



News

Many of our engagements involve matters in which our clients face significant public attention. The following is a list of news stories about the firm, our clients, cases and the results we have achieved.

Kobre & Kim's Robert Henoch Sat Down with the Israeli CFO Forum for an Interview Titled "Be Aware of Your Exposure to U.S. Investigations"

July 29, 2019

Publication: *CFO Forum*

Israeli CFOs - Be Aware of Your Exposure to U.S. Investigations

We've learned from Robert Henoch, Partner at Kobre & Kim, about the risks posed to Israeli companies by U.S. agencies such as the IRS, SEC, DOJ, and how to mitigate them.

Michal Koren, Co-CEO, CFO Forum

Robert, as one of the only U.S. law firms with an office in Israel, what does Kobre & Kim's Tel Aviv office do?

We're a team of eight full-time professionals working here in Tel Aviv, representing Israeli clients in cross-border litigation and investigations. We do not do retainer work for repeat clients. Instead, we're referred to clients by law firms who need us for their existing clients, or also brought in directly by clients who need assistance with U.S. legal issues. We have 13 locations around the world. Because we do not practice Israeli law, we're not in competition with Israeli law firms at all and can instead focus on assisting them and their clients when they encounter issues relating to the U.S.

One of our main focuses in Israel is our government enforcement defense practice. A typical representation is when an Israeli client is targeted by a U.S. agency such as the Internal Revenue Service (IRS), Securities and Exchange Commission (SEC), Department of Justice (DOJ), etc., and we help defend the client in litigation or an investigation, helping them to interface with the relevant government agency. American and Israeli cultures are so different, the gap is so huge, that it's important for Israeli companies to respond in the right way to American law enforcement. As one example of our work in this space, we're the independent examiner for Bank Hapoalim - serving as a "referee" between the bank, its offices around the world and the U.S. Justice Department in a global investigation into allegations of tax fraud. I'm the only former U.S. prosecutor living in Israel, thus I'm the only one in this unique position to help Israeli clients in such efforts.

As another aspect of our government enforcement defense practice, we've represented 30 Israeli individuals (as opposed to companies) who are directors, officers and managers in large financial institutions who are targeted for tax evasion, money laundering, etc.

We also specialize in asset recovery and judgment assessment - we coordinate a worldwide effort to trace and recover funds. Our asset recovery and judgment enforcement work has been featured on the front page of The Wall Street Journal and in Forbes, The American Lawyer and other leading publications. With our global presence and expertise in this space, we are the only firm able to deliver full spectrum of global asset recovery services, including to clients in Israel.

We also specialize in high-tech litigation for Israeli companies. More on this below.

What should Israeli companies keep in mind when doing business abroad, and in the U.S. in particular?

It's very important for CFOs to understand that the U.S. is a "long-arm" jurisdiction - any violation or potential violation of the U.S. financial markets comes under our law enforcement. Any small connection to the U.S. can provide authority to the Americans to enforce U.S. law over Israeli companies. A transaction in USD, an employee in the U.S. - that's enough for them to subject an Israeli company to U.S. law.

Can Israeli companies receive subpoenas from U.S. government agencies such as the DOJ, IRS or SEC?

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Yes, it happens all the time and aggressively so. I'd estimate at least 50-100 times a year. American law enforcement has a mandate to investigate. All they need is a good faith belief that a subpoena is needed to answer a relevant question they have. In addition, American regulators will not answer questions about what's right or wrong like the regulators do in Israel. Israelis and Europeans do not understand that they should not answer an American regulator on the phone without consulting first with a qualified lawyer, because anything you say can and will be used against you. Further, the Israeli and American authorities are very collaborative. That means that information passes quickly from one government to the other, and that only in limited circumstances will Israeli authorities not help their American counterparts. It is also important to remember that pre-rulings are almost never done in the US.

In what ways can U.S. laws be used to pursue legal actions within Israel?

If there's a judgment that an Israeli company received in a U.S. court, we can help the Israeli company enforce it worldwide. For example, you can seek offshore assets of a Chinese client or supplier with our help.

How can companies in Israel use the U.S. legal system to protect their assets?

One example is an application called a Section 1782, which you can file on behalf of an Israeli creditor in U.S. courts. This application allows you to take discovery (i.e. get information or documents) from a third party in the U.S. – all without suing somebody. Under certain circumstances it can be used to gather evidence in support of a foreign enforcement proceeding, including information about assets or a debtor's control over assets, even where there is no action to enforce the judgment in the United States.

In addition, if Israeli companies are in possession of local Israeli judgments or arbitration awards, they can seek to "recognize" the judgment or award through U.S. courts and make them enforceable in the U.S.

What is the Kobre & Kim - Bentham IMF Litigation Fund for Israeli Companies?

The Kobre & Kim - Bentham IMF Litigation Fund for Israeli Companies is an initiative we started last year alongside leading litigation finance company Bentham IMF, after we repeatedly saw Israeli tech companies falling victim to IP theft at the hands of larger, foreign companies. It provides US \$30 million in risk-free funding for Israeli tech companies to pursue litigation against large, deep-pocketed adversaries through the U.S. legal system. We've seen so many companies walk away from good cases because they don't have the funds to start legal action in the U.S.

Picture this scenario: an Israeli company and a foreign company enter into a joint venture that eventually fails, and later the Israeli company discovers the foreign company has copied its tech and is selling it as its own. Oftentimes, smaller Israeli companies like these don't have the funds to sue large foreign companies for stealing their technology in situations like this, so they walk away from litigating in the U.S. Our litigation fund offers a line of credit that can fund litigation for Israeli companies like these, at zero financial risk to the company.