

Private M&A 2021

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Private M&A

2021

Contributing editors**Will Pearce and Louis L Goldberg**

Davis Polk & Wardwell LLP

Lexology Getting The Deal Through is delighted to publish the fourth edition of *Private M&A*, which is available in print and online at www.lexology.com/gtdt.

Lexology Getting The Deal Through provides international expert analysis in key areas of law, practice and regulation for corporate counsel, cross-border legal practitioners, and company directors and officers.

Throughout this edition, and following the unique Lexology Getting The Deal Through format, the same key questions are answered by leading practitioners in each of the jurisdictions featured. Our coverage this year includes new chapters on the Dominican Republic, Georgia, New Zealand, South Korea, Thailand and Zambia.

Lexology Getting The Deal Through titles are published annually in print. Please ensure you are referring to the latest edition or to the online version at www.lexology.com/gtdt.

Every effort has been made to cover all matters of concern to readers. However, specific legal advice should always be sought from experienced local advisers.

Lexology Getting The Deal Through gratefully acknowledges the efforts of all the contributors to this volume, who were chosen for their recognised expertise. We also extend special thanks to the contributing editors, Will Pearce and Louis L Goldberg of Davis Polk & Wardwell LLP, for their continued assistance with this volume.



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STRUCTURE AND PROCESS, LEGAL REGULATION AND CONSENTS

Structure

- 1 How are acquisitions and disposals of privately owned companies, businesses or assets structured in your jurisdiction? What might a typical transaction process involve and how long does it usually take?

Acquisitions and disposals of Egyptian privately owned companies are structured according to the type of the company; and the target sale item (ie, assets or shares).

On the assumption that the target is shares, the process will depend on the legal type of the target shares of the company. Companies Law No. 159 of 1981 has been amended to oblige all joint stock companies to dematerialise and deposit their physical shares with Misr for Central Clearing, Depository and Registry. Accordingly, the sale or purchase of shares of a joint stock company, which have deposited its shares with Misr for Central Clearing, Depository and Registry, would be through a licensed brokerage firm that undertakes the execution of the sale via the Egyptian stock exchange, which shall be evidenced via a certificate of the custodian of the selling/purchasing shareholder. This process usually takes about five business days excluding the conclusion of the transaction documentation (eg, share purchase agreement). Nevertheless, if the transaction value exceeds EGP20,000,000, the transaction should be pre-approved by the Pricing Committee at the Egyptian Stock Exchange and the Financial Regulatory Authority. Typically, each approval take around a week to be issued.

In relation thereto, for unlisted companies, all brokerage firms shall deal with their clients through a licensed bank, except for dealing with clients in Egypt and if the transaction does not exceed E£100,000. The sale of quotas of a limited liability company are finalised via the annotation on the quota-holders ledger, which takes around one to two business days excluding the conclusion of the transaction documentation (eg, quota purchase agreement). The sale of assets, on the other hand, is a more burdensome process as it depends on the nature of each of the target assets (eg, real estate requires notarisation before the notary public, which at least two months if at all possible).

Legal regulation

- 2 Which laws regulate private acquisitions and disposals in your jurisdiction? Must the acquisition of shares in a company, a business or assets be governed by local law?

The applicable law governing acquisitions in Egypt depends on the type, objective and law by virtue of which the target company is established; and the target sale item (ie, assets or shares). In the sale of shares, the following would be applicable: the Companies Law, the Capital Market Law and the Investment Law, noting that if the target company is listed

on the Egyptian stock exchange, listing rules would also apply. In an asset sale, the applicable law would depend on the type of asset.

From a practical standpoint, transaction documentation may be governed by different laws. However, to execute the transfer of shares and assets, Egyptian laws prevail. In this regard, the governing law must be Egyptian law in the sale of real estate, among other items that mandate the application of the Egyptian law.

Legal title

- 3 What legal title to shares in a company, a business or assets does a buyer acquire? Is this legal title prescribed by law or can the level of assurance be negotiated by a buyer? Does legal title to shares in a company, a business or assets transfer automatically by operation of law? Is there a difference between legal and beneficial title?

Although under Egyptian law there is no distinction between a beneficial and a legal title, the Ministry of Supply and Internal Trade has recently issued a Decree No. 41 of 2020 (the Decree) amending the Executive Regulations of the Commercial Register Law No. 34 of 1976, whereby each company must hold a special register or book, which is the actual beneficial owners register (the Register), including the names and data of such beneficial owners who have actual ownership or control over the company whether such beneficial owner is juristic persons or legal interests. However, the enforceability of such Decree has not been yet tested. That said, no distinction is assumed and therefore, legal and beneficial title of shares are assumed once the transaction is executed via the Egyptian stock exchange. The process is different in assets, whereby the general rule mandates that movable assets are transferred by possession and fixed assets (eg, real estate) are transferred after being notarised before the notary public.

Multiple sellers

- 4 Specifically in relation to the acquisition or disposal of shares in a company, where there are multiple sellers, must everyone agree to sell for the buyer to acquire all shares? If not, how can minority sellers that refuse to sell be squeezed out or dragged along by a buyer?

In Egypt, sellers are not obliged to acquire all the shares of a company. Generally, pursuant to Egyptian law, the drag-along concept is not regulated and hence its enforceability is not tested. Nevertheless, the acquisition of a third of the share capital of a listed joint stock company mandates a mandatory tender offer to all the shareholders of the company. In addition, the delisted joint stock companies may be subject to the mandatory tender offer, provided that the shares of the company were publicly offered before the delisting.

Exclusion of assets or liabilities

- 5 | Specifically in relation to the acquisition or disposal of a business, are there any assets or liabilities that cannot be excluded from the transaction by agreement between the parties? Are there any consents commonly required to be obtained or notifications to be made in order to effect the transfer of assets or liabilities in a business transfer?

Pursuant to general rule under Egyptian law, any liability arising out of fraud or gross error cannot be excluded. Further, the parties may agree to exclude any liability arising out of tax or employees' entitlements. Although the latter is contractually possible, however, in the case of a share sale, all the liabilities of the company are assumed upon title transfer. Hence, the transaction documentation usually provides for an indemnification mechanism.

Unlike the share sale, in an asset sale, the liability is assumed if a company sold all of its assets and stopped its operations. Generally, there are no required consents or notifications to effect the transfer of assets or liabilities.

Consents

- 6 | Are there any legal, regulatory or governmental restrictions on the transfer of shares in a company, a business or assets in your jurisdiction? Do transactions in particular industries require consent from specific regulators or a governmental body? Are transactions commonly subject to any public or national interest considerations?

In Egypt, certain laws mandate obtaining a prior consent on the transfer of ownership of a business (eg, in certain situations the change of ownership of an Egyptian licensed bank requires the approval of the Central Bank of Egypt; and acquisition of companies operating in a non-banking financial activity requires the approval of the Financial Regulatory Authority, subject to a 10 per cent threshold). Additionally, there are further foreign ownership restrictions in some industries, such as commercial agency that requires a company to be fully owned by Egyptian nationals (individuals or juristic person) and importation activity requires 51 per cent of the share capital to be owned by Egyptian nationals (individuals or juristic person).

Furthermore, in certain situations, if the company operates in the Sinai Peninsula, it should obtain the prior approval of Sinai Development Authority's board of directors along with other approvals for the transfer of its shares. In addition, the Press and Media Organisational Law requires the prior written approval of the Supreme Council for Media Regulation on certain transactions (eg, disposal of a press).

For limited liability companies, there is a pre-emption right granted by Companies Law to the non-selling partners. In case such non-selling partners do not wish to purchase the offered quotas, a waiver should be signed by the partner.

- 7 | Are any other third-party consents commonly required?

Yes, in cases where the articles of association requires them. Further, some of the company's material documents might include a change of ownership or control clauses whereby the prior consent of such party is required.

Regulatory filings

- 8 | Must regulatory filings be made or registration (or other official) fees paid to acquire shares in a company, a business or assets in your jurisdiction?

Yes, in a share deal, there is a stamp duty tax imposed on both the seller and the buyer, whereas the sale of assets depends on the nature of the asset (eg, notarisation fees are paid in transfer of real property before a notary public).

ADVISERS, NEGOTIATION AND DOCUMENTATION

Appointed advisers

- 9 | In addition to external lawyers, which advisers might a buyer or a seller customarily appoint to assist with a transaction? Are there any typical terms of appointment of such advisers?

In certain types of acquisitions, it is mandated by the Egyptian listing rules to appoint an independent financial adviser, such as in the case of a sale by a listed company of assets or shares representing 10 per cent of its share capital. In the latter case, the financial independent adviser is required to prepare a study on the market fair value of such respective shares or assets. Apart from any mandatory provision, the purchaser usually appoints an auditing firm to undertake a financial due diligence on the target company and financial advisers may be also appointed if it is contractually mandated between the shareholders of the target company.

Duty of good faith

- 10 | Is there a duty to negotiate in good faith? Are the parties subject to any other duties when negotiating a transaction?

Pursuant to the general rule under Egyptian law, there is a general duty to act in good faith that entails negotiating in good faith. Apart from any fiduciary duties the directors have towards their own companies, there are not any other duties imposed thereon when negotiating a transaction.

Documentation

- 11 | What documentation do buyers and sellers customarily enter into when acquiring shares or a business or assets? Are there differences between the documents used for acquiring shares as opposed to a business or assets?

In Egypt, the general set of transaction documentation is usually the share and purchase agreement, the escrow agreement and shareholders agreement (if any). In a share deal, the parties are obliged to execute additional documentation as deemed required by the Egyptian stock exchange at the time of sale. In an asset sale, on the other hand, it involves the same set of documentation apart from a sale of asset agreement, which entails all the target assets as opposed to the share purchase agreement and separate agreements on various types of assets to execute the same before the governmental authorities.

- 12 | Are there formalities for executing documents? Are digital signatures enforceable?

Yes, in some cases, documents are required to be notarised, signatures should be bank verified or signed before the competent person (eg, the broker executing the transfer of shares before the Egyptian stock exchange).

In Egypt, digital signatures are enforceable subject to the following limitations as stipulated in article 18 of the E-signature Law No. 15 of 2004. The electronic document, in such case the contract, must fulfil

certain conditions to have evidentiary value, be enforceable between the relevant parties and be deemed conclusive in providing evidence. These rules are: 'The e-signature must be related solely to the signer, the signer shall have sole control over the electronic medium, the possibility to discover any modification or replacement in the data of any electronic written message or e-signature.'

In addition, according to article 9 of the Decree No. 361 of 2020, amending the executive regulations of the E-signature Law.

Subject to the conditions prescribed in the Law, the determinative effect of the evidence prescribed for the electronic writing and the official or non-official electronic documents shall be established for their creator, if the following technical controls are fulfilled:

- to be technically possible to determine the time and date of creating the electronic writing or the official or non-official electronic documents. Such availability shall take place through an independent electronic save system, which is not subject to control by the creator of that writing or these documents or by the party concerned with them;
- to be technically possible to determine the source of creating the electronic writing or the official or non-official electronic documents, and the degree of their creator's control on that source and on the media used in creating them; and
- in the case of creating and issuing the electronic writing or official or non-official electronic documents without human intervention, partially or wholly, their conclusiveness shall be established once it is possible to ascertain the time and date of their creation, and if such writing or documents have not been tampered with.

DUE DILIGENCE AND DISCLOSURE

Scope of due diligence

- 13 | What is the typical scope of due diligence in your jurisdiction? Do sellers usually provide due diligence reports to prospective buyers? Can buyers usually rely on due diligence reports produced for the seller?

Purchasers tend to undertake a full due diligence on the target company, where the lawyers examine the operations of the company from a legal standpoint including, inter alia, required licensing, full review of the constitutional documents to assess if there are any restrictions and any third-party consents required pertaining to the material agreements concluded by the target company and an assessment of the employees' rights and general compliance of the target company to the Egyptian laws. In addition to the legal due diligence, a financial due diligence is also exercised simultaneous to the legal one to assess the financial status of the target company.

While vendors' due diligence is common in Egypt, purchasers do not tend to rely on such report unless the transaction documentation provides warranties and limitations covering the same.

Liability for statements

- 14 | Can a seller be liable for pre-contractual or misleading statements? Can any such liability be excluded by agreement between the parties?

If the statement is penalised by virtue of the Penal Code, the seller will be held liable; otherwise the parties usually agree in the transaction documentation that negotiations and pre-contractual statements are excluded and not relied upon. An exception to the foregoing is the parties' agreement in a binding pre-contractual document such as a letter of intent or term sheet, the seller would be contractually liable. As a general rule, any contractual liability can be excluded by an agreement except for fraud and gross error.

Publicly available information

- 15 | What information is publicly available on private companies and their assets? What searches of such information might a buyer customarily carry out before entering into an agreement?

The information on private companies and their assets is not readily available. In relation thereto, other than the disclosures made by the listed companies, private companies do not disclose any information publicly. Any major lawsuit is usually published in a newspaper or news websites, which are usually reviewed by buyers prior to any agreement.

Impact of deemed or actual knowledge

- 16 | What impact might a buyer's actual or deemed knowledge have on claims it may seek to bring against a seller relating to a transaction?

Subject to the provisions of the Egyptian Civil Code and subject to the terms of the share purchase agreement, actual or constructive knowledge could potentially limit the buyer's recourse in connection with the representation and warranties provided by the seller, subject to the court's discretion unless the buyer proves that the seller assured him or her of the absence of the defects, or intentionally and fraudulently concealed them from him or her.

PRICING, CONSIDERATION AND FINANCING

Determining pricing

- 17 | How is pricing customarily determined? Is the use of closing accounts or a locked-box structure more common?

The most commonly used pricing adjustment mechanism is closing accounts, which is used on the basis of the estimated accounts provided usually by the seller. The locked-box mechanism is also used but not as commonly as closing accounts, owing to leakage of indemnity claims. However, there has been a tendency to deduct leakage from deferred payments instead of resorting to indemnity claims. The foregoing has recently helped in growing an appetite for the locked-box mechanism. Nevertheless, some parties still prefer the closing accounts mechanism as it covers any deviation from agreed upon figures (eg, net debt, net cash or normalised working capital), as opposed to locked-box, which protects the buyer only from leakage, which basically encompasses money withdrawn by the seller or its related parties.

Form of consideration

- 18 | What form does consideration normally take? Is there any overriding obligation to pay multiple sellers the same consideration?

Cash is the common form of consideration. There is no obligation to pay multiple sellers the same consideration unless the shareholders have an agreement imposing the same.

Earn-outs, deposits and escrows

- 19 | Are earn-outs, deposits and escrows used?

The purchase price is usually deposited at an escrow account to give the seller certainty and avoid any trust issues. However, earn-outs are not commonly used.

Financing

20 | How are acquisitions financed? How is assurance provided that financing will be available?

Acquisitions are typically provided via:

- equity;
- third-party financing; or
- a combination of equity and financing.

Assurance is typically provided via a buyer warranty or documentary evidence confirming the availability of the acquisition financing.

There are various financing options in Egypt (credit financing). Usually the payment of the purchase price is a condition precedent to the transfer of shares. Hence, if finance is not available, the transaction is never closed.

Limitations on financing structure

21 | Are there any limitations that impact the financing structure? Is a seller restricted from giving financial assistance to a buyer in connection with a transaction?

Under Egyptian law, there are regulatory limitations that could impact the financing structure including:

- the Central Bank of Egypt regulatory instituted limitations and regulatory framework regulating acquisition financing; and
- financial assistance rules, which, under Egyptian law, restrict a company from lending or guaranteeing the obligations of any of its board members.

CONDITIONS, PRE-CLOSING COVENANTS AND TERMINATION RIGHTS

Closing conditions

22 | Are transactions normally subject to closing conditions? Describe those closing conditions that are customarily acceptable to a seller and any other conditions a buyer may seek to include in the agreement.

Yes, however, there is no constant practice in this regard, as conditions are decided on a case-by-case basis.

In Egypt, the parties usually agree to include, inter alia, the following conditions:

- full payment of the purchase price;
- obtaining any required consents and approvals, if applicable;
- convocation of the relevant general assembly meetings to effect such transfer;
- reconciliation of any of the major issues that were found by the due diligence exercise; and
- the non-distribution of dividends during the period between signing and closing.

23 | What typical obligations are placed on a buyer or a seller to satisfy closing conditions? Does the strength of these obligations customarily vary depending on the subject matter of the condition?

The nature of the condition impacts or affects the strength of the subject obligations.

Pre-closing covenants

24 | Are pre-closing covenants normally agreed by parties? If so, what is the usual scope of those covenants and the remedy for any breach?

Pre-closing covenants are typical terms in a share purchase agreement, which vary between positive and negative covenants imposed on the seller as follows:

- continue to operate the business in the ordinary course;
- maintain its properties and insurance;
- comply with all laws;
- update the buyer on any changes or developments concerning the business;
- not to terminate customer or vendor agreements without obtaining the prior consent of the buyer;
- not to make any capital expenditures without obtaining the prior consent of the buyer;
- not to pledge or transfer any company assets outside the ordinary course without obtaining the prior consent of the buyer; and
- not to negotiate with any other party concerning the sale of the business.

Termination rights

25 | Can the parties typically terminate the transaction after signing? If so, in what circumstances?

Although the parties can terminate the transaction after signing, it is not highly common in Egypt. This may happen owing to failure to obtain the necessary approvals or serve the relevant notices, which include, among others, approval to effect the change of ownership or control or notifying the competition authority of the acquisition.

26 | Are break-up fees and reverse break-up fees common in your jurisdiction? If so, what are the typical terms? Are there any applicable restrictions on paying break-up fees?

In private M&A transactions, break-up and reverse break-up fees are commonly mutually agreed between the parties as a percentage of the purchase price, which is usually covered in the transaction documents. However, under Egyptian law, there is room to claim reduction in the case of excessive fees. Based on the principle of the Egyptian Civil Code, *pacta sunt servanda*, such fees are applicable when and if there has been a contractual arrangement to that end.

REPRESENTATIONS, WARRANTIES, INDEMNITIES AND POST-CLOSING COVENANTS

Scope of representations, warranties and indemnities

27 | Does a seller typically give representations, warranties and indemnities to a buyer? If so, what is the usual scope of those representations, warranties and indemnities? Are there legal distinctions between representations, warranties and indemnities?

The seller usually warrants and represents to the buyer that some statements are true, accurate and not misleading in all respects from signing to closing and do not omit stating any material fact necessary to make the statements herein not misleading. The scope of such statements is as follows:

- assuming the full capacity, power and authority to execute, deliver and perform this agreement;
- the seller is the legal and beneficial owner and sole holder of the sale shares and there are no options, encumbrances or any other

rights through which third parties can claim one or more of the target company;

- no actions, suits, appeals, claims, applications, investigations, orders, proceedings, grievances, arbitrations or alternative dispute resolution processes of whatever nature, in progress, pending or to the seller’s knowledge, threatened against the seller, which prohibit, restrict or seek to enjoin the sale and transfer of sale shares contemplated by this agreement nor threatening the target company, or any material property or asset of the target company or directors of the target company in regard to their actions as such, nor is there any basis for such action, proceeding, claim or lawsuit;
- the valid existence of a target company and good standing under the laws of the jurisdiction of its incorporation;
- concluding the share purchase agreement does not violate any applicable laws;
- the target company is not in breach of any agreements;
- the target company does not have any indebtedness or encumbrances or pledge;
- the target company holds valid licences and is in compliance with all the regulatory aspects; and
- there are no shareholders’ resolutions concerning the paying out of dividends, reserves or capital that still have to be effected.

The indemnification is usually a quantum and a course of action in the event of breach of any of the above warranties.

Limitations on liability

28 | What are the customary limitations on a seller’s liability under a sale and purchase agreement?

The customary limitations on sellers’ liability are as follows:

- purchaser’s knowledge;
- limitations on quantum;
- time limits;
- recovery from third parties and conduct of claims;
- no liability if loss is otherwise compensated;
- future acts;
- acts approved by purchaser; and
- no double recovery.

Transaction insurance

29 | Is transaction insurance in respect of representation, warranty and indemnity claims common in your jurisdiction? If so, does a buyer or a seller customarily put the insurance in place and what are the customary terms?

Transaction insurance is not common in Egypt.

Post-closing covenants

30 | Do parties typically agree to post-closing covenants? If so, what is the usual scope of such covenants?

Post-closing covenants are not common in Egypt since sellers tend to refuse their incorporation in the share purchase agreement as it will conflict with their business. Such covenants vary, among others, confidentiality on any technical information, non-solicitation and non-compete clauses.

TAX

Transfer taxes

31 | Are transfer taxes payable on the transfers of shares in a company, a business or assets? If so, what is the rate of such transfer tax and which party customarily bears the cost?

The sale of assets may trigger the application of a capital gain tax and VAT. Sale of shares via the Egyptian stock exchange will trigger the payment of 3/1000 on the buyer and same on the seller, which is calculated on the consideration by which the transaction is executed before Egyptian stock exchange, provided that the transaction is equal to or exceeds the acquisition of 33 per cent of the target company shares.

Corporate and other taxes

32 | Are corporate taxes or other taxes payable on transactions involving the transfers of shares in a company, a business or assets? If so, what is the rate of such transfer tax and which party customarily bears the cost?

It is worth noting that there are ongoing amendments to the tax regime in Egypt. Currently, sale of assets or shares may trigger the payment of several taxes, such as:

Tax	Rate for assets sale	Rate for shares sale	Comments
Capital gain on the sale of assets or shares	22.5 per cent	22.5 per cent	The tax on capital gain shall be borne by the seller in case of an asset sale or by its shareholders in the case of a share sale. In the event of distribution of profit – post transaction – the Egyptian resident shareholders of the target company shall also pay additional taxes on their dividends, which varies from 5 per cent to 10 per cent according to the total shareholding.
VAT	Various rates depending on certain requirements.	Not applicable	
Withholding tax	1 per cent up to 5 per cent as follows: <ul style="list-style-type: none"> • 1 per cent on the consideration for the assets; • 3 per cent on the consideration in return of services; and • 5 per cent for commission. 	5 per cent–10 per cent	

EMPLOYEES, PENSIONS AND BENEFITS

Transfer of employees

33 | Are the employees of a target company automatically transferred when a buyer acquires the shares in the target company? Is the same true when a buyer acquires a business or assets from the target company?

In a share transfer, employees remain with the target company, hence the acquisition of shares does not involve the process of employee transfer.

In an asset sale, pursuant to Egyptian Labour Law No. 12 of 2003, if an establishment is transferred from one employer to another, employees of the transferred establishment shall be transferred automatically to the new employer. The former and the new employers shall be jointly liable for the fulfilment of their entire obligations as set out under the employees' employment contracts. In this context, paragraph 2 of article 9 of the Labour Law states that:

merging the establishment with another or transferring it by inheritance, bequeath, donation, or sale – even by public auction – or by assigning or leasing it or other such disposing actions shall not terminate the employment contracts of the existing employees. The successor employer shall be responsible jointly with the former employers for implementing all obligations arising from these contracts.

Although the Labour Law recognises the concept of employees' automatic transfer in the event of an asset sale, practically the transfer of employees cannot automatically be implemented before the Social Insurance Authority.

Notification and consultation of employees

34 | Are there obligations to notify or consult with employees or employee representatives in connection with an acquisition of shares in a company, a business or assets?

No.

Transfer of pensions and benefits

35 | Do pensions and other benefits automatically transfer with the employees of a target company? Must filings be made or consent obtained relating to employee benefits where there is the acquisition of a company or business?

In a share transfer, employees of the target company maintain all their benefits, pensions and acquired rights, etc, as the change of the shareholding of the target company does not affect the employees' status, unless contractually agreed otherwise by the parties.

However, in an asset sale, the buyer is under the obligation to continue employing the target company's employees with either the same or more favourable employment terms and conditions than those stipulated under the employees' current employment contracts.

To effect the aforesaid from a practical perspective, the transfer of employees is concluded through one of the following structures:

- first structure: the employees to resign as employees of the target company and enter into new employment relationships with the buyer. According to this structure, employees are assumed to receive all their employment entitlement from the target company before entering into new employment relationships with the buyer. In this case, the benefits of the employees cease to exist and the employees commence a different scheme with the new buyer; and
- second structure: a tripartite agreement to be concluded between the target company; the buyer and each relevant employee whereby



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the employees agree to terminate their existing employment relationship with the target company and continue their employment relationship with the buyer, whereby benefits, pension and so on, are transferred to the buyer.

UPDATE AND TRENDS

Key developments

36 | What are the most significant legal, regulatory and market practice developments and trends in private M&A transactions during the past 12 months in your jurisdiction?

Owing to the covid-19 pandemic, the most significant developments took place through:

- a decree issued by the board of directors of the Financial Regulatory Authority to extend the deadline for submitting the financial statements of the listed companies and any other companies regulated under the umbrella of the Financial Regulatory Authority;
- circular, issued by the General Authority for Investments and Free Zones, permitting all companies incorporated under Companies Law and Investment Law to convene their meetings electronically;
- circulars, issued by the Central Bank of Egypt, to grant borrowers the right to postpone credit dues for a period of six months; and
- the adoption of the electronic meetings for the listed companies and other companies regulated under the umbrella of the Financial Regulatory Authority.

Coronavirus

37 | What emergency legislation, relief programmes and other initiatives specific to your practice area has your state implemented to address the pandemic? Have any existing government programmes, laws or regulations been amended to address these concerns? What best practices are advisable for clients?

Generally, Egypt has adopted several legislation and relief programmes related to the covid-19 pandemic. By the end of March 2020, the Egyptian

government had imposed a partial lockdown in addition to the suspension of all ministerial and governorates' activities that are customer facing. A month later, some authorities had resumed operations on a very limited scale (eg, half the workforce or limited services). This approach was followed until the majority of the services were being provided.

As for relief programmes and legislation, some government authorities have issued several decrees or decisions. While some decisions are no longer relevant (eg, postponing the submission of the annual financial statements to the Financial Regulatory Authority until April 2020), certain circulars and programmes are still valid, as follows:

- the General Authority for Investments and Free Zones has issued its circular No. 160, dated 18 March 2020, to permit all companies incorporated under the Companies Law and Investment Law to convene their meetings (ie, board meeting, ordinary general assembly meeting and extraordinary general assembly meeting) electronically;
- the Central Bank of Egypt issued a circular dated 15 March 2020 to grant the borrowers the right to postpone credit dues for a period of six months; and
- the Financial Regulatory Authority has adopted the concept of electronic meetings for listed companies and other companies regulated under its umbrella.

It is advisable to limit as much as possible the conditions precedent that entail physical attendance to governmental authorities and entities given the uncertainty of the time involved in the service provision. Alternatively, an assessment should be made at the signing date of which entities are operational and providing their services are able to structure any conditions precedent, subsequent or closing deliverables in a rightful manner.

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