

ON THE MOVE

Law firm Mayer Brown LLP considers immigration and mobility in the Kingdom of Saudi Arabia

The Kingdom of Saudi Arabia (“the Kingdom”) is the single largest economy in the Middle East and North Africa. Ever since the first commercial oil well struck oil in the early part of the 20th century, the country has witnessed record-breaking growth, over decades to come, triggering an influx of multinational companies looking to invest in its economy. However, with economic growth come challenges, and for the Kingdom, the most notable of these is a high demand for the efficient migration of expatriate employees into and out of the country.

Interestingly, following the recent decline in global energy prices, that demand has only increased. In early 2016, the Kingdom approved Vision 2030, a government-led initiative set out by H.H. Saudi Deputy Crown Prince Mohammed bin Salman bin Abdulaziz Al-Saud, which aims to foster and

promote private sector entrepreneurship outside the context of oil and gas. Vision 2030 is regarded as the government’s flagship effort to reduce the Kingdom’s dependence on that sector, and shortly after its adoption, a National Transformation Plan (NTP) was approved by the Kingdom’s Council of Economic and Development Affairs.

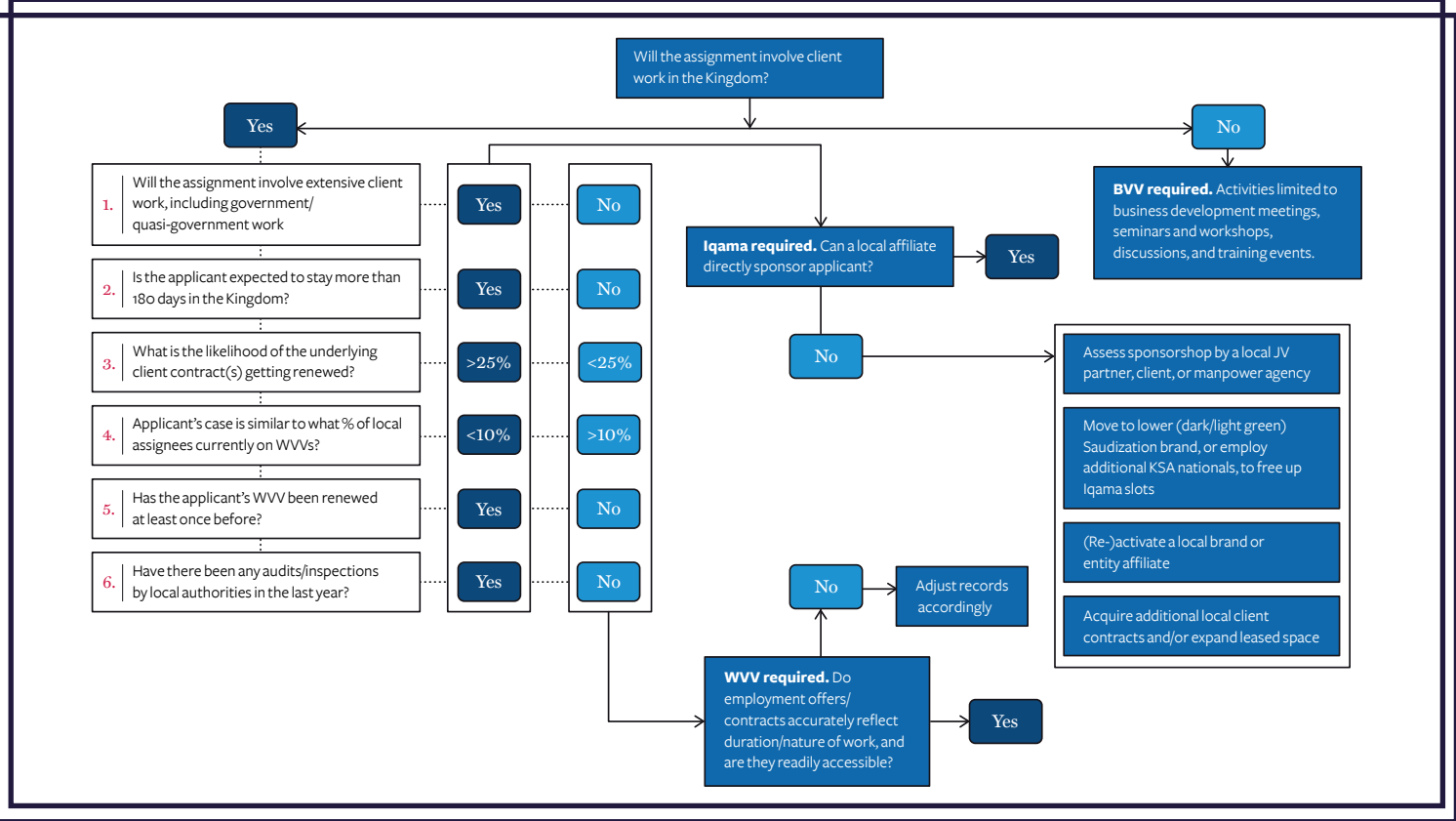
Naturally, as a result of tectonic shifts in the local economy, Saudi immigration rules, regulations, and policies are witnessing a constant state of change to meet the ever-evolving demands of the local market. Multinational companies, including ones that have had decades-long operations in the Kingdom, are now re-assessing, and at times, re-calibrating their approach to immigration and mobility in the Kingdom. These efforts are multiplied by recent byproducts of Vision 2030, such as government-led relaxation of doing business rules for trading companies, the increased regulation of Saudisation

rules¹, and the escalation of penalties on visa overstays. In particular, among NTP’s goals is to add more private sector jobs to the Kingdom’s economy and to continue the Kingdom’s focus on Saudisation initiatives in the interest of employing more Saudi citizens.

Immigration and mobility decision tree

Today, in this new reality, multinational companies investing in the Kingdom are left asking one key question: “How do we get our employees into and out of the Kingdom legally, efficiently, and safely to meet our project deadlines?” In our experience, the answer comes by tackling all components of local immigration and mobility principles, be those statutory, trends, or common practice, and harnessing those into an immigration and mobility decision tree that tackles key questions and a menu of options for any multinational company looking to move its employees into and out of the Kingdom.

The immigration and mobility tree is as follows



The analysis in the decision tree is based on the following visa types and immigration statuses used in the Kingdom²:

A Business Visit Visa (BVV): Generally designed for short-term business development meetings, business discussions and seminars, workshops, or training events in the Kingdom. A BVV can be issued on a 90-day single entry or a 180-day multiple entry basis.

B Work Visit Visa (WVV): Generally designed for short-term business travel involving work on client projects in the Kingdom, and is typically based on offer/employment agreements. These documents must be aligned with the duration and nature of work that a corresponding WVV is serving. A WVV can be issued on a 90-day single entry or a 180-day multiple entry basis.

C Iqama: An Iqama is a residency permit that allows its holders to reside and work for a particular employer, or sponsor, in the Kingdom. Iqama applicants typically travel to the Kingdom on an employment visa and are issued an Iqama in the Kingdom.

While not the sole determining factor, 180 days is the maximum period of stay possible

under a Saudi visa without renewal, and, absent a proper visa renewal or an Iqama, this duration is generally a good line to draw as a matter of practice. From a risk analysis perspective, applicants who stay more than 180 days in the Kingdom can be categorised as follows:

- (i) applicants who, at the beginning of their assignment, are not expected to stay more than 180 days in the Kingdom, in which case a WVV would generally be a good fit, and that WVV can be renewed for an additional 180 days based on a good faith conclusion that change in circumstances (perhaps an extension of the relevant client contract(s)) requires that visa extension, and, as a matter of good practice, provided that any WVV renewal is limited to one occurrence for an applicant;
- (ii) applicants who, at the beginning of their assignment, are expected to stay more than 180 days in the Kingdom, in which case alternative options, such as an Iqama, may be preferable; and
- (iii) applicants who have renewed their WVV at least once, in which case alternative options, such as an Iqama, may be preferable.

Please note that the decision tree is designed to set certain practices and parameters on immigration and mobility issues in the Kingdom. These practices and parameters are of course subject to change based on

Riyadh skyline, Saudi Arabia
Picture: Fedor Selivanov



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Conclusion

In navigating immigration and mobility rules in any country, it is certainly one challenge to achieve success, and another to maintain it. Saudi Arabia is no exception to that principle. In the wake of a plan for a more diversified economy, and a trend that is certainly heading in that direction, multinational companies are insisting on a prudent and strategic approach to moving their employees. In our experience, this approach must involve a menu of options for multinationals and a clear record of decision-making based on a holistic analysis of both regulatory and practical issues. A decision tree or flow chart aims to do just that, and in our view, could be a living, breathing tool that is constantly molded and shaped based on the ever-changing economic and immigration landscape in Saudi Arabia.

¹ Saudization is a nationalization scheme managed by the Saudi Ministry of Labor to support and regulate the employment of Saudi citizens up to certain percentages of the local workforce. Saudization is based on a “points system” – also known as the “Nitaqat system” – that tracks annual employment trends by local companies in the form of a color scheme, depending on the number of individuals employed by that company.

² Citizens of one the following countries (visa waiver countries) do not need a visa to enter the Kingdom for tourism or business purposes: Bahrain, Kuwait, Oman, Qatar, and the United Arab Emirates.