

SAUDI ARABIA

BENEFICIAL OWNERSHIP TRANSPARENCY

Saudi Arabia is only fully compliant with one of the G20 Principles (Principle 1). The country still lacks adequate mechanisms to ensure that competent authorities are able to access beneficial ownership information of legal entities and arrangements operating in Saudi Arabia.

G20 PRINCIPLE 1: BENEFICIAL OWNERSHIP DEFINITION

Score: 100%

Saudi Arabia is fully compliant with G20 Principle 1. Article 2 of the Anti-Money Laundering and Counter-Terrorist Financing Rules defines beneficial owner as the “natural person(s) who ultimately own(s) or control(s) the funds of the clients or on whose behalf a transaction or activity is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or arrangement.”

Therefore the definition covers the main issues such as the beneficial owner being a natural person, the exercise of direct or indirect ultimate control, as well as the alternative between “own” or control”. The definition is thus in accordance with good practice.

G20 PRINCIPLE 2: IDENTIFYING AND MITIGATING RISK

Score: 0%

Saudi Arabia has not conducted an assessment of the money laundering risks related to legal persons and arrangements in the last three years and therefore is not considered compliant with Principle 2.

G20 PRINCIPLE 3: ACQUIRING ACCURATE BENEFICIAL OWNERSHIP INFORMATION

Score 25%

Current laws and regulations do not require legal entities to maintain information on beneficial ownership. Consequently, there is also no requirement that the beneficial ownership information is maintained within Saudi Arabia.

However, there is a legal requirement for legal entities to

maintain a shareholder register containing the name of the shareholder and number of shares held. The law does not require nominee shareholders to indicate if they own shares on behalf of another person.

G20 PRINCIPLE 4: ACCESS TO BENEFICIAL OWNERSHIP INFORMATION

Score: 29%

Competent authorities (including administrative and law enforcement bodies, including the Saudi Financial Intelligence Unit (FIU), and the Saudi Arabia Monetary Agency (SAMA) are permitted by law to access beneficial ownership information obtained by financial institutions and DNFBPs but there is no specified timeframe and no central database. In fact, according to anti-money laundering rules, financial institutions are required to cooperate and share relevant information with local competent authorities for matters relating to money laundering, terrorist financing and other financial crimes.

Competent authorities may also rely on basic ownership information available in the company registry. Legal entities are required to register their articles of association with a public notary and within 30 days apply for registration with the commercial register, where the articles of association and information on managers of the company and signatories on their behalf should be provided. This information is however recorded as disclosed by the legal entity as the commercial register authority is not legally required to verify it.

G20 PRINCIPLE 5: TRUSTS

Score: 50%

Saudi Arabia has a domestic trust law and also allows the administration of foreign trusts. However, the current legal framework is still not fully in line with the G20 Principles.

Every trust (waqf) is required to indicate founders, trustees, and beneficiaries and is overseen by a judge (qadi) who registers the trust deed. Not all parties to the trust are registered however. The qadi is required to register changes to the trust deed and register it with a public notary. The information is made available to the public.

In the case of foreign trusts administered by resident trustees, the law does not specify what ownership information should be maintained by the trustee.

Banks and money exchangers, if they accept a trust as a client, are required to take additional measures to ensure that the trust is not misused, including taking the necessary measures to “1. establish whether the customer is taking the name of another customer, acting as a “front”, or acting on behalf of another person as trustee or nominee. 2. If the customer is acting on behalf of another person, ensure that he/she has the authorization to do so, and identify and verify the identity of the beneficiaries’ owner. 3. Where the customer is a trustee, understand the structure of the trust sufficiently to determine the provider of funds, those who have control over the funds (trustees) and any persons or entities who have the power to remove the trustees.”¹

G20 PRINCIPLE 6: ACCESS TO BENEFICIAL OWNERSHIP OF TRUSTS

Score: 50%

Supervisory authorities are granted access to information in the fulfilment of their supervisory duties. SAMA (Article 11 of the Insurance Law, Article 17 of the Banking Control Law, and Article 9 of the Decision on Money Exchange Businesses) and the CMA (Article 18 of the CML) are explicitly authorised to access all information required to perform their supervisory functions, including information maintained by financial institutions and DNFBPs.

In the case of waqf, information on the founders, trustees and beneficiaries is made public available and consequently can be easily accessed by competent authorities. The information available however does not necessarily include the identity of the actual beneficial owner of the trust.

G20 PRINCIPLE 7: DUTIES OF BUSINESS AND PROFESSIONS

Score: 74%

Financial Institutions

Score: 63%

The SAMA Rules Governing Anti-Money Laundering and Counter-Terrorist Financing require financial institutions to identify and verify the beneficial owners before establishing a business relationship. According to the rules, banks and money exchangers are required to identify and verify all permanent and casual customers and beneficiaries’ owner on a continuous basis. The law also establishes that they should assess the risks connected with different types of customers and take proper measures for enhancing

¹ SAMA Rules Governing Anti-Money Laundering and Counter-Terrorist Financing 2012. <http://www.sama.gov.sa/en-US/Laws/BankingRules/B%20and%20E%20AML%20CTF%20Rules%20Final%203rd%20Update.pdf>

requirements of identification and verification of customers or beneficial owners.

The anti-money laundering rules also provides that “no new accounts, business relationships or transactions should be accepted when: a. Identity of the customer cannot be verified; b. Identity of the beneficial owner is not known; and/ or c. Failure to obtain information on the purpose and nature of the relevant business.” (SAMA Rules Governing Anti-Money Laundering and Counter-Terrorist Financing 2012).

Enhanced due diligence is required for politically exposed persons (PEPs) wishing to open an account or entering into a business transaction.

Nevertheless, despite these legal requirements, the fourth follow-up to the MENA FATF report on Saudi Arabia noted that “financial institutions apparently have insufficient understanding of the requirement to obtain and verify information on the beneficial owner.”²

The main regulator and supervisor of the financial sector is the Saudi Arabian Monetary Agency (SAMA). Anti-money laundering laws and regulations provide for sanctions to be applied to legal and natural persons, including any chairman or member of board of directors of financial and non-financial institutions, their owners, managers, employees or authorised representatives.

DNFBPs

Score: 81%

AML Law (Article 5) and the Law of Terrorism Crimes and Financing (Article 39) require designated non-financial businesses and professions (DNFBPs) to conduct due diligence and verify the beneficial ownership of customers at the start of a relationship or when conducting a business transaction.

DNFBPs covered by the law and its implementing regulations include real estate agents, dealers of precious metals or stones or rare goods such as archeological monuments; and luxury goods dealers, and law, accounting and auditing firms. Trusts and service providers are not covered as they are not a regulated or defined group with civil servants or other professionals often conducting the relevant associated activities. Casinos are prohibited in Saudi Arabia.

Obligated DNFBPs are required to conduct customer due diligence, identify the beneficial owner, and take additional measures to verify their identity in high-risk cases.

Article (9) of the anti-money laundering law requires DNFBPs to inform the FIU if they have reasonable grounds

² MENA FATF, 2014. *Mutual Evaluation Report, 4th Follow up Report for Saudi Arabia*. http://www.menafatf.org/TopicList.asp?cType=train_sub2

to suspect the money is being used for terrorist or money laundering purposes.

Moreover, obliged DNFBPs are required to put in place an appropriate risk management system to determine whether a customer or potential customer and the beneficial owner is a PEP, take appropriate measures to establish the source of wealth and source of funds of PEPs, and classify such relationship as high risk relationships that require the approval of the senior management and ongoing monitoring.

G20 PRINCIPLE 8: DOMESTIC AND INTERNATIONAL COOPERATION

Score: 54%

Investigations into corruption and money laundering require that authorities have access to relevant information, including regarding beneficial ownership. In Saudi Arabia, there is no centralised database that can be used by domestic or foreign authorities to consult beneficial ownership information. The anti-money laundering law guarantees that competent authorities can have access to relevant information collected by financial and non-financial institutions in spite of confidentiality provisions that normally apply. SAMA is the body responsible for coordinating the exchange and sharing of relevant information.

Information disclosed by financial and non-financial institutions can also be shared with relevant foreign competent authorities through conventions, agreements or on the basis of reciprocity (AML Law, Article 25 and its Implementing Regulations, Article 25/1).

Moreover, the law establishes that the judiciary may, pursuant to a request by a court or concerned authority in a foreign country connected with the Saudi Arabia through a valid agreement or convention order the tracking of property, proceeds or instrumentalities connected with money laundering in accordance with Saudi applicable regulations.

G20 PRINCIPLE 9: BENEFICIAL OWNERSHIP INFORMATION AND TAX EVASION

Score: 42%

Tax authorities in Saudi Arabia do not have access to a central registry containing beneficial ownership information and there are also a number of restrictions in place for sharing information between domestic authorities.

There are however some provisions in place intended to facilitate the exchange of tax information to foreign counterparts such as Article 8-9 of Zakat By-Law.

Saudi Arabia has signed but not ratified the OECD Convention on Mutual Administrative Assistance on Tax Matters. The country has a network of double taxation conventions covering 30 jurisdictions, but only with 20 of them Saudi Arabia can already exchange tax information according to international standards.³

G20 PRINCIPLE 10: BEARER SHARES AND NOMINEES

Score: 38%

Bearer shares

Score: 50%

Bearer shares are permitted in Saudi Arabia in the case of joint stock companies and partnership limited by shares. According to the law, however, upon incorporation of these entities the subscribers to the shares are required to sign a document containing their name, address, nationality, and percentage of shares. This information is also provided to the Ministry of Commerce and, according to available reports, the Ministry does not accept the registration of a company that has issued bearer shares without having information on all subscribers.⁴

Nominee shareholders and directors

Score: 25%

Nominee shareholders and directors are permitted in Saudi Arabia and there is currently no requirement that they should disclose upon registering the company the identity of the beneficial owner(s). Professional nominees however are required to be licensed.

³ OECD, 2014. *Global Forum on Transparency and Exchange of Information for Tax Purposes Peer Reviews: Saudi Arabia 2014*. http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-peer-reviews-saudi-arabia-2013_9789264191914-en#page10

⁴ *Ibis*