions regarding the moratorium in preventive settlement should be made non-discretionary, and the courts' involvement should be reduced.
2. The voting procedures should be modified to include class-based voting and control minority obstruction. There should also be amendments to reduce reliance on the courts.
3. It is also necessary to examine the provisions regarding new financing and the allocation of priority status to such financing. Rather than assessing on a case-by-case basis, it can be given as a general rule if certain conditions are met.
4. Discharge of the debt also requires an amendment. The provisions may be amended to allow all debts to be discharged rather than only selected debts.

REFERENCES

1. Abdelaziz DKA, 'The Reliability of Witness Testimony in Violent Crimes in the Context of Post-Traumatic Stress Disorder: An Analytical Study Through Legal Practices' (2025) 4(1) Journal of Ecohumanism 4281, doi:10.62754/joe.v4i1.6311
2. Abuhimed F, 'The New Saudi Insolvency Law and Its Implementing Regulations' (*AS&H Clifford Chance*, 26 July 2018) <https://www.ashcliffordchance.com/en/publications/the-new-saudi-insolvency-law-and-its-implementing-regulations.html> accessed 25 May 2026
3. Alarifi F, 'The Bankruptcy Law of Saudi Arabia: Policy, Operation, and Comparison' (2021) 7(3) PSU Research Review 201, doi:10.1108/prr-02-2021-0011
4. Albaheth HE, 'Corporate Rescue Culture in Saudi Arabia and Egypt: A Comparative Review of New Bankruptcy Laws' (2021) 16(2) International Journal of Criminal Justice Sciences 103, doi:10.5281/zenodo.4756064
5. Aldahmash ANA, 'The Petition for a Liquidation Procedure and the administrative Liquidation Procedure: A Comparative Analysis Study in Saudi and UK Insolvency Law' (2026) 68(4) International Journal of Law and Management 628, doi:10.1108/IJLMA-10-2024-0384

6. Alfawzan FIF, 'Critical Examination of Saudi Restructuring Law in the Light of United Kingdom and United States Experiences' (PhD thesis, University of Leeds 2022)
7. Alfawzan F, 'Moratorium As a Crucial Component of Corporate Restructuring Under Saudi Bankruptcy Law: Critical Examination with Reference to the UK and US Experiences' (2024) 39(4) Arab Law Quarterly 355, doi:10.1163/15730255-bja10158
8. Alhoussari H, 'Between Urgency and Exception: Rethinking Legal Responses to the Ecological Crisis' (2025) *14*(2) *Laws* 26, doi:10.3390/laws14020026
9. Amuda YJ and Al-Nasser SA, 'Exploring Encounters and Prodigies of Islamic Banks in Non-Muslim States: Towards Enhancing Regulatory Frameworks of the Islamic Banking System' (2024) 68(2) International Journal of Law and Management 245, doi:10.1108/IJLMA-11-2023-0250
10. Banasik P and others, 'The Pro-Debtor and Pro-Creditor Models: Comparison of the Effectiveness of Bankruptcy Law' (2022) 66(4) Kwartalnik Nauk o Przedsiębiorstwie17, doi:10.33119/KNoP.2022.66.4.2
11. Bork R, 'Pre-Insolvency Moratoria: A Legal Comparison' [2021] European Insolvency and Restructuring Journal 1, doi:10.54195/eirj.15090
12. Chen M, 'A Shift in the Duties of Directors when the Company is on the Verge of Bankruptcy' (2023) 2(2) International Journal of Asian and African Studies 39, doi:10.32996/ijaas.2023.2.2.4
13. Ehmke DC and others, 'The European Union Preventive Restructuring Framework: A Hole in One?' (2019) 28(2) International Insolvency Review184, doi:10.1002/iir.1344
14. Eidenmüller H, 'What Can Restructuring Laws Do? Geopolitical Shocks, the New German Restructuring Regime, and the Limits of Restructuring Laws' (2023) 24(2) European Business Organization Law Review 231, doi:10.1007/s40804-023-00271-9
15. Fagetan AM, 'Corporate Insolvency Laws in Selected Jurisdictions: US, England, France, and Germany: A Comparative Perspective' (2025) *14*(2) *Laws* 21, doi:10.3390/laws14020021
16. Gurrea-Martínez A, *The Myth of Debtor-Friendly or Creditor-Friendly Insolvency Systems: Evidence from a New Global Insolvency Index* (Research Paper 4, Singapore Management University Yong Pung How School of Law 2023) doi:10.2139/ssrn.4557414
17. Hutchinson T and Duncan N, 'Defining and Describing What We Do: Doctrinal Legal Research' (2012) 17(1) Deakin Law Review 83, doi:10.21153/dlr2012vol17no1art70
18. Jacoby MB, 'Sorting Bugs and Features of Mass Tort Bankruptcy' (2022) 101(7) Texas Law Review 1745

19. Jensen MC and Meckling WH, 'Theory of the Firm: Managerial Behavior, Agency Costs, and Ownership Structure' (1976) 3(4) *Journal of Financial Economics* 305, doi:10.1016/0304-405X(76)90026-X

20. Krohn A, 'Rethinking Priority: The Dawn of the Relative Priority Rule and the New 'Best Interests of Creditors' Test in the European Union' (2021) 30(1) International Insolvency Review 75, doi:10.1002/iir.1398

21. Madaus S, 'Leaving the Shadows of US Bankruptcy Law: A Proposal to Divide the Realms of Insolvency and Restructuring Law' (2018) 19(3) European Business Organization Law Review 615, doi:10.1007/s40804-018-0113-7

22. McMaster K and others, 'Litigation, Legislation, and Case Law Developments Shape European Restructuring Markets' (*A&O Shearman*, 25 January 2025) <https://www.aoshearman.com/en/insights/litigation-legislation-and-case-law-developments-shape-european-restructuring-markets> accessed 25 May 2026

23. Meher A, 'Saudi Arabia: Key Developments of the Bankruptcy Law and Latest Trends' (*Global Restructuring Review (GRR)*, 11 April 2024) <https://globalrestructuringreview.com/review/europe-middle-east-and-africa-restructuring-review/2024/article/saudi-arabia-key-developments-of-the-bankruptcy-law-and-latest-trends> accessed 25 May 2026

24. North DC, *Institutions, Institutional Change and Economic Performance* (CUP 2012) doi:10.1017/CBO9780511808678

25. Roszkowska-Menkes M, 'Institutional Theory' in Idowu SO and others (eds), *Encyclopedia of Sustainable Management* (Springer Cham 2023) 1983, doi:10.1007/978-3-031-25984-5_389

26. Sarabdeen J, 'Saudi Arabian Legal Framework on the Use of Social Media in Entrepreneurial Marketing' (2025) 12 Social Sciences & Humanities Open 102242, doi:10.1016/j.ssaho.2025.102242

27. Schmidt J, 'Preventive Restructuring Frameworks: Jurisdiction, Recognition and Applicable Law' (2022) 31(1) International Insolvency Review 81, doi:10.1002/iir.1447

28. Sepe SM, 'Directors' Duty to Creditors and the Debt Contract' (2007) 1(2) Journal of Business & Technology Law 553

29. Tajti T, 'The Restructuring-Bankruptcy Stigma Nexus: In Light of the 2019 Preventive Restructuring Directive of the EU' in Kononov O and Mastrullo T (eds), *La transposition de la Directive (UE) 2019/1023 dite 'restructuration et insolvabilité': La place du débiteur et du créancier* (Larcier-Intersentia 2025) 29

30. Teti E and others, 'The Efficiency of Preventive Restructuring Procedures: Evidence from France' (2024) 33(2) Strategic Change 79, doi:10.1002/jsc.2564

31. Vaccari E, 'Changes to UK Insolvency Rules in the Wake of Covid-19: A Much-Needed Help for Businesses or an Unjustified Harm to the Rule of Law?' in Ferstman C and Fagan A (eds), *Covid-19, Law and Human Rights: Essex Dialogues* (A Project of the School of Law and Human Rights Centre, University of Essex 2020) 127, doi:10.5526/xgeg-xs42_017

32. Van Hoecke M, 'Methodology of Comparative Legal Research' (2015) Law and Method, doi:10.5553/rem/.000010

AUTHORS INFORMATION

Haifa Alkhenaifer
Master's Student, College of Law, Prince Sultan University, Riyadh, Saudi Arabia
224420356@psu.edu.sa
https://orcid.org/0009-0001-1206-8788
Co-author, Conceptualisation, Data curation, Formal Analysis, Investigation, Methodology, Resources, Software, Validation, Visualisation, Writing – original draft, Writing – review & editing

Jawahitha Sarabdeen*
PhD, College of Law, Prince Sultan University, Riyadh, Saudi Arabia
jsarabdeen@psu.edu.sa
Corresponding author, Data curation, Formal Analysis, Investigation, Resources, Software, Validation, Visualisation, Writing – original draft, Writing – review & editing

Competing interests: No competing interests were disclosed.

Disclaimer: The authors declare that their opinions and views expressed in this manuscript are free from any influence from any organisations.

RIGHTS AND PERMISSIONS

EDITORS

Managing editor – Mag. Yuliia Hartman.

ABOUT THIS ARTICLE

Cite this article

Alkhenaifer H and Sarabdeen J, 'Restructuring of Companies: An Insight into Saudi Arabian Bankruptcy Law' (2026) 9(4) Access to Justice in Eastern Europe 1-22 <https://doi.org/10.33327/AJEE-18-9.4-a0002006> Published Online 29 Aug 2026

DOI: https://doi.org/10.33327/AJEE-18-9.4-a0002006

Keywords: *Saudi Bankruptcy Law 2018, Corporate restructuring, Preventive settlement, Financial restructuring, Creditor-debtor rights.*

DETAILS FOR PUBLICATION

Date of submission: 02 Feb 2026
Date of acceptance: 30 Jun 2026
Online first publication: 29 Aug 2026
Date of publication: Nov 2026
Was the manuscript fast-tracked? - No
Number of reviewer reports submitted in the first round: 2 reports
Number of revision rounds: 4 rounds with major and minor revisions

Technical tools used in the editorial process

Plagiarism checks - Turnitin from iThenticate
https://www.turnitin.com/products/ithenticate/
Scholastica for Peer Review
https://scholasticahq.com/law-reviews

ACKNOWLEDGMENT

The authors acknowledge the support of Prince Sultan University (PSU) for the research and for paying the Article Processing Charges (APC) for this publication. The authors would also like to record the support provided by the Governance and Policy Research Lab.

AI DISCLOSURE STATEMENT

The authors confirm that no artificial intelligence (AI) tools or technologies were used in the research, preparation, or drafting of this manuscript.

АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Дослідницька стаття

РЕСТРУКТУРИЗАЦІЯ КОМПАНІЙ: АНАЛІЗ ЗАКОНОДАВСТВА САУДІВСЬКОЇ АРАВІЇ ПРО БАНКРУТСТВО

Хайфа Альхенайфер та Джавахіта Сарабдін*

АНОТАЦІЯ

Передумови. *У 2018 році Саудівська Аравія ухвалила новий Закон про банкрутство, змінивши правовий режим неплатоспроможності з ліквідаційно орієнтованого на такий, що надає пріоритет реорганізації та відновленню діяльності підприємств. Закон має на меті забезпечити баланс між безперервністю господарської діяльності та захистом прав кредиторів завдяки запровадженню процедур превентивного врегулювання і фінансової реструктуризації, а також таких механізмів, як автоматичні та умовні мораторії. Незважаючи на ці нововведення, досліджень, які б оцінювали відповідність цих механізмів міжнародним стандартам, є недостатньо. Для заповнення цієї прогалини у дослідженні проаналізовано, як процедури реструктуризації в Саудівській Аравії забезпечують баланс інтересів зацікавлених сторін та сприяють економічній стабільності.*

Методи: *У цьому дослідженні застосовано доктринальний, порівняльно-правовий методи та метод аналізу тематичних досліджень. Доктринальний підхід передбачає аналіз первинних і вторинних правових джерел, тоді як порівняльний аналіз зіставляє правове регулювання корпоративної реструктуризації в Саудівській Аравії з відповідними нормами Великої Британії, ОАЕ та ЄС. Теоретичним підґрунтям слугує інституційна теорія, яка пояснює адаптацію національних правових систем до глобальних стандартів, а також теорія агентських відносин між кредиторами і боржниками, що використовується для оцінки забезпечення балансу інтересів зацікавлених сторін у процедурах неплатоспроможності.*

Результати та висновки: *Результати свідчать, що хоча Саудівська Аравія загалом узгоджує своє регулювання реструктуризації з міжнародною практикою, її система залишається надмірно орієнтованою на судовий контроль, а суди мають ширші дискреційні повноваження порівняно з відповідними правовими режимами ЄС. Для* *юристів-практиків та суб'єктів господарювання суворий підхід суду вимагає чіткого дотримання процедурних вимог, але зрештою сприяє підвищенню довіри інвесторів. Для ефективного управління складними процедурами реструктуризації дослідження рекомендує обмежити втручання суду, забезпечивши обов'язкове, а не дискреційне застосування мораторіїв. Крім того, законодавство Саудівської Аравії має запровадити систему голосування за класами кредиторів для запобігання блокуванню рішень меншістю, встановити уніфіковані правила визначення пріоритетності нового фінансування та розширити положення щодо звільнення боржників від боргових зобов'язань.*

Ключові слова: *Закон Саудівської Аравії про банкрутство 2018 року, корпоративна реструктуризація, превентивне врегулювання, фінансова реструктуризація, права кредиторів і боржників.*