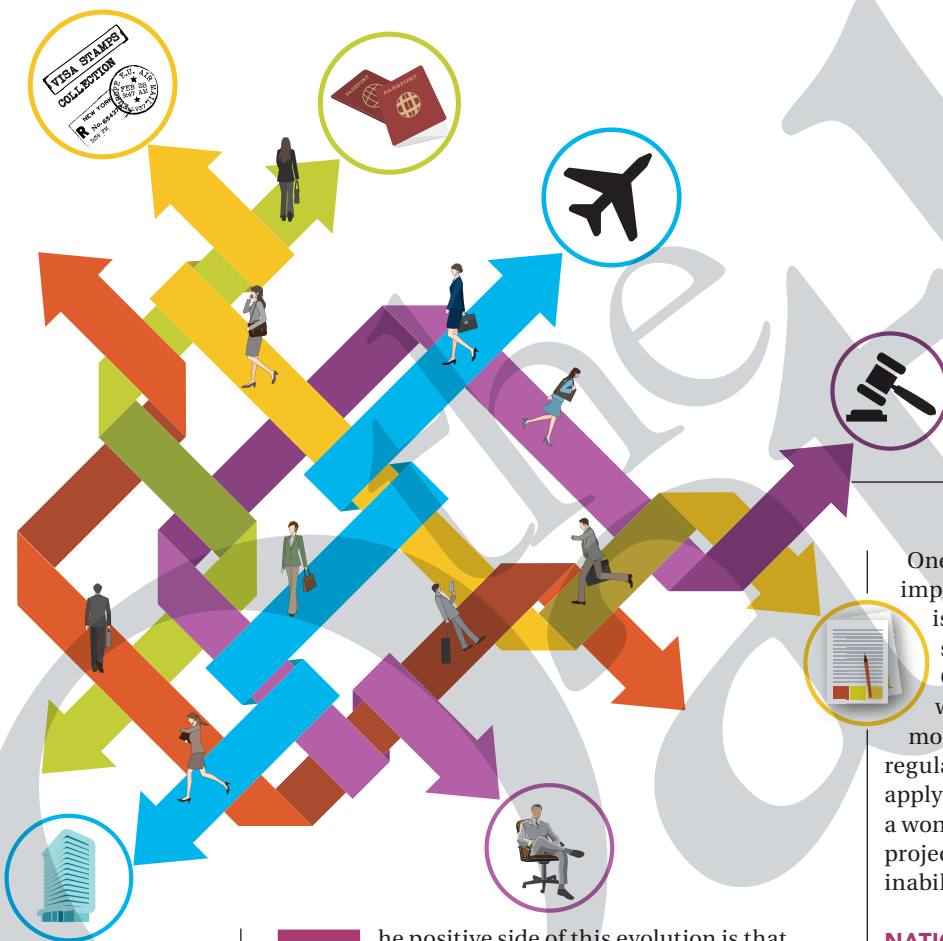


A Changing Immigration Landscape



As the Gulf Cooperation Council countries continue to evolve their respective immigration policies in line with their national priorities and ongoing regional collaboration, Murtaza Khan of Fragomen reveals why careful planning and due diligence is critical for the success of the business.

One may ask, why is immigration strategy so important for the businesses? The short answer is - so that you are able to hire and deploy staff in accordance with business needs. The GCC have moved far and ahead from the days when obtaining visas and work permits was more of a bureaucratic nightmare but complex regulatory issues and eligibility requirements still apply. If a business is not on top of these, it may have a wonderful business strategy in place, or win a big project but may be incapable to execute it due to the inability to deploy staff.

NATIONALISATION

As shown in the case study (see box), careful planning and due diligence over nationalisation requirements in the deployment strategy is critical. The requirements are continuously evolving, with the NTP pointing towards a more complex and balanced Saudisation program, incorporating a points-based system and underpinned by various factors such as: seniority and tenure of Saudi nationals in the company, salary levels among others. Furthermore, the recent implementation of the 'Taqat' platform enforces labour market testing, to ensure priority of Saudi job seekers. Similarly, increasingly complex schemes are currently in place in Oman, Kuwait and Bahrain. The UAE also aspires to increase its local workforce's presence in the private sector from 1 per cent to 5 per cent, as part of the UAE Vision 2021.

Successful companies will take a long term view on nationalisation by not only embracing the hiring, training and development of local talent in the GCC, but also by considering them as an integral part of

The positive side of this evolution is that it brings the entire region closer to the international legislative standards: from health insurance policies being mandatory in the UAE and Saudi Arabia, through enhancements of transparency and mobility of foreign workers in Qatar and the UAE, to introduction of wages protection initiatives in some of the member countries. But this is all work in progress...

With the number of foreigners often outbalancing the local workforce, various nationalisation programs are enforced by the regional governments to increase the participation of citizens in the labour market. Saudi Arabia's Saudisation scheme called "Nitaqat" has received a lot of coverage in the past few years and refinements to this policy are open-ended. Qatar is developing its infrastructure at a very fast pace, focusing on educational qualifications of foreign workers. Oman put a two-year employment restriction on those who left their job and departed the country.

short- and long term HR needs. The best advice now is to embed this into the broader business strategy.

CORPORATE ELIGIBILITY

Another aspect of due diligence comes down to corporate entity and its compliance with requirements from various government entities. For instance, something as remote as a failure in obtaining a civil defense certificate in Qatar, can indirectly impact the ability to renew an immigration license and, in turn, to sponsor or even renew visas for foreign nationals. This complicates even further if such certificates are tied into fire safety codes. In certain cases where tenants occupy only part of premises, they may not be able to implement the required safety instructions and in consequence will be refused receiving clearance. Take something less unusual on the other hand, when a UK company's headquarters decide to expand their presence in the UAE, relying on remote workers or deployments at client sites. It may work well overseas, but it may not in the UAE, where quota system plays a big role and is tied to the office space of the visa sponsoring entity. Engaging closely with local business and immigration experts in such cases, will help develop a smooth business strategy.

INDIVIDUAL ELIGIBILITY

Furthermore, being aware of individual eligibility requirements is equally important. Basic issues such as age restrictions, medical and educational prerequisites, accompanying family sponsorship issues all have a part to play. Sometimes companies employ engineers relying on experience, rather than necessarily a minimum Bachelors' degree in relevant discipline. This may neither work for immigration purposes nor for other regulatory requirements. For instance in Bahrain, where the Council for Regulating the Practice of Engineering Professions enforces broader obligations for engineering firms, inclusive of minimum qualifications for engineers. Firms face severe penalties including losing their license if found to be in breach. Similar requirements are imposed in Saudi Arabia with the Council of Engineers.

SECURITY MEASURES

The geo-political environment means that governments all across the world, including Europe and North America continue to focus on security of their borders. Immigration applications undergoing security screening or other administrative processes are on the rise globally, and the GCC countries are no different in that regard. Furthermore, under its Vision 2021, it is one of the key goals of the UAE to become one of the most secure countries in the world. Therefore, it is important to ensure that companies expect and take into account the additional time the authorities need to review applications. Businesses should also be prepared for additional documentation or clarifications to be submitted upon the

CASE STUDY

Take the example of an IT services company that won a government project in Saudi Arabia through one of its divisions in the United States. The bid required to deploy over 100 employees including a significant number of Indian nationals. Not fully conducting a due diligence, the company ran into some serious issues. As the company classification model in Nitaqat is determined based on the average weekly Saudisation level over a 26-week period, the local subsidiary did not have enough time to meet the mandatory prerequisites and in consequence, was unable to sponsor all the individuals required. Instead, the business decided to utilise short-term visas, while the immigration procedures for longer work visas were resolved. Unfortunately for the business, the consular visas for Indian nationals were, at that time, issued for 30 days only, resulting in the individuals having to reapply for a new visa upon expiry. This not only increased the governmental fees significantly, but also incurred additional travel and temporary housing expenses, in addition to the company experiencing a strain on its customer relationship at the outset of the project, and formal contractual penalties.

authorities' request.

Whilst most processes have been migrated to online platforms allowing electronic submissions, immigration processes remain largely document intensive. Knowing what documents are required for various visa categories and staying on top of these is critical due to frequent and unannounced changes. Interestingly, data shows that the longest part of the immigration process tends to be document gathering, including the authentication of documents such as degrees, police clearances and medical certificates among others. The government process, once documents are submitted, has become quite efficient on the whole. Finally, an awareness of the terms of available categories of visas and allowable activities, must tie into a pre-defined mobility policy to avoid delays. In an increasingly competitive business environment, those who invest in compliance and building a sophisticated immigration program will naturally gain business advantages ahead of others. 🚀



Text by:
MURTAZA KHAN, partner, *Fragomen*