

## Client Alert: Banking Without Banks? The Regulation of Fintechs in Egypt

By Dr. Kilian Bälz and Laila Rizk

*As Uber has transformed the taxi-business, Fintechs are challenging the role of banks as the sole providers of financial services. The “Digital Banking Manifesto” published by MIT in 2016 predicts disruptive change in the financial services industry that will lead to the “end of banks”. This client alert examines the regulatory position of alternative, technology-based providers of financial services in Egypt. While the Fintech industry in Egypt is growing, there are still significant regulatory hurdles to overcome.*

### “Fintechs”

Fintechs are companies that provide financial services by using information technology. Over the last couple of years, the Egyptian market has developed slowly but steadily, with the number of Fintech startups gradually increasing. Business models include the following:

- **Peer to peer lending** involves web-based platforms that intermediate credit transactions directly between lenders and borrowers. A company that requires funds to purchase an asset looks for “investors” who then either provide a loan or lease the asset.
- **Collective saving schemes** have a long tradition in Egypt but their application is being thoroughly transformed through developments in IT. A group of people make contributions to the scheme, and from the funds so collected investments of the members are financed, each at his or her turn. This would be the basis of e.g. Money Fellows.
- **Saving apps** such as *Feloosy* assist people in saving money for a particular investment. A saving app works like a saving plan as it reminds the participant of the sum that needs to be set aside; however it could also be used to make automatic transfers to a savings account.
- **Crowd funding** is a mechanism through which a business<sup>1</sup> can collect capital for a specific project or venture from a large group of supporters, usually raising larger amounts of small sums via the internet. It is similar to a capital increase; the investors’ return however does not consist of shares. A service provider organizes the process and acts as trustee in collecting (and releasing) the funds. There are several crowd funding platforms operating in Egypt, including *Zoomaal*, *Shekra* and *Tennra*.

---

<sup>1</sup> To the extent crowd-funding-schemes are used to raise funds for non-profit projects, in addition the rules of the NGO Law No. 70 for 2017 apply.

- **E-payment networks** such as *Fawry* and *Aman*<sup>2</sup> create payment networks for the payment of bills and funding consumer commodities. The service providers aim is to increase the availability of financial services to social groups excluded from the traditional financial sector in Egypt.
- **Micro-Insurance** aims to increase access to insurance to the socio-economic segments of the Egyptian population who are not covered by the conventional insurance sector. This is primarily achieved through e-platforms and mobile apps.
- **Cryptocurrency** is a medium of exchange of value not usually issued by a central bank or public authority, which is created and stored electronically on a distributed ledger or blockchain, using encryption techniques to control the creation of monetary units and to verify the transfer of funds. Bitcoin, Litecoin and Ripple are well-known examples.

As the market develops, many regulatory issues remain to be resolved. Text, Times New Roman 12pt

### The Regulatory Framework

There is a fundamental distinction between the regulation of the banking business and the regulation of non-banking financial services in Egypt.

#### Banking

Under Article 31 of the Central Bank Law (Law No. 88 of 2003), any banking activity requires prior authorization of the Central Bank of Egypt (“CBE”). Banking activity is defined as “any activity which essentially and habitually entails the acceptance of deposits, obtaining financing, and investing these monies in the provision of financing and credit facilities, participating in capitals of companies, and all that which the banking custom considers a banking activity”. The law provides, among other things, that a bank must be incorporated as an Egyptian joint stock company (SAE) or public entity with a minimum fully paid in capital of EGP 500 million or be a branch of a foreign bank.

The law defines “banking activities” broadly, encompassing all transactions that are customarily considered as banking transactions. This includes, as a matter of principle, deposit taking, lending and money transfers, as well as FOREX transactions. In addition, the Central Bank oversees e.g. exchange bureaux and has issued guidelines for mobile banking transactions. At the same time, the law focuses on institutions based in Egypt.

Given the strict regulatory requirements, and in the absence of the law providing for any ad hoc exemptions, it is very difficult, if not impossible, for a start up to obtain a banking license. In addition, the CBE has been reluctant to license new market entrants if they wish to establish new banks rather than acquire stakes in existing banks.

#### Non-Banking Financial Services

The regulator responsible for non-banking financial services is the Egyptian Financial Regulatory Authority (“FRA”, formerly “EFSA”). However, there is no uniform regulatory framework for non-banking financial services. Instead, a patchwork of legal regulations applies to different services and service providers:

- Financial leasing is subject to the Financial Leasing Law No. 95 of 1995.
- Real estate finance is subject to the Real Estate Financing Law No. 148 of 2001.

---

<sup>2</sup> Both Fawry and Aman announced recently having obtained a temporary microfinance license.

- Insurance, also the offering of electronic insurance policies, is subject to Law No. 10 of 1981 and its executive regulations, as amended by Law No. 118 of 2008, and the FRA Regulations No. 122 of 2015, and 729 of 2016, 730 of 2016, and 805 of 2016.
- Microfinance is subject to the Microfinance Law (Law No. 141 of 2014) and the FRA Regulations No. 141 of 2014, 172 of 2014, and 173 of 2017.

The regulatory requirements vary from one activity to the other. With the exception of insurance, however, the capitalization and other requirements are significantly more relaxed than under the Central Bank Law. Notably, there is no general regulation of financial advice or financial intermediation.

At present, arguably the most dynamic sector of non-banking financial services is microfinance. Since the promulgation of the new Microfinance Law in 2014, a number of microfinance institutions have been established in Egypt, often with the participation of international investors. In spite of a well-established banking industry in Egypt with a long tradition, Egypt remains “underbanked” with many consumers not having a bank account and smaller businesses not having access to finance. However, microfinance institutions in Egypt operate in narrowly defined parameters. Art. 2 of the Microfinance Law defines microlending as any finance granted for production, services, or commercial purposes up to a value of EGP 100,000 (equivalent to around EUR 5,000).

### Business Structures

Given the broad definition of “banking business” in the Central Bank Law, many of the aforementioned activities will qualify as “banking activities” or “regulated financial services” in Egypt.

This can raise challenges for Fintech startups, as hardly any of them will qualify for a banking license.

There however are a number of structures that permit startups to work around the regulatory framework.

- If appropriate, Fintech startups could consider rendering services from outside Egypt. According to the predominant view, a financial services provider is only subject to regulation in Egypt if it has a presence there. Operating from abroad, however, will significantly restrict the business activities. It normally is not feasible when targeting the consumer market.
- An alternative would be to partner with a regulated financial services provider. The provider of a payment app, e.g., could partner with a bank so that the actual money transfer would be carried out by a regulated institution in the official market, subject to obtaining a telecom license, depending on the actual scope of the service to be provided. The Fintech here would assist the bank in interfacing with the customer. The actual money transfer would be carried out by a licensed financial institution.
- Finally, a Fintech can go through the licensing process. Although a full banking license may not be a realistic goal for many Fintech startups, obtaining a license for “financial leasing” or “micro lending” is much easier. A Fintech engaging in peer to peer lending could, for example, lease the asset to the end customer instead of granting a loan. Fulfilling the regulatory requirements under the Financial Leasing Law will be more realistic than obtaining a banking license.

### Outlook

At the time of writing, the Central Bank Law is being reviewed and it is expected that far reaching amendments may be implemented soon. This, notably, would also provide the opportunity to create space for innovative financial services. Such a development is likely to follow the same or similar path as the discussion about Uber and Careem, which were at first looked at with a very critical eye seeing that such services were new to the Egyptian market. After a long debate over the concerns of various stakeholders, and in view of a protracted legal battle, a draft law regulating passenger transport in

private cars using electronic platforms is currently being reviewed by the State Council, pending final deliberation and approval by the Parliament.

---

**If you would like more information about this topic then please contact us.**

Kilian Bälz  
Partner  
Berlin / Cairo  
[kb@amereller.com](mailto:kb@amereller.com)

Leila Rizk  
Associate  
Cairo  
[LailaR@amereller.com](mailto:LailaR@amereller.com)

**BERLIN** | Amereller Rechtsanwälte | Kurfürstenhöfe | Spreeufer 5 | 10178 | Berlin | Germany  
Tel: +49 30 609 895 662

**CAIRO** | MENA Associates in association with Amereller | GIC Tower | 21 Soliman Abaza St. | Mohandessin | Giza | Egypt  
t: +20 2 376 26 201

**This client alert is a public document for informational purposes only and should not be construed as legal advice. Readers should not act upon the information provided here without consulting with professional legal counsel. This material may be considered advertising under certain rules of professional conduct.**

Copyright © 2018