Country Guide
Saudi Arabia

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Doing Business in the Kingdom of Saudi Arabia: Overview

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Country Q&A | Law stated as at Sept 20, 2022 | Kingdom of Saudi Arabia

A Q&A guide to doing business in the Kingdom of Saudi Arabia.

This Q&A gives an overview of key recent developments affecting doing business in Saudi Arabia as well as an introduction to the legal system; foreign investment, including restrictions, currency regulations and incentives; and business vehicles and their relevant restrictions and liabilities. The article also summarizes the laws regulating employment relationships, including redundancies and mass layoffs, and provides short overviews on competition law; data protection; and product liability and safety. In addition, there are comprehensive summaries on taxation and tax residency; and intellectual property rights over patents, trade marks, registered and unregistered designs.

1. What is the general business, economic and cultural climate in your jurisdiction?

The Kingdom of Saudi Arabia has changed markedly in recently years, from a

Economy

Saudi Arabia has since 1938 been radically and broadly transformed by the discovery and exploitation of vast oil reserves, with ever rising export revenues. The 1973 oil crisis marked a significant spike in earnings, as soaring oil prices boosted the Kingdom's economic standing and geopolitical importance.

Production varies from 9-11 million barrels per day, as the Kingdom balances its interest in maximizing returns with maintaining stability and market confidence, generating 2022 revenues of $311 billion, 43% of GDP.

In 2026 Prince Mohammed bin Salman launched Vision 2030, an ambitious and multifaceted plan to diversify the Saudi economy away from oil to trade, logistics, tourism, technology, and finance, spearheaded by the Public Investment Fund ("PIF") which has aggressively driven internal and external investment in many sectors.

The currency of Saudi Arabia is the Saudi Riyal, pegged since 1986 at SR3.75 per $1.

Industries

While Saudi Arabia's economy has traditionally relied heavily on oil exports, the economy has diversified significantly over the years, ranking high according to UNCTAD in the Arab world in foreign direct investment.

Target growth industries include:

• Energy
• Entertainment and tourism
• Real Estate and construction

• Industry

Owing to its geopolitical significance and modernizion its economy, Saudi Arabia has emerged as a strategic location where numerous multinational corporations opt to set up their regional operations.

Population and Language

As of the latest available data, the population of Saudi Arabia is estimated to be around 35 million. Saudis make up the majority of the population, unlike the expatriate-heavy demographics seen in some other Gulf states. Expatriates in Saudi Arabia primarily come from South Asian countries like India, Pakistan, and the Philippines, as well as from other Arab countries. Arabic is the official language and is widely spoken across all sectors. English is also commonly used, particularly in the business environment. The overwhelming majority of the population practices Islam, with a small minority adhering to other faiths, often privately due to the country's strict religious laws.

Business Culture

In Saudi Arabia, business culture is deeply rooted in tradition and Islamic principles. Personal relationships and trust are highly valued in the Saudi business environment, and these often take time to develop. While the business culture has been conservative, there is a noticeable shift towards modernization, partly influenced by the Vision 2030 initiative. Both the government and private sectors are becoming increasingly focused on corporate social responsibility, including efforts to include more women in the workforce.

Traditionally, the Saudi workweek ran from Sunday to Thursday, with Friday and Saturday being the weekend. However, in line with global standards and as part of its modernization efforts, Saudi Arabia shifted its official working week to Monday to Friday, starting in January 2023. The standard workday is generally eight hours long, typically running from 9 am to 5 pm, although this can vary depending on the industry and whether it's the public or private sector.

Other

In 2020 Saudi Arabia launched the Regional Headquarters Program (RHQ). Under this program, beginning in 2024 multinational corporations with that wish to contract with Saudi government agencies (including entities like Aramco, PIF subsidiaries, STC, and other semi-government entities) are required to obtain an RHQ license that entails basing their Middle East and North Africa (MENA) regional headquarters in Riyadh. Note that the MENA region is defined as the countries of the Gulf Cooperation Council (Saudi Arabia, United Arab Emirates, Kuwait, Bahrain, Oman, and Qatar), Yemen, Iraq, Jordan, Palestine, Lebanon, Syria, Egypt, Libya, Tunisia, Algeria, Mauritania, and Morocco. The Riyadh headquarters entity must have a physical office in Riyadh and take the form of either a subsidiary of a multinational group that is established in Saudi Arabia or as a branch of a foreign company. An RHQ license provides certain benefits, including a ten year waiver of Saudization requirements.

Saudíization is the government's policy of increasing the percentage of Saudi nationals employed in the private sector. The government has set a number of targets for Saudízation, and companies that fail to meet these targets can face fines and other penalties. One of the main difficulties that companies face with Saudízation is finding qualified Saudi nationals to fill open positions. This is especially challenging in certain sectors, such as healthcare, engineering, and IT. Another difficulty is that Saudi nationals often have higher salary expectations than expatriates. This can make it difficult for companies to compete with other companies in the region.

2. What are the key recent developments affecting doing business in your jurisdiction?

Business and Economic Events

- The Saudi economy is recovering from the COVID-19 pandemic and is expected to grow by 7.6% in 2023
- The government is investing heavily in infrastructure and other non-oil sectors in an effort to diversify the economy, including in megaprojects like Neom
- The Saudi Public Investment Fund (PIF), the world's largest sovereign wealth fund, is investing in a wide range of projects, both domestically and internationally
- The Saudi government is also working to attract more foreign investment and develop its economy akin to the UAE.
- Oil price strategy/fluctuations
- Riyadh HQ
- Aggressive Saudization, spearheaded by the MHRSD

Political Events

- Saudi Arabia is playing a more active role in regional and international affairs.
- Rise of MBS and Vision 2030
- Normalization of relations with Iran, outreach with Israel
- War in Yemen

New Legislation

- New Companies Law
- Foreign Investment Law, interpreted to attract foreign investors
- E-Commerce Law, regulating online business
- Product Safety Law, protects consumers from unsafe products
- Data Protection Law, protecting privacy of personal data

3. What is the general legal system in your jurisdiction?

The legal system in Saudi Arabia is based on Islamic law, specifically the Hanbali school of Islamic jurisprudence. There is no formal constitution; instead, the Quran and the Sunnah (traditions of the Prophet Muhammad) serve as the country's supreme legal texts. The King acts as both the head of state and government, and he holds significant legislative powers.

Legal authority in Saudi Arabia is centralized, with the government in Riyadh overseeing

- national issues (defense/foreign policy/general governance)
- Social matters (marriage/divorce/inheritance are guided by Islamic law)
- Economic matters (like trade, labor, and commerce).

All legal matters are uniformly governed by Islamic law and overseen by specialized religious courts, alongside other governmental courts for issues like commercial disputes.

The Kingdom of Saudi Arabia bases its laws on the Holy Qur'an and the practices of the Prophet Muhammad, known as the Sunnah. According to the Basic Law of Government, enacted in 1992, (the "Basic Law") the Kingdom's Constitution is "Almighty God's Book, the Holy Quran, and the Sunnah of the Prophet." The Qur'an is the holy book of Islam, and the Sunnah is the traditions of the Prophet Muhammad. The Sunnah is an amorphous body of literature contained in six primary books (Bukhari, Muslim, Ibn Majah, al-Tirmidhi, al-Nisa'i, and Abu Dawud) and several secondary ancient books of tradition such as Sunan Ahmad Ibn Hanbal, Abu Khuzaymah, and others.

Although the Basic Law clearly states that "*Monarchy is the system of rule in the Kingdom of Saudi Arabia*", the King is bound by Shari'a in ruling the country. This is reflected in an early pronouncement by the founder of the Kingdom, King Abdulaziz Al Saud, in the Consultation Announcement issued in Mecca in 1924:

> "*The source of legislation and provisions can only be from the book of Allah, what the messenger of Allah stated, what has been agreed on by the main scholars by analogy and what they unanimously agreed on from which is not in the book of Allah nor the Sunnah (the prophet's statements or traditions). Only what Allah has permitted shall be permitted in this land only what he forbidden shall be forbidden."*

Chapter 6 of the Basic Law establishes three Authorities of State (branches of government) for Saudi Arabia, and article 44 provides for the Judicial Authority in the first place, followed by the Executive Authority, and then the Regulatory Authority. The King is the ultimate arbiter for these Authorities.

Article 46 states that "*The Judiciary is an independent authority. The decisions of judges shall not be subject to any authority other than the authority of the Islamic Shari'a.*" This article also provides that the King shall "*concern himself with the implementation of judicial rulings*."

The foregoing discussion reveals the pervasive impact that Shari'a law has on not only the Saudi legal system, but on its system of government as well. There is a common misconception in the West that the King has absolute power in Saudi Arabia. Actually, even the King is bound by Shari'a law, and his authority does not supersede Shari'a. While this distinction may be difficult to apply in practice, without a doubt it affects the decision- making thought processes of Saudi judges. More specifically, Article 1 of the Law of Procedure before Shari'a Courts (the Rules of Civil Procedure) provides:

> *"Article 1: Courts shall apply to cases before them provisions of Shari'a laws, in accordance with the Qur'an and Sunnah of the Prophet (peace be upon him), and laws promulgated by the State that do not conflict with the Quran and the Sunnah, ….*"

This is the first and most basic principle of Saudi courts, which is that they strictly apply Shari'a law, and only those laws issued by the government that do not conflict with Shari'a law. Each judge has an independent right to apply Shari'a law as he deems best, and to decide for himself whether a given government decree complies with Shari'a or not.

To understand how this works in practice, it is also important to be aware of two additional aspects of Saudi practice that fundamentally differ from the practice of law in the United States. First, Saudi law does not recognize the principle of precedents, so that Saudi judges are under no obligation to follow previous decisions of other courts in similar cases. To the contrary, Saudi judges are expected to rule in each case as they see fit, so that essentially every case is a case of first impression in Saudi Arabia.

In keeping with the repudiation of the doctrine of precedents, court decisions are not reported in Saudi Arabia. Therefore, unless one is actually involved in a case, or hears about a ruling from a friend or colleague, one cannot obtain a copy of a Saudi decision, or know the result of the case, let alone the Court's reasoning in reaching its decision. Needless to say, this inevitably results in uncertainty when opining on Saudi law, particularly where it involves potentially complex legal issues such as precisely what constitutes commissions on munitions sales, and where does consulting stop and commissions start.

One of the most fundamental principles of Shari'a law is that parties are required to honour their contracts. There are a number of verses confirming this admonishment, two of which from the Koran are:

- "*O you who have believed, fulfill (all) contracts*" – Al Maidah Surah – verse 1 "
- "*And fulfill every commitment. Indeed, the commitment is forever, about which one will be questioned (on Judgment Day)*" – Al-Isra Surah – verse 34

These are mandatory commandments, and a *shari'a* court has a very strong obligation to enforce the agreement (written or oral) between the parties, even if that agreement was an obligation to pay a commission on a military sale. There is not any prohibition against paying commissions on military sales under general principles of Shari'a law, and a Saudi court might very well determine that such a commission agreement was enforceable under Shari'a. This is distinguishable from a contract for something, such as interest, that is otherwise forbidden in Shari'a. Such an agreement, for an illegal object under Shari'a, would not be enforceable.

Saudi courts do not see themselves as responsible for enforcing all laws in the Kingdom, but rather they enforce Sahri'ah law. Even though they are theoretically required to enforce government laws that do not contradict Shari'a, in my personal and professional experience here in Saudi, they often ignore rules or regulations that are not specifically included in Shari'a.

4. Are there any restrictions on foreign investment, ownership or control?

The Foreign Investment Law allows foreign investors to own up to 100% of most businesses, subject to restrictions of foreign ownership in oil and gas sector, banking and media among other sectors.

Foreign investors must be licensed by the Ministry of Investment (MISA), which assesses applications in the context of business type, investment size and economic impact.

In addition to the Foreign Investment Law, other laws and regulations affecting foreign investors include tax, customs, labor, competition, capital market, banking, insurance, environment and government procurement.

5. Are there any restrictions or prohibitions on doing business with certain countries, jurisdictions, entities, organisations or individuals?

Saudi Arabia has restrictions and prohibitions on doing business with certain countries, jurisdictions, entities, organizations, or individuals. These restrictions are often in line with international sanctions, particularly those imposed by the United Nations, as well as additional sanctions or restrictions that Saudi Arabia may impose unilaterally or as part of a coalition, such as the Gulf Cooperation Council (GCC).

1. Countries: Saudi Arabia does not maintain formal diplomatic relations or allows business transactions with Israel. Additionally, Saudi Arabia has had strained relations and trade restrictions with countries like Qatar, although the situation has been evolving.
2. Entities and Organizations: Saudi Arabia has a list of designated terrorist organizations and individuals with whom any form of business transaction is strictly prohibited. This list is in accordance with both Saudi law and international counter-terrorism regulations.
3. Jurisdictions: Doing business with entities in jurisdictions that are under international sanctions is generally prohibited. This includes North Korea and Iran, among others.
4. Individuals: Saudi Arabia also prohibits business dealings with individuals who are on international sanctions lists, such as those maintained by the United Nations or the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC).
5. Other Restrictions: There may also be sector-specific restrictions, particularly in industries like defense, where foreign ownership and transactions are tightly controlled.

6. Are there any exchange control or currency regulations or any registration requirements under anti-money laundering laws?

Saudi Arabia has a set of exchange control, currency regulations, and anti-money laundering (AML) requirements that businesses and individuals must adhere to:

1. **Exchange Control and Currency Regulations**: Saudi Arabia does not have strict exchange controls, and the Saudi Riyal (SAR) is fully convertible. However, transactions involving the transfer of large sums of money into or out of the country may be subject to scrutiny and reporting requirements. The Saudi Arabian Monetary Authority (SAMA) oversees these regulations.
2. **Anti-Money Laundering Laws**: Saudi Arabia has comprehensive AML laws that are in line with international standards, including those set by the Financial Action Task Force (FATF). Businesses are required to implement AML compliance programs, which include customer due diligence (CDD), record-keeping, and reporting of suspicious activities.
3. **Registration Requirements**: Financial institutions, including banks and non-bank financial companies, must register with SAMA and adhere to its AML and Combating the Financing of Terrorism (CFT) guidelines. This includes submitting regular reports and audits to demonstrate compliance.
4. **Reporting Obligations**: Both businesses and individuals are required to report large transactions, usually those exceeding a certain threshold, to the authorities. Failure to report such transactions can result in penalties.
5. **Sector-Specific Regulations**: Certain sectors, like real estate and precious metals trading, have additional AML requirements due to their higher risk of being used for money laundering.
6. **Sanctions Compliance**: Businesses must also ensure that they are not dealing with entities or individuals on any sanctions lists, both international and those specific to Saudi Arabia.

Failure to comply with these regulations can result in severe penalties, including fines, asset freezes, and even imprisonment.

7. What grants or incentives are available to investors?

Saudi Arabia offers a range of grants and incentives to attract both domestic and foreign investors, particularly as part of its Vision 2030 initiative aimed at diversifying the economy. Here are some key incentives and grants:

1. Tax Incentives: Saudi Arabia has competitive corporate tax rates, and in some cases, tax holidays or reduced rates are offered to foreign investors in specific sectors.
2. Customs Duty Exemptions: Certain types of imported machinery, equipment, and raw materials may be exempt from customs duties, especially if they are not available locally and are crucial for the investment project.
3. Free Zones and Industrial Cities: Saudi Arabia has established several economic cities and industrial zones that offer various incentives, including tax breaks, streamlined customs procedures, and reduced utility costs.
4. Financial Grants and Subsidies: The Saudi Industrial Development Fund (SIDF) and other governmental agencies offer financial support in the form of grants or low-interest loans for projects in targeted industries like manufacturing, agriculture, and technology.
5. Research and Development (R&D) Support: Grants and subsidies are available for R&D activities, particularly in sectors like technology, healthcare, and renewable energy.
6. Local Content Incentives: Programs like the In-Kingdom Total Value Add (IKTVA) aim to boost local content in various industries. Companies that meet local content requirements may be eligible for additional incentives.
7. Training and Employment Subsidies: The Human Resources Development Fund (HRDF) offers subsidies to companies that hire and train Saudi nationals, aiming to reduce unemployment among locals.
8. Public-Private Partnerships (PPPs): The government encourages PPPs by offering incentives like guaranteed off-take agreements, risk-sharing mechanisms, and other financial incentives to make projects more attractive to private investors.
9. Foreign Ownership: Saudi Arabia has relaxed its foreign ownership laws in many sectors, allowing foreign investors to own 100% of companies in certain industries, thereby making it easier for them to establish a presence in the country.
10. Streamlined Procedures: The Saudi Arabian General Investment Authority (SAGIA) offers a "one-stop-shop" for investors, simplifying the process of obtaining licenses and approvals.

These incentives are designed to attract investment in sectors that are key to Saudi Arabia's economic diversification and development. However, it's crucial for investors to consult with legal and financial advisors to fully understand the eligibility criteria and application procedures for these grants and incentives.

8. What are the most common forms of business vehicle used in your jurisdiction?

In Saudi Arabia, the most common forms of business vehicles are:

1. Limited Liability Company (LLC): This is the most common form of business entity for foreign investors. An LLC requires at least two shareholders and can have a maximum of 50. The liability of shareholders is limited to their share in the capital.

2. Joint Stock Company (JSC): Suitable for larger operations, a JSC requires a minimum of five shareholders. These companies can be publicly listed and are often used for large-scale projects and operations.

3. **Sole Proprietorship**: This is a business owned and operated by a single individual. While it's the simplest form of business, it also exposes the owner to unlimited liability.
4. **Branch Office**: The branch office in Saudi Arabia is incorporated following the regulations prescribed by the Foreign Investment Law. A foreign company applying to register a branch office in Saudi Arabia may receive the right to do so only for specific activities, as the branch office is prohibited for certain operations, such as trading activities.
5. **Riyadh HQ**: The RHQ must have a separate legal personality and operate as a registered foreign company in the Kingdom of Saudi Arabia. The RHQ must have a presence of a physical office and act as a central administrative authority over the region without conducting any commercial operations.

9. What are the main formation, registration and reporting requirements for the most common corporate business vehicle used by foreign companies in your jurisdiction?

The most common corporate business vehicle used by foreign companies in Saudi Arabia is the Limited Liability Company (LLC). The main formation, registration, and reporting requirements for an LLC are as follows:

Formation and Registration

Pre-Approval: Obtain pre-approval for the company name and business activities from the Saudi Arabian General Investment Authority (SAGIA).

1. Investment License: Apply for a foreign investment license from SAGIA, which will outline the scope of the company's activities.
2. Articles of Association: Draft and notarize the Articles of Association (AoA) in accordance with Saudi law. This document outlines the company's governance structure, share capital, and other key details.
3. Capital Requirements: The minimum capital requirement varies depending on the business activity but generally starts at SAR 500,000. The capital must be deposited in a Saudi bank account.
4. Commercial Registration: Register the company with the Ministry of Commerce to obtain a Commercial Registration Certificate.
5. Chamber of Commerce: Enroll the company with the local Chamber of Commerce.
6. Tax Identification: Obtain a tax identification number (TIN) from the General Authority of Zakat and Tax (GAZT).
7. Labor Office Registration: Register with the Ministry of Human Resources and Social Development to obtain a labor office file for hiring employees.
8. Bank Account: Open a corporate bank account in a Saudi bank.

Reporting Requirements

Annual Financial Statements: LLCs are required to prepare annual financial statements, which must be audited by a certified auditor in Saudi Arabia.

1. Tax Filings: Submit annual tax returns to the GAZT. The tax year usually aligns with the Gregorian calendar year, and tax returns are generally due within 120 days of the year-end.
2. Zakat: If the LLC has Saudi shareholders, it must also file an annual Zakat return, which is a form of Islamic tax.
3. Labor Reports: Regular reporting to the Ministry of Human Resources and Social Development is required, particularly concerning the employment of Saudi nationals.
4. Compliance Reports: Depending on the sector, additional compliance reports may be required, such as environmental reports for manufacturing companies.
5. Renewal of Licenses: Various licenses and permits, including the SAGIA investment license, must be renewed periodically.

10. What is the standard management structure and key liability issues for the most common form of corporate business vehicle used by foreign companies in your jurisdiction?

Management Structure

In a Saudi Arabian LLC, the management is typically vested in one or more managers, as specified by the shareholders in the Articles of Association. A manager can either be a shareholder or an external individual. If the LLC has multiple managers, their meetings and decision-making powers are regulated by the Articles of Association. Managers have full authority to manage the company and make binding decisions unless restricted by the Articles.

For LLCs with a large number of shareholders, the Articles of Association may provide for a supervisory board comprising at least three shareholders. The supervisory board has the following responsibilities:

- Examining the LLC's financial records and documents.
- Requiring managers to submit management reports.
- Overseeing the LLC's balance sheet, annual reports, and profit distribution.
- Presenting its findings to the general assembly of shareholders.

An LLC is required to hold a general assembly at least once a year within four months following the end of its financial year. Additional meetings can be convened if requested by the manager(s) or by shareholders holding at least 10% of the LLC's capital. A notice period of at least 21 days is required to convene a general assembly. Resolutions must be adopted by shareholders representing at least 50% of the LLC's capital, unless the Articles of Association stipulate a higher majority. Non-manager individuals can act as proxies for shareholders during these meetings.

Management Restrictions

Unless specified otherwise in the Articles of Association, the provisions of Saudi Arabia's Companies Law apply to the managers of LLCs. The law does not mandate that a manager must be a resident of Saudi Arabia, although certain sectors may have specific requirements.

Directors and Officers Liability

Managers of an LLC are liable to the LLC, its shareholders, and third parties for

- Acts of fraud.
- Abuses of power.
- Violations of Saudi Companies Law or any other applicable regulations.
- Gross mismanagement or errors in management.

Parent Company Liability

The liability of a shareholder in an LLC is generally limited to the value of their shareholding in the company.

Environment

11. What are the main environmental regulations and considerations that a business must take into account when setting up and doing business in your jurisdiction?

Environmental regulations in Saudi Arabia have become increasingly stringent in recent years, particularly as the country aims to diversify its economy and promote sustainable development under Vision 2030. The primary regulatory body overseeing environmental issues is the Saudi Ministry of Environment, Water, and Agriculture. Businesses are required to conduct Environmental Impact Assessments (EIAs) before initiating any large-scale projects, especially in sectors like manufacturing, construction, and energy. These assessments must be approved by the relevant authorities and may require public consultations. Companies are also obligated to adhere to various standards concerning air and water quality, waste management, and hazardous materials. Failure to comply with these regulations can result in severe penalties, including fines, suspension of business activities, and even imprisonment in extreme cases. Additionally, some sectors, such as renewable energy and waste management, offer incentives for adopting eco-friendly practices.

12. What are the main laws regulating employment relationships?

Saudi Employees and Foreign Employees

The primary legislation governing employment relationships in Saudi Arabia is the Saudi Labor Law. This law applies to all employees working within the Kingdom, including both Saudi nationals and foreign employees. However, it does not apply to:

• Saudi national employees who are employed abroad.
• Employees of Saudi companies working abroad.
• Government sector employees.
• Domestic workers.
• Agricultural workers.

Employers should review their existing employment handbooks and policies to ensure compliance with the Saudi Labor and Workmen's Law. Provisions regarding discrimination, termination, end-of-service benefits, and maternity leave may need to be updated.

Mandatory Rules of Law

The Saudi Labor and Workmen's Law imposes minimum standards on various aspects such as termination of employment, working hours, vacation time, and safety standards. These standards are non-negotiable and must be adhered to. All employers in Saudi Arabia must register with the Ministry of Human Resources and Social Development (MHRSD).

Key provisions of the Saudi Labor and Workmen's Law include:

• **Types of Employment**: The law recognizes various forms of employment, including part-time, temporary, and project-based employment.

• **Contracts**: Employment contracts must be in writing and can be for fixed or indefinite terms. Renewal of fixed-term contracts is possible, but specific rules apply.

• **Non-Compete**: Non-compete clauses are permissible but must be reasonable in scope and duration. The law specifies that such clauses should not unfairly restrict the employee's future employment opportunities.

Subsequent Regulations

Following the issuance of the Saudi Labor Law, various Ministerial Resolutions and Decisions have been enacted, covering aspects such as:

• Wage protection systems.
• Mechanisms for resolving labor disputes.
• Occupational health and safety standards.
• Regulations concerning labor accommodation.

It's crucial for employers to stay updated on these regulations and ensure compliance to avoid penalties and legal repercussions.

13. Is a written contract of employment required?

Yes, a written contract of employment is required in Saudi Arabia. According to the Saudi Labor and Workmen's Law, an employment contract must be in writing and both the employer and the employee should have a copy. The contract should outline key terms such as job description, salary, duration of employment, and other conditions and benefits. Failure to provide a written contract can result in legal complications and penalties for the employer.

Collective Agreements

Trade unions and collective bargaining are not permitted under Saudi Law.

14. Do foreign employees require work permits and/or residency permits?

Work Permits

Foreign nationals are required to obtain work permits to work in Saudi Arabia. These permits are issued by the Ministry of Human Resources and Social Development (MHRSD). To secure a work permit, the foreign national must have an employment contract with an employer that is duly licensed to operate in Saudi Arabia. Employment contracts must comply with the regulations set forth by the MHRSD.

Residency Permits

In addition to work permits, foreign employees must also obtain a residency permit, commonly known as an "Iqama," to work and reside in Saudi Arabia. The Iqama is typically sponsored by the employer and is a prerequisite for the issuance of the work permit.

Costs and Duration

The entire process to obtain both a work permit and an Iqama generally costs around SAR 8,000 to SAR 12,000, depending on various factors such as the profession and the employer's Saudization level. The process usually takes approximately six to eight weeks to complete.

It's crucial for both employers and foreign nationals to adhere to these requirements to ensure legal compliance and avoid penalties.

Termination and Redundancy

15. Are employees entitled to management representation and/or to be consulted in relation to corporate transactions (such as changes in control, redundancies and disposals)?

In Saudi Arabia, employees generally do not have a statutory right to management representation or to be consulted in relation to corporate transactions such as changes in control, redundancies, or disposals. The Saudi Labor and Workmen's Law does not provide for employee representation on company boards or in management decisions.
However, in cases of mass layoffs or redundancies, employers are required to follow specific procedures outlined in the labor law, which may include notifying the Ministry of Human Resources and Social Development. The law also provides for end-of-service benefits and other entitlements in case of termination, but it does not obligate employers to consult with employees or seek their approval for corporate transactions.

16. How is the termination of an individual's employment regulated?

Termination

In Saudi Arabia, legitimate reasons for termination are generally related to the employee's performance or conduct, although the law does not explicitly define what constitutes a legitimate reason. The Saudi Labor and Workmen's Law mandates a minimum notice period of at least 60 days for indefinite contracts and the remaining period of the contract for fixed-term contracts.

Upon termination, employees are entitled to all unutilized benefits, such as accrued but untaken leave. Additionally, Article 84 of the Saudi Labor and Workmen's Law states that employees who complete one year or more of continuous service are entitled to an end-of-service benefit. For each year of the first five years, an employee receives half a month's salary, and for each year beyond five years, the employee receives one month's salary. Partial years are pro-rated.

The law does not differentiate the calculation of end-of-service benefits based on who terminates the employment contract, whether it's the employer or the employee.

Fair Dismissal

No notice period is required for termination due to gross misconduct, as outlined in Article 80 of the Saudi Labor and Workmen's Law. Gross misconduct includes actions like theft, fraud, or violation of workplace safety rules.

Unfair Dismissal

In cases of wrongful termination, the employer may be required to pay compensation, which can be up to three months of the employee's salary. Employee grievances are initially handled through a conciliation process administered by the Ministry of Human

Resources and Social Development. If a settlement cannot be reached, the aggrieved party can file a case before the competent Saudi courts.

Class of Individuals

The Saudi Labor and Workmen's Law prohibits discrimination based on race, color, sex, religion, or national origin. However, it should be noted that there are certain roles and sectors where the employment of Saudi nationals is mandated by law, known as Saudization.

17. Are redundancies and mass termination regulated?

Redundancies and Mass Termination

In Saudi Arabia, redundancies and mass terminations are regulated under the Saudi Labor Law. While the law does not provide a specific definition for "mass termination," it does outline procedures that employers must follow when terminating employment contracts, which become especially relevant in cases of large-scale layoffs.

Notification Requirements

Employers are required to notify the Ministry of Human Resources and Social Development in cases of mass layoffs. While the law does not specify a particular time frame for this notification, it is generally advisable to do so well in advance to allow the Ministry to assist in possibly finding alternative employment for the affected employees.

End-of-Service Benefits

In cases of redundancy, employees are entitled to end-of-service benefits as outlined in Article 84 of the Saudi Labor Law. The calculation of these benefits does not differ in cases of mass termination compared to individual termination.

18. In what circumstances is an employee taxed in your jurisdiction?

In Saudi Arabia, taxation of employees is relatively straightforward as the country does not impose a personal income tax on either Saudi nationals or foreign employees. However, there are other financial obligations that employees may encounter:

Zakat

Saudi nationals are subject to Zakat, which is an Islamic levy calculated at 2.5% of the individual's wealth. This is not a tax on income but rather a form of almsgiving that is obligatory for Saudi Muslims. Employers do not withhold Zakat; individuals are responsible for calculating and paying it themselves.

Expatriate Levy

Foreign employees working in Saudi Arabia are subject to an expatriate levy, which is paid by the employer. The levy varies depending on the number of Saudi nationals employed by the company and the total number of foreign employees. This levy has been introduced as part of the country's Saudization efforts to encourage the employment of Saudi nationals.

Social Insurance Contributions

Both Saudi nationals and foreign employees are required to contribute to the General Organization for Social Insurance (GOSI). For Saudi nationals, the contributions cover unemployment, occupational hazards, and pensions. For foreign employees, the contributions are limited to occupational hazard coverage. The contributions are usually deducted from the employee's salary by the employer and submitted to GOSI.

Withholding Tax

Foreign employees are subject to withholding tax on specific types of income earned within Saudi Arabia, such as rental income, dividends, or royalties. However, salaries are not subject to withholding tax.

Other Taxes

There are no capital gains taxes, inheritance taxes, or other forms of direct taxation on individuals in Saudi Arabia.

In summary, while there is no personal income tax in Saudi Arabia, employees—both Saudi nationals and expatriates—may be subject to other financial obligations like Zakat, expatriate levy, and social insurance contributions. It's crucial for employees to be aware of these obligations to ensure compliance with Saudi financial regulations.

19. What income tax, social security and other tax or contributions must be paid by the employee and the employer during the employment relationship?

Income Tax

Saudi Arabia does not impose a personal income tax on either Saudi nationals or foreign employees. Therefore, neither the employee nor the employer is required to pay income tax on salaries.

Zakat

Saudi nationals are subject to Zakat, an Islamic levy calculated at 2.5% of the individual's wealth. Zakat is not deducted by the employer but is the individual's responsibility to calculate and pay.

Expatriate Levy

Foreign employees are subject to an expatriate levy, which is paid by the employer. The amount varies depending on the number of Saudi nationals employed by the company and the total number of foreign employees. This levy is part of the country's Saudization efforts to encourage the employment of Saudi nationals.

Social Insurance Contributions (GOSI)

Both Saudi nationals and foreign employees are required to contribute to the General Organization for Social Insurance (GOSI). The contributions are as follows:

- **For Saudi Nationals**:
    - Employee Contribution: 10% of the salary for pension and 1% for unemployment insurance (Saned).
    - Employer Contribution: 12% of the salary for pension and 2% for unemployment insurance (Saned), plus 2% for occupational hazards.
- **For Foreign Employees**:
    - Employee Contribution: None.
    - Employer Contribution: 2% of the salary for occupational hazards.

The employer usually deducts the employee's share (if applicable) from the salary and submits both the employee's and employer's contributions to GOSI.

Withholding Tax

Foreign employees may be subject to withholding tax on specific types of income earned within Saudi Arabia, such as rental income, dividends, or royalties. However, salaries are not subject to withholding tax.

Value-Added Tax (VAT)

A 15% VAT is applicable on most goods and services in Saudi Arabia. While this is not a direct tax on employment income, it does affect the purchasing power of both employees and employers.

In summary, while there is no income tax in Saudi Arabia, there are other financial obligations like Zakat for Saudi nationals, expatriate levy for foreign employees, and social insurance contributions for both. Employers are responsible for making the necessary deductions and payments for these obligations.

20. When is a business vehicle subject to tax in your jurisdiction?

Business Vehicle Taxation in Saudi Arabia

In Saudi Arabia, a business vehicle is subject to various forms of taxation and levies, depending on its usage and ownership structure. Here are the key tax considerations:

Zakat and Income Tax

- **Saudi-Owned Companies**: Subject to Zakat, which is a religious levy amounting to 2.5% of the company's net worth. Business vehicles are considered assets and are included in the Zakat calculation.
- **Foreign-Owned Companies**: Subject to corporate income tax at a rate of 20%. Business vehicles, being company assets, are subject to depreciation, which can be deducted for tax purposes.

Value-Added Tax (VAT)

A 15% VAT is applicable on the purchase of new business vehicles and is also applicable on leasing rates if the vehicle is leased. Maintenance and repair services for business vehicles are also subject to VAT.

Customs Duties

If the business vehicle is imported, customs duties will apply at the point of entry. The rate varies depending on the type and origin of the vehicle.

Vehicle Registration Tax

An annual vehicle registration tax is applicable for all vehicles, including business vehicles. The amount varies depending on the type and usage of the vehicle.

Road Tax

Some cities or regions may impose a road tax, although this is not universally applied across the country.

Fuel Tax

While there is no specific fuel tax, the government has gradually reduced fuel subsidies, effectively increasing the cost of fuel for business vehicles.

21. What are the main taxes that potentially apply to a business vehicle subject to tax in your jurisdiction?

1. **Zakat and Income Tax:**
   - For Saudi-owned companies, a 2.5% Zakat applies on the company's net worth, which includes the value of business vehicles.
   - For foreign-owned companies, a 20% corporate income tax is applicable. Business vehicles are considered assets and are subject to depreciation, which can be deducted for tax purposes.
2. **Value-Added Tax (VAT):**
   - A 15% VAT is levied on the purchase of new business vehicles.
   - VAT is also applicable on leasing rates if the vehicle is leased, as well as on maintenance and repair services.
3. **Customs Duties:**
   - If the vehicle is imported, customs duties will apply at varying rates depending on the type and origin of the vehicle.
4. **Vehicle Registration Tax:**
   - An annual tax is applicable for registering the vehicle, and the amount varies based on the type and usage of the vehicle.
5. **Road Tax:**
   - While not universally applied, some cities or regions may impose a road tax.
6. **Environmental Levies:**
   - While not yet implemented, there are discussions about introducing levies based on the vehicle's carbon emissions.

22. How are the following taxed:

- Dividends paid to foreign corporate shareholders?
- Dividends received from foreign companies?
- Interest paid to foreign corporate shareholders?
- Intellectual property (IP) royalties paid to foreign corporate shareholders?

1. **Dividends Paid to Foreign Corporate Shareholders:**
    - Dividends paid by a Saudi Arabian company to foreign corporate shareholders are generally not subject to withholding tax in Saudi Arabia.
2. **Dividends Received from Foreign Companies:**
    - Dividends received by a Saudi Arabian company from foreign companies are generally subject to corporate income tax at a rate of 20% for foreign-owned companies. For Saudi-owned companies, these dividends would be included in the Zakat base, which is a 2.5% levy on the company's net worth.
3. **Interest Paid to Foreign Corporate Shareholders:**
    - Interest payments made to foreign corporate shareholders are subject to a withholding tax of 5% in Saudi Arabia.
4. **Intellectual Property (IP) Royalties Paid to Foreign Corporate Shareholders:**
    - Royalty payments for the use of intellectual property paid to foreign corporate shareholders are subject to a withholding tax of 15% in Saudi Arabia.

It's important to note that these rates may be affected by Double Taxation Avoidance Agreements (DTAAs) that Saudi Arabia has with other countries, which could potentially lower the withholding tax rates. Therefore, it's advisable for companies to consult tax experts to understand the specific tax implications based on their circumstances and any applicable DTAAs.

23. Are there any thin capitalisation rules (restrictions on loans from foreign affiliates)?

There is no specific thin capitalization legislation in Saudi Arabia. However, there are a few general principles that apply to the deductibility of interest payments for tax purposes.

First, interest payments must be made to an arm's length lender. This means that the interest rate and other terms of the loan must be comparable to what would be charged by an unrelated lender.

Second, the interest payment must be necessary for the business to operate. This means that the loan must have been used for a bona fide business purpose, such as financing capital expenditures or working capital.

Finally, the interest payment must be reasonable in relation to the company's earnings. The Saudi tax authorities may disallow interest deductions if they believe that the company is using debt to artificially reduce its taxable income.

In practice, the Saudi tax authorities have not been aggressive in enforcing thin capitalization rules. However, it is important to be aware of the general principles that apply to the deductibility of interest payments.

Some additional points to note:

- Saudi companies may be financed with minimum capital, and there is no limit to the amount of debt that may be used.
- Saudi companies may deduct interest payments to affiliates, but not the head office, provided that the amount of debt and rate of interest are at arm's length and that the interest deductibility formula is met.

24. Must the profits of a foreign subsidiary be imputed to a parent company that is tax resident in your jurisdiction (controlled foreign company rules)?

No, there are no specific controlled foreign company (CFC) rules in Saudi Arabia. This means that the profits of a foreign subsidiary are not automatically imputed to a parent company that is tax resident in Saudi Arabia.

However, as mentioned above, the gross income derived by a capital company resident in Saudi Arabia from its operations and branches outside Saudi Arabia is subject to tax in Saudi Arabia (subject to relevant conditions). This means that if a Saudi Arabian parent company has a foreign subsidiary that is generating profits, those profits may be subject to tax in Saudi Arabia, even if the profits are not remitted to the parent company.

The Saudi tax authorities will determine whether the foreign subsidiary is considered to be a branch of the Saudi Arabian parent company, based on factors such as the level of control that the parent company has over the subsidiary and the extent to which the subsidiary is carrying on business in Saudi Arabia.

If the foreign subsidiary is considered to be a branch of the Saudi Arabian parent company, then the profits of the subsidiary will be subject to tax in Saudi Arabia, even if the profits are not remitted to the parent company.

If the foreign subsidiary is not considered to be a branch of the Saudi Arabian parent company, then the profits of the subsidiary will only be subject to tax in Saudi Arabia if they are remitted to the parent company.

25. Are there any transfer pricing rules?

Transfer pricing rules in Saudi Arabia are set out in the Transfer Pricing Bylaws, which were issued in 2018. The Bylaws are based on the OECD Transfer Pricing Guidelines, which are the international standard for transfer pricing.

The Bylaws apply to all taxpayers that have controlled transactions with a value of more than SAR 6 million per year. A controlled transaction is a transaction between two or more related parties. Related parties include companies that are under common control, such as a parent company and its subsidiaries, and companies that have common shareholders.

The Bylaws require taxpayers to set transfer prices for controlled transactions at arm's length. An arm's length price is a price that would be agreed upon by two unrelated parties in comparable circumstances.

Taxpayers can use a number of different methods to determine arm's length prices, such as the comparable uncontrolled price method, the cost plus method, and the profit split method. The most appropriate method to use will depend on the specific facts and circumstances of the transaction.

Taxpayers are required to prepare transfer pricing documentation to support their transfer pricing arrangements. The documentation must include information about the taxpayer's business, the controlled transactions, and the methods that were used to determine the transfer prices.

The Saudi tax authorities can adjust a taxpayer's transfer prices if they believe that the prices are not arm's length. This can lead to additional tax assessments.

26. How are imports and exports taxed?

Imports

Imports into Saudi Arabia are subject to a number of taxes, including:

- Customs duties: Customs duties are levied on most imported goods. The rate of customs duty varies depending on the type of goods being imported. Most goods are subject to a customs duty of 5%. However, some goods, such as agricultural products and luxury goods, are subject to higher rates of customs duty.
- Value-added tax (VAT): VAT is a consumption tax that is levied on most goods and services supplied in Saudi Arabia. The standard rate of VAT is 15%. However, some goods and services are exempt from VAT, and others are subject to a reduced rate of VAT.
- Excise tax: Excise tax is a consumption tax that is levied on certain goods, such as tobacco products, carbonated drinks, and energy drinks. The rate of excise tax varies depending on the type of goods being imported.

Exports

Exports from Saudi Arabia are generally exempt from VAT. However, there are a few exceptions to this rule. For example, VAT is charged on exports of certain goods, such as gold and oil.

In addition, exporters may be required to pay other taxes, such as customs duties and excise tax, on the goods that they are exporting. The specific taxes that apply to exports will depend on the type of goods being exported and the destination country.

Exemptions and benefits

There are a number of exemptions and benefits available to importers and exporters in Saudi Arabia. For example, importers of certain goods, such as raw materials and machinery, may be eligible for a customs duty exemption. In addition, exporters may be eligible for a VAT refund on the goods that they export.

27. Is there a wide network of double tax treaties?

Yes, Saudi Arabia has a wide network of double tax treaties (DTTs) with over 50 countries. Most of these treaties are already in force, and others are in various stages of finalization or awaiting ratification. The Saudi government aims to expand its treaty network further to attract foreign investment and strengthen economic ties.

28. Are restrictive agreements and practices regulated by competition law? Is unilateral (or single-firm) conduct regulated by competition law?

Restrictive Agreements and Practices

Restrictive agreements and practices are regulated by competition law in Saudi Arabia. The Competition Law, overseen by the General Authority for Competition (GAC), aims to promote a competitive environment by prohibiting anti-competitive practices. This includes:

- Price-fixing
- Market sharing
- Bid-rigging
- Other practices that restrict free competition

Companies found in violation of these rules can face severe penalties, including fines and potential imprisonment for responsible individuals.

Unilateral (or Single-Firm) Conduct

Unilateral conduct is also regulated under Saudi Arabian competition law. A firm is generally considered to hold a dominant position if it has a market share of 40% or more. The law prohibits various types of unilateral conduct, including:

- Predatory pricing aimed at eliminating competitors
- Discriminatory pricing or conditions
- Refusing to deal with certain customers without a valid reason
- Imposing restrictions on customers, such as exclusive dealing arrangements

Violations of these provisions can result in fines, orders to cease the anti-competitive conduct, and in severe cases, divestiture of assets or business units contributing to the dominant position.

29.Are mergers and acquisitions subject to merger control?

Yes, mergers and acquisitions are subject to merger control in Saudi Arabia. The General Authority for Competition (GAC) is the regulatory body responsible for overseeing mergers and acquisitions to ensure they comply with the country's Competition Law.

Notification Requirements

Companies involved in a merger or acquisition are generally required to notify the GAC prior to completing the transaction if:

- The combined global turnover of all parties exceeds a certain threshold, or
- The transaction results in a change of control in a business that has a significant presence in Saudi Arabia.

Failure to notify can result in the transaction being declared void and may also lead to fines.

Review Process

Upon notification, the GAC will typically initiate a review process that can be divided into phases:

1. **Preliminary Review**: An initial assessment to determine whether the transaction could potentially harm competition.
2. **In-depth Review**: If concerns are raised during the preliminary review, an in-depth investigation is conducted to assess the transaction's impact on competition.

Criteria for Assessment

The GAC will evaluate the transaction based on various criteria, including:

- Market share of the entities involved
- Potential impact on competition
- Benefits to consumers
- Any public interest considerations

Penalties

Failure to comply with merger control regulations can result in severe penalties, including fines and the transaction being declared void.

Exemptions

Certain types of transactions may be exempt from merger control, such as those involving small and medium-sized enterprises (SMEs) or transactions within the same group of companies.

30. Are there any anti-bribery or corruption regulations affecting business in your jurisdiction?

There are a number of anti-bribery and corruption regulations affecting business in Saudi Arabia. These regulations are designed to prevent and punish bribery and corruption in both the public and private sectors.

The most important anti-corruption regulation in Saudi Arabia is the Criminal Code. The Criminal Code prohibits a wide range of corrupt activities, including bribery, embezzlement, abuse of power, and money laundering.

In addition to the Criminal Code, there are a number of other laws and regulations that prohibit bribery and corruption in Saudi Arabia. These include:

- The Anti-Bribery Law
- The Public Procurement Law
- The Corporate Governance Law
- The Anti-Money Laundering and Combating the Financing of Terrorism Law

The Saudi government is committed to combating bribery and corruption. In recent years, the government has taken a number of steps to strengthen its anti-corruption laws and enforcement mechanisms. For example, in 2017, the government established the National Anti-Corruption Commission. The National Anti-Corruption Commission is responsible for investigating and prosecuting corruption cases.

31. What are the main IP rights that are recognised in your jurisdiction?

The main IP rights that are recognized in Saudi Arabia are:

- Copyright: Copyright protects original works of authorship, such as literary, dramatic, musical, and artistic works, including motion pictures, sound recordings, and computer programs.
- Trademarks: Trademarks are distinctive signs, such as words, phrases, symbols, and designs, that are used to identify the goods or services of one business from the goods or services of other businesses.
- Patents: Patents protect inventions, which are new products or processes that offer a technical solution to a problem.
- Industrial designs: Industrial designs protect the ornamental design of a product, such as its shape, configuration, pattern, or ornamentation.

In addition to these main IP rights, Saudi Arabia also recognizes the following IP rights:

- Trade secrets: Trade secrets are confidential information that provides a business with a competitive advantage.
- Plant variety rights: Plant variety rights protect new varieties of plants.
- Integrated circuit layout designs: Integrated circuit layout designs protect the two-dimensional arrangement of the elements of an integrated circuit.

Saudi Arabia is a member of the World Intellectual Property Organization (WIPO) and is a party to a number of international IP treaties, including the Berne Convention for the Protection of Literary and Artistic Works, the Paris Convention for the Protection of Industrial Property, and the Patent Cooperation Treaty.

The Saudi Authority for Intellectual Property (SAIP) is responsible for the administration and enforcement of IP rights in Saudi Arabia. The SAIP offers a number of services, including IP registration, IP protection, and IP awareness.

32. Are marketing agreements regulated?

In Saudi Arabia, marketing agreements are generally subject to the regulations outlined in the Saudi Commercial Transactions Law and the Saudi Commercial Agencies Law, among other relevant laws and regulations. While the country does not have a specific law solely dedicated to marketing agreements, these contracts are generally governed by the principles of contract law and must comply with the broader legal framework.

Registration and Licensing

If the marketing agreement involves a commercial agency relationship, it may need to be registered with the Ministry of Commerce. Failure to register could result in the agreement being unenforceable in Saudi courts.

Exclusivity and Competition

Marketing agreements that include exclusivity clauses must be carefully drafted to ensure they do not violate Saudi Arabia's competition laws, which aim to prevent anti-competitive practices.

Agency

Background

In earlier times commercial agency or distribution agreements carried high risks, particularly where these would be registered at the Ministry of Commerce ("*MoC*") Commercial Agency Registry ("*Registry*"); these typically became "Catholic marriages," difficult to terminate without abandoning the market altogether.

Once registered, an agreement could not be *de*registered (a condition for registering with a *new* agent) without approval from the terminated agent, who could withhold this until all of his claims were resolved by a Chamber of Commerce Mediation Committee.

For this reason, foreign suppliers went to heroic lengths to prevent registration of their agreements, such as withholding legalization and attestation, though registration is typically required to prequalify to contract with ARAMCO and Government agencies.
MoC now accepts new agreements for registration without requiring prior deregistration or approval of the original agreement or agent.

For these reasons offshore suppliers are in most instances well advised to use their normal form for distribution arrangements with any distributors in the Kingdom; and allow the distributor if he insists to register it at MoC, as he is obliged in theory to do under the CAL, and is required for sales to government agencies and ARAMCO.
While to be accepted at the Registry agreements must choose Saudi law, an offshore forum for disputes is typically allowed; the Saudi Center for Commercial Arbitration ("*SCCA*") offers a good compromise between the Saudi agent's preference for a local forum and the foreign supplier's preference for a credible and predictable forum.

The New CAL provides as follows.

- As under the Old CAL, agents (not principals) remain theoretically obligated to register agreements in the Registry, in addition to satisfying regulatory licensing requirements.[1]
- Model MoC agreements remain optional, not mandatory.[2]
- If silent on or extended in practice beyond an agreed term, agreements are indefinite.[3]
- Agents are unless otherwise agreed entitled to use principals' trademarks, without any registration or formal licensing obligation.[4]
- Obligations to respect each other's reputation and commercial secrets continue post-termination.[5]

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[1] Arts. 4 a, 5.2; if prior MoC enforcement policies under the Old CAR are any guide, few if any Saudi agents will ever face the Art. 32 penalties of up to SR500,000.
[2] Art. 5.3.
[3] Art. 6.1-2.
[4] Art. 7.
[5] Art. 8.

- Agents are responsible to ensure consumer rights, including provision of maintenance, spare parts and technical support,[6] throughout the term of their appointment and for a year thereafter, or until appointment of a new agent if this happens earlier.[7]
- Agreements terminate automatically upon the death of an agent who is a natural person, or insolvency of one who is a legal person.[8]
- Agreements may be terminated prematurely for cause and without compensation based on material breach, liquidation, 90+ days of nonperformance, threat to public health or safety, loss of regulatory license, material compliance breaches, corruption or fraud, harm to commercial interests or intellectual property right infringements.[9]
- Indefinite agreements may be terminated by notice of one month for each year of the term, e.g. 10 months' notice for 10 years served, or in the event of force majeure without notice unless otherwise agreed, and failing which the agent is entitled to compensation based on payment of a full year's earnings based on the average annual commissions or profits earned over the previous three years, proportional to the deficiency in actual vs. required notice provided.[10]
- Termination other than for cause entitled the agent to compensation for efforts and expenses incurred and contributions to the value of the principal's brand, goodwill, consumer accounts, duration and sales levels, unless otherwise agreed;[11] and the principal to compensation for resulting damages.[12]
- The principal must unless otherwise agreed upon termination repurchase salable inventory at market value or for amounts paid if lower,[13] along with assets purchased from him or on his direction from third parties where used exclusively for performance under the agreement.[14]
- Claims for wrongful termination expire after one year,[15] and for breach after three years.[16]
- Agents may demand payment by the principal within 30 days of receipt of commissions paid after termination attributable to his efforts, unless otherwise agreed,[17] and commissions on transactions concluded within 90 days of termination if attributable to their efforts.[18]
- Disputes may be resolved before a MoC Commission, or before the Commercial Court or Arbitral Tribunal if the parties so agree.[19]
- Non-competition clauses are allowed during the term of agreement,[20] and after expiry for another two years or as otherwise agreed.[21]
- The MoC may without prejudice to the principal[22] amend the terms of an agreement to ensure consumer access to food, medicine/medical equipment, health care or other "necessary goods or services."[23]

Frequently Asked Questions

Comments follow on frequently asked questions regarding Saudi agency/distribution law and practice.

1. *Are agency or distribution agreements registrable in Saudi Arabia, and must they be registered?*

Agency and distribution agreements are registrable at the CAR; and local Saudi agents and distributors are required to register their agreements within three months of signature,[24] subject to fines.[25]

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[6] Art. 11.
[7] Art. 10.
[8] Art. 15.
[9] Art. 16.
[10] Art. 17.
[11] Art. 18.1-2.
[12] Art. 18.4.
[13] Art. 20 a.
[14] Art. 20 b.
[15] Art. 18.3.
[16] Art. 21.
[17] Art. 22.3.
[18] Art. 24.
[19] Arts. 23, 29-30.
[20] Art. 25.
[21] Art. 26.1,4.
[22] Art. 28.
[23] Art. 27.
[24] CAL, Art. 3.
[25] *Id.*, Art. 4.

In practice, many distributorship agreements go unregistered and MoC has rarely imposed any sanctions. However, on March 22, 2015, MoC announced that it would apply the CAL's sanctions against those who do not register their agencies during a six-month window beginning on March 21, 2015.

While failure to register and agency agreement in the CAR will not invalidate it, or adversely affect the foreign principal, one negative consequence of non-registration is the difficulty in distributing goods to some third parties that will insist on the agency relationship's registration as part of their procurement requirements. This is particularly the case of public agencies and state-owned companies, such as ARAMCO.[26]

On the other hand, in the case of an *exclusive* agency,[27] non-registration may benefit the foreign principal. If the principal wishes to terminate the agreement and appoint a new agent, it may do so whether or not the current agency is registered, but it may be more difficult to register the new agent if the current agency is registered. If an exclusive agency is registered, the MoC will not register the new agency until the current agency is deregistered, and to achieve this, the foreign principal will need either the exclusive agent's cooperation or a court order. The foreign principal generally may not deregister the agency unilaterally, as the MoC will require the Saudi party to deregister the relationship.

2. *If the agreements are registrable, what protection is afforded to the agent?*

As noted, in earlier years, exclusive agency or distribution agreements were risky for the supplier. Once registered, an agreement could only be deregistered, which was at the time a condition for registering a new agreement, upon submission of

- a "no objection" letter from the terminated agent, who could withhold this until all of his claims for wrongful termination or other severance benefits had been resolved by a Mediation Committee of the Chamber of Commerce; or
- written commitments by both the supplier and the new agent/distributor to honor any award that might be issued in favor of the terminated agent/distributor.
  More recently, MoC has become more even-handed and accommodating to suppliers; while exclusivity is *permitted* it is no longer *imposed* by the former practice of barring registration of new agreements pending approval by the terminated agent.[28] Upon termination, a new agent/distributor may register the new agreement without the first one being deregistered, and without any no objection letter from the terminated agent.

3. *If they are registrable but the agent has not registered it, does it affect the claims the agent can make upon termination?*

No. The fact that the agent/distributor has failed to register the agreement in violation of the CAL does not normally affect enforceability or rights under the agreement before the Commercial Court or other adjudicative body.
Under *Shari'a* principles as interpreted and applied by the Saudi courts the contract is the law of the parties,[29] and Saudi courts do not normally see themselves as the enforcers of administrative obligations or penalties, but rather as the vindicators of justice as between the parties.

4. *What are the characteristics of an agency or distribution agreement that would require it to be registered?*

Many if not most Saudi governmental and quasi-governmental agencies, such as the various ministries and Saudi ARAMCO, will not prequalify local distributors or agents as approved suppliers unless and until they first submit current commercial agency certificates confirming proper registration of their agency/distribution agreements at the CAR.

5. *May an agent register the agreement without the principal's consent?*

To register an agreement at the CAR, the agent must submit an original agreement signed and fully legalized by both parties, which for foreign suppliers requires legalization under local rules of the foreign jurisdiction and attestation at the nearest Saudi embassy or consulate.

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[26] Ministerial order no. 1013, dated 17/9/1412 H (corresponding to 22 Mar 1992), requires that the agents and distributors of national enterprises be registered in the CAR.
[27] *But see* discussion of exclusivity, *infra.*
[28] Exclusivity is now seen as harming consumer rights under the Competition Law.
[29] Except to the extent that any of its terms are prohibited, such as interest (*riba*).

Given this requirement, a foreign supplier may effectively prevent the Saudi agent/distributor from registering the agreement by withholding such attestation.
Nonregistration may however block the Saudi agent/distributor from prequalifying for many if not most public sector sales, and registration has in any case become much less risky to the supplier, not to mention being a legal obligation of the agent/distributor; for these reasons, it has become much more common for suppliers to cooperate with the agent/distributor in allowing agreements to be registered at the CAR.

6. *What damages are recoverable for breach?*

The CAL is silent on compensation to a terminated or nonrenewed Saudi agent; any judicial award would moreover under applicable *Shari'a* principles as interpreted and applied by the Saudi courts require the finding of a clear breach, and be limited to actual and directly caused damages, excluding consequential, indirect, speculative and punitive damages, or lost profits; any agreement to pay a penalty rather than a genuine estimate of actual losses would most likely be nonrecoverable, based on the *Shari'a* aversion to speculative damages.

Assuming termination in accordance with contract terms, no provision for compensation upon termination or expiry nor breach of other contract or statutory obligations, courts will typically dismiss claims for damages based on alleged wrongful termination.
Neither specific performance nor injunctive remedies are generally available in Saudi Arabia.

Distribution

Distributor contracts are treated as contractual agencies when they involve one agent as the sole distributor.

Franchising

Franchising in Saudi Arabia is governed by the Franchise Law, which was introduced in 2020. The Franchise Law defines franchising as a contractual arrangement between two parties, the franchisor and the franchisee, in which the franchisor grants the franchisee the right to use the franchisor's business model, trademarks, and other intellectual property to operate a business under the franchisor's name.

The Franchise Law sets out a number of requirements for franchising agreements in Saudi Arabia. These requirements include:

- The franchise agreement must be in writing and must be registered with the Ministry of Commerce and Industry within 90 days of its execution.
- The franchise agreement must contain a number of mandatory provisions, such as the scope of the franchise, the rights and obligations of the franchisor and franchisee, and the terms of termination.
- The franchisor must provide the franchisee with a pre-contractual disclosure document that contains detailed information about the franchise business, such as the franchisor's financial performance and the franchisee's initial investment requirements.

The Franchise Law also prohibits a number of unfair practices in franchising, such as:

- Tying the franchisee to the purchase of goods or services from the franchisor or its affiliates.
- Charging the franchisee excessive royalties or fees.
- Competing with the franchisee in the franchisee's territory.

33. Are there any laws regulating e-commerce?

The E-Commerce Law sets out a number of requirements for e-commerce businesses, including:

- E-commerce businesses must register with the Ministry of Commerce and Industry.
- E-commerce businesses must provide clear and accurate information about their products and services, including the price, delivery terms, and return policy.
- E-commerce businesses must protect the privacy and security of their customers' personal data.
- E-commerce businesses must comply with all other applicable laws and regulations, such as consumer protection laws and financial services laws.

In addition to the E-Commerce Law, there are a number of other laws and regulations that apply to e-commerce businesses in Saudi Arabia, such as:

- The Commercial Law
- The Consumer Protection Law
- The Data Protection Law
- The Anti-Money Laundering and Combating the Financing of Terrorism Law

The Saudi government is committed to regulating e-commerce in a way that protects consumers and businesses. The government has established a number of agencies to enforce the laws and regulations that apply to e-commerce, such as the Saudi Authority for Intellectual Property (SAIP) and the Saudi Consumer Protection Authority (CPA).

34. Are online platforms regulated in relation to their use for marketing/sales purposes?

Yes, online platforms are regulated in relation to their use for marketing/sales purposes in Saudi Arabia. The main law that regulates online marketing and sales is the E-Commerce Law, which was issued in 2019. Other laws and regulations that apply to online platforms in Saudi Arabia include the Commercial Law, the Consumer Protection Law, the Data Protection Law, and the Anti-Money Laundering and Combating the Financing of Terrorism Law.

35. How is advertising regulated in your jurisdiction?

Advertising in Saudi Arabia is regulated by a number of laws and regulations, including:

- The Commercial Law

- The Consumer Protection Law

- The E-Commerce Law

- The Media and Publication Law
- The Technical Regulations

The Commercial Law sets out a number of general principles that apply to advertising, such as the requirement to act in good faith and the prohibition of misleading and deceptive business practices.

The Consumer Protection Law sets out a number of specific requirements for advertising, such as the requirement to provide clear and accurate information about products and services, the prohibition of unfair trade practices, and the requirement to respect the privacy of consumers.

The E-Commerce Law sets out a number of requirements for online advertising, such as the requirement to register with the Ministry of Commerce and Industry and the requirement to comply with all other applicable laws and regulations.

The Media and Publication Law sets out a number of specific requirements for advertising in the media, such as the requirement to obtain a license from the General Authority for Media Regulation (GAMR).

The Technical Regulations set out a number of specific safety and quality standards that must be met by certain products advertised in Saudi Arabia.

The GAMR is the main government agency responsible for enforcing the laws and regulations that apply to advertising in Saudi Arabia. The GAMR has a number of powers, including the power to investigate complaints, issue fines, and take legal action against businesses that violate the laws and regulations.

Specific requirements for advertising in Saudi Arabia include:

- Advertisements must not be misleading or deceptive.
- Advertisements must not use unfair trade practices, such as comparative advertising that is false or misleading or that is likely to cause confusion among consumers.
- Advertisements must respect the privacy of consumers.
- Advertisements must comply with all applicable technical regulations.
- Advertisements in the media must be approved by the GAMR before they are published or broadcast.

36. How are sales promotions regulated in your jurisdiction?

Sales and promotions in Saudi Arabia are regulated by a number of laws and regulations, including:

- The Commercial Law
- The Consumer Protection Law
- The E-Commerce Law
- The Technical Regulations

The Commercial Law sets out a number of general principles that apply to sales and promotions, such as the requirement to act in good faith and the prohibition of misleading and deceptive business practices.

The Consumer Protection Law sets out a number of specific requirements for sales and promotions, such as the requirement to provide clear and accurate information about products and services, the prohibition of unfair trade practices, and the requirement to respect the privacy of consumers.

The E-Commerce Law sets out a number of requirements for online sales and promotions, such as the requirement to register with the Ministry of Commerce and Industry and the requirement to comply with all other applicable laws and regulations. The Technical Regulations set out a number of specific safety and quality standards that must be met by certain products sold in Saudi Arabia.

The Saudi Authority for Consumer Protection (CACP) is the main government agency responsible for enforcing the laws and regulations that apply to sales and promotions in Saudi Arabia. The CACP has a number of powers, including the power to investigate complaints, issue fines, and take legal action against businesses that violate the laws and regulations.

Specific requirements for sales and promotions in Saudi Arabia include:

- Sales and promotions must not be misleading or deceptive.
- Sales and promotions must not use unfair trade practices, such as price gouging or bait-and-switch tactics.
- Sales and promotions must respect the privacy of consumers.
- Sales and promotions must comply with all applicable technical regulations.

37. Are there specific data protection laws? If not, are there laws providing equivalent protection?

In recent years Saudi Arabia has made significant strides in developing a legal framework governing data privacy. However, this framework has yet to be officially implemented, creating a degree of uncertainty that has the potential to leave market entrants vulnerable to unanticipated legal exposure.

Sources of Law

The Personal Data Protection Law (PDPL) is Saudi Arabia's first comprehensive data protection law, designed to safeguard individual privacy by regulating the collection, processing, disclosure, and retention of personal data.[30] The law outlines a detailed framework that includes criteria for data processing, data subject rights, entities' obligations when processing personal data, data sovereignty, and penalties for non-compliance. The law applies to all organizations, public or private, that process personal data of individuals in Saudi Arabia, regardless of where the organization is based.[31]

The law was enacted through Royal Decree M/19 of 9/2/1443H on September 16, 2021, and was supposed to come into force on March 23, 2022. On March 22, 2022, the SDAIA announced that the implementation of the law would be postponed until March 17, 2023, to allow for the necessary measures following the public consultation period on the draft implementing regulations.[32]

[30] The Saudi Personal Data Protection Law (PDPL), found at https://istitlaa.ncc.gov.sa/en/Transportation/NDMO/PDPL22/Pages/default.aspx.

[31] PDPL Art. 2.

[32] https://www.arabnews.com/node/2048366/saudi-arabia

On November 20, 2022 SDAIA issued an amended version of the law for public consultation.[33] A one-year grace period has been instituted until all aspects of the law are implemented. The Saudi Data and Artificial Intelligence Authority (SDAIA) will oversee the law's implementation for the first two years, after which the National Data Management Office (NDMO) will take over.[34]

Notably, under the suggested amendments, the controller[35] may transfer Personal Data outside the Kingdom or disclose Personal Data to an entity outside the Kingdom provided that the country to which the Personal Data is to be transferred has regulations that ensure appropriate protection of Personal Data and the rights of Personal Data Subjects, and that such country's Personal Data protection standards are equivalent to those provided under the PDPL and its Implementing Regulations.[36]

Other key points of the PDPL include:

- Consent: Companies must obtain the explicit consent of individuals before collecting, processing, or sharing their personal data. Individuals have the right to withdraw their consent at any time.[37]
- Data Subject Rights: Individuals have the right to access, correct, or delete their personal data. They can also object to its processing, restrict its processing in certain circumstances, and receive their personal data in a structured and machine-readable format.[38]
- Data Controller and Processor: Companies acting as data controllers or processors must comply with the PDPL's requirements, including taking necessary measures to protect personal data and appointing a Data Protection Officer.[39]
- Data Breach Notification: Companies must report any data breaches to the relevant authorities within 72 hours of becoming aware of the breach.[40]
- Penalties: Non-compliance with the PDPL can result in significant penalties, including fines of up to SAR 10 million (approximately $2.7 million USD) and/or imprisonment for up to 10 years.[41]

Businesses may process non-sensitive personal data[42] based on lawful interests, provided that the subject's rights and interests are protected. The implementing regulations will specify some cases in which it is necessary to appoint one or more officials at the controlling authority to supervise data protection. There are also other details that the law refers to the implementing regulations, which have not yet been disclosed and are expected to be issued after the law comes into force.

Practical Considerations and Best Practices

It is important to note that the PDPL has not yet been implemented and therefore may be subject to significant revisions, before its expected entry into force. The law's implementing regulations which have not yet been disclosed, will provide further important points. We will stay attuned to future developments.

Entities doing business in Saudi Arabia must be mindful of the Kingdom's unique judicial environment, and manage risk exposure accordingly. Challenging as this may appear,[43] many positive steps are available, beginning with becoming familiar with and maintaining awareness of the general privacy regime.

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[33] https://www.dataguidance.com/news/saudi-arabia%C2%A0sdaia-launches-public-consultation

[34] https://infotrust.com/articles/privacy-and-data-protection-in-the-kingdom-of-saudi-arabia/

[35] Defined as, "Any Public Entity, natural person or private legal person that specifies the purpose and manner of Processing Personal Data, whether the Data is processed by that Controller or by the Processor."

[36] Art. 28.

[37] Art. 6.

[38] Art. 4.

[39] Art. 10, 11, and 15.

[40] Art. 38.

[41] Art. 37.

[42] Non-sensitive personal data is understood as data that does not include references to an individual's racial or ethnic origin, or religious, intellectual or political belief, as well as criminal and security data, biometrics, Genetic Data, Credit Data, Health Data, and data that indicates that one or both of the individual's parents are unknown.

[43] Judicial decisions are not precedential (or even published), and absent any single governmental body charged with privacy enforcement means there is little regulatory guidance on point.

In general, and even before the PDPL enters into force, companies operating in the Saudi market should consider obtaining individuals' "explicit consent" to any collection, processing or disclosure of personal data, defined to encompass[44]

> "all situations where individuals are presented with a proposal to agree or disagree to a particular use or disclosure of their personal information and they respond actively to the question, orally or in writing."

For example, individuals should in appropriate cases be required to provide an electronic signature indicating that he or she consents to the processing of personal information.

On the other hand, a medical clinic's informing a patient that his or her medical file will be transferred to a researcher unless the patient objects lacks the requisite patient consent, even in the absence of any express objection.

Onerous as it may be, obtaining explicit consent lowers the risk that a company that collects, processes and/ or discloses Saudis' personal data will be found liable for wrongful disclosure or misuse of that data under the Basic Law of Governance or *shari'a* principles.

In the absence of any clarity on whether implied consent would be deemed sufficient to avoid liability in these instances, explicit consent is always advisable if possible.

38. How is product liability and product safety regulated?

Product liability and product safety are regulated in Saudi Arabia by a number of laws and regulations. The most important law is the Product Safety Law, which was issued in 2018. The Product Safety Law sets out a number of requirements for product manufacturers and importers, including:

- Product manufacturers and importers must ensure that their products are safe for consumers.
- Product manufacturers and importers must conduct product safety assessments and tests before placing their products on the market.
- Product manufacturers and importers must notify the Saudi Standards, Metrology and Quality Organisation (SASO) of any serious product safety hazards that they identify.
- Product manufacturers and importers must recall any products that are found to be unsafe.

In addition to the Product Safety Law, there are a number of other laws and regulations that apply to product liability and product safety in Saudi Arabia, such as:

- The Consumer Protection Law
- The Civil Code
- The Commercial Code
- The Technical Regulations

The SASO is the main government agency responsible for enforcing the laws and regulations that apply to product liability and product

[44] As defined by the EU's Article 29 Working Party (WP29) in its Opinion 15/2011 of July 13, 2011.

safety in Saudi Arabia. The SASO has a number of powers, including the power to inspect products, recall unsafe products, and impose fines on businesses that violate the laws and regulations.

39. What are some of the key regulatory authorities relevant to doing business in your jurisdiction?

General Authority for **Competition** (GAC): Saudi Arabia's antitrust authority, responsible for enforcing the country's competition laws and regulations.

https://gac.gov.sa/

Ministry of Environment, Water and Agriculture: Responsible for the sustainable management of natural resources, including water, agriculture, and the environment in Saudi Arabia.

https://mewa.gov.sa/en/

The Saudi Central Bank (previously known as SAMA): Regulates the banking sector, maintains currency stability, and aims to foster economic growth in Saudi Arabia.

https://www.sama.gov.sa/en-US/

The Capital Markets Authority (CMA): Oversees the capital markets in Saudi Arabia, aiming to ensure fairness, efficiency, and transparency.

https://cma.org.sa/en/

Ministry of Investment (MISA): Focuses on attracting and facilitating investment in Saudi Arabia to diversify the economy.

https://misa.gov.sa/en/

The Saudi Authority for Intellectual Property (SAIP): Responsible for the regulation, protection, and enforcement of intellectual property rights in Saudi Arabia.

https://www.saip.gov.sa/en/

Zakat, Tax and Customs Authority (ZATCA): Responsible for administering and collecting zakat, taxes, and customs duties.

https://zatca.gov.sa/en/

The Ministry of Human Resources and Social Development (MHRSD): Oversees labor laws, social development, and human resources in Saudi Arabia.

https://www.hrsd.gov.sa/en

Ministry of Finance (MOF): Responsible for the fiscal policy, state budget, and financial affairs of Saudi Arabia.

https://www.mof.gov.sa/en/

Public Prosecution: Responsible for legal proceedings and ensuring the application of penalties.

https://www.pp.gov.sa/en-us/

Ministry of Justice (MOJ): The Ministry of Justice in Saudi Arabia is responsible for the administration of the judicial system, including courts, legal procedures, and the regulation of lawyers and legal consultants.

https://www.moj.gov.sa/english/

During the Saudi Council of Ministers Session on August 16, 2023, the Council approved the establishment of two new entities, namely the Insurance Authority and the Saudi National Institute of Health.

The Insurance Authority:

It was established To be a fundamental pillar of the national economy and enhance the risk management system. It is expected that the presence of an independent, unified entity concerned with regulating the insurance sector in the Kingdom will contribute to enhancing the efficiency of this sector, raising its contribution to the non-oil domestic product, and keeping pace with developments in the insurance industry around the world. The new authority will complete the journey of the Central Bank of

Saudi Arabia in developing the insurance sector, by providing the appropriate environment. To create strong insurance entities capable of competition and growth, support the stability of the insurance sector, and the national economy in general, and ensure that the interests of beneficiaries and policyholders are not affected.

The Saudi National Institute of Health

The Saudi National Institute of Health was established to oversee and support transitional research and clinical trials in the field of health and aims to contribute to improving the health, well-being and quality of life of society, fund transitional research and clinical trials in the field of health and ensure the quality and efficiency of its outputs and transform the results of such research into health and economic benefits, including its investment in coordination with the relevant authorities. The Saudi NIH also aims to contribute to the consolidation of the efforts of stakeholders in transitional research and clinical trials.

40. Is there anything else that is important relating to doing business in your jurisdiction?

The Public Investment Fund has assumed a driving role in diversifying the economy from public to private sectors, and in achieving the Kingdom's ambitious Vision 2030 goals.

PIF initiatives include a wide range of gigaprojects including the carless city of NEOM with its logistical, high technology, innovative alternative energy and industrial initiatives; a major tourism focus, with visa on arrival and development of Red Sea and Al-Ula Nabatean and seaside resort destinations; an opening of entertainment opportunities, from concerts to sports to theaters; a new national airline and airport, designed to eclipse regional competitors in size and global footprint; and promotion of entrepreneurship.

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