

The Kingdom of Saudi Arabia (**KSA**) has enacted a new comprehensive data protection law (the **PDPL**), which comes into force on 23 March 2022. The first standalone data protection law of its kind in KSA, the PDPL is a significant development and seeks to further develop the Kingdom's legislative landscape in a way that is consistent with the goals of its' 2030 Vision to develop a digital infrastructure and support innovation to grow a digital economy.

Further executive regulations (the **Regulations**) are expected to be published to supplement the new law ahead of the PDPL's enforcement date. The Regulations will provide additional guidance in respect of the practical application of the PDPL, including specific rules relating to the lawful transfer of data outside of KSA and the processing of credit data.

We have set out below an overview of the key practical takeaways from the new law.

Territorial Scope

The PDPL applies to any processing by businesses or public entities of personal data performed in KSA by any means whatsoever, including the processing of the personal data of KSA residents by entities located outside of the Kingdom. In practice, a company could, therefore, be caught by the PDPL even if it is not established in KSA but is selling goods or services to KSA-based customers.

Action: Foreign companies will need to consider how to comply with the PDPL if they anticipate trading with KSA-based customers.

Rights of Data Owners

The PDPL grants certain rights to data owners in respect of their personal data, including a right to be informed, a right to access to the data collected about them, a right to request correction, completion or updating of their personal data, and a right to request the destruction of their data. Data subjects have the ability to file complaints relating to the application of the PDPL with the "competent authority" ("SDAIA" for the first two years of the PDPL).

Action: Companies will need to have a process for responding to and complying with data subject rights requests, or risk facing penalties for violation of the law.

Consent

The main basis for processing personal data under the PDPL is by obtaining the consent of the data owner. Data owners may withdraw their consent to the processing of personal data at any time. Please note, consent is not required if the processing would achieve a clear benefit and it is impossible or impractical to contact the data subject, if it is required by law or prior agreement to which the data subject is a party, or if the controller is a public entity and the processing is required for security or judicial purposes.

Action: Companies will need to put in place robust consent mechanisms at the point of data collection, and will need to be able to demonstrate that the requisite consents have been obtained.

Cross-border Personal Data Transfers

Unless required to comply with an agreement to which the Kingdom is a party, to serve KSA interests or for other purposes that will be set out in the Regulations, the PDPL prohibits data controllers from transferring personal data to an entity outside of KSA. The law suggests that certain controllers may be granted exemptions by the SDAIA and that the Regulations may provide further basis for lawful transfers.

Action: Companies in KSA will need to review any cross-border data transfers being undertaken and whether continued use of any such overseas processors is feasible (both legally and administratively). The law appears to imply that companies could be required to obtain a permit from the competent authority for any cross-border personal data transfers, although how this will work in practice remains to be seen. The guidance from the upcoming Regulations will be key in this regard.



Privacy policy

Data controllers must adopt and present a privacy policy to data owners for review prior to collecting their personal data.

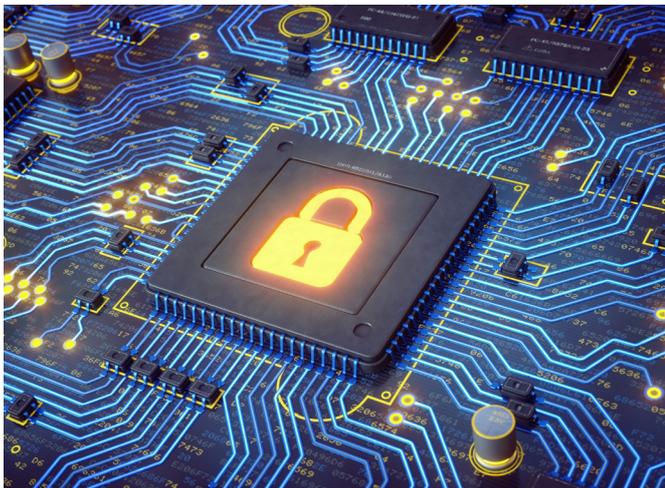
Action: Companies will be obliged to develop and share a privacy policy to data owners, setting out details of their personal data processing, including the purpose for which the data is collected and how the data may be processed.

Record Keeping/Awareness

Data controllers will be required to register with, and pay a fee to, the SDAIA (up to SAR100,000). In addition, data controllers will be required to upload a record of processing activities to a new online portal that must include the purpose of the processing, entities to which the personal data was or will be disclosed, whether the personal data was or will be transferred outside of KSA and the expected retention period. Data controllers are also obligated to ensure all staff are suitably trained in the PDPL and data protection principles.

Action: Companies will need to undertake a detailed data mapping exercise in order to track where and by whom data is held and processed and ensure that the PDPL is being complied with. This may involve obtaining information from third parties with whom personal data is or has been shared.

It will also be important for companies to arrange for staff to be trained on the PDPL and to raise awareness of personal data protection issues such as the rights of individuals and breach notification/cyber security threat procedures.



Next Steps

Although the PDPL will be effective from 23 March 2022, based on the implementing decree that has been published, we anticipate a transitional period of at least 12 – 18 months until the PDPL is fully enforceable nationally (and potentially longer for companies based outside of KSA). The Regulations are expected to provide further clarification on the various aspects of the new law; however, with penalties for breaches of the PDPL reaching up to a maximum of SAR5,000,000 (US\$1,333,000) and, in certain cases, imprisonment, we recommend all companies operating in KSA, or processing the data of individuals based in KSA, commence the review of any data processing related activities and seek to implement changes as needed to ensure compliance with the PDPL.

We will be on hand to support companies in dealing with the above issues, tailoring our approach, and the level of support we provide, to fit with any existing PDPL preparations and to provide a cost effective service. We would be happy to discuss how we can help you. Please contact your usual firm contact, or one of those listed below, to discuss further.

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