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Israel - First Observations on the Experience of Businesses in Coping with the CoronaVirus Crisis

The COVID-19 pandemic is creating a new global reality that requires new rules of business conduct. The Government of the State of Israel was among the first governments in the world to realize the severity of the situation and to implement measures intended to defend the lives and health of the Israeli population while mitigating the effects on the economy. Below are some observations on the experience of Israeli businesses in adjusting to the changing circumstances.

The Israeli Government adopted a hands-on approach pursuant to which increasingly restrictive measures are weighed and implemented almost on a daily basis in response to the growing numbers of persons affected and statistical projections on the expected course of the pandemic. Part of the measures were recommendations that, when the public response was deemed insufficient thereto, became legally binding orders and regulations were enacted. This approach allowed a degree of flexibility in addressing the challenges posed by the situation. Businesses that have taken a **conservative approach** a few weeks ago were in most cases justified in the days and weeks that followed.

Generally speaking, Israeli businesses have been addressing one key issue in their adjustment to life under COVID-19, namely: **cash flow**. This means preserving revenues while decreasing expenses. Below are some of the strategies employed in this context.

Maintaining Revenue Flow

- **Working from Home** – many Israeli businesses have transitioned to working from home, with video conference calls replacing face-to-face meetings. This required in some cases upgrades of the relevant infrastructure and increased support teams, and businesses quick to respond enjoyed a smoother transition. The increased use of the technological means enabling this mode of operation might have impacts related to privacy and data security (such as the need to keep databases that contain personal data secure from the public network by encryption and safeguards, as well as cyber security measures).
- **Working in Shifts** - essential businesses, as specifically defined for these purposes, and other categories of businesses, are currently allowed to continue operating under certain limitations that vary on a case-by-case basis, mostly relating to maximum percentage of employees that may be present at the workplace at any given time. Some businesses have organized work shifts allowing for efficient presence of personnel at the workplace while complying with applicable restrictions.
- **Changing Business Focus** - some Israeli businesses have partly shifted focus in an attempt to adjust to the new circumstances. Pharmaceutical companies concentrate efforts on finding a cure or a vaccine and others on producing protective equipment. Restaurants shifted to home deliveries and other businesses are also offering home deliveries to their customers.
- **Price Reductions and Delayed Payments** - many businesses along the supply chain have agreed to offer their customers price reductions or improved payment terms during the pandemic. This allows businesses to guarantee cash flow and share the costs resulting from the restrictions in an efficient manner
- **Seeking Opportunities** - businesses with high liquidity utilize the current market conditions to find lucrative investment opportunities. For example, a bank attempted to realize shares of a company given as collateral to a loan and offered them for a very low price, which resulted in a price competition by at least two prospective buyers.

Decreasing Expenses

- **Labor costs** - many employers implemented reductions in salaries through a collective bargaining process or through *ad hoc* agreements with individual employees, and have asked employees to use their paid annual leave days. Business owners and top management often led the effort by waiving all or a very large portion of their compensation. The most significant measure taken however is placing employees in extended unpaid leave of absence. The Government of Israel provided that such employees would be entitled to unemployment wages from the State of Israel under certain conditions. As a result, about 700,000 employees, around 20% of the Israeli workforce, have already been placed on unpaid leave of absence and the number is expected to soar to one million employees by the end of March.

- **Taxes and other compulsory payments** – have not yet received comprehensive governmental attention, however many businesses have approached the Israeli Tax Authorities and decreased their ongoing corporate tax payments to match the expected decrease in annual revenues. This measure allows for some degree of relief until a more structured plan is implemented by the State of Israel. The Government has also allowed for delay of certain tax payments such as monthly VAT payments.
- **Lease payments pose another challenge.** The typical lease agreement under Israeli law does not include a *force majeure* clause and thus parties must rely on general principles of Israeli contract law, that are based on the concept of frustration of contract. Our experience to date shows that lessors have taken different positions depending on the circumstances. When applicable regulations and orders require the place of business to be completely closed (which is the case, for example, for certain malls and shopping centers), lessors have taken a more lenient approach, however where businesses may remain open, at least to a certain extent (such as offices), lessors have generally tended to reject requests for a decrease in lease payments. In extreme cases, lessees have abandoned their leases.
- **Financing** – financing obligations can present both a challenge and an opportunity. Some businesses have requested waivers from lenders allowing them to postpone loan repayment during a certain period. Other businesses have applied for new loans as an interim solution for their cash flow deficiencies, relying on the decrease in interest rates and sometimes on government-backed loans offered in order to increase liquidity in the market.

As the crisis is still a developing event, there is much to be learned and seen in the near future.

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