

Insights



Kobre & Kim Lawyers on Using U.S. Discovery for Israeli Disputes

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Israel parties will face a coming wave of cross-border litigation and arbitration as a result of the COVID-19 economic downturn. Kobre & Kim's Jeremy Bressman, Farrington Yates and Robert Henoch wrote for *Calcalist* on how Israel practitioners can boost their cases by leveraging powerful discovery tools in the U.S. that are unavailable in Israel.

Among the U.S. discovery tools available are Section 1782 of Title 28 of the U.S. Code, which offers broad-based U.S. discovery for non-U.S. parties, and Chapter 15 of the U.S. Bankruptcy Code, allowing foreign bankruptcy proceedings to be recognized by a U.S. Bankruptcy Court. Both can open doors to expansive discovery powers, allowing non-U.S. parties who are facing or anticipate facing a foreign criminal or civil proceeding to gain access to information such as from New York banks on most U.S. dollar-denominated transactions, or information about a debtor's assets. Some courts have even allowed Section 1782 discovery to support foreign arbitrations. Overall, the lawyers concluded, these are powerful tools with a low bar to entry that Israeli litigants aiming for successful evidence gathering should consider.

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