

This note covers the economic measures and response adopted by the Kingdom of Saudi Arabia (“Saudi Arabia”, “KSA” or “Saudi”) in facing the impact of the coronavirus pandemic. First, it is worth highlighting that, although Saudi Arabia has been hit by two shocks within a very short timeframe (the spread of coronavirus and the sharp decline in oil prices), it has succeeded in responding to both crises by implementing the correct measures.

Like much of the world, Saudi Arabia applied a series of measures to limit the spread of the coronavirus, including nationwide curfews of up to 24 hours in some cities, in addition to the suspension of outbound, inbound and internal travel in Saudi Arabia. As such these necessary measures had a negative impact on many businesses. In response to that, the Saudi Government spent more than SAR214 billion (USD57 billion) on 142 initiatives to minimise the impact of the coronavirus in Saudi Arabia.

1. Government policy responses

1.1 General fiscal stimulus measures that have been adopted

1.1.1 *Bailout packages*

The set of support packages targeting the private sector announced by the Saudi Government included exemptions and postponements of some government dues. Generally, the bankruptcy system in Saudi Arabia provides the creditor and debtor with a variety of options to help them overcome their financial challenges. In addition to that, the Government has taken immediate measures to address the unprecedented financial effects of the coronavirus pandemic. Measures taken included, but were not limited to, the exemptions and postponement of some government dues with an aim to provide the private sector with liquidity, thereby enabling businesses to continue with their activities despite the major economic setbacks. Some businesses may, however, still face difficult financial challenges and as such may need to consider options available (either for a creditor or a debtor) under Saudi Arabia’s Bankruptcy Law.¹

It is worth noting that the Bankruptcy Law applies to both natural and legal entities facing financial difficulties. The law differentiates between the defaulting debtor and the bankrupt debtor, and this distinction is important when considering the applicable procedure. A troubled debtor is a natural or legal person who is struggling to pay the debts on their due date, while a bankrupt debtor is a natural or legal person whose assets have become insufficient to pay off its debts.²

1.1.2 *Short-term funding facility with a particular objective*

- *USD13.3 billion package to support the banking and SME sectors*

The Saudi Government supported the banking and small to medium enterprise (SME) sectors with a USD13.3 billion package to ensure that government dues to the private sector are paid in a timely manner. The package further provided for a wage subsidy of 60% (up to SAR9,000 per employee per month) of Saudi employees’ salaries in the private sector. In addition, the Saudi Central Bank (SAMA) has announced an injection of USD13.3 billion into the banking sector to enhance liquidity and to enable banks to continue providing credit facilities to the private sector if needed.

- *Economic stimulus measures*

The Saudi Government announced USD18.6 billion in fiscal initiatives (including an exemption from expat levy) extending for up to three months without charge. Also, exempted SMEs with nine employees or less will not have to pay expat levy for a period of three years for two to four expatriates. In addition, a stimulus package which includes USD13.3 billion will be made available to SMEs through bank loans to help them remain operational and to support their growth during and after the coronavirus pandemic. SMEs will also be released from finance costs through the offer of a SAR6 billion loan guarantee programme.

- *Deferred payment programme*

The value of the deferral programme is SAR30 billion, and the programme aims to reduce the potential impact of the decrease in cash flows that SMEs may face by delaying the payment of the obligations of the beneficiaries for a period of nine months, and the amount allocated to the financing entities will be used to cover the cost of financing to those entities.

The financing parties are required to communicate with the beneficiaries and notify them of the rescheduling of the financing and the postponement of the due instalments according to the above-mentioned delay period, without any additional cost, while providing the option that the beneficiary does not have to reschedule.

Funding parties should also communicate with the beneficiaries and notify them of the rescheduling of the financing and postponement of the due instalments according to the postponement period referred to above, without any additional cost, while providing the option that the beneficiary does not have to reschedule.

The programme applies only to facilities classified in the first stage (according to International Financial Reporting Standard 9) since 14 March 2020, and the facilities classified in the second and third stages are dealt with according to the usual procedures followed by the funding agencies. Funding parties must sign the necessary agreements with the monetary agency to implement the programme.

1. The Bankruptcy Law issued by Saudi Arabia Royal Decree No M5/1439, Saudi Arabia Cabinet Decision No 264/1439.

2. Ibid.

- *Funding for lending*

The Saudi Government has provided concessional financing for SMEs in an amount up to SAR13.2 billion, by providing facilities from banks and finance companies to the SME sector in order to encourage business continuity and growth in this sector during the current phase, and that contributes to supporting economic growth.

1.1.3 **New loans**

- *Loan guarantee programme and guarantees*

The Saudi Government has deposited an amount of SAR6 billion to support the financing entities and to enable them to exempt micro businesses and SMEs from the costs of the programme of guaranteeing financing (guarantee). This is done with the purpose of contributing to reducing the cost of lending to the enterprises that benefited from these guarantees during the fiscal year 2020 and to support expanding financing.

- *Social loans to low-income families*

Saudi Arabia's development funds allocated SAR4 billion to provide social loans to low-income families during the coronavirus pandemic, with 100,000 Saudi citizens set to benefit.

- *Finance support to small and medium-sized health facilities*

Saudi Arabia's development funds allocated a portfolio worth SAR2 billion to provide financial support to small and medium-sized health facilities, with 1,000 existing health facilities benefiting from the funds.

- *Direct lending portfolio for micro and small enterprises*

Saudi Arabia's development funds increased the direct lending portfolio for micro and small enterprises to SAR2 billion, which is expected to help 6,000 male and female entrepreneurs.

1.1.4 **Sectors that have received government support**

Since the beginning of the coronavirus pandemic, SAMA has been in negotiation with local commercial banks to help certain sectors that are highly impacted by the current circumstances. SAMA has requested banks to implement qualitative measures, including:

- extending working capital finance to all corporates in such sectors and addressing their short-term liquidity requirements;
- instigating Private Sector Job Retention Schemes for corporate customers in order to

maintain employment levels within these customers and providing concessional bridging loans for at least six months;

- introducing flexibility in repayments of consumer finance to individuals who have lost their jobs due to the coronavirus – this includes the relief of repayments of loan or mortgage payments for a period up to six months at no additional cost;
- waiving all fees and other charges resulting from the use of digital banking for a period of up to six months;
- waiving the minimum deposit balance requirement for the period of up to six months; and
- reviewing credit card interest rates and adjusting them to a reasonable annual percentage rate.

In addition, the Industrial Fund has introduced an initiative to support projects in the industrial sector affected by the coronavirus pandemic, which includes restructuring and postponing loan payment conditions for small and medical project trams that were expected to settle their instalments during 2020.

1.1.5 **Other measures and sources**

The Government has further implemented general measures, including the following:

- postponing the payment of commercial registration fees for more than 116,000 commercial records;
- a 25% reduction of expat levy for operational factories until the end of the year;
- postponing and restructuring the payment of loans instalments for large and small factories, small projects and medical projects that were due in 2020;
- the Social Development Bank has issued a SAR13 billion initiative to support citizens, families and small establishments to cope with the economic impact of the coronavirus;
- approving a 30% discount for two months on utility bills for the commercial, industrial and agricultural sector; and
- lifting the temporary suspension of private sector companies to help them regain their activity status.

Suspension of the freezing of investment accounts

The suspension of private sector attendance at the workplace included additional preventative

measures which mandated the suspension of freezing of investment accounts in accordance with the requirements of Article 15 of the Instructions of Investment Accounts.³

E-court

The Ministry of Justice launched an “e-court” in order to facilitate services provided to beneficiaries and to provide smarter government services such as electronic property conveyancing.

2. Legislative reforms impacting on stakeholders dealing with companies' financial distress

2.1 Employees

Employers in Saudi Arabia, just like around the globe, have been affected by the impact of the coronavirus pandemic in most sectors and particularly in the private sector. The measures adopted by the Government to curb the spread of the coronavirus have resulted in many businesses having to temporarily close or reduce their working hours in order to comply with government instructions. To ease this, the Government has introduced specific measures to protect employees while supporting employers. Measures introduced included the following.

2.1.1 Furlough programme for KSA nationals

On 3 April 2020, a Royal Order was issued to grant subsidies to Saudis employed in the private sector. The subsidy is managed by the General Organisation for Social Insurance to cover 60% of KSA nationals' salaries up to a maximum of SAR9,000 (roughly USD2,400) of their salaries, through the unemployment benefit programme (SANID). Companies with five Saudi national employees or less can benefit from this by having them all covered, whereby employers with more than five Saudi national employees can only have up to 70% of their national workforce covered by SANID. Employers will have to pay wages to all other employees, both Saudi nationals and non-Saudi nationals. Employers are also required to resume paying full salaries after the programme is over.

2.1.2 Ministerial decision Introducing a new Article 41 to the Implementing Regulation of the Labour Law

The Saudi Arabian Ministry of Human Resources and Social Development (MHRSD) has issued directives and resolutions to deal with employees' rights during the coronavirus pandemic. In particular, it has introduced Article 41 to the Implementing Regulation of the Labour Law⁴ to

enable both employers and employees for a certain period to agree to any of the following:

- a reduction in salary, provided that there is a corresponding reduction in working hours;
- placing the employee on paid annual leave (as part of their holiday entitlement); or
- implementing a period of unpaid leave.

As such, the MHRSD has clarified that any termination by the employer of an employee (whether a Saudi national or a non-Saudi national) will not be legitimate once it becomes evident that the employer has benefited from the above-mentioned subsidy. Also, as an alternative to recruiting from abroad and to protect workers from being terminated or losing their contractual benefits during such circumstances, the Ministry of Labour has announced that employers can temporarily benefit from the services of the off-labour-market expatriates through a portal called “Ajeer” which allows businesses to publish the names of their excess workers. Moreover, employers can submit an application to the MHRSD to facilitate the return of their expatriate employees who wish to go back to their homelands during the lockdown. Additionally, the Government announced suspending fines related to expatriate recruitment and lifted any suspension related to wage protection during the coronavirus pandemic. In addition, any failure to comply with the requirements of Article 41 will expose employers to a fine of SAR10,000 (almost USD2,666) per violation, subject to the number of employees affected and risk claims being brought in the Labour Court.⁵ Yet, although the above-mentioned measures were introduced to assist employers in managing their response to the coronavirus pandemic, there was uncertainty as to how the measures would be implemented within the scope of Article 41.⁶ Therefore, an explanatory note was issued to further clarify the application of Article 41.

2.1.3 Work-from-home

On 18 March 2020, private sector establishments were instructed by MHRSD to suspend work at their main headquarters / offices and activate work-from-home procedures. In addition, companies were required to reduce the number of employees working in their offices / branches and other facilities to a maximum of 40% of the workforce.⁷ This procedure was first implemented for 15 days but was then extended for a further period. At this time, sectors still open are required to adhere to the following:

- allowing a maximum of 40% of the workforce to be present on the premises;
- introducing temperature checks;
- introducing the “Tawakalna application” as a mandatory requirement to prove health status daily before entering the work premises;⁸

3. According to the Capital Market Law promulgated by the Royal Decree No (M/30) dated 2/06/1424.

4. Saudi Arabia Ministerial Decision No 38173/1442 On the Extension of Application of the Procedures Set Forth in Article 41 of the Implementing Regulation of the Labour Law.

5. Pursuant to Ministerial Decision No 146377 issued on 30 April 2020.

6. See note 3 above.

7. Announcement made by Ministry of Human Resources and Social Development dated 18 March 2020.

8. The Tawakalna application was launched by Saudi authorities to help track coronavirus infections. It has since been developed and recently updated to include vaccination information, including an individual's status such as vaccinated or infected, and now functions as a coronavirus passport.

- ensuring that sufficient space is available between workers in workplace and accommodation;
- closing all day-care and medical clinics located at the company's headquarters; and
- requiring all employees to disclose if they have any symptoms of high temperature, coughing or shortness of breath.⁹

2.2 Contractual arrangements

Since the laws and regulations in Saudi Arabia provides no clear definition of the exact meaning of *force majeure*, the Supreme Court of Saudi Arabia (the highest appeal court) has published a set of principles to be applied to contracts impacted by the coronavirus pandemic. This decision aims to offer guidance on applying such concepts to contractual arrangements.¹⁰

2.3 Lenders

Apart from the loan guarantee programme and guarantees noted above (section 1.1.3), no additional measures have been introduced in response to the coronavirus pandemic.

3. Legislative reforms for companies in financial distress

In addition to the formation of the Bankruptcy Law adopted in 2018 and its Implementing Regulations¹¹ which were specifically designed for asset-owning companies in financial distress, Saudi Arabia's development funds have provided the following:

- an extension to the grace period and rescheduling loans for companies struggling with loans and payments; and
- SAR1 billion-worth of direct and indirect loans to finance working capital.

4. Financial and regulatory measures

4.1 Ministry of Finance

The Ministry of Finance (MOF) has introduced the Project Support Fund with a budget of USD2.67 billion, to provide low-interest loans which aim to finance major projects in the health, tourism, real estate and education sectors, which have a high economic return, to ensure continuity and completion of projects.

4.1.1 Kafalah programme

Kafalah¹² program, has launched with the contribution of the National Development Fund (NDF) a package of initiatives worth 450 million Saudi riyals to guarantee loans to SME's and contribute to providing the necessary financing for their business from banks and financing companies participating with the program.

Also, the MOF has increased the Kafalah Programme's capital to offer an initiative to finance SMEs and help them with the following:

- to obtain the necessary Islamic finance to grow their business;
- to encourage financial institutions to deal with the SME sector; and
- to attract and encourage a new cohort of SMEs' owners who do not yet have any previous experience in dealing with the financing agencies.

The Kafalah Programme generally aims at developing the SME sector so that it can achieve its vital role in the economy.

4.2 Specific measures that have been implemented

4.2.1 General Authority of Zakat and Tax

The General Authority of Zakat and Tax (GAZT) has announced the following initiatives to assist the private sector:

- postponement of the acknowledgment and payment of value added tax (VAT), selective goods tax, zakat,¹³ income tax and withholding tax, including exempting businesses from fines resulting from temporary non-payment;
- postponement of VAT and selective tax in customs for registered taxpayers; and
- suspension of fines for late payment of premiums, amendment of tax returns for taxpayers, non-cooperation fines for taxpayers and examination fines.

4.2.2 Fines or penalties on late VAT returns have been waived until June 2021

The Minister of Finance issued a Ministerial Resolution to extend the waiver of penalties for all late tax return filings and late tax payments until June 2021.¹⁴

The relief from fines relating to tax returns, VAT return corrections, and tax payments due before 21 January 2021 included the following:

9. Pursuant to the Capital Market Authority's circular to market institutions on 14/07/1441 H corresponding to 3 September 2020 regarding precautionary measures to prevent the spread of the novel coronavirus (Covid-19) and in completion of the preventive measures recommended by the competent health authorities in Saudi Arabia to control this coronavirus pandemic, and in compliance with the decision issued by the Government of Saudi Arabia on 20/07/1441 H regarding suspending attendance at workplace.

10. Judicial Principle No45 of the Supreme Court.

11. The Implementing Regulations of the Bankruptcy Law issued by Saudi Arabia Royal Decree No. M5/1439, Saudi Arabia Cabinet Decision No 264/1439.

12. Kafalah - the name of which comes from an Arabic word that means a guarantee or formal assurance that certain conditions will be fulfilled relating to a product, service, or transaction which offers help to entrepreneurs to launch or grow their businesses.

13. Zakat is a religious obligation, ordering all Muslims who meet the necessary criteria to donate a certain amount of wealth each year to charitable causes. The GAZT is the body responsible for collecting the zakat and taxes. GAZT was established on 14 June 1951 as a department under the Ministry of Finance.

14. Ministerial Resolution No 2303.

- if the principal tax due is fully paid by 31 March 2021, 100% of the fines will be waived;
- if the principal tax due is fully paid by 31 May 2021, 75% of the fines will be waived; and
- if the principal tax due is fully paid during June 2021, 50% of the fines will be waived.

5. Specific measures for micro and small businesses

5.1 Reforms adopted for personal bankruptcy

There are no specific reforms for personal bankruptcy. However, since its establishment, the Bankruptcy Committee has been working to provide awareness and guidance to clarify the bankruptcy procedure in Saudi Arabia, enabling beneficiaries to be familiar with the procedural stages. The purpose of the Bankruptcy Law is to enable bankrupt or defaulting debtors, or persons who are expected to suffer from disruption of their financial conditions, to benefit from the procedures offered to regulate such financial conditions and resume their activity while taking into account the rights of the creditors.¹⁵

In addition, the Saudi Bankruptcy Law adopts a modern vision to address financial difficulties which investors face or may face because the law offers investors up to seven procedures to choose from according to their particular circumstances.

6. Measures introduced by the courts to deal with increased insolvency cases

6.1 General measures introduced by courts during the coronavirus pandemic

Saudi Arabia has been proactive in applying e-litigation, with Saudi courts holding more than 4,000 hearing sessions in a single day according to the latest figures issued by the Ministry of Justice. The service allows litigants to file a case, present their documents, complete the pleadings electronically and answer questions asked by the judicial panel.

It is likely that this service is here to stay and evolve as it provides litigants with a clear and secure process with minimal time and effort.

6.2 Measures to deal with insolvency cases

Since the outbreak of the coronavirus, the Saudi Bankruptcy Commission has received many cases concerning insolvency, including 381 liquidation, settlement and reorganisation requests from companies, institutions and individuals. These requests have resulted in the opening of numerous procedures by the concerned authorities, including eight procedures preventing

settlement, 40 procedures for financial reorganisation, 279 procedures for administrative liquidation, 51 procedures for liquidation and three liquidation procedures for small debtors.¹⁶

7. Other pending reforms

The Saudi Government is considering postponing and restructuring loan payments for medium and large-sized projects which are affected by the precautionary measures taken by the Government and for those projects where instalments were repaid during 2020.

15. Bankruptcy Law approved pursuant to the Saudi Arabia Royal Decree No M5/1439H (corresponding to 13 February 2018), Saudi Arabia Cabinet Decision No 264/1439.

16. Al Arabiyya News, available at: <https://www.alarabiya.net/aswaq/companies/2020/05/27/%D8%A7%D9%84%D8%B3%D8%B9%D9%88%D8%AF%D9%8A%D8%A9-%D9%84%D8%AC%D9%86%D8%A9-%D8%A7%D9%84%D8%A7%D9%81%D9%84%D8%A7%D8%B3-%D8%AA-%D8%AA%D8%B3%D9%84%D9%85-381-%D8%B7%D9%84%D8%A8-%D8%AA%D8%B5%D9%81%D9%8A%D8%A9-%D9%84%D8%B4%D8%B1%D9%83%D8%A7%D8%AA-%D9%85%D8%AA%D8%B9%D8%AB%D8%B1%D8%A9>.