
CHAMBERS GLOBAL PRACTICE GUIDES

Corporate M&A 2023

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Egypt: Law & Practice

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EGYPT



Law and Practice

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Contents

1. Trends p.4

- 1.1 M&A Market p.4
- 1.2 Key Trends p.4
- 1.3 Key Industries p.4

2. Overview of Regulatory Field p.4

- 2.1 Acquiring a Company p.4
- 2.2 Primary Regulators p.5
- 2.3 Restrictions on Foreign Investments p.5
- 2.4 Antitrust Regulations p.6
- 2.5 Labour Law Regulations p.7
- 2.6 National Security Review p.8

3. Recent Legal Developments p.8

- 3.1 Significant Court Decisions or Legal Developments p.8
- 3.2 Significant Changes to Takeover Law p.9

4. Stakebuilding p.9

- 4.1 Principal Stakebuilding Strategies p.9
- 4.2 Material Shareholding Disclosure Threshold p.9
- 4.3 Hurdles to Stakebuilding p.10
- 4.4 Dealings in Derivatives p.10
- 4.5 Filing/Reporting Obligations p.10
- 4.6 Transparency p.10

5. Negotiation Phase p.10

- 5.1 Requirement to Disclose a Deal p.10
- 5.2 Market Practice on Timing p.11
- 5.3 Scope of Due Diligence p.11
- 5.4 Standstills or Exclusivity p.11
- 5.5 Definitive Agreements p.11

6. Structuring p.11

- 6.1 Length of Process for Acquisition/Sale p.11
- 6.2 Mandatory Offer Threshold p.11
- 6.3 Consideration p.12
- 6.4 Common Conditions for a Takeover Offer p.12

- 6.5 Minimum Acceptance Conditions p.12
- 6.6 Requirement to Obtain Financing p.12
- 6.7 Types of Deal Security Measures p.12
- 6.8 Additional Governance Rights p.12
- 6.9 Voting by Proxy p.13
- 6.10 Squeeze-Out Mechanisms p.13
- 6.11 Irrevocable Commitments p.14

7. Disclosure p.14

- 7.1 Making a Bid Public p.14
- 7.2 Type of Disclosure Required p.14
- 7.3 Producing Financial Statements p.14
- 7.4 Transaction Documents p.14

8. Duties of Directors p.14

- 8.1 Principal Directors' Duties p.14
- 8.2 Special or Ad Hoc Committees p.14
- 8.3 Business Judgement Rule p.14
- 8.4 Independent Outside Advice p.15
- 8.5 Conflicts of Interest p.15

9. Defensive Measures p.15

- 9.1 Hostile Tender Offers p.15
- 9.2 Directors' Use of Defensive Measures p.15
- 9.3 Common Defensive Measures p.15
- 9.4 Directors' Duties p.15
- 9.5 Directors' Ability to "Just Say No" p.15

10. Litigation p.15

- 10.1 Frequency of Litigation p.15
- 10.2 Stage of Deal p.15
- 10.3 "Broken-Deal" Disputes p.15

11. Activism p.15

- 11.1 Shareholder Activism p.15
- 11.2 Aims of Activists p.15
- 11.3 Interference With Completion p.15

EGYPT LAW AND PRACTICE

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Matouk Bassiouny is a leading, full-service MENA region law firm with offices in Egypt (Matouk Bassiouny & Hennawy), the United Arab Emirates (Matouk Bassiouny), Sudan (Matouk Bassiouny in association with AIH Law Firm) and Algeria (Matouk Bassiouny in association with SH-Avocats), as well as a country desk covering its Libya practice. The firm consists of 27 partners and over 200 fee earners. The firm's attorneys specialise in advising multinationals, corporations, financial institutions and governmental entities on all legal aspects of investing

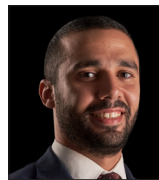
and doing business in the MENA region. The Corporate and M&A practice group's primary goal is to provide top-level general corporate and M&A advice to clients, including multinational corporations, private equity firms, fund managers and blue-chip investors in Egypt. Headed by Omar S Bassiouny, founding partner, and Tamer El Hennawy, group co-head, the group can assist corporate transactions, from initial term sheets and due diligence to negotiation, drafting and completion.

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1. Trends

1.1 M&A Market

Notwithstanding the increased global and domestic market uncertainties generally and the significant devaluation of the Egyptian pound, Egyptian M&A continues to see reasonably strong interest and opportunities in the Egyptian market, preserving its momentum in deal making and further attracting local and international investors from across various sectors.

The second half of 2022 saw fewer transactions compared to the first half of 2022, which affected the full-year results compared to 2021. However, the total value of the transactions in 2022 remained steady, with a very slight dip compared to 2021.

The majority of M&A transactions in Egypt were inbound, which were mainly dominated by the Gulf.

To facilitate the market, several pieces of legislation were adopted by Parliament to create a more user-friendly environment for foreign investors. The governmental reforms include amendments to the Investment Law, the Capital Markets Law, the Companies Law and the Banking Law.

Political stability in Egypt has also played a major role in attracting investment over the past years compared to other countries globally. However, global recession, the war in Ukraine, other geopolitical tensions, supply chain disruptions and tightening regulatory scrutiny have affected the Egyptian market, whereby Egypt has witnessed adverse impacts that have affected the value of the Egyptian pound, as well as the prices of oil and gas.

In an attempt to stimulate the economy, the Egyptian government engaged with the International Monetary Fund (IMF) in an Extended Fund Facility programme, whereby Egypt is committed to granting the private sector a greater role to play in the Egyptian market in lieu of state-owned companies, which would give rise to more opportunities in the Egyptian M&A market.

1.2 Key Trends

The top trends for 2022 in Egypt were financial technology and renewable energy production, as well as healthcare, education and banking and financial services. The key trends for inbound activities were in the banking and financial industries. As for outbound activity, the leaders were energy and power.

1.3 Key Industries

Financial technology and renewable energy production, as well as healthcare, education and banking and financial services have been the most active sectors in the past 12 months.

Other key industries have been adversely affected by the significant devaluation of the Egyptian pound, such as manufacturing. The adverse impact is a result of the massive shortage in raw materials due to the multiple economic turbulences over the past 12 months.

2. Overview of Regulatory Field

2.1 Acquiring a Company

The most common acquisition structures in Egypt involve the transfer of shares in joint stock companies (JSCs) and quotas in limited liability companies (LLCs).

JSC Share Transfer

Any transfer of shares of a JSC must take place through the Egyptian Exchange (EGX), regardless of whether or not the shares are listed. A licensed broker should be appointed to execute the share transfer in accordance with the transfer procedures set out by the EGX and the Financial Regulatory Authority (FRA).

Any transaction exceeding EGP20 million must be pre-approved by the EGX Pricing Committee, which convenes on a weekly basis to analyse and resolve on each envisaged transaction.

If the value of the transaction exceeds EGP100,000 or if the transfer involves a foreign party, the consideration of the transfer of unlisted shares must be deposited with a bank licensed by the Central Bank of Egypt (CBE). The competent committee at the EGX may, at its discretion, grant exceptions in this respect.

For the transfer of listed shares of a JSC, the Capital Markets Law provides that a person may acquire up to one third of the share capital or voting rights of a listed company through open-market transactions, voluntary tender offers or block trades. If the threshold of one third of the share capital is exceeded, whether through acquiring listed shares or shares in a company that has previously offered its shares by public subscription, the acquirer is obliged to submit a mandatory tender offer to the FRA to acquire up to 100% of the share capital of the company.

LLC Quota Transfer

Quotas of an LLC may be transferred through official or unofficial transfer agreements as prescribed under the articles of association of the company (with no involvement of the EGX). An official transfer agreement will require notarisation by a notary public and such notarisation will

be subject to an ad valorem fee. Quotaholders of an LLC enjoy a statutory right of first refusal on any quotas subject to transfer.

Sales of quotas of an LLC are finalised via the annotation of the transfer in the company's ledger. The articles of association of the LLC should also, for completeness, be amended to reflect the new shareholding structure.

2.2 Primary Regulators

The following authorities are deemed the primary regulators of M&A activity in Egypt:

- the EGX;
- the FRA;
- the General Authority for Investment and Free Zones (GAFI); and
- the Egyptian Competition Authority (ECA).

Depending on the activity undertaken by the target company and the geographic area from which it operates, other regulatory bodies might be involved; for example, the CBE.

2.3 Restrictions on Foreign Investments

Generally, foreigners can participate in the ownership of Egyptian companies pursuant to the applicable Egyptian laws. There are, however, specific activities that trigger foreign ownership restrictions, such as:

- a restriction on ownership and management of commercial agencies – companies undertaking said activities shall be fully owned and managed by Egyptian nationals;
- with regard to importation, the capital of companies importing for trading purposes must be at least 51% Egyptian-owned, while the remaining 49% may be held by non-Egyptians;

- with regard to ownership of land and real estate in the Sinai Peninsula, there is a complete prohibition on the ownership of land or buildings by foreigners;
- any commercial activity in the Sinai Peninsula must be made via an Egyptian JSC, with at least 55% of its share capital held by Egyptian nationals;
- any company owning desert land must be at least 51% Egyptian-owned, and a single individual may not own more than 20% of the capital; any Arab country national may be given reciprocal treatment (equal to that of Egyptian nationals) with respect to the ownership of the desert land, by virtue of a presidential decree;
- foreigners, whether natural or juristic persons, are prohibited from fully owning or holding usufruct rights for agricultural, arable or non-arable land located in Egypt; and
- companies undertaking security and money transfer activities must be fully owned by Egyptian nationals or by companies that are fully owned by Egyptian nationals.

Furthermore, the acquisition of companies undertaking certain activities may require the prior approval of a competent authority or authorities, such as:

- transferring or acquiring any microfinance portfolio or owning 10% or more of any company carrying out insurance and reinsurance activities requires the approval of the Prime Minister after obtaining the opinion of the competent minister;
- owning 10% or more of the share capital of any bank in Egypt requires the prior approval of the CBE; and
- any type of legal disposal of any private hospital or pharmaceutical factory requires

the approval of the Ministry of Health and Population.

2.4 Antitrust Regulations

The Egyptian Competition Law has been amended, and these amendments entered into force on the day following their publication in the Official Gazette (ie, 30 December 2022) (the “Amendments”).

According to the Amendments, a transaction must be filed with the ECA and approved prior to closing in cases where the following requirements are satisfied.

Economic Concentration

The transaction must involve an economic concentration. The Amendments define “economic concentration” as any change in the control of a person or several persons resulting from (i) a merger, (ii) direct or indirect acquisition of the capacity to control a person(s) by virtue of an agreement or through the purchase of financial securities, assets, shares or any other means, or (iii) the establishment of a joint venture which would exercise its economic activities independently from the entities having established the same and on a long-lasting basis.

Further, the Amendments introduced a definition of “control” to be the capacity of a person(s) to exercise effective influence on another party by guiding the economic decisions of the said party either based on the majority of the voting rights or based on the capacity of the controlling person to prevent another person from taking an economic decision (veto rights), or any other method. Furthermore, control includes any event, agreement or ownership of shares (regardless of the number of owned shares) that results in the effective control of the management or decision-making of another person.

Additionally, the Amendments provided a definition of “Material Influence” to be the capacity of a person(s) to influence the policy of another person either directly or indirectly. This includes its strategic decisions or commercial objectives as determined by the to-be-issued Executive Regulation.

Financial Thresholds

The envisioned transaction must satisfy one of the following financial thresholds:

Threshold number one

This threshold consists of two sub-thresholds that must be satisfied collectively as follows:

- local threshold in relation to all the Concerned Parties – the achieved combined annual turnover or the combined assets in Egypt pertaining to the Concerned Parties of the last year as reflected in their audited consolidated financial statements pertaining to such year exceed EGP900 million; and
- local threshold in relation to each of at least two of the Concerned Parties – the combined turnover of each of at least two of the Concerned Parties achieved in Egypt, as reflected in their latest audited consolidated financial statements, exceeds EGP200 million.

Threshold number two

This threshold consists of two sub-thresholds that must be satisfied collectively as follows:

- worldwide threshold – the worldwide combined annual turnover or combined assets pertaining to the Concerned Parties of last year, as reflected in their audited consolidated financial statements pertaining to the said year, exceed EGP7.5 billion; and
- local threshold – the combined turnover of at least one of the Concerned Parties achieved

in Egypt, as reflected in its latest audited consolidated financial statements, exceeds EGP200 million.

The executive regulations of these Amendments (“Executive Regulations”) is expected to clarify (i) the concept of “Concerned Parties”; (ii) details related to the definition of economic concentration; and (iii) the method of calculating the above annual turnover and the combined assets.

The ECA published a press release on 4 January 2023 in relation to the entry into force before the issuance of the Executive Regulations, whereby:

- transactions (mergers, acquisitions (including stock and asset deals), capital increases, and joint ventures) (“Transactions”) closed after 30 December 2022, but prior to issuance of the Executive Regulations shall not be subject to the pre-closing merger control regime; and
- transactions that will be closed after the issuance of the Executive Regulations shall be subject to the pre-closing merger control regime, if they satisfy the filing requirements, regardless of whether the relevant transaction documentation was signed prior to issuance of these regulations.

The ECA has already prepared the draft of Executive Regulations, which are expected to be enacted by the Prime Minister soon, pending the ministerial review of the draft.

2.5 Labour Law Regulations

The relationship between employers and employees is governed by the Egyptian Labour Law and the relevant decrees of the Ministry of Manpower.

Generally, the Labour Law favours and protects employees, as supported by court precedent rendered in favour of employees.

Although Egyptian law does not oblige employers to obtain the approval of, or consult, employees during the acquisition process, the applicable laws restrict an employer's ability to make changes to the workforce during such time. In an acquisition, employees' rights (including their acquired rights) remain protected and may not be discretionally limited or changed by the employer. Employee dismissals require a court order and are limited to specific instances where the fault of the employee can be proven.

2.6 National Security Review

For a foreign investor to invest in Egypt, whether a natural or juristic person, a security clearance, approving such person, shall be obtained.

3. Recent Legal Developments

3.1 Significant Court Decisions or Legal Developments

The most significant legal developments in Egypt in the past three years related to M&A are as follows.

- In February 2023, the CBE issued a decree requiring all companies, whether incorporated pursuant to the Companies Law or the Investment Law, to obtain the CBE's prior approval in order to undertake activities related to e-payment.
- In August 2022, the Egyptian Cabinet of Ministers issued a decree determining the criteria for a project to be deemed national or strategic in order to enable the company establishing such project to obtain the Golden Licence, which is issued by virtue of a

decree of the Cabinet of Ministers to replace all licenses required for the establishment, management and operation, allocation of property and acquisition of building permits of the relevant investment project. In 2023, the Egyptian Cabinet of Ministers issued another decree adding new types of projects/sectors to obtain the Golden Licence.

- In April 2022, foreigners who acquire 5% and its multiples of the shares or voting rights in listed companies that undertake activities in Sharm El-Sheikh, Dahab or Aqaba Gulf Touristic Area (which are all located in the Sinai Peninsula), are required to obtain the prior approval of the FRA, Ministry of Defense, Ministry of Interior and the General Intelligence Services.
- In February 2022, a new law regulating and developing the use of financial technology in the non-banking financial sphere was issued, which aims to introduce long-awaited rules governing the provision of non-banking financial services through technology mediums and aligns with the government's financial inclusion initiatives and its aim to foster the transition to a cashless society.
- In February 2022, the FRA issued a decree requiring the prior approval thereof to commence a due diligence process on non-banking financial institutions.
- In 2021, a new requirement was introduced by GAFI in relation to the incorporation of JSCs, whereby, as a prerequisite for incorporation, companies in the process of incorporation are now required to provide certain documents in respect of coding and registration with Misr for Central Clearing, Depository and Registry. The shareholders must now be coded and have a custodian prior to incorporation.
- In 2020, a new banking law was issued, in addition to the data protection law, that has

an indirect impact on M&A by encouraging foreign investors to invest in similar businesses.

- Finally, there have been legislative amendments that impact M&A, which include an amendment to the Companies Law in relation to preferred shares, whereby companies are now allowed to issue preferred shares, even if this was not provided for in their by-laws at incorporation, provided that the same is passed by an extraordinary general assembly (EGM) representing three quarters of the company's capital. At the outset, it was understood that there could be preferred shares which could be issued without limitation; however, shortly after the issuance of the amendment, GAFI issued a circular to limit the voting powers of holders of preferred shares, capped at a two-to-one ratio.

3.2 Significant Changes to Takeover Law

The most significant changes introduced to the Capital Markets Law are, inter alia, an increase of the mandatory tender offer threshold in the shareholding of a public company from 2% to 5%, amendments to the scenarios that trigger a mandatory tender offer (MTO) and the removal of the MTO requirement where a shareholder involuntarily came to acquire shares or control the voting rights in one of the companies regulated under this section.

Other significant enactments include the requirement to obtain a number of governmental approvals in the event of the acquisition of 5% or more of the shares of a listed company that operates in the Sinai Peninsula.

4. Stakebuilding

4.1 Principal Stakebuilding Strategies

The acquisition of a third or more of a stake in a company whose shares are listed on the EGX or a company that has previously undertaken an initial public offering (IPO) requires the launch of a tender offer by the bidder if the acquisition reaches the thresholds stipulated under the Capital Markets Law.

Stakebuilding is not common in Egypt; however, in the limited number of cases, stakebuilding did not exceed 5% or 25% of the capital of the target company in light of the disclosure obligations noted below.

4.2 Material Shareholding Disclosure Threshold

Pursuant to the Executive Regulations of the Capital Markets Law, the main shareholder is defined as any shareholder owning 10% or more of the share capital of the company, whether directly or indirectly through its related parties.

According to the EGX Listing Rules, the main shareholders of a company whose shares are listed on the EGX are bound by a number of disclosure and reporting requirements, principally the following:

- the main shareholders and their related parties shall disclose to the EGX their indirect ownership if it reaches 25% or more of the company's share capital, or of the capital of any other entity holding shares in the company;
- the main shareholders and their related parties shall notify the EGX if their shareholding exceeds or falls below 5% and its multiples of the company's share capital or voting rights (including shares acquired via the purchase of

subscription rights); such disclosure should include their direct ownership of shares or relevant global depository certificates;

- the main shareholders and their related parties shall disclose to the EGX their future investment plan and the main shareholder's views in relation to the management of the company if their acquired percentage reaches 25% or more of the company's capital or voting rights; and
- the main shareholders shall disclose to the EGX their ownership stake (directly or indirectly) and their related parties every six months (January and July).

4.3 Hurdles to Stakebuilding

Under Egyptian law, a company can introduce higher thresholds in connection with the voting threshold of the EGM. Other forms of hurdles include the entry into a management agreement and employee stock option plans vesting in the event of a change of control.

4.4 Dealings in Derivatives

There is no express provision governing the trading or marketing of derivatives per se. A new amendment to the Capital Markets Law includes the regulation of futures and derivatives, but still awaits the incorporation of a futures exchange as per Article (26) of the Capital Markets Law. Derivatives are customarily traded between Egyptian banks or government agencies, such as the CBE and the Ministry of Finance. The trading or marketing of derivatives is deemed a "banking activity" by the CBE.

The trading and marketing of derivatives is still not sufficiently tested before Egyptian courts, and therefore legal opinions on derivatives will include qualifications that they may be considered gambling, insurance or an FRA-regulated activity.

4.5 Filing/Reporting Obligations

There is no applicable information in this jurisdiction.

4.6 Transparency

Acquisitions of Private Companies

Generally, a shareholder is not legally required to disclose the purpose of a potential acquisition. However, the non-binding offer/term sheet preceding the conclusion of definitive agreements may include the acquirer's future plans and expansion strategy in respect of the potential transaction.

Acquisitions of Public Companies

Pursuant to the Capital Markets Law, the acquisition of shares of a listed company through the submission of a tender offer requires, inter alia, the disclosure of the offeror's plans in the draft tender offer and the disclosure in the memorandum of information of the offeror's general intentions vis-à-vis the minority shareholders.

5. Negotiation Phase

5.1 Requirement to Disclose a Deal

There is no statutory requirement to make any public announcement and/or disclosure for target companies whose shares are not listed on the EGX. Nonetheless, it is customary that the parties to a transaction agree an announcement to be made to the public following completion of the transaction.

Target companies whose shares are listed on the EGX or that have previously undertaken public subscription shall notify the FRA and the EGX if:

- the offeror has notified the target company of its intent to launch a tender offer, promptly upon becoming notified of the same;

- a binding or non-binding memorandum of understanding or letter of intent or similar agreement has been signed;
- a non-binding or binding agreement for conducting due diligence on the target company has been signed; or
- negotiations regarding a potential MTO have taken place.

5.2 Market Practice on Timing

Any disclosure or reporting requirements shall be fulfilled by the relevant person within the legally prescribed timelines, which are only extendable at the sole discretion of the regulator.

5.3 Scope of Due Diligence

There is no specific level of detail for a due diligence exercise as it depends on the following:

- the size of the acquisition – a majority stake acquisition would entail a bigger scope and detailed level of due diligence rather than the diligence undertaken for a minority stake acquisition;
- the commercial aspects of the deal as may be determined by the acquirer and subject to its risk appetite; and
- the type of company – the scope of the due diligence would be more comprehensive for a private acquisition rather than for a publicly traded company.

Generally, purchasers tend to undertake a full due diligence on the target company to examine the operations of the same from a legal standpoint. In addition to legal due diligence, a financial due diligence exercise is usually undertaken simultaneously 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 contains provisions relating to the same.

5.4 Standstills or Exclusivity

Typically, acquirers sign a non-binding offer that includes an exclusivity clause or sign an exclusivity agreement with the sellers to secure deal exclusivity during a specific period.

5.5 Definitive Agreements

Whilst it is not legally required to document the tender offer terms and conditions in a definitive agreement, the parties may mutually agree to conclude a share purchase agreement outlining the steps of the tender offer, which is common in negotiated transactions.

6. Structuring

6.1 Length of Process for Acquisition/Sale

The transfer of shares process usually takes up to five business days from the receipt by the broker of the share transfer documents in good order. If the transaction completion requires substantive governmental approvals, the timeline for the issuance of the same varies.

6.2 Mandatory Offer Threshold

Pursuant to the Executive Regulations of the Capital Markets Law, the acquisition of a stake in companies whose shares are listed on the EGX or companies that have previously undertaken a public offering of their shares requires the bidder to launch an MTO in any of the following events:

- the acquisition of one third or more of the issued share capital of the voting rights of the target company;
- where a person/entity owns solely, or together with its related parties, more than one third of

the issued share capital or the voting rights of the target company and less than 50% of the issued share capital or the voting rights, and its shareholding or voting rights increase by more than 5% within 12 consecutive months;

- the shareholding of a person/entity solely, or together with its related parties, reaches 50% of the share capital or voting rights of the target company;
- a person/entity owns solely, or together with its related parties, more than 50% of the issued share capital or the voting rights of the target company and less than two thirds of the issued share capital or the voting rights, and its shareholding or voting rights increase by more than 5% within 12 consecutive months;
- where a person/entity owns solely, or together with its related parties, more than two thirds of the issued share capital or the voting rights of the target company and less than 75% of the issued share capital or the voting rights, and its shareholding or voting rights increase by more than 5% within 12 consecutive months; and
- where the shareholding of a person/entity solely, or together with its related parties, reaches 75% of the share capital or voting rights of the target company.

6.3 Consideration

Cash consideration is the most common form of consideration; however, other forms may include share swaps and mixed (cash and shares) offers.

6.4 Common Conditions for a Takeover Offer

Common conditions for a takeover are limited to obtaining a majority of no less than 51% or 75%, as the case may be.

6.5 Minimum Acceptance Conditions

The minimum acceptance condition usual for tender offers is 51% or 75%, as the case may be.

6.6 Requirement to Obtain Financing

The Capital Markets Law requires a mandatory tender offer to be final and not to be subject to conditions (with a few exceptions). With respect to financing as a condition, the offer proposal submitted to the FRA must include a confirmation from a licensed bank in Egypt evidencing the availability of the financial resources to fund and cover the offer. Accordingly, unless there is a confirmation of financial solvency, the FRA will not accept the offer proposal. Subject to the parties' commercial agreement, financing may be structured as a condition (among other conditions) in asset-based transactions.

6.7 Types of Deal Security Measures

Deal security measures are agreed upon between the parties, including break-up fees and non-solicitation provisions. Furthermore, warranty and indemnity insurance is becoming more common in large transactions.

6.8 Additional Governance Rights

Minority shareholders have some rights conferred on them by the Companies Law and the articles of association of the company, which include the right of shareholders who hold at least 5% of the company's share capital to request the suspension of the general assembly's resolutions, noting that such request should have solid and serious grounds, such as that the resolutions should be prejudicial/detrimental to the minority shareholders or were issued for the benefit of a certain class of shareholders or for the personal benefit of board members or other parties.

Pursuant to the Companies Law, the articles of association may provide for a pro rata representation of shareholders on the board of directors of the company, not exceeding one seat per each 10% shareholding in the company's share capital.

Pursuant to the Companies Law, minority shareholders holding at least 10% of the share capital are entitled to request the inspection of the company regarding any material breach imputed to the board of directors or to the auditor. Furthermore, the shareholders are entitled to examine the books and records of the company.

The rights based on specific shareholdings are as follows:

- shareholders holding 5% of the share capital of a company are entitled to cause the board of directors to call an ordinary general assembly meeting to convene and include specific items on the agenda of such meeting;
- shareholders holding 10% of the share capital of a company are entitled to cause the board of directors to call an EGM to convene and include specific items on the agenda of the meeting;
- shareholders holding more than 25% of the share capital of a company may veto EGM resolutions pertaining to increases or decreases of the capital or liquidation/dissolution of the company before its term, or a change of the company's objectives, or its spin-off; and
- shareholders holding more than 33.33% of the share capital of a company may veto any EGM resolution.

6.9 Voting by Proxy

A shareholder has the right to authorise another shareholder or any third party to attend a general

assembly meeting and vote on their behalf by virtue of a written proxy, subject to any restrictions stipulated under the applicable laws and the articles of association of the relevant company. A shareholder who is not a member of the company's board of directors shall not be entitled to authorise a board member to attend the general assembly on their behalf.

6.10 Squeeze-Out Mechanisms

The squeeze-out mechanism is not recognised under Egyptian law; thus, there is no mechanism available to compel minority shareholders to sell their stakes. Conversely, the Capital Markets Law entitles minority shareholders to request and oblige majority shareholders to acquire their minority stake.

If a party, alone or through related parties, acquires 90% or more of the issued share capital and voting rights of a listed company, any of the remaining shareholders holding 3% of the issued share capital or at least 100 shareholders representing not less than 2% of the shares in circulation may, during the 12 months following the acquisition by a majority shareholder of the above-mentioned percentage, request the FRA to require the majority shareholder to launch a tender offer to acquire the shares held by the minority shareholders. If such a request is accepted by the FRA, it shall notify the majority shareholder, who shall be obliged to submit an MTO during the period determined by the FRA.

Also, pursuant to the Companies Law, any merger must be approved by an EGM resolution. Shareholders who objected to the resolution for the merger at such EGM or those who did not attend such EGM for a valid reason may demand the buyout of their shares by the company via a written request, which should be received by

the company within 30 days from the date of publication of the merger decision.

6.11 Irrevocable Commitments

It is common to obtain irrevocable commitments to tender or vote by principal shareholders of the target company in Egypt and the same usually takes place prior to disclosure of the transaction.

7. Disclosure

7.1 Making a Bid Public

A bid is made public once the target company officially obtains the same or upon execution of any documentation requiring disclosure.

Furthermore, an MTO should be published on the EGX screens once it is approved by the FRA. The offeror should publish the MTO via the means of publication specified by the FRA (eg, in widely circulated newspapers) within two business days of the date of the FRA's approval of the MTO.

7.2 Type of Disclosure Required

Companies that are subject to the provisions of the Capital Markets Law shall notify the FRA in the event of the issuance of new shares and shall provide the FRA with all documents and information required in this respect. Similarly, companies subject to the provisions of the Companies Law shall notify GAFI in the event of the issuance of new shares by providing GAFI with the minutes evidencing the recommendations of the board and the approval of the shareholders.

7.3 Producing Financial Statements

Pursuant to the provisions of the Capital Markets Law, in the case of an acquisition through the submission of a tender offer, the memorandum of information submitted by the bidder to the

FRA should include a summary of the financial statements of the offeror for the last three financial years (save for a cash tender offer) or from the date of incorporation (if the company has been incorporated for less than three years).

The financial statements of Egyptian companies should be prepared in accordance with Egyptian accounting standards as per the applicable laws.

7.4 Transaction Documents

Whilst generally there is no legal requirement to disclose transaction documents, in the case of an acquisition of shares through the submission of a tender offer, the memorandum of information submitted by the offeror to the FRA should include details of any related agreements concluded by the offeror, or of which the offeror is aware.

8. Duties of Directors

8.1 Principal Directors' Duties

Directors have fiduciary duties towards the shareholders, and they must safeguard the company's and shareholders' interests. In relation thereto, directors must ensure that there is no conflict of interest between their actions and those of the company.

8.2 Special or Ad Hoc Committees

Special and/or ad hoc committees are not a common feature in the Egyptian market.

8.3 Business Judgement Rule

Business judgement rules are not common in the Egyptian market.

8.4 Independent Outside Advice

There is no compulsory advice to be obtained by the directors of a company. However, the officers of the company may obtain, subject to their discretion, an opinion from an adviser based in the jurisdiction in which the target or any of its affiliates is situated.

8.5 Conflicts of Interest

Whilst conflicts of interest of directors, managers, shareholders or advisers have been, and continue to be, the subject of regulatory scrutiny, they have not been subject to judicial review.

9. Defensive Measures

9.1 Hostile Tender Offers

Hostile acquisitions are permitted but are not a common feature in the Egyptian market.

9.2 Directors' Use of Defensive Measures

Defensive measures are not a common feature in the Egyptian market.

9.3 Common Defensive Measures

The Companies Law does not regulate directors, their roles, responsibilities and duties in the same manner as in other jurisdictions; therefore, defensive measures are not a common feature in the Egyptian market.

9.4 Directors' Duties

No information is available in this jurisdiction.

9.5 Directors' Ability to "Just Say No"

Directors can "just say no" and take action that prevents a business combination.

10. Litigation

10.1 Frequency of Litigation

In Egypt, parties usually agree to arbitration as the method of dispute resolution for enforceability purposes since Egypt is a party to the New York Convention on the Recognition and Enforcement of Arbitral Awards. However, litigation/arbitration is not common in connection with M&A deals in Egypt.

10.2 Stage of Deal

There is no applicable information in this jurisdiction.

10.3 "Broken-Deal" Disputes

No information is available in this jurisdiction.

11. Activism

11.1 Shareholder Activism

Shareholder activism is not common in Egypt. In the rare cases it occurs, it has been limited to board representation and scrutiny in connection with related-party transactions.

11.2 Aims of Activists

Due to confidentiality reasons, the details of most transactions are not known to the public or to any individual who is not connected to the transaction. Nonetheless, it is customary that the parties to a transaction agree on an announcement to be made to the public following completion of the transaction.

11.3 Interference With Completion

Activism is not common in Egypt.

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