



# Saudi Arabia expands anti-bribery legislation to the private sector

16 MAY 2019

By: Adam Vause

Saudi Arabia Royal Decree 4 of 1440 Approving the Anti-Bribery Law (New Anti-Bribery Law) makes bribery in the private sector a crime. Private sector bribery refers to bribery of, or a bribery request from "any person working at private or cooperative associations, private organisations, or companies, private establishments or professional bodies, in any capacity." Bribery refers to offering, promising or granting something of value to a person to induce him or her from doing or refraining from action which constitutes a breach of professional duties. Likewise, any participants in such crimes, including intermediaries or accomplices, are liable.

Under the former anti-bribery law, crimes were limited to transactions involving a "public official". "Public official" was broadly defined to include employees, directors, and chairmen of state enterprises or companies maintaining public facilities or performing public services, and companies engaged in "banking operations".

## Expanded scope for bribery involving "public officials"

The New Anti-Bribery Law also expands the scope of "public sector" bribery by broadening the definition of "public official". Now bribery where the following persons are involved also constitutes a bribery crime in Saudi Arabia:

- employees of international institutions or international organizations (e.g. multinational NGOs or UN organisations) which relate to "the conduct of international business"; or
- employees and officers of "private associations of public benefits"

## Corrupt, anti-competitive practices in connection with tenders

On 28 March 2019, Saudi Arabia gazetted Royal Decree M75/1440 on the approval of the Competition Law and Cabinet Decision No. 372/1440 on the approval of the law of Competition (New Competition Law). The New Competition Law, which takes effect from 28 September 2019, expressly makes bid-rigging or other anti-competitive or corrupt practices in connection with public tenders a competition crime.

Under the New Competition Law, penalties for anti-competitive practices are substantially higher than before (up to 10% of the value of total annual sales; a fine of up to SAR 10 million if it is not possible to assess annual sales; or three times the value of the gains made as a result of the violation). Furthermore, companies are exposed to greater reputational risks: now, the competition regulator must publish in the local newspaper, at the offender's cost, details of final decisions rendered about competition crimes.

## Obstruction is a crime

Any person who obstructs or misleads a competition investigation is also liable for as much as 5% of the total annual sales value of the anti-competitive transaction implicated in the crime.

## Self-reporting might mitigate risks with the Competition Board

The New Competition Law also introduces incentives for entities reporting the persons or co-conspirators involved in an anti-competition crime. The Competition Board may, where an entity reports on the offending persons or co-offenders, refrain from investigating the reporting entity; or enter into a settlement agreement with the co-offending entity.

The New Competition Law is, however, not clear on whether reporting would mitigate an entity's risks under the New Anti-Bribery Law and whether reporting could still expose the entity to investigation under that legislation.

## Conclusion

Overall, the new changes expand the scope of anti-bribery and anti-corruption legislation in both public and private sectors.

Each law is to be supplemented by implementing regulations, which are yet to be published. These legal changes are part of the Saudi government's wider anti-corruption initiatives and efforts to enhance transparency in the Saudi economy.

Please contact any of the authors to discuss further.

## AUTHORS

---



### Adam Vause

Partner

Dubai | T: +971 4 438 6100

adam.vause@dlapiper.com

---