

Anti-Corruption Drive in KSA



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These discussions are not pleasant or easy to have. What was once wrongly considered in our region as an issue for “international businesses” or “just a way of doing business”, fraud and corruption, in all its ugly iterations, is now a front and center concern. No longer can anyone view fraud and corruption as the “cost of doing business”, or the compliance with relevant laws and implementing preventative controls as a luxury to be pushed to the end of meeting agendas.

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Every participant in our regional economies needs to be aware of the specific anti-fraud and corruption requirements of local and international rules and regulations. The relevant legislations are often serious and broad-ranging, and a general misconception is that they only provide instructions to react and report internal instances to the relevant authorities. This couldn't be further from the truth. Proof of strong controls and a set of orderly books and records have become both a necessary deterrence tool and a shield from large scale legal exposure.

An Enemy

HRH the Crown Prince painted a vivid picture of corruption, referring to it as a “cancer”, “scourge” and “an enemy”. HRH remarked that corruption endangers development and prosperity and the “reason behind losing a number of great opportunities for the Kingdom”. It is therefore no surprise that the Saudi Vision 2030 Council tracks, as a key metric, KSA's push in combating corruption and installing a culture of accountability in all levels of government and citizenry.

With such a serious take on this problem, it is clear that the “real cost” and damage resulting from fraud and corruption goes well beyond the monetary value of incidents to a given business. The real costs include wasteful spending by governments (estimated at 5 to 15% of KSA's total State budget) that could be directed at much needed public services, heft of regulatory investigations and fines on individuals and businesses, and tarnishing of reputations in an ever-connected global marketplace. Those exposed to these damages are also wide ranging beyond the executives and businesses, with board members being held liable for inaction and professional services firms stuck with costly litigation over their sign-offs on fraud-ridden transactions.

Tackling these issues, and establishing strong and stringent regulations, will be a key focus in the GCC, in line with the continued push to diversify the economies from oil export and opening up markets to foreign investment.

Considerations

How should one respond to the dangers and pitfalls of fraud and corruption?

Specifically, there's a need to invest time and energy to plot out the legislative requirements of relevant operating jurisdictions, and an action plan be drawn out to ensure an entity and individual's compliance.

Generally, however, there are three essential tenants that underpin any considerations of fighting fraud and corruption, regardless of location and size: a proactive risk management environment, effective reactive response to incidents and proper documentation.

A cohesive risk management strategy must include considerations of risks of fraud and corruption, the mitigation of such risk and monitoring programs in place. Such a strategy would start with an assessment of these risks in an entity and identify relevant controls (either existing or necessary). Such an assessment should be carried out in regular intervals, with tests carried out to ensure the effectiveness of the control environment in place. Considerations for whistleblower hotlines and establishing independent and experienced oversight committees are also becoming essential. An effective and well implemented strategy is the first line of defense against fraud and corruption, and also shows any regulator or government agency a solid good-faith attempt to stomp out fraud.

Instances must be dealt with proportionately and effectively once identified. The first step is to differentiate between cases related to human resource concerns (e.g. harassment) or failure of following policies and procedures (e.g. unsafe work environments), and those that have elements of fraud and corruption. Based on the size, severity and intricacies of an identified instance will determine the level of response required. In our experience, the majority of cases can be dealt with internally by a strong internal audit and compliance function, in-house counsel and independent board committees. However, escalation to outside investigators and legal counsel would usually be necessary if, for example, large sums of misappropriate funds require tracing and retrieval, there's a want to set up legal proceedings, potential involvement of senior personnel is found or bribes found to government officials. Any response and resulting remedial plans should also be well documented as well.

The need for proper documentation is not limited to the strategies and responses, as the accounting and financial books

and records of an entity are also required to be honestly and accurately maintained. Regulators strongly believe that such well maintained books and records would help highlight indicators of fraud and corruption and reflect the intention of entities not to cover up any instances.

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