

The Legal 500 Europe, Middle East & Africa 2020 edition

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INVESTMENT CLIMATE

Egypt is the most populated country in the Middle East and the third most populous in Africa, with over 100 million inhabitants. Egypt occupies a strategic position. It is in the heart of the MENA region and is a major country in both the Arab world and Africa. Egypt has one of the largest and most diversified economies in the Middle East, which is projected to become one of the largest in the world in the 21st century. It has the third-largest economy in Africa and the world's 40th-largest economy by nominal GDP.

The Egyptian economy suffered from a severe downturn following the 2011 and 2013 revolutions, which ousted former Presidents Hosni Mubarak and Mohamed Morsi respectively. These revolutions led to a notable fall in foreign investments and foreign currency cash reserves. However, the country's economy started to reach a state of stability since the Egyptian military announced the political roadmap in July 2013.

In January 2014, the Egyptian Constitution of 2014 was passed in a referendum and replaced the Egyptian Constitution of 2012, which came into effect under Morsi. In June 2014, Abdel Fattah Al-Sisi was elected President of the Arab Republic of Egypt and re-elected in March 2018. The Egyptian parliament was constituted in December 2015. Another constitutional referendum was passed in April 2019 adding two new articles to the constitution and fourteen amendments, most notably extending the presidential term.

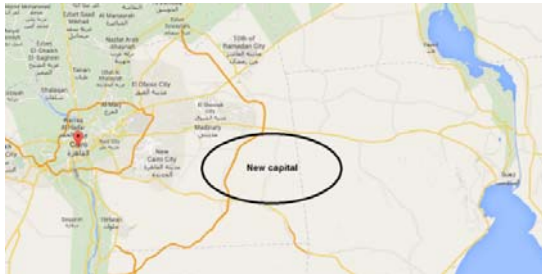
ECONOMIC REFORMS

The Egyptian economy is gaining momentum since the government has been strongly promoting economic reforms.

In March 2015, President Al-Sisi hosted the Egypt Economic Development Conference (EEDC) in Sharm El Sheikh to highlight Egypt's reform agenda, which attracted heads of states and multinational chief executives. During the conference, Egypt concluded deals up to USD 36 billion with foreign investors.

During the EEDC, Al-Sisi also presented his plan to establish a new Egyptian capital city. The new capital city's purpose is to create many business opportunities for national and foreign investors. According to official statements, the government shall be transferred to the new capital city gradually between 2021 and 2022.

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Egypt expanded the Suez Canal in 2015. The purpose of the expansion was to boost the Egyptian economy by allowing the passage of more and bigger ships. The Suez Canal has always been one of the most important pillars of Egypt's economy as it represents a significant source of revenue.

As a result of the government's efforts to improve its economy, the GDP growth rate increased to 5.6% during the financial year 2019 compared to GDP rate of 5.3% for the financial year 2018.

According to the Central Agency for Public Mobilization and Statistics (CAPMAS), the unemployment rate decreased to 7.5% during the second quarter of 2019. The current rate shows a remarkable progress as the unemployment rate was 13% in 2015.

LEGAL REFORMS

The Egyptian legal system is based on the civil law system. Its most important legislation is the Civil Code, which mirrors principles of the Napoleonic code. It also adopts Islamic law principles in specific areas, such as family law and personal status matters. In recent years, many of Egypt's investment-related laws were reformed.

Companies Law Reform

In January 2018, Law no. 4/2018 amending the Companies Law was issued. Among other amendments, the aforementioned law introduced the sole person company for the first time. The sole person company is owned by one person, either a natural or a juristic person, who retains all the management powers. The minimum share capital of a sole person company is EGP 50,000 to be paid in full upon incorporation. The sole person company is essentially a limited liability company with one shareholder who is only liable within the limits of the capital of the company, except in limited cases where the corporate veil of the sole person company may be pierced.

New Investment Law

The new Investment Guarantees and Incentives Law no. 72/2017 (the "Investment Law")

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was issued in May 2017 and further established and consolidated the one-stop shop system that enables investors to obtain permits and licenses directly from the General Authority for Investment and Free Zones (GAFI) instead of multiple government entities.

The Investment Law guarantees fair and equitable treatment to both foreign and Egyptian investors. Additionally, it grants the right to the Cabinet of Ministers, in light of the reciprocity principle, to grant favourable treatment to foreign investors. Its purpose is to facilitate the investment process and to provide investors with more effective services. It grants investors the right of residence, protection from expropriation, repatriation of profits, and importation of raw materials, production supplies, machinery, spare parts, and transportation means required for their activities. The Investment Law also aims to attract more investments in Egypt through offering further incentives and guarantees in certain sectors or regions.

This new Investment Law improved the corporate veil protection shielding senior executives from prosecution and offered new mechanisms for the settlement of investment disputes to encourage amicable settlement with the government (through the establishment of three separate committees).

[Tax Law Reform](#)

Presidential Decree 96/2015 was issued in August 2015, amending the Egyptian Income Tax Law as follows:

All locally registered companies are subject to a flat rate corporation tax of 22.5% on their net profits, with the exception of companies incorporated in a free zone. A higher rate of 40.55% applies to companies engaging in specific oil and gas activities.

The annual profit generated by a branch is subject to taxes according to the applicable taxation legislation in Egypt. Personal income tax is also payable in Egypt, on a sliding scale.

[Personal Data Privacy Law](#)

The Egyptian Parliament approved a new data protection law on February 24, 2020. The law will be published in the official gazette upon the President's ratification. The new law defines personal data and sensitive data.

The new law sets out obligations on data controllers and processors concerning the required consent of individuals and legitimacy of collection and processing. The new law grants individuals a number of rights pertaining to their data such as the right of providing explicit

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consent on data collection and processing, rescinding consent, correction and erasing their data as well as the right to be informed of any breach thereto.

The new law includes establishing the Personal Data Privacy Centre as the regulator of data privacy, the mandate of which will include issuing licenses, ensuring compliance with the new law, and investigating complaints.

Anticipated Reforms

The Parliament is discussing a draft law proposing amendments to the law no. 67/2010 of public-private partnership (PPP). The draft law adds the operation and utilization of existing projects to the scope of PPP projects, and presents new methods of awarding projects other than public tenders. In addition, the proposed amendments cut red tape such as the prequalification requirement and restrict the mandate of the petition committee.

On the other hand, the Cabinet approved a draft law amending the banking law. The law will be introduced to the State Council and the Parliament for discussion and approval. The draft law, if passed, will include for example: (i) increasing the minimum capital requirements for banks; (ii) licensing e-payment and fintech businesses; (iii) authorizing the Central Bank of Egypt (CBE) to regulate cryptocurrencies; and (iv) requiring all banks' fiscal years to start in January.

FOREIGN INVESTMENT IN EGYPT

Egypt is a party to 112 bilateral investment treaties and is a member of the World Trade Organization (WTO) and of the Greater Arab Free Trade Area (GAFTA).

In 1998, Egypt became a party to the Common Market for Eastern and Southern Africa (COMESA).

Egypt has signed a treaty with the European Union called the Association Agreement, in force since 2004, which establishes a free trade area with elimination of tariffs on industrial and agricultural products.

Investment Vehicles

The most common corporate entities established or acquired by foreign investors in Egypt are the limited liability company (LLC) and the joint stock company (JSC).

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Joint Stock Companies

Generally, joint stock companies must be formed with a minimum share capital of EGP 250,000. The minimum required capital amount may be higher depending on the activity of the company and the regulations related thereto. Only 10% must be paid at the time of incorporation, to be increased to 25% within 3 months, and the remaining amount of the nominal value of the shares is to be paid up within 5 years.

At least three founding shareholders and at least three directors must be appointed in the company. Directors are required to hold regular meetings, which provides for higher level of corporate governance. It is easier for a JSC to raise funds, as its shares can be offered to the public and traded on the Egyptian Exchange.

Founding shares and shares issued in return for in-kind (i.e. non-cash) contributions may not be transferred until the financial statements of two full fiscal years are published. The Prime Minister can waive the above restrictions in relation to joint stock companies established under the Investment Law.

Directors and shareholders need not be Egyptian nationals, unless the company carries out one of the restricted activities set out below. Forming an Egyptian joint stock company takes five business days as of the date of submitting all documents in good order to the competent authority.

Limited Liability Companies

Limited liability companies have no minimum share capital requirements. Limited liability companies do not have a Board of Directors, but are managed by one or more managers who are responsible for the day-to-day management of the company and have full authority for representing it. A limited liability company must have at least two founding partners. There is no nationality restriction on the partners or managers except for the companies carrying out certain activities as noted below. As with a joint stock company, forming an Egyptian limited liability company takes five business days as of the date of submitting all documents in good order to the competent authority.

Branches

Foreign companies may establish branches in Egypt. The branch's purpose is the performance of a particular contract entered into by the mother company. That contract must be submitted as part of the incorporation procedures.

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There is no minimum legal capital for branches, however in practice the equivalent of a minimum of EGP 5,000 must be transferred in foreign currency to a bank account in Egypt in the name of the branch.

Representative offices

Foreign companies can establish representation, liaison or scientific offices in Egypt. There is no requirement for the manager of such offices to be Egyptian. Representative offices are prohibited from performing any kind of commercial or income generating activity and can be removed from the register for doing so.

Representative offices must notify the GAFI annually of the names, positions, nationalities and salaries of their staff members as well as their total wages, the percentage of the Egyptian staff's wages and the work that those offices assumed.

No minimum capital is required, but in practice, the equivalent of a minimum of EGP 5,000 must be transferred in foreign currency to a bank account in Egypt in the name of the representative office.

Except for wages withholding taxes, the representative office is not subject to taxes since it does not generate profits from commercial activities and its activity is limited to studying and exploring the Egyptian market.

FOREIGN INVESTMENT RESTRICTIONS

In principle, there are no nationality restrictions in connection with foreign investment in Egypt. However, specific activities such as commercial agency and importation with the purpose of trade include nationality requirements. Certain regulatory approvals are required for foreign and local investments in Egyptian banks and insurance companies exceeding 10% of the issued shares. Foreign ownership of land is restricted in the Sinai Peninsula.

Sector-specific controls

Licenses and government approvals are required to establish a business in Egypt. Regulatory approvals are required for acquisitions and disposals in the banking, insurance, hospitals, pharmaceutical plants, oil and gas, and telecommunication sectors.

COMPETITION LAW

The Egyptian Competition Authority (ECA) ensures free competition in the market by prohibiting anticompetitive practices and serves consumer and producer interests.

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The Egyptian Competition law was enacted in 2005 and regulates horizontal and vertical restraints, cases of abuse of dominance and cartels. It also provides an exhaustive list of prohibited agreements.

The ECA may exempt agreements relating to horizontal restraints if their objective is to attain economic efficiency and if the benefit arising from them exceeds the harm to the freedom of competition.

New amendments to the law were made in 2014 granting automatic immunity from prosecution to the first whistle-blower who reports the existence and submits evidence of cartels to the ECA.

M&A transactions

Notifications must be made to the ECA, within 30 days of the conclusion of the relevant commercial agreement and if the turnover of the respective parties exceeds certain thresholds. Clearance is not required and there is no obligation to suspend.

Where the COMESA merger regime applies, notification is mandatory and must be made within 30 days of the parties' decision to merge. There is no obligation to suspend.



ECONOMY

Currency

Following the revolution of 2011, Egypt suffered from budget deficits, shortage in foreign currency, downgrading its credit rating, steep rise of inflation and unemployment rates, and fall of tourism revenues, which is the country's top source of foreign currency earnings.

In November 2016, Egypt received \$12 billion loan from the International Monetary Fund, the fifth and final tranche was received in July 2019. As a result, Egypt adopted bold measures as part of its economic reform program such as floating Egyptian Pound, cutting energy subsidies, and introducing new value-added tax (VAT).

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As a result, the foreign currency reserve significantly increased to reach \$45.42 billion by December 2019, meanwhile, the Egyptian Pound exchange rate remains relatively stable with a slight upward trend.

Interest Rates

After interest rates peaked at 18.75% in 2017, the CBE decreased the interest rate gradually to reach 12.25% in November 2019. In March 2020, the CBE declared cutting interest rate by 300 basis points to reach 9.25%, which is the lowest rate since early 2016, to support the economy against the COVID-19 outbreak.

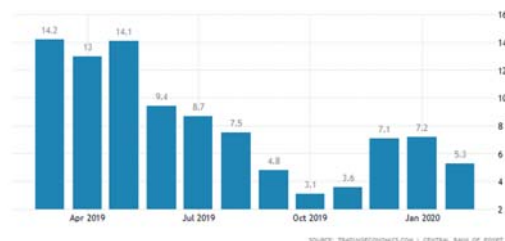
Credit Ratings

Egypt's credit ratings have been upgraded to B, B2 and B+ by Standard & Poor and Moody's, and Fitch, respectively, with stable outlook.

Economic policies adopted by Egypt, especially interest rate cuts and easing inflation, were the main drivers of upgrading the credit rating.

Inflation Rates

According to CAPMAS, Egypt inflation rate reached the lowest level in nearly a decade in October 2019 to reach 2.4% compared to 17.5% a year earlier. Despite slight fluctuations in inflation rates in the following months, CAPMAS further announced that the annual inflation rate fell to 6.8% in January 2020, compared to 12.2% in January 2019.



The Central Bank of Egypt monitors and controls the inflation rate through its monetary policies. The recent lowering of interest rate by 300 basis points in March 2020 will likely have an adverse effect on inflation rates.

Main Trade Sectors

Egypt is the world's largest importer of wheat and one of the largest producers and exporter of potatoes, after the Netherlands, France and Germany.

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The country is also known for its strong exportation of textile and steel, and raw materials.

The European Union is Egypt's main trading partner, especially after the implementation of the Association Agreement in 2004.

Egypt mainly exports to the European Union fuel and mining products, textile and clothing and chemicals and imports machinery and transport equipment. Most of Egypt's foreign trade is handled by Egypt's main port, the Port of Alexandria.

On a related front, trading with African countries remains low despite Egypt being a party to COMESA. This is due to the lack of trade promotion and business knowledge, as well as problems in transport and logistics.

ENERGY

Oil and Gas

Egypt is a major player in the international energy market as it operates the Suez Canal and the Suez-Mediterranean pipeline. Natural gas and oil are the primary fuels for Egypt's energy sector, which positions Egypt as the largest oil and natural gas consumer in Africa.

A specific concession is required to carry out exploration activities and to exploit oil and gas resources. Each concession agreement must be entered into following the promulgation of a specific law that allows the concession agreement to be entered into between the Arab Republic of Egypt, the Egyptian Petroleum Company and the foreign company.

In 2015, Eni discovered a giant natural gas field on the Mediterranean offshore. The reserve is estimated at 30 trillion cubic feet. As of 2020, Egypt's proven natural gas reserve is around 77 trillion cubic feet, ranking 16th in the world. In addition, Egypt has signed a bilateral treaty with Cyprus in 2018 to build a natural gas pipeline to transport natural gas from the Aphrodite field to Egypt for liquefaction, and then re-export the liquefied natural gas.

Egypt is currently repositioning itself as a hub for natural gas between Africa and Europe through continuous coordination and joint arrangements with Cyprus and Greece.

As of August 2017, Egypt has witnessed the issuance of a new gas market activities law no. 196/2017 which aims to create a liberalised gas market, subject to the principles of free competition, non-discrimination between gas market participants and the prohibition of monopolistic practices. Accordingly, this law establishes an entity named Gas Market

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Activities Regulatory Authority as the regulator of the gas market, granting it broad regulatory powers over the gas market generally and to the licensing regime particularly.

Renewable Energy

Egypt set a target of generating 20% and 33.3% of its electricity from renewable resources by 2022 and 2035, respectively.



Egyptian Law no. 203/2014 created the Feed-in Tariff Program for generating electricity from solar and wind energy. Egypt has constructed Benban Solar Park which is a power complex of 41 solar power plants with capacity of 1.8GW. The project is the biggest solar photovoltaic park in the world and costed around \$4 billion.

The Egyptian Government is the sole off taker of the produced energy with the tariff set by a Cabinet Decree and a new electricity law has been enacted accordingly in 2015. The land on which the projects are being developed was allocated by the Egyptian government to the qualified developers on a first-come, first-served basis.

GENERAL

This guide does not constitute legal advice, nor does it purport to address every legal issue or summarize the current rules, structures or regulatory frameworks.

The regulatory system in Egypt is dynamic and subject to frequent changes in application and interpretation. We recommend that you obtain legal advice and liaise with the relevant government authorities on how the law applies to foreign investors in respect of a particular investment or business activity at the relevant time.

We hope that you find this guide to be a useful overview of the high-level legal issues in relation to doing business in Egypt. Please do not hesitate to contact us if you have any queries

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regarding the material set out in this guide or if you require specific legal advice in respect of an establishment in Egypt.

For further information, please visit: www.matoukbassiouny.com