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The Ease of Doing Business Index as a Tool for Saudi Arabian Economic Reform

David Kenner

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Special Report

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Abstract

The World Bank's Ease of Doing Business index is one of the most widely used global metrics for assessing a country's regulatory performance. Saudi officials have frequently employed it to judge Saudi Arabia's progress on two key Vision 2030 priorities—attracting foreign investment, and bolstering the private sector.

This paper assesses Saudi Arabia's position on the index, analyzing shifts in its score over time and the areas where the Kingdom performs best and worst. It puts the Kingdom's fluctuating position on the index over the past decade in context, linking it to the methodological changes in the index over the same period. And it identifies themes that define Saudi Arabia's performance across different regulatory fields, which point to the type of reforms that would help the Kingdom improve its position on the index.

The paper is also intended to inform policymakers about the limits of the Ease of Doing Business index as a tool to measure Saudi economic reform. It includes a description of the factors that go into shaping Saudi Arabia's score and those factors that it does not incorporate, despite the fact that they might have a significant impact on regulatory performance. Finally, it explains where increased foreign investment and the regulatory issues measured by the Ease of Doing Business are linked, and where trends in foreign direct investment (FDI) fall outside its purview.

Introduction

At the opening of the Financial Sector Conference in April, Saudi Arabian finance minister Mohammed al-Jadaan said that the government was "pushing ahead in its drive to implement its comprehensive reform program."[1] To underline his point, he touted Saudi Arabia's rise to seventh in the world on protecting minority investors, as measured by the World Bank's Ease of Doing Business index, to applause from the capacity crowd.

Saudi officials have used the Ease of Doing Business index to assess the strength of their country's economic regulations for over a decade. They have good reason to do so. The index, which was launched in 2002, is the single most detailed and deeply researched metric for measuring business regulatory environments across the globe. The index "encourages economies to compete towards more efficient regulation," in the words of the World Bank, and "offers measurable benchmarks for reform."[2]

As such, it can be a useful tool for assessing Saudi Arabia's progress on many of the key priorities for Vision 2030—namely, its effort to expand the Kingdom's private sector and make the country a more attractive destination for foreign investment. The index is designed to measure the quality and efficiency of regulations affecting small and medium-sized enterprises, a specific target of the Kingdom's reform plan, in order to ensure they have the greatest opportunity to thrive. As the latest *Doing Business* report puts it: "What gets measured gets done."[3] However, the index is only a useful tool if policymakers employ it properly. This paper aims to provide them with suggestions for doing so.

The paper is divided into four sections. The first section will outline the index's methodology and identify the areas of economic performance it is designed to measure and those that fall outside its purview. The second section analyzes Saudi Arabia's position on the index, and how it has changed over time. The third section explores the major factors that shape Saudi Arabia's score, and the

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(1) The conference was held at the Riyadh Ritz-Carlton's King Abdulaziz Conference Center, and was attended by leading Saudi businessmen and policymakers, as well as international investors with business interests in Saudi Arabia. This quote comes from the author's notes

(2) "About Us," World Bank *Doing Business* Project, accessed June 17, 2019, http://www.doingbusiness.org/en/about-us.

(3) Foreword, *Doing Business 2019: Training for Reform*, p. iv.

specific regulatory areas where it performs best and worst. And the fourth and final section offers recommendations for how Saudi policymakers should use the index in crafting economic policy.

How the Ease of Doing Business Index Is Calculated

The Ease of Doing Business index produces two measures of an economy's regulatory environment: a score and a ranking. The score measures an economy in relation to the best regulatory performance over a period of several years, while the ranking compares economies with each other.[4] The World Bank releases updated scores and rankings annually in its *Doing Business* reports.

Though policymakers usually refer to a country's ranking in their public remarks, the score represents a more useful tool in crafting public policy. Whenever possible, this paper will focus on Saudi Arabia's score to assess its regulatory performance. However, as we will see in the next section, various methodological changes often make it impossible to use the score to capture a country's change in performance over time.[5] In these cases, this paper uses rankings to illustrate big-picture changes in Saudi Arabia's position and offer a broad sense of how the Kingdom's performance compares to other countries.

The score provides a measure of how close an economy is to achieving regulatory best practices. The World Bank employs a range of methods to determine best regulatory practice: For some topics it uses the highest score across all economies since 2005, while for others it uses the highest possible value—regardless of whether any economy has ever reached it.[6]

> ***Rank versus Score***
> ***Score*** *assesses countries against regulatory best practice.*
> ***Rank*** *compares countries' scores to each other.*

The ranking, meanwhile, sorts economies based on their respective scores. Using this metric for policymaking carries the risks of obscuring important changes to a country's regulatory

(4) *Doing Business 2019*, p. 126.

(5) Randall Morck and James Chenxing Shou, "On the Integrity of the 'Ease of Doing Business' Indicators," accessed June 17, 2019, http://www.doingbusiness.org/content/dam/doingBusiness/media/Miscellaneous/Audit/Doing-Business-External-Audit-2018_Full-Report.pdf.

(6) For a chart of best and worst regulatory performances, see *Doing Business 2019*, pp. 127–128.

environment or painting a picture of significant improvements or declines where no such shift exists. For instance, 30 economies are clustered within three points of Saudi Arabia's 2019 score, a range that represents relatively minor differences in their performance. Saudi Arabia could rise to the top of this list in one year, climbing dramatically in the rankings due to small improvements in its own score and small declines in other members of the cohort—or it could fall just as dramatically because of the opposite dynamic. In both cases, the fundamental nature of Saudi Arabia's regulatory performance would remain unchanged. Saudi policymakers would be better served by a metric that assesses their policies in relation to regulatory best practice, rather than the year-to-year fluctuations of other countries' economies.

The Ease of Doing Business index comprises eleven topics measuring different aspects of regulation, which are themselves comprised of 41 component indicators. Ten topics are used to calculate an economy's overall score, excluding only the metric on labor market regulation.[7] Each year, the World Bank assigns a score to each topic and component indicator based on that economy's performance. It then averages the component indicators' scores to determine the score for a given topic, and finally averages the scores of all of the topics to determine an economy's overall score. No topic or component indicator is weighted more or less than any other. The wealth of indicators here is what makes the Ease of Doing Business a unique tool for determining a country's regulatory performance.

(7) Labor market regulation appears to be excluded from the aggregate score because the World Bank has determined that there is no optimal mix of employment protection rules that transcend individual countries' circumstances.

Limitations of the Ease of Doing Business Index

"In the end," reads the foreword to the 2015 *Doing Business* report, "[The index] measures a slender segment of the complex organism that any modern economy is."[8] This fact has important implications for how policymakers should use the index. For instance, Saudi Arabia, as well as many other countries, has used it as a guide to pursue reforms designed to increase FDI. There are good reasons to use the index in this way, as it measures aspects of regulatory performance that play a significant role in determining foreign investors' willingness to invest capital in a particular economy.

However, the Ease of Doing Business index does not capture—and does not claim to capture—all the factors that determine the scale of foreign investment flowing into a country. This is evident in Saudi Arabia's foreign direct investment inflows, which have fluctuated dramatically in recent years. FDI reached roughly $29 billion in 2010, and then fell to $1.4 billion in 2017 and $3.2 billion in 2018,[9] even though over this period of time, the strength of its economic regulations remained fundamentally unchanged.

Table 1: Inflows in Saudi Foreign Direct Investment, 2010–2018

	2010	2011	2012	2013	2014	2015	2016	2017	2018
FDI (USD bn)	29.2	16.3	12.2	8.9	8.0	8.1	7.5	1.4	3.2

Source: UN Conference on Trade and Development

Foreign investors tend to emphasize increased risks that have resulted from political developments in Saudi Arabia as a reason for the downturn in FDI. Saudi businessmen, on the other hand, speak about myths and misconceptions that have circulated about the Kingdom in recent years, to the detriment of international investor confidence.[10] Addressing trends that go beyond recent fluctuations in Saudi Arabia's FDI, some economists point to the presence of "Dutch disease" in rentier states, in which oil revenues serve to crowd out the tradable sector and serve as an impediment to diversification.[11]

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(8) Foreword, *Doing Business 2015: Going Beyond Efficiency*, p. viii.

(9) UN Conference on Trade and Development, "Country Fact Sheets 2019: Saudi Arabia," https://unctad.org/sections/dite_dir/docs/wir2019/wir19_fs_sa_en.pdf.

(10) These summaries of foreign investors' and Saudi businessmen's explanations for the decline in FDI inflows are from the author's own conversations in the summer of 2019.

(11) Reda Cherif and Fuad Hasanov, "Soaring of the Gulf Falcons: Diversification in the GCC Oil Exporters in Seven Propositions," in *Breaking the Oil Spell*, ed. Reda Cherif, Fuad Hasanov, and Min Zhu (Washington, D.C.: International Monetary Fund, 2016), pp. 3–46.

Assessing the relative importance of these factors in explaining changes to Saudi FDI levels goes beyond the scope of this paper. Suffice it to say, however, that none of these dynamics are captured by the Ease of Doing Business index. As the World Bank itself notes, the index does not measure "security, macroeconomic stability, corruption, labor skills of the population, underlying quality of institutions and infrastructure or the strength of the financial system."[12]

The caveat about the index's failure to measure the "quality of institutions" has important implications for issues that impact the Saudi legal system. The index's indicators prioritize regulatory changes and include only a few metrics that assess the capacity of the judiciary and other legal professionals. In the case of Saudi Arabia's bankruptcy system, for instance, this can skew policymakers' priorities: The most effective way to improve the country's score on the Resolving Insolvency scale would be a series of technical reforms, while foreign experts identified increased judicial training as the most pressing need for the system.[13]

Investor attitudes, a deficit of labor skills, and the challenges of economic diversification are all issues that fall outside policymakers' control, at least in the short term. They will have to be overcome gradually, over the course of years. In contrast, the Ease of Doing Business index is valuable for policymakers because it measures aspects of economic performance that they can reform at will.

Saudi Arabia's Position on the Ease of Doing Business Index

Saudi Arabia's score on the 2019 Ease of Doing Business (EoDB) index is 63.50. This means that on a spectrum from best regulatory performance to the worst regulatory performance, the country is roughly two-thirds of the way toward the best performance. Of the 190 economies measured, it ranks 92nd.

This score places Saudi Arabia well below most countries with a similar per capita income.

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(12) "Common Misconceptions about Doing Business," World Bank *Doing Business* Program, accessed June 17, 2019, http://www.doingbusiness.org/en/methodology/common-misconceptions.

(13) This observation stems from the author's interviews with several legal professionals who have been involved in the process of formulating and implementing Saudi Arabia's new bankruptcy code.

If we take the same cohort of economies that are three points above or below Saudi Arabia's score as used previously, Saudi Arabia stands out as one of the wealthiest. The Kingdom has by far the highest gross domestic product (GDP) among the countries in this group, with more than double the GDP of the next closest country (South Africa). It is the fourth highest in terms of GDP per capita, adjusted for purchasing power parity. The only countries within that group that are higher are Qatar and Kuwait—fellow hydrocarbon-rich Gulf states—and the European micro-state of San Marino.[14]

Table 2:

Income per Capita, Countries within Three Points of Saudi Arabia's Doing Business Score

Economy	Ranking	Score	GDP Per Capita (PPP, 2018)	Economy	Ranking	Score	GDP Per Capita (PPP, 2018)
Panama	79	66.12	$ 25,509	St. Lucia	93	63.02	$ 13,887
Tunisia	80	66.11	$ 12,484	Vanuatu	94	62.87	$ 3,202
Bhutan	81	66.08	$ 10,516	Uruguay	95	62.60	$ 23,531
South Africa	82	66.03	$ 13,661	Seychelles	96	62.41	$ 30,503
Qatar	83	65.89	$ 126,598	Kuwait	97	62.20	$ 73,705
Malta*	84	65.43	$ 41,549	Guatemala	98	62.17	$ 8,447
El Salvador	85	65.41	$ 8,317	Djibouti	99	62.02	-
Botswana	86	65.40	$ 18,583	Sri Lanka	100	61.22	$ 13,450
Zambia	87	65.08	$ 4,216	Fiji	101	61.15	$ 11,004
San Marino*	88	64.74	$ 63,037	Dominican Republic	102	61.12	$ 17,799
Bosnia and Herzegovina	89	63.82	$ 13,735	Dominica	103	61.07	$ 10,650
Samoa	90	63.77	$ 6,850	Jordan	104	60.98	$ 9,348
Tonga	91	63.59	$ 6,408	Trinidad and Tobago	105	60.81	$ 32,228
Saudi Arabia	***92***	***63.50***	***$ 55,120***	Lesotho	106	60.60	$ 3,223
				Namibia	107	60.53	$ 11,135

* Latest available data is for 2017

Source: World Bank

Meanwhile, a significant number of the countries closest to Saudi Arabia on the Ease of Doing Business index fall closer to the bottom of global wealth rankings. In fact, fifteen countries fall in the bottom half of countries for GDP per capita, and four of these countries (Lesotho, Djibouti, Vanuatu, and Zambia) fall in the bottom quarter. By comparison, Saudi Arabia ranks among the top one fifth of countries in GDP per capita, according to the World Bank.[15]

(14) The countries within this group are: Namibia, Lesotho, Trinidad and Tobago, Jordan, Dominica, Dominican Republic, Fiji, Sri Lanka, Djibouti, Guatemala, Kuwait, Seychelles, Uruguay, Vanuatu, St. Lucia, Saudi Arabia, Tonga, Samoa, Bosnia and Herzegovina, San Marino, Zambia, Botswana, El Salvador, Malta, Qatar, South Africa, Bhutan, Tunisia, and Panama.

(15) These figures use World Bank data for GDP per capita, adjusted for Purchasing Power Parity (PPP) in current international dollars; see https://data.worldbank.org.

Variability in Saudi Arabia's Topic Scores

Saudi Arabia's overall score (63.50) in the 2019 *Doing Business* report is determined by its score on ten topics measured by the Ease of Doing Business index. Its score on these topics vary significantly: Its highest score is in Registering Property (81.61), and its lowest is in Resolving Insolvency (0).

Table 3: Ease of Doing Business Scores for Saudi Arabia, 2019

Saudi Arabia Ease of Doing Business 2019 Scores			
Starting a Business	80.07	Protecting Minority Investors	80.00
Dealing with Construction	75.71	Paying Taxes	75.00
Getting Electricity	79.89	Trading across Borders	54.31
Registering Property	81.61	Enforcing Contracts	63.41
Getting Credit	45.00	Resolving Insolvency	0.00
Ease of Doing Business Score		63.50	

Source: World Bank, Doing Business 2019: Training for Reform

It is normal for there to be some variance between countries' scores on the various topics. The average correlation coefficient between the ten topics in the 2019 edition is 0.49,[16] a value that suggests a moderate linkage between a country's score on one topic and its score on another.

However, the variability in Saudi Arabia's topic scores tends to be greater than the average. One method that the World Bank uses to determine the variability in a country's topic scores is to take the average of its top three scores and the average of its lowest three scores, and find the difference between them. A small result suggests low variability, while a larger result suggests higher variability.

In Saudi Arabia's case, the difference between the average of its three highest scores and the average of its three lowest scores is 47.46, a figure that tends to be on the high end of economies' variability. This lends credence to Hertog's concept of "islands of efficiency" as a defining trait within the Saudi bureaucracy, in which technocratic elites hold sway over certain regulatory arenas, leading to uneven reform outcomes.[17]

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(16) *Doing Business 2019: Training for Reform*, p. 130.

(17) Steffen Hertog, *Princes, Brokers, and Bureaucrats* (Ithaca, N.Y.: Cornell University Press, 2010), 5

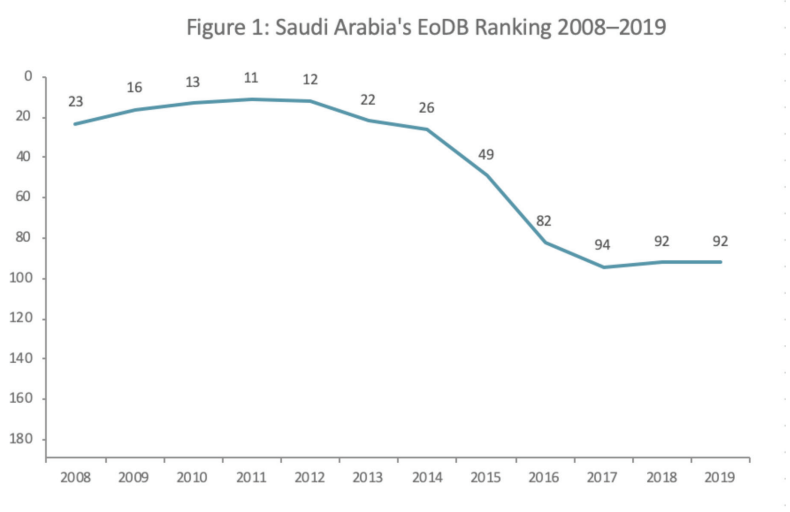
Table 4: Variability in Ease of Doing Business Scores for Saudi Arabia, 2019

Saudi Arabia Ease of Doing Business 2019 Variability			
Starting a Business	80.07	Trading across Borders	54.31
Registering Property	81.61	Getting Credit	45.00
Protecting Minority Investo	80.00	Resolving Insolvency	0.00
Variability	47.46		

Source: World Bank, Doing Business 2019: Training for Reform

Long-Term Trends

Saudi Arabia's position on the Ease of Doing Business index used to be far higher. From the 2008 *Doing Business* report to the 2014 report, the Kingdom's rank was in the mid-20s or better. It hit its peak in 2011, when it was ranked as having the 11th best regulatory performance in the world.



Source: World Bank Doing Business reports, 2008-2019

Saudi Arabia's decline from the 11th to 92nd ranking has nothing to do with changes in its own regulatory environment. Rather, it was caused by changes in the methodology used to calculate the Ease of Doing Business scores and shifts of focus within the Saudi bureaucracy. If anything, the Kingdom's performance has improved over this period of time, even as the scores declined.

Until a series of methodological changes, the Ease of Doing Business index largely measured de jure laws and regulations rather than how they were implemented in practice.[18] This limitation

(18) "Independent Panel Review of the Doing Business Report," June 2013, http://pubdocs.worldbank.org/en/237121516384849082/doing-business-review-panel-report-June-2013.pdf.

was exacerbated by the policy of the Saudi Arabian General Investment Authority (SAGIA), which, in the late 2000s, launched an initiative dubbed "10 by 10," which was an effort to raise Saudi Arabia's ranking to 10th or above by 2010. SAGIA executives' bonuses were even reportedly tied to improvements in specific aspects on the Kingdom's rankings.[19]

Saudi officials tailored regulations to match the metrics used by the Ease of Doing Business index, which accomplished the short-term goal of increasing Saudi Arabia's ranking. However, policymakers were unable to ensure proper implementation of the new regulations or tailor them to meet the Kingdom's specific needs. In the long run, this only served to obscure real regulatory deficiencies.

Saudi Arabia's ranking began to fall precipitously beginning in the report's 2015 edition, when the index adopted measures that placed a greater emphasis on the "quality" of regulations. This resulted in a greater focus on how regulations were implemented in practice, rather than simply de jure. In assessing a country's performance on the Paying Taxes topic, the World Bank also implemented a threshold for tax rates—if a country fell below the threshold, its score would not improve further. The goal behind this change was to curtail the high scores of countries that raise revenues through means other than taxes, such as Saudi Arabia. These methodological updates continued in the 2016 and 2017 report.

The World Bank's methodological changes greatly affected Saudi Arabia's position on the index. Its overall ranking declined from 26th in the 2014 edition to 94th in the 2017 edition. That latter ranking, which represents Saudi Arabia's lowest point, was also negatively affected by a methodological change that incorporated a gender dimension into the score of several topics.

This overall decline was primarily driven by a deterioration in Saudi Arabia's position in four categories. From the 2011 edition to the 2017 edition, Saudi Arabia's rankings declined dramatically: In Starting a Business, it went from 13th to 147th; in Paying Taxes, it went from 6th to 69th; in Trading across Borders it went from 18th to 158th; and in Resolving Insolvency, it went from 65th to 169th, making it tied for the lowest global position in this category.

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(19) Hertog, *Princes, Brokers, and Bureaucrats*, p, 177.

Figure 2: Changes in Saudi Arabia's Topic Ranks 2008-2019

Saudi Arabia found itself in a seemingly paradoxical position over the course of these methodological changes, in which the Ease of Doing Business index periodically credited the Kingdom for improving its performance—even as its overall ranking declined significantly. This occurred because the positive impact of any Saudi reforms was dwarfed by the negative impact of the changes in methodology.

The 2015 edition was also the first time that the index published countries' scores, which complicated any direct comparison with a country's performance at an earlier date. This reflects a larger problem faced by the index: A 2018 report commissioned by the World Bank noted that such frequent methodology changes "reduce the value of the indicators to researchers, policy makers, and the media."[20]

Nevertheless, there is reason to believe that the Ease of Doing Business index's current methodology better captures reality in Saudi Arabia than the old methodology. As evidence of this, the Kingdom's current score is broadly in line with its position on two other indices designed to measure the quality of a country's economic regulations, the Heritage Foundation's index of economic freedom and the World Bank's governance indicators.[21] Meanwhile, Saudi

(20) Morck and Shou, "On the Integrity of the 'Ease of Doing Business' Indicators," p. 1.

(21) Saudi Arabia ranks as the 91st freest country on the 2019 index of economic freedom. In the World Bank's Governance Indicators, Saudi Arabia ranks in the 54th percentile for regulatory quality and the 62nd percentile for government effectiveness.

businessmen and foreign investors interviewed by the author described Saudi Arabia's 2011 EoDB score as unrealistically positive.

The 2011 edition found that the average time to start a business in Saudi Arabia was five days. According to one estimate from a few years earlier, however, it actually took foreign-owned businesses six months to do so.[22] The 2011 edition also found that creditors recovered an average of 36.8 cents on the dollar when a business became insolvent, but as of the 2016 edition, this recovery rate was reduced to zero cents on the dollar and the Kingdom was judged to have "no practice" in resolving insolvency, a finding that is supported by the author's research.

Recent Improvements

Since Saudi Arabia's score hit a low point in the 2016 edition (58.2), it has witnessed a slow but steady improvement. In total, the Kingdom's score has improved 5.3 points over the past three years. The methodology to calculate this score remained static over time, so this increase represents an actual improvement in Saudi Arabia's regulatory performance.

These improvements have been driven by a range of reforms. Over the period beginning with the 2016 edition, Saudi Arabia has implemented multiple reforms in areas assessed in the Starting a Business, Protecting Minority Investors, Enforcing Contracts, and Trading across Borders topics.[23] Of these reforms, roughly half consist of the creation of e-government systems: for example, the creation of an electronic case management system for judges and lawyers and a new online system that streamlines the process of registering a corporation.

The positive effects of these reforms are reflected in several topics. The largest increase is in Protecting Minority Investors, where Saudi Arabia's score increased from less than 52 to 80. The country has also witnessed roughly six-point increases in its scores in Starting a Business, Trading across Borders, and Enforcing Contracts.

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(22) Hertog, *Princes, Brokers, and Bureaucrats*, p. 177,

(23) *Doing Business 2019: Training for Reform*, Saudi Arabia Country Report, p. 57, accessed June 17, 2019, http://www.doingbusiness.org/content/dam/doingBusiness/country/s/saudi-arabia/SAU.pdf.

Further reforms, meanwhile, are currently at various stages of implementation. As the Saudi government works to improve its regulatory performance, officials and consultants on economic policymaking say that it is specifically concerned with the Ease of Doing Business index when formulating new regulations. This makes it all the more important that policymakers understand the information that the index reveals about the strengths and weakness of the Saudi Arabian economic system.

Factors That Shape Saudi Arabia's Score

A closer analysis of the Ease of Doing Business index shows several trends in Saudi regulatory performance that cut across multiple topics, and that serve to shape the country's overall score.

Where Saudi Regulations Perform Well

Saudi Arabia performs well on most measures of the time and cost for citizens to accomplish economic tasks that require interaction with the bureaucracy. In the categories of Dealing with Construction Permits and Registering Property, the index found that Saudi citizens can complete the procedures outlined in the case study in less time and at lower cost than the MENA average – and in almost all of the same metrics, better than the OECD average as well. Even in Starting a Business, which accounted for one of Saudi Arabia's lowest topic rankings, its performance on time and cost metrics was considerably better than the average for the Middle East and North Africa region (MENA).

Saudi Arabia's performance in the Protecting Minority Investors category is also very impressive. The country has improved its regulations surrounding corporate transparency so that it now is tied for the world's best regulatory performance on that metric. It has also enhanced its regulations regarding shareholders' rights and corporate control, resulting in large improvements on two key components of the overall score.

These changes have occurred amid a concerted effort to strengthen the Saudi equity market, Tadawul. Saudi officials have recently sought to bolster Tadawul's market capitalization and integrate it into their larger effort to foster an attractive investment environment for local and

international investors.[24] These efforts will result in an estimated $20 billion flowing into Saudi stocks and bonds as a result of its inclusion on emerging market indices, according to analysts.[25] It is this sort of concerted administrative effort that will be necessary to improve the Kingdom's position on other topics as well.

Where Saudi Regulations Perform Poorly

Even as Saudi Arabia scores relatively well on the time and cost to complete certain procedures, citizens are often bogged down by the number of procedures required, a fact that pushes down the country's score in multiple topics.

In Starting a Business, for example, Saudi Arabia scores 80.07 and ranks 141st in the world, which is one of its lowest rankings. The average MENA score, by contrast, is 82. If the Kingdom could decrease the number of procedures required to start a business, which currently stand at 10 for men and 12 for women, to the MENA average, it would jump 40 positions in the rankings and enhance its score by over 5 points.[26]

The same basic story is true for both Dealing with Construction Permits and Getting Electricity. In both cases, Saudi Arabia performs well in time and cost metrics, but loses considerable ground due to the number of procedures required. If the Saudi government wishes to improve its performance on these metrics, it should examine ways to streamline procedures and limit the number of government agencies involved in these tasks.

The most important factor driving down Saudi Arabia's EoDB score, however, is the judiciary's performance. A common theme across the Registering Property, Getting Credit, Enforcing Contracts, Protecting Minority Investors, and Resolving Insolvency categories is that Saudi Arabia performs poorly whenever these areas of regulation intersect with the legal system. This

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(24) Richard Thompson, "MSCI Upgrade Is Significant Step Forward for Saudi Arabia's Vision 2030 Reform Agenda," *MEED*, accessed June 17, 2019, https://www.meed.com/tadawul-upgrade-boosts-saudi-arabia/.

(25) Tom Arnold, "Saudi Stocks Set to Receive $20 Billion Windfall Even as Some Investors Sit Out," Reuters, accessed July 15, 2019, https://www.reuters.com/article/saudi-stocks-investment/saudi-stocks-set-to-receive-20-billion-windfall-even-as-some-investors-sit-out-idINKCN1QY065.

(26) Calculated using the *Doing Business 2019* score calculator, http://www.doingbusiness.org/content/dam/doingBusiness/media/DTF-Calculator/DB/DB19-Ease-of-Doing-Business-Score-Calculator.xlsx.

is due to both a lack of protections and transparency within the legal system, and the slow pace of judicial decision making. For instance, plaintiffs' inability to conduct extensive document discovery before trial impairs Saudi Arabia's position on Protecting Minority Investors: If those rules were improved, the country's ranking would have improved from the seventh to the second-highest global ranking in that category.

In Getting Credit, Saudi Arabia scored 1 out of 12 on the strength of legal rights index due to a lack of legal framework surrounding secured transactions. That score makes the country tied for one of the tenth lowest in the world. At other points, the opacity of the legal system hurts Saudi Arabia's ranking: To take one example, the Kingdom loses two points in Enforcing Contracts because court judgments are not made available to the general public through publication in a court gazette or on a court website.

According to the Ease of Doing Business index, the judiciary also appears to lack the capacity to reach decisions in a reasonable period of time. The index found that it takes more than three years, on average, to obtain a decision for a standard land dispute from the first-instance court, a finding that drives down the country's ranking in Registering Property. It also found that it takes an average of 1.5 years to obtain and enforce a court ruling in a standard dispute between two local businesses. This case study, which forms the basis for the Enforcing Contracts topic, refers to a fairly simple commercial dispute: It is a fair assumption that, on more complex commercial matters, the process would take far longer.

Foreign investors seek above all for a legal system that can provide predictable and speedy resolutions to commercial disputes. The profile presented by the Ease of Doing Business index suggests that the Saudi judiciary is still a long way from being able to provide either of those benefits. One foreign businessman who has worked on the implementation of large infrastructure projects in Saudi Arabia told me that he has advised multinational corporations to avoid becoming entangled in the legal system: The time and cost involved, he said, are rarely worth whatever resolution the courts can bring.

The Saudi government has embarked on several reforms meant to address these issues. Most notably, it approved a new bankruptcy code last year that aims to provide lenders with clear,

equitable remedies for recovering their investment in the event of insolvency, while providing a path for the reorganization of businesses that can still be viable. The new law will spur an improvement in Saudi Arabia's score on the Resolving Insolvency scale, where it is currently tied with twenty-two other economies for the world's worst regulatory performance. The Saudi government has also pursued training opportunities for members of the judiciary so that they can properly implement the law; this is a vital step that should continue across other legal fields as well.

Policy Recommendations

The Ease of Doing Business index represents a useful tool for Saudi policymakers, provided it is used correctly. Many factors determine the scale of foreign direct investment into Saudi Arabia, such as international market trends and investors' attitudes toward Saudi Arabia, which are beyond Saudi policymakers' immediate control. The index is particularly useful because it highlights reforms that policymakers can make unilaterally to attract greater foreign investment.

The index also provides a guide for how Saudi Arabia could improve certain aspects of its regulatory environment. The data in the index show that the country has already made progress in lowering both the cost and time for citizens in their interactions with the bureaucracy for many basic economic tasks, largely through the introduction of electronic and online services. These reforms have resulted in small but consistent increases in Saudi Arabia's score over the past several years, but they cannot be expected to sustain large improvements going forward: They are destined to eventually hit the point of diminishing returns. To continue climbing the index, Saudi Arabia should turn its attention to reducing the overall number of procedures on some crucial topics, such as Starting a Business and Dealing with Construction Permits.

The single most important step Saudi Arabia can take, however, is the initiation of reforms that impact the legal system's handling of commercial issues. Poor performance on these issues drives down the country's score in half of all topics measured: Getting Credit, Enforcing Contracts, Protecting Minority Investors, Resolving Insolvency, and Registering Property.

This finding accords with the author's own conversations with foreign and local businessmen about the challenges and opportunities of investing in Saudi Arabia. Foreign businessmen seek

to avoid the legal system at all costs. Saudi businessmen, who were generally more sanguine about the country's regulatory environment, still often identified the judiciary as an area where improvements had not kept pace with other fields. Overall, it is clear that challenges with the legal system serve as a chill on foreign investment.

At the same time, Saudi policymakers should not assume that the Ease of Doing Business index precisely gauges the country's progress on regulatory reform. They should be aware of the index's past shortcomings in measuring de jure regulations and laws rather than their implementation, and be on the lookout for areas where such problems could reoccur. And they should not assume that an increase in Saudi Arabia's score automatically translates into an increase in regulatory performance of the same scope.

This is partially due to the fact that certain regulations invariably affect regulatory performance across multiple topics. The Ease of Doing Business index, however, segregates areas of regulation into discrete silos and assesses them separately. Saudi Arabia's system of secured transactions, for example, is largely assessed in Getting Credit. However, the lack of a top priority for debtor financing in reorganization proceedings is a significant shortcoming in the new bankruptcy law, which will affect the Kingdom's system for managing insolvency.[27]

Finally, policymakers should be aware that the Ease of Doing Business index is not designed to capture certain aspects of a country's regulations. To begin with, it completely excludes labor market regulation—a subject that is of particular concern to Vision 2030—from its measure of a country's overall score. The regulations that impact the Saudi labor market merit further study, both in terms of the metrics employed by the World Bank and independent of them.

More broadly, policymakers should be aware that the index is designed to ask standardized question of 190 economies. As such, it fails to account for certain idiosyncratic issues. In the case of Saudi Arabia, the judiciary has been shaped within a political and religious context that has no obvious parallel to another country. While the Ease of Doing Business index has certain

(27) Saudi Arabia's system of secured transactions is a topic well worth analyzing further in future studies. Improvements in this system would increase investors' confidence that their financial interests would be protected, provide Saudi businessmen with greater opportunities for financing, and allow secured creditors to recover assets without court intervention.

metrics that relate to judicial capacity, it is not designed to fully capture the Saudi judiciary's capacity with regard to complex commercial adjudication. This means not only that the index can fail to account for flaws in a country's regulations, but also that it fails to credit countries for reforms that aim to resolve those problems.

Saudi policymakers should make use of the Ease of Doing Business index—but an increase in the Kingdom's score on the index should not be their ultimate goal. Above all, their aim should be to improve how the country's laws function, which will serve as a spur for greater foreign investment and private sector growth. To this end, Saudi Arabia needs to employ its own metrics, tailored to the its specific context, to assess the country's regulatory performance. Saudi policymakers are the ones who know these issues the best, and consequently they are the ones who should take the lead in assessing the performance of the reform process.

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مركز الملك فيصل للبحوث والدراسات الإسلامية
King Faisal Center for Research and Islamic Studies

P.O. Box 51049 Riyadh 11543 **Kingdom of Saudi Arabia**
Tel: (+966 11) 4652255 Ext: 6892 Fax: (+966 11) 4659993
E-mail: research@kfcris.com