



Egypt's New Banking Law

Simplified

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Introduction

- On September 15, 2020, Egypt's new Banking Law (#194/2020) was adopted by the President, entering immediately into effect the following day.
- The objective of the New Banking Law ("The Law") is to ensure that Egypt's banking system complies with international standards, put in place the necessary legal framework, and enhance Egypt's efforts to promote its financial technology sector. The implementation of this law is perceived as an essential step towards achieving the Government of Egypt's strategic objectives to achieve financial inclusion and digital transformation.
- The new law is an exhaustive and comprehensive piece of legislation that includes around 20 essential updates to the repealed Banking Law (#88/2003).
- The Law, which consists of 242 articles, includes section on: definitions, Central Bank of Egypt (CBE) general provisions, CBE's role and mandate, powers, governance, distressed banks, digital banks and fintech, dispute settlement, and penalties.

Highlights

- The Law expands on the CBE's regulatory and supervisory role over local banks.
- The Law places notable emphasis on financial technology (FinTech) subjects, including digital banking, digital currency, and payment systems.
- The Law provides the addressed stakeholders with a 1 - 3 years grace period in order to adjust their status and comply with its provisions.
- For the first time, the Law stipulated that the CBE shall be led by a Governor holding the rank of Deputy Prime Minister, to be appointed by the President of the Republic for a period of four years, following the approval of the House of Representatives. The Governor's term may be renewed for one term. (The previous law neither specified the Governor's financial treatment nor the duration of his/her term.)
- The Law raised the minimum capital of the CBE to EGP 20 billion (instead of EGP 1 billion in Law# 88/2003.)
- A committee, headed by the Prime Minister, with the membership of the CBE Governor, Minister of Finance, and representatives of CBE and Ministry of Finance, was established and mandated with the task of preventing financial crises. The committee will convene on a quarterly basis or whenever required.



CBE's Regulatory and Supervisory Mandate

- The CBE is responsible for the development and implementation of multiple policies including the foreign exchange policy, monetary policy, management of the risks and crises of the banking sector, and oversight of payment systems.
- The CBE monitors Egypt's external debts within the public and private sectors, and functions as an advisor and financial agent to the GoE.
- Article 7 of the Law specifically examines powers concerning the following topics: settlement of status for distressed banks, protection of client's rights and settling related disputes, as well as the protection/consolidation of competition and prohibition of monopolistic practices.
- The CBE may order measures such as a capital increase or increasing relevant reserves prior to dividends' distribution.
- Prior to holding general assemblies, banks should first receive the CBE's comments on the auditors' report. Furthermore, bank auditors hold the responsibility to report (to the CBE) any existing conflicts within the internal audit system of the bank. In the case of failure to perform their duties, the CBE Board of Directors is authorized to suspend auditors from operating activities.
- Banks are required to provide quarterly periodical risk reports to the CBE (as opposed to twice a year under the previous law).
- Information concerning the financial position of banks are recorded daily, weekly, and monthly (compared to monthly only under the previous law.)
- The CBE is authorized to request any necessary information of Egyptian banks from their parent companies, sister companies, and/or affiliates.
- The CBE is mandated with setting the criteria of merit and technical authority that must be met by key officials when appointing key executives.
- In case of serious violations, the CBE reserves its right to remove one or more of the main officials in the bodies subject to its control.



Committee for Financial Stability

- The Law creates the Financial Stability Committee, chaired by the Prime Minister and vice-chaired by the CBE Governor.
- Committee members include the Minister of Finance and Chairman of the Financial Regulatory Authority.
- The Committee is mandated with adopting a preventative approach towards financial crises without prejudice to the mandates assigned to each of the aforementioned committee members.
- The Committee reports to the President of the Republic and the House of Representatives.



Dealing with Distressed Banks

- For the first time, the Law includes a chapter on addressing cases of distressed banks. (The previous law adopted a case-by-case approach through actions undertaken by Executive Decisions.)
- The Law defines the conditions under which banks would be considered in pre-default or default stages. Once these conditions are met, the CBE has the authority to intervene through different measures depending on the state of distress that targeted banks are in.
- CBE measures may include ordering the bank to dissolve its Board of Directors, close branches, merge with another bank, and/or bank recapitalization.
- The purpose of these measures is to ensure the stability of the banking system and the security of depositors' money.



CBE's Foreign Exchange Supervisory Role

- No major changes were introduced into the Law concerning the CBE's supervisory role over foreign currency exchange.
- Individuals still uphold the right to carry foreign currency, exchange it in local banks, and transfer it to foreign destinations.
- With the exception of cases specified by the CBE or within an international agreement that Egypt is a party to, payments conducted within Egypt will remain in Egyptian Pounds (EGP.)
- CBE will continue to issue licenses for foreign exchange institutions as well as supervise their work.
- Individuals entering Egypt carrying more than USD 10,000 in cash in their possession must declare this amount to the Customs Authority upon arrival.
- Individuals departing Egypt cannot carry more than USD 10,000 in cash unless they have disclosed their possession of this amount upon arrival in Egypt.
- The maximum limit for carrying EGP cash while entering and/or leaving Egypt shall be determined by the CBE.



Capital Requirements

- Under Article 80 of the Law, the minimum capital requirements rose from USD 50 million (for branches of foreign banks) to USD 150 million, and from EGP 500 million to EGP 5 billion (for Egyptian banks). Digital and specialized banks may be exempted from this requirement.
- Banks must notify the CBE if any legal person (any entity that can be represented in court) or their related parties possess more than 5% of the issued capital or voting rights within a bank, as well as any ratio that results in significant control over the bank.
- In the case of a bank exceeding the 5% margin of the company's issued capital in shares with any (non)financial institution, the bank must provide the CBE with a thorough data report on the institution within two months.



Bodies Under CBE Supervision

- The Law also includes bodies that fall under the supervision of the CBE but do not classify as banks. These bodies include:
 - Companies that provide inquiry and credit rating services on the indebtedness or obligation of bank clients,
 - Mortgage finance companies,
 - Financial leasing companies,
 - Microfinance companies and associations,
 - Consumer finance companies,
 - Other credit granting agencies.
- Inquiry and credit rating companies must take the form of an Egyptian joint stock company. Its paid-in and issued capital should not be less than EGP 200 million.

Financial Technology (Fintech)



- The CBE is in charge of promoting FinTech in the banking and financial sectors.
- The Law introduced conditions and procedures on licensing of payment systems operators and service providers.
- A CBE license is mandatory to provide payment systems and/or operate similar services inside Egypt. The same applies for such services emanating from abroad to residents of Egypt.
- The e-payment service provider is obliged to adhere to the criteria set by the CBE Board of Directors. As it is unlikely for every single e-payment service provider abroad to establish Egyptian legal entities, e-payment service providers are eligible to have agents in Egypt.
- The CBE shall issue requirements for electronic applications that grant customers access to bank accounts.
- Electronic copies of documents and files concerning banking transactions and payment services will have a legal validity.
- It is forbidden to issue, trade, or promote cryptocurrencies or any other form of electronic money without acquiring a license from the CBE.



Monopolistic Practices

- The Law establishes a special unit within the CBE to receive reports on monopolistic or anti-competitive practices by licensed entities.
- The unit's mandate includes conducting, research, investigations and other evidence-gathering measures.
- If proven, the CBE's Board of Directors may instruct the violating party to rectify the prevailing conditions and file the violation immediately or within a specified period of time. If the party in question fails to do so, the agreement or the contract in question will be considered null and void without prejudice to the authority of the Board of Directors to apply any of the penalties stipulated in the Law.



Dispute Resolution Center

- An independent centre for arbitration and settlement will be established to handle disputes that arise from to the application of the provisions of the Law and the laws related to banking transactions and other activities carried out by the licensees. This centre shall have a legal personality and an independent budget.
- The parties to the dispute may resort to this centre if they initially or later agreed to settle their dispute through arbitration and settlement, taking into account the provisions of the Egyptian laws regulating arbitration and dispute settlement.



Penalties

- The Law stipulates fines ranging from EGP 100,000 to EGP 2 million for those using any type of financing or credit facilities for purposes other than those specified in the relevant credit approval.
- Those found in violation of the Law's regulations on handling foreign currency shall be imprisoned for 3-10 years; fined between EGP 1 million- EGP 5 million, or the financial amount subject of the crime, whichever is greater.
- Fines ranging from EGP 200,000 to EGP 500,000 will be imposed on those withholding necessary information or refusing to cooperate with the CBE. Such fines will also be imposed on those providing fraudulent or incorrect information.
- CBE employees shall have law enforcement authority upon a decree issued by the Minister of Justice, in consultation with the CBE Governor.

Thank you

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