

## Significance of Debt collection in Saudi Arabia

Debt collection plays a pivotal role in Saudi Arabia's financial landscape, contributing significantly to economic stability and fiscal responsibility. It ensures that creditors can recover funds owed to them, fostering confidence in financial transactions. Moreover, an effective debt collection process helps maintain the integrity of contractual agreements, promotes business sustainability, and upholds the principles of fairness and accountability in the country's economic ecosystem. In Saudi Arabia, where adherence to Islamic financial principles is paramount, the significance of a well-regulated debt collection system cannot be overstated, as it strikes a balance between the interests of creditors and debtors while bolstering economic growth and stability.

## Debt collection process in Saudi Arabia

Saudi Arabia and the United Arab Emirates are considered the two most advanced nations in terms of international debt collection, according to an assessment of the debt collection process in 50 different nations. Strong government regulations and significant economic activity characterize Saudi Arabia's thriving oil-based economy. Due to the several languages, geographical boundaries, cultural differences, customs, and foreign laws, Saudi Arabia appears to be complex. When it comes to collecting debts, all of these variables, coupled with others like slow processing, hefty costs, and general legal action uncertainty in Saudi Arabia, represent significant obstacles.

For both civil and criminal proceedings, Saudi Arabia's judicial system is governed by Islamic law (Shari'ah rules). The principle "Al Aqd Shari'at Al Muta'aqdin," which translates to "The contract is the law of the parties," has been adopted by the Hanbali school, according to the principal. In other words, the parties are free to decide on and agree to their own contract conditions. According to the GCC, Saudi Arabia frequently receives late payments. But in fact, since interest on late payments is prohibited, the legislation does not take late payment into account. The Saudi Arabian courts, judicial tribunals, and Board of Grievances will not grant such claims. In Saudi Arabia, all such transactions are forbidden. The expense of collecting is not recoupable.

KSA is a member of the GCC, which was created in light of the special ties that exist between the gulf peninsulas, their shared goals, and their shared political structures based on Islamic principles. The sooner we take action, the higher the likelihood of a successful pre-legal debt collection effort, which KSA has designed. The pre-litigation method, court processes, and debt collection techniques will all be examined in this article.

## Debt Collection Techniques

The Saudi Arabian Bank follows the following processes to collect debt from the debtor:

1. A creditor must mention in the payment schedules a date for deduction that corresponds to the monthly payday. Alternatively, the date may be agreed upon with the debtor using any allowed methods of contact.
2. On the designated date, the creditor may debit a monthly installment from the debtor's account. Let's say the creditor refused to adhere to the planned date. The finance period can then be extended to a similar length added at the end of the month without incurring any costs or fees, and the debtors must be notified via any official means of communication.

3. If a debtor's condition changes voluntarily and can be verified, the bank must reschedule the debt at the debtor's request without extending credit, adding fees, or altering the payment amount. The bank has 30 days to reschedule after receiving the relevant paperwork from the debtor.
4. The bank is prohibited from doing certain activities throughout the debt collection process, including the following:
  - With the exception of situations when it is specifically allowed in the financing contract, a bank cannot deduct any money from the debtor's account without a court order or the debtor's permission.
  - Without a legal judgment or ruling, a bank is not permitted to temporarily block the debtor's account or balances.
  - Without a court order or the debtor's permission, a bank is not permitted to deduct more than one monthly installment for each loan within a pay period.
  - Before the due date specified in the loan contract, a bank cannot deduct the monthly payment.
  - Without a court order or decision, a bank cannot deduct a debtor's end-of-service gratitude.

### Pre-litigation Approach

In cases where debtors are unable to repay their debts, creditors have the option to commence legal proceedings against them. However, before turning to the appropriate judicial authorities for assistance, creditors can opt for a pre-litigation procedure to facilitate the collection of the debt in a manner that is both convenient and cost-effective, rather than resorting to the complexities of court trials and legal procedures. When engaging in pre-litigation actions, creditors must exercise great care and take note of the following considerations:

What methods are available for a creditor to contact the debtor?

The creditor is restricted to employing verified modes of communication when reaching out to the debtor, which includes email, registered mail, the national address, SMS messages, and telephone calls.

What information is contained within the communication?

a) The creditor's identity, the specific department responsible for handling overdue payments, and the contact number for that department or any third-party involved.

b) The operational hours of the relevant departments or third-party entities.

c) When reaching out to the debtor via telephone, the communication includes the name of the employee, the third party (if applicable), and the creditor.

What are the pivotal considerations demanding the creditor's attention?

a) The creditor is obligated to make a reasonable number of phone call attempts, not exceeding ten, within a 30-day timeframe to establish contact with the debtor. Furthermore, the debtor should have the capability to reciprocate communication using the same contact number utilized by the creditor.

b) All telephonic interactions conducted with the debtor, as well as the debtor's level of satisfaction during these exchanges, must be diligently recorded and securely archived for a minimum duration of ten years.

c) Creditors are entitled to furnish standard information regarding the current default status of the debtor and the potential legal remedies available to the creditor in the event of non-payment. Importantly, creditors must refrain from disseminating any inaccurate or misleading information concerning the potential consequences of default.

d) Communication directed at the debtor via written or electronic means should abstain from containing content associated with debt collection activities. Furthermore, it is imperative to maintain strict confidentiality with respect to the financial and personal information of the debtor, unless such disclosure is necessitated for professional or legal reasons and is explicitly consented to by the debtor. The maintenance of contact information should be limited exclusively to the debtor, without the retention of any data related to their guarantor.

What should be done if the debtor raises concerns about the payment amount?

a) Any objections raised by the debtor should be meticulously recorded, and in accordance with the guidelines set forth by SAMA (The Saudi Central Bank), a formal complaint must be lodged against the debtor. A reasonable timeframe for resolving the complaint should be stipulated, adhering to the statutory limitations. It is crucial for creditors to refrain from contacting debtors to remind them of their outstanding payments until the complaint has been successfully resolved.

b) Debtors should be informed about the process for escalating their concerns. In cases where the debtor remains dissatisfied with the resolution or wishes to escalate the complaint further, they should be directed to the appropriate authority.

c) Creditors must undertake an examination of the underlying causes of such complaints by establishing a policy for analyzing patterns of objections. These complaint reports should be diligently documented by the relevant departments, with a focus on continuously assessing the effectiveness of the resolution process.

d) A dedicated compliance department should be established to oversee all service level agreements and escalation procedures, ensuring that debtors' concerns and complaints are addressed within the legally mandated timeframe and are electronically documented.

e) Regular reviews and audits of the debt collection and communication departments should be conducted by the internal audit and compliance departments of banks or finance companies. This periodic evaluation ensures the proper adherence to procedures.

## Legal Proceedings in Saudi Arabia

Typically, the efforts made by local experts to mediate and negotiate, as well as any adjustments made for prompt payments, contribute to achieving a constructive and mutually agreeable resolution in debt-related disputes. In cases where disputes remain unresolved, creditors have the option to initiate formal legal proceedings or standard litigation.

### Standard Legal Proceedings

Creditors possess the right to pursue legal actions against any debtor who defaults on debt payments through the appropriate judicial channels. Notice should be given to such retail debtors who have remained in default for either more than three consecutive months or for a total of five separate

months over the financing period. The formal litigation process is regarded as the final recourse, following the exhaustion of other amicable settlement options.

Generally, there are no expedited procedures for debts falling into the general category. However, in cases involving bounced checks or delayed payments supported by a promissory note, a fast-track mechanism may be available as established under the Enforcement Law. In such situations, creditors can directly approach the enforcement judge for redress, bypassing the need to file a claim for a decision on the merits of the dispute, which can be sought through the Board of Grievances.

What documentation is required to commence a claim?

- Copies of the commercial registrations for both the creditor and the debtor.
- A duly executed power of attorney.
- Documentation verifying the existence of a contract between the involved parties.
- Proof of the signatory's authorization to execute the contract.
- Invoices or substantiating evidence of the debt.
- Correspondence pertaining to the debt, encompassing payment demands.

How long do claims have to be made?

In general, the claims are not subject to any statutes of limitations. Time limits are applied, however, in a few unusual circumstances, such as cargo claims. Therefore, the debts resulting from the contracts are exempt from such limitations. The Court of Appeal, in the initial hearing following the decision, could receive an appeal within 30 days. There is also a second opportunity to appeal. However, special leaves are needed in these circumstances, although no special leaves are permitted in everyday situations.

How long will the legal action take, and how much will it cost?

The procedure in the Board of Grievances can take up to 12 months to complete, whereas enforcement can take up to six months. Formal proceedings in Saudi Arabia are time-consuming because each hearing takes weeks or months, and the court hardly adheres to time management with the parties' permission. Arbitral tribunals make judgements in 18 months or less. With both parties' permission, the time restriction can be extended. A creditor may seek repayment of court fees from the debtor. However, in the case of enforcement fees, the debtor is not required to pay the collection charges.

### Court proceedings for enforcement

Debt Collection involving trade instruments like cheques and promissory notes is carried out within the enforcement courts. Similar to regular courts, the enforcement court does not schedule hearings. Instead, the judge directly issues an order to the debtor, requiring payment within 21 days of the case filing. This summons can be either published in a newspaper or sent via postal mail. Typically, the procedures within the Enforcement Court are stringent. Consequently, failure by the debtor to make payment and refusal to appear can lead to one or more of the following repercussions:

- i. Seizure of the debtor's commercial registration certificate.
- ii. Suspension of the debtor's business operations.
- iii. Issuance of an arrest warrant against the debtor.
- iv. Freezing of the debtor's bank account.
- v. Imposition of travel restrictions on the debtor.

- vi. Notification to the labor office to cease providing services to the debtor and their company.
- vii. Confiscation of the debtor's movable and immovable assets.
- viii. The Court also possesses the authority to issue an order for the company's liquidation to recover the outstanding claim amount.

## Managing Insolvent Debtors

Historically, Saudi Arabia has lacked a unified and comprehensive insolvency code. Instead, there are several layers from various sources that are extremely difficult to join together. It is frequently difficult to provide comprehensive answers to some of the most fundamental concerns in bankruptcy law. Shari'ah laws serve as the primary guiding principles for insolvency law. There is a civil law that is influenced by the archaic Commercial Court of Law (CCL) of 1931 for dealing with insolvency traders, and some laws from the State Revenue Act covers the areas of corporate liquidation. There are also some bankruptcy settlement procedures known as 'voluntary arrangement,' which entails giving over to the corporate court, which both the debtor and the creditor must comply with.

How do extrajudicial proceedings function in cases of insolvent debts?

Extrajudicial workouts can be established through a mutual agreement, but the specifics of the agreement are not prescribed by any specific entity. As previously mentioned, the court respects the agreements between commercial parties, unless the terms contravene Islamic principles (Shari'ah). Therefore, meticulous attention should be given to the drafting of such agreements.

What is the process for initiating liquidation?

Typically, the initiation of the liquidation process is either instigated by the debtor or its creditors. A council, appointed by the court or creditors, is responsible for listing the claims, identifying company assets, overseeing their sale, and distributing the proceeds to the creditors. The priority rule is applied when distributing the assets of the debtor, with housing-related debts and employee claims being accorded higher precedence and taking precedence over other creditors. In the event of creditor-initiated debts, creditors have the option to pursue legal action against the debtor for up to 15 years until the debt is completely settled.

What documentation is required?

(The same documentation needed for regular legal proceedings.)

## An Alternative to Legal Proceedings

In accordance with the UNCITRAL Model Law, the Saudi Arbitration Law, identified as M/34 OF 2012, introduced a significant alternative known as Alternative Dispute Resolution Methods (ADR) as a viable substitute for conventional legal actions. Arbitration offers a more streamlined approach wherein disputing parties engage an impartial third-party arbitrator vested with the authority to amicably resolve disputes between them. This extrajudicial process proves to be highly cost-effective, minimizing unwarranted delays, ensuring the

utmost confidentiality, and enforcing legally binding decisions that hold weight in court. It is noteworthy that all awards issued under the Saudi Arbitration Law are promptly enforceable.

Recently, the Ministry of Commerce in Saudi Arabia has taken the initiative to eliminate the prerequisite for debt collectors to secure licenses for their operations within the country. This strategic decision is designed to facilitate debt collection and elevate the overall business environment by systematically addressing the multifaceted challenges associated with debt collection in the Kingdom of Saudi Arabia. The removal of licensing requisites for debt collectors is anticipated to not only promote but also enhance the economic landscape of the kingdom, bringing it in alignment with globally recognized best practices.