

Egyptian Fintech Regulation: The Central Bank of Egypt Issues New Regulations Addressing Payment Service Providers

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In May 2019, the Central Bank of Egypt (“CBE”) enacted regulations governing payment service providers, following the recent trend of increased regulation targeting the fintech industry.

Payment Service Providers

A payment service provider (“PSP”) offers online services that allow clients (referred to as merchants) to accept electronic payments through a variety of methods, including credit card, debit card, and real-time bank transfer. Typically, PSPs also provide an IT platform that facilitates multiple payment methods for merchants. For example, an online shopping portal would use a PSP to settle transactions and allow the consumer to select from different payment methods on a single web page.

The New CBE Regulations

Enacted in May, the new CBE Regulations (the “**Regulations**”) mark the first time it has subjected PSPs to regulation; however, this development is in line with an overall increase in oversight of the fintech industry in Egypt.

Scope of Application

Interestingly, the Regulations incorporate an indirect regulatory approach, rather than subject PSPs directly to regulation.¹ Instead, banks who intend to use PSPs must comply with the Regulations, which provide, in part, that a bank may not contract with a PSP without CBE approval (Section 10).

This focus on banks as the regulatory subject limits the Regulations’ applicable scope to financial institutions subject to CBE supervision. Traditionally, CBE follows a territorial approach, whereby only financial institutions with a physical presence in Egypt are subject to CBE supervision. Therefore, as the Regulations are currently understood, PSPs who target the Egyptian market from abroad without contracting with an Egyptian bank are outside the CBE’s regulatory scope.

Additionally, the Regulations distinguish between technical payment aggregator services providers and payment facilitators. Both service providers offer technical platforms to collect payments on behalf of merchants; however, a payment facilitator, unlike a technical payment

¹ For reference, EU Directive 2015/2366 uses a direct approach, requiring PSPs to obtain a license (Article 11).

aggregator services provider, receives payments into an account in its own name before forwarding the proceeds to the merchant as part of the settlement procedure.

Regulatory Obligations

Under the Regulations, banks are required to enter into formal contracts with PSPs that, *inter alia*, address each of the following points:

- Determining the contractual relationship's scope and service level
- The parties' non-disclosure obligations
- The possibility of suspending services with sub-merchants
- Implementing risk management systems
- The possibility of regular audits, including from the CBE
- Remedies for events of default
- Restrictions on subcontracting

Moreover, banks are required to actively control and supervise the PSP's activities, including the selection of merchants to be included in the PSP's scope of services. This oversight includes verifying compliance with regulatory rules by all parties (particularly AML regulations) as well as ensuring that merchants listed with the PSP do not engage in any prohibited activities, which include but are not limited to dealing in virtual currencies, gambling, and lottery games, as well as crowd funding.

For payment facilitators who receive payments into their accounts, under the Regulations, they must: (i) have a physical office in Egypt and register its presence in the commercial register, (ii) maintain an address in Egypt, and (iii) have a website. Banks contracting with payment facilitators must request a guarantee for an amount equivalent to three daily collections. Furthermore, the payment facilitator must operate a separate account for the funds received from customers, transfer amounts received within three working days (at most), and settle all transactions in local currency (Egyptian Pound (EGP)).

Outlook

The new Regulations are welcome as they bring some clarity to a growing industry in Egypt that has, so far, suffered from regulatory piecemeal. As always, the implementation of the new Regulations in practice remains to be awaited. Moreover, a new banking act presently is discussed in Parliament, that also is expected to extent to PSPs and to establish a comprehensive regulatory framework for the fintech industry.

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

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