



Egypt's Financial Technology Law (Fintech Law)

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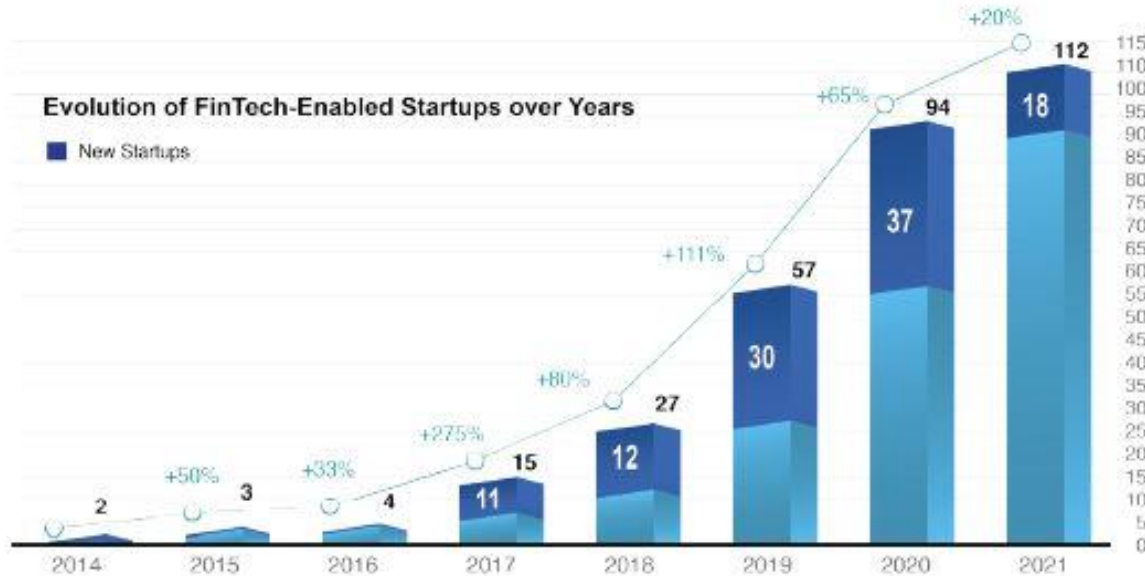
Table of Contents

- 1 Overview: Fintech Landscape in Egypt
- 2 Regulating Fintech in Egypt
- 3 Fintech Regulatory Bodies
- 4 Financial Regulatory Authority Mandate
- 5 Fintech Law Objectives/Key Definitions
- 6 Start-up Licensing/Licensing Requirements
- 7 Penalties
- 8 Challenges

Overview:

Fintech Landscape in Egypt

- Over the last few years, Egypt's FinTech ecosystem has witnessed an extensive growth, making Egypt among the top 4 African countries as well as 2nd in MENA region, when it comes to FinTech investments and concentration of FinTech start-ups.
- The FinTech industry over the last 7 years has grown significantly from barely 2 start-ups in 2014 to 112 Egyptian FinTech and FinTech-enabled start-ups by 2021.
- Payments and remittance are the most dominant FinTech subsectors in the Egyptian market, representing 30% of the fintech start-ups. This is followed by lending and alternative finance representing 13%, while the rest of FinTech trends are relatively diversified, thus complementing the optimal goal to fulfil the different financial services needs of the Egyptian population.



Source: CBE Egypt Fintech Landscape Report, Feb. 2022





Regulating Fintech in Egypt

- Over the last two years, Egypt witnessed the launch of different dedicated fintech accelerators, fintech-focused venture capital funds, and different government initiatives to support an exponentially flourishing fintech scene that is trying to solve different financial challenges faced by individuals and businesses in Egypt.
- Egypt has become home to a burgeoning fintech landscape, encouraging new government regulation and engaging corporates to contribute to shaping a better Fintech environment.
- Egypt's Fintech strategy framework is rooted in the Egypt 2030 Vision. It encompasses the aspirations of market participants and aims at addressing the unmet needs in today's financial solutions, by aligning new technical solutions with regulation framework, access to funding, and market governance.
- However, one of the key challenges hindering the growth of fintech in Egypt in terms of regulations was the lack of a clear licensing process and the exposure of fintech companies to multiple regulators.
- On February 14, 2022, Egypt's President Abdel-Fattah El-Sisi ratified the Law # 5/2022 on regulating and developing the use of financial technology in non-bank financial activities. The law governs robo-advisory, nano-finance, insurtech, and (tech-enabled) consumer finance.

Fintech Regulatory Bodies

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Before the ratification of the Fintech Law, the Fintech regulators included:

1. The Central Bank of Egypt (CBE), which is empowered by Law No. 88 of 2003 of the CBE and the Banking Sector (the Banking Law) to, among others, regulate bank accounts and banking transactions.
2. The Information Technology Industry Development Agency, which is empowered by the E-signature Law No. 15 of 2004 to, among others, promote and develop the information technology and communications industry, support small and medium-sized enterprises in using e-transactions and regulate e-signature services activities.
3. The Financial Regulatory Authority (FRA), which is empowered by the Non-Financial Markets and Instruments Law No. 10 of 2009 to, among others, license non-banking financial activities and the protection of stakeholders within the non-banking financial market.
4. The National Payments Council, which is empowered by Presidential Decree No. 89 of 2017 to, among others, reduce the use of cash outside the banking sector, support and encourage the use of electronic methods and channels instead of cash, and protect the consumers of any payment systems and services.
5. The National Telecommunications Regulatory Authority, which is generally empowered by the Telecoms Law No. 10 of 2003 to regulate and enhance telecommunication services.
6. The Egyptian Money Laundering and Terrorist Financing Combating Unit (EMLCU) which is empowered by Law No. 80 of 2002 promulgating the Law on Anti-Money Laundering. The Law stipulates certain conditions regarding the enforcement of customers due diligence procedures, in addition to other regulations and measures relating to combating money laundering and combating terrorism that are issued by EMLCU.

Under the new Fintech law, the FRA became the sole body responsible for licensing and regulating fintech companies in Egypt.



Financial Regulatory Authority Mandate

Non-banking financial activities that are subject to the supervision and control of the FRA include:



Insurance Activities



Factoring



Consumer Finance



Real Estate Financing



Financing SMEs



Financial Leasing



Microfinance

Fintech Law Objectives

- The law facilitates access to the largest possible base of customers wishing to benefit from non-banking financial activities, raises their efficiency, and reduces costs.
- The fintech law further provides rules for regulating the use of technology in non-banking financial activities, legal provisions in terms of rules for obtaining licenses and necessary approvals, data privacy and security clauses, penalties, among other provisions.
- This creates a qualitative leap by providing a license for the practice of four electronic applications, specifically, electronic applications for financial adviser programmes that analyse clients' data, their current financial status, and future financial goals to provide them with technical advice.
- The fintech law introduced systems for utilizing modern technologies in the financial non-banking sector. The law tasked the FRA to develop the necessary regulations and rules for RegTech, SupTech, digital platforms, digital identity, digital registers, and digital contracts (including Smart Contracts).
- The fintech law also seeks to facilitate licensing for start-ups. It authorized the FRA to issue a temporary license for start-up companies in financial technology (FinTech Start-up License). The goal is to support innovative start-ups in the field of Fintech in their introduction of non-banking financial activities and products.
- The law will also facilitate the FRA's oversight role in terms of ensuring that standards of transparency and governance are adhered to as well as protecting dealers in non-banking financial markets by using modern, innovative technological applications.

Fintech Law Key Definitions

- **Fintech:** a mechanism that utilizes modern innovative technologies in the non-banking financial sectors to support and facilitate financial, insurance, and lending services and activities through applications, programs, digital platforms, digital registers, or artificial intelligence.
- **Regulatory Technology (RegTech):** The Authority's use of technological applications to monitor compliance with laws and rules.
- **Supervisory Financial Technology (SubTech):** A mechanism for digitally collecting and verifying data, and analysing its indicators through software prepared for this purpose.
- **Digital Platform:** A business model based on the use of technological means in the conduct of non-financial activities to offer products and services related to them to persons wishing to obtain them, and where data exchange is permitted for the information necessary to complete these transactions.
- **Data Security (Cyber Security):** Technical and organizational procedures and processes that maintain the privacy of data and its confidentiality, integrity, unity, and integration.
- **Digital Identity:** Any technologically processed data relating to a specific or identifiable natural or legal person directly or indirectly by linking this data with any other data such as name, voice, image, or identification number, or an online identifier, provided that this data allows evaluation and validation of transactions made with through the platforms
- **Digital Contract:** A contract that includes the rights and obligations of the contractors in an electronic form and can be registered in a register. It can also take the form of a 'smart contract' that allows through an automatic process to control, document, and implement the contract's provisions.

Start-up Licensing

- The fintech law prohibits companies and other entities from engaging in non-banking financial activities utilizing fintech inside Egypt (or outside of the country for Egyptian residents) without obtaining a license from the FRA.
- The law authorizes companies and entities interested in engaging in non-banking financial activities utilizing financial technology to obtain the FRA license or approval in using applications such as Robo Advisory, Nano Finance, InsurTech, and ConsumerTech. (The FRA's Board of Directors may authorize additional electronic applications as per the law.)
- The law permits companies and entities currently licensed by the FRA to obtain the Authority's approval to engage in fintech activities by using modern technological means—either by themselves or through a third party—chosen by the FRA to undertake some tasks or activities on their behalf in accordance with an outsourcing agreement concluded between them in this regard.
- The FRA has provided fintech start-ups with a temporary license for a period of two years to support innovative start-ups in the field of fintech. The minimum capital of these start-ups must not be less than EGP 250,000, and they will be exempted from licensing fees.

Licensing Requirements

The law outlines key- facilitated- licensing requirements for companies interested in engaging in non-banking financial activities. They include:

- Bank deposit certificate indicating the full payment of the company's capital,
- Preliminary contract and company's articles of association,
- Appointment acceptance note by the company's financial auditor,
- Showcasing the applicant's technological ability to combat illegal activities such as money laundering, terrorist funding, as well as protect customers' rights and preserve "market stability."

Penalties

According to the law, entities or companies conducting unlicensed fintech activities may be subject to the following penalties:

Operating a Non-Banking FinTech without an FRA License/Approval=
Imprisonment no less than 6 Months + fine varying from EGP 200,000- EGP 1 Million, or either penalty

Operating a Non-Banking FinTech without complying with the FRA License/Approval terms or conditions=
Fine varying between EGP 50,000- EGP 500,000

Violating the Data Protection Requirements=
Imprisonment of not less than 3 months + a fine varying between EGP 200,000- EGP 1 million, or either penalty

Challenges

There remains to be several grey areas which require more clarification:

- The Law did not clarify explicitly whether the sandbox regime is a separate mechanism from the temporary license scheme. In other words, it is not clear whether start-ups need to apply first for the sandbox and then apply for the temporary license after their sandbox period is successful. This is expected to be further addressed by the FRA officials in the Law's Executive Regulations.
- The Law defines the only currently available sub-sectors for licensing and approvals namely; the Financial Advisory App, the Nano Finance App, the Insurance App, and the Consumer Finance App. It should be noted that FRA has reserved its discretion to include further sub-activities under the Law when meeting certain criteria. But the law only specified these four sub-sectors as a starting point.
- The penalties stipulated by the fintech law should be applied only upon the lapse of the grace period specified earlier. However, it is still not clear whether having a technology implemented in a sector other than the four already established sub sectors would be penalized by these penalties or not. This is yet to be confirmed by FRA officials. Furthermore, the concept of potential incarceration of company representatives for violating the law may also raise concern among industry circles.
- The law has explicitly mentioned that its provisions will apply to any of the following:
 1. Fintech companies operating in Egypt; or
 2. Fintech companies operating outside Egypt but serving customers/clients residing in Egypt.This means that any fintech company that is already operating in Egypt while incorporated abroad will be required to comply with the provisions of the law. In other words, foreign fintech companies wishing to extend their services to either Egyptian clients or customers must incorporate an Operating Entity in Egypt and must obtain the required FRA license/approval.





THANK YOU

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