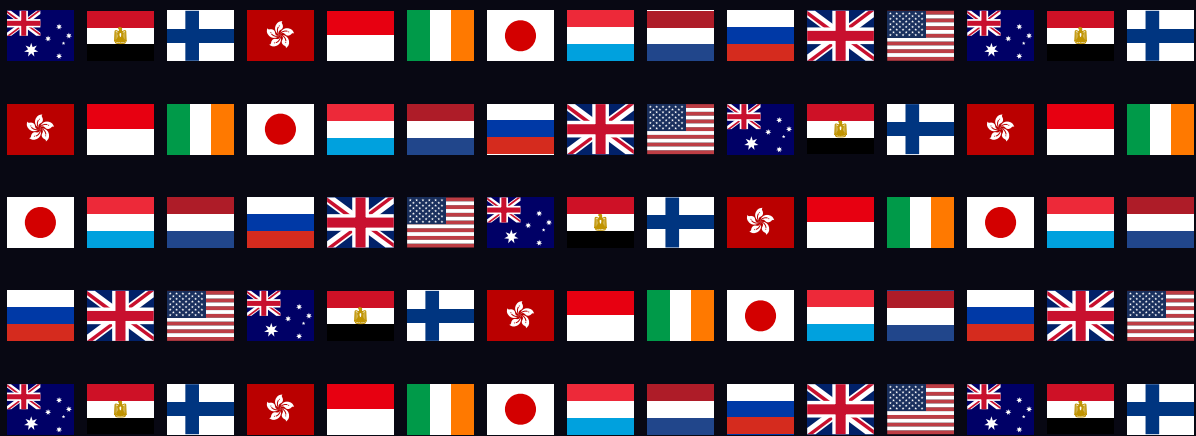


FINANCIAL SERVICES COMPLIANCE

Egypt



Financial Services Compliance

Consulting editors

Zachary J. Zweihorn

Davis Polk & Wardwell LLP

Quick reference guide enabling side-by-side comparison of local insights, including into the regulatory framework; registration and authorisation regimes; enforcement; compliance programmes; cross-border regulation and international standards; and other recent trends.

Generated 28 February 2023

The information contained in this report is indicative only. Law Business Research is not responsible for any actions (or lack thereof) taken as a result of relying on or in any way using information contained in this report and in no event shall be liable for any damages resulting from reliance on or use of this information. © Copyright 2006 - 2023 Law Business Research

Table of contents

REGULATORY FRAMEWORK

Regulatory authorities
Authorisation regime
Legislation
Scope of regulation
Additional requirements

ENFORCEMENT

Investigatory powers
Disciplinary powers
Tribunals
Penalties

COMPLIANCE PROGRAMMES

Programme requirements
Gatekeepers
Directors' duties and liability
Private rights of action
Standard of care for customers
Rule-making

CROSS-BORDER ISSUES

Cross-border regulation
International standards

UPDATE AND TRENDS

Key developments of the past year

Contributors

Egypt



Frederic Soliman

f.soliman@shandpartners.com

Soliman, Hashish & Partners

SOLIMAN, HASHISH & PARTNERS
LAW FIRM



Laila Aziz

laila.aziz@shandpartners.com

Soliman, Hashish & Partners

REGULATORY FRAMEWORK

Regulatory authorities

What national authorities regulate the provision of financial products and services?

There are two main national authorities in Egypt regulating financial products:

- The Central Bank of Egypt (CBE), which is governed by the Central Bank and Banking System Law No. 194 of 2020 (the Banking Law), and regulates all banking and monetary activities.
- The Financial Regulatory Authority (FRA), established by virtue of Law No. 10 of 2009 and its Executive Regulations, and which is governed by the Capital Markets Law No. 95 of 1992 and its Executive Regulations (the Capital Market Law), and regulates all non-banking financial products and services.

Law stated - 19 January 2023

What activities does each national financial services authority regulate?

The CBE regulates entities practicing banking activities, including, inter alia, credit guarantee, monetary transfer, foreign currency exchange, acceptance of deposits, extending loans and facilities, credit facilities, credit reporting and rating, activities related to payment systems and services, financial settlements, depository registration and central custody of government securities and financial instruments.

The FRA regulates entities practicing non-banking activities including, inter alia, financial leasing, mortgage finance, capital market activities, private insurance funds, securitisation, custodian activity, consumer finance, microfinance activity, governmental insurance funds, insurance activity and future exchanges.

Law stated - 19 January 2023

What products does each national financial services authority regulate?

The CBE regulates certificates, treasury bonds, treasury bills, repurchase agreements, e-money, banknotes and deposits.

The FRA regulates investment funds, securities (such as shares, bonds and financing instruments), and contracts related thereto including, inter alia, insurance, consumer finance, financial leasing, factoring, microfinance and mortgage finance.

Law stated - 19 January 2023

Authorisation regime

What is the registration or authorisation regime applicable to financial services firms and authorised individuals associated with those firms? When is registration or authorisation necessary, and how is it effected?

According to the Banking Law, a licence and registration shall be granted by the CBE to undertake any banking activities. A licence request shall be submitted to the CBE's Governor and board of directors prior to undertaking any banking activities. However, preliminary approval may be granted based on specific conditions.

According to the Capital Market Law, a prior licence shall be granted by the FRA in order to conduct any financial entities practising non-banking financial services.

Law stated - 19 January 2023

Legislation

What statute or other legal basis is the source of each regulatory authority's jurisdiction?

The Banking Law is the main legal basis for banking and monetary activities. However, the CBE's board of directors issues decrees and/or circulars regulating such activities.

The FRA's legal basis includes the Capital Market Law, Mortgage Finance Law No. 148 of 2001 and its Executive Regulations (the Mortgage Finance Law), Microfinance Law No. 141 of 2014 (the Microfinance Law), Consumer Finance Law No. 18 of 2020 (the Consumer Finance Law) and Finance Leasing and Factoring Law No. 176 of 2018.

Law stated - 19 January 2023

What principal laws and financial service authority rules apply to the activities of financial services firms and their associated persons?

The Banking Law and decrees and circulars issued by the CBE's board of directors are the principal laws and rules applicable to banking and monetary activities.

The Capital Market Law, Mortgage Finance Law, Finance Leasing and Factoring Law, Consumer Finance Law, Supervision on Non-Banking Financial Markets, Microfinance Law and the decrees issued by the FRA's board of directors are the principal laws applicable to non-banking activities.

Law stated - 19 January 2023

Scope of regulation

What are the main areas of regulation for each type of regulated financial services provider and product?

A license shall be obtained from the CBE or the FRA for any entity that seeks to conduct the regulated activities. The requirement and process to obtain such licence differs, depending on the types of activity conducted.

Banking activities require disclosure obligations to clients and notification to the CBE in the event of any amendments of the by-laws or any other information related to the service provider in addition to standards of, inter alia, transparency and protection of customers' rights.

Furthermore, the CBE's board of directors stipulates rules related to the supervision, control, investment fields and provision of credit facilities that apply to all banks.

On the other hand, in accordance with the Capital Market Law, financial entities practicing non-banking activities are obliged to disclose obligations to the FRA, clients or stock exchanges, in the majority of their activities, such as the subscription process. In addition, they are also obliged to notify the FRA in certain cases with specific information. The FRA's board of directors may issue rules regulating the disclosure obligation in certain cases.

Law stated - 19 January 2023

Additional requirements

What additional requirements apply to financial services firms and authorised persons, such as those imposed by self-regulatory bodies, designated professional bodies or other financial services organisations?

The personnel of companies that conduct the regulated activities may be subject to the rules and regulations of other financial services, self-regulatory or other professional bodies.

With reference to the CBE, the President of the Arab Republic of Egypt shall issue a decision to appoint the CBE's Governor. Furthermore, the individual who holds the position as the CBE's Governor and those who are on the CBE's board of directors must meet specific requirements in order to be eligible for that position, for instance, maintaining a good reputation, holding Egyptian nationality with parents of Egyptian nationality, must not have been previously dismissed from employment, and is not be a member of the government.

Furthermore, the FRA's Chairman of the board of directors and the FRA's members of the board of directors shall be appointed by virtue of a prime ministerial decree.

Law stated - 19 January 2023

ENFORCEMENT

Investigatory powers

What powers do national financial services authorities have to examine and investigate compliance? What enforcement powers do they have for compliance breaches? How is compliance examined and enforced in practice?

The employees of the Central Bank of Egypt (CBE) and the Financial Regulatory Authority (FRA) may be granted law enforcement capacity to deal with any breach of laws or regulations related to their governing activities.

For instance, the CBE and the FRA may appoint an observer on the board of the legal entity for a certain period, oblige any entity violating the law and/or regulations to increase the insurance amount and/or to suspend any breaching individual or the entity's licence. The CBE and the FRA may also impose fines.

Law stated - 19 January 2023

Disciplinary powers

What are the powers of national financial services authorities to discipline or punish infractions? Which other bodies are responsible for criminal enforcement relating to compliance violations?

With respect to financial entities practising banking activities, the CBE may impose disciplinary actions against any bank in violation of the provisions of the Banking Law. These disciplinary actions include without limitation, withdrawal of the licence, imposing restrictions on the licence and imposing financial penalties.

In reference to financial entities practising non-banking activities, the FRA may impose disciplinary actions against any entity in violation. These disciplinary actions include, without limitation, withdrawal of the licence, restricting the licence, prohibiting entry into new contracts for a certain period, dismissal of the board of directors of the company in violation and imposing financial penalties.

Law stated - 19 January 2023

Tribunals

What tribunals adjudicate financial services criminal and civil infractions?

The Economic Courts maintain full jurisdiction over all criminal and civil infractions relevant to financial entities practising banking activities and financial entities practicing non-banking activities.

Law stated - 19 January 2023

Penalties

What are typical sanctions imposed against firms and individuals for violations? Are settlements common?

With respect to the financial entities practising banking activities, the CBE may impose disciplinary actions against any bank in violation of the provisions of the Banking Law. These disciplinary actions include without limitation, withdrawal of the licence, imposing restrictions on the licence and imposing financial penalties. Furthermore, the penal sanctions (eg, fines and/or imprisonment) may be imposed by the competent court as provided for in the Banking Law.

In reference to financial entities practising non-banking activities, the FRA may impose disciplinary actions against any entity in violation. These disciplinary actions include without limitation, withdrawal of the licence, restricting the licence, prohibiting entry into new contracts for a certain period, dismissal of the board of directors of the company in violation and imposing financial penalties. In addition, penal sanctions (eg, fines or imprisonment, or both) may be imposed by the competent court as stipulated in the relevant laws.

It is worth noting that settlements for either the financial entities practising banking activities or non-banking activities are available in certain cases.

Law stated - 19 January 2023

COMPLIANCE PROGRAMMES

Programme requirements

What requirements exist concerning the nature and content of compliance and supervisory programmes for each type of regulated entity?

According to the Banking Law, each bank performing banking regulated activities, shall be committed to setting internal policies in which they shall adhere to the rules of governance and internal control in accordance with the rules issued by the Central Bank of Egypt (CBE)'s board of directors. Each bank shall submit to the CBE monthly, weekly and daily statements on its financial position and other financial and supervisory data.

For non-banking financial activities, all regulated financial entities shall be required to draw up a written internal regulation, one month prior to the date of its licence to practise its activity, including the entity's work system and procedures to be adhered to by its managers and employees. The entity shall be required to notify the Financial Regulatory Authority (FRA) with a copy of these internal regulations within one week of the date of the entity's licence approval thereof. The entity shall be obliged to modify the provisions of its by-laws in accordance with any amendment in the law or by-laws and notify the FRA thereof within one week of the effective date of the amendment.

Law stated - 19 January 2023

Gatekeepers

How important are gatekeepers in the regulatory structure?

As a general rule, the gatekeepers of the CBE are composed of a governor appointed by a presidential decree and a board of directors presided over by the Governor. The CBE's board of directors is the competent authority to set the regulations and policies of the CBE, and supervise their implementation, and for this purpose it has all the necessary powers, which includes, inter alia, granting preliminary approval to financial entities practising banking activities, and shall outline the rules for the control and supervision of banks and the controls related to their activities, and may impose specific standards, controls or rules on any bank if the circumstances so require.

Furthermore, all licensed banks shall be required to obtain prior approval from the Governor of the CBE prior to appointing their financial heads and seniors.

The FRA's board of directors is competent to set the executive rules to regulate the activities, and to license all financial entities practising non-banking activities, including setting particular conditions for the composition of the board of directors of such financial entities.

Law stated - 19 January 2023

Directors' duties and liability

What are the duties of directors, and what standard of care applies to the boards of directors of financial services firms?

According to the Banking Law, the board of directors of financial entities practising banking activities shall be required to comply with the following regulations:

- comply with the provisions of the Banking Law, regulations, CBE decisions, instructions and internal policies, and report any serious violations thereof to the CBE;
- develop effective strategies and systems for risk management, preserve their assets, adequacy of their financial and non-financial resources, and develop the necessary plans to maintain their entity;
- conduct its work in a transparent manner and with complete integrity;
- conduct due diligence in accordance with banking principles and customs, for the protection of the rights of customers;
- apply the rules of governance and internal control, succession plans, enhance competition, and develop work systems and environment;
- deal with the CBE with credibility and transparency; and
- work to prevent conflicts of interest and develop effective frameworks for their management.

The financial entities practising non-banking regulated activities shall be required to follow the FRA's governance rules as follows:

- governance requirements in terms of the composition of the board of directors, its committees, and the required disclosures and their timings;
- controls for determining financing ratios;
- minimum impairment calculation and provisions for doubtful financing;
- adopt regulations for anti-money laundering and anti-terrorist financing, taking into account the instructions

issued by the anti-money laundering and anti-terrorist financing unit, after all the required coordination with the concerned authorities; and

- prepare periodic and annual financial statements in accordance with Egyptian accounting standards, and the FRA's board of directors shall issue a resolution on the other rules for preparing the financial statements and the dates of their preparation to be submitted to the FRA.

Law stated - 19 January 2023

When are directors typically held individually accountable for the activities of financial services firms?

The Banking Law provides that in the event that it is proven that the responsible director is aware of any violations of the Banking Law and/or that the infraction was committed due to the director's breach of the duties of their managerial job, this director may be punished with the same penalties prescribed for acts committed in violation of the provisions of the Banking Law.

Furthermore, the FRA governance rules provides that all persons, whether holding managerial positions or not in financial entities practising non-banking activities, may be held accountable for violations of the FRA governance rules and non-compliance with all the required conditions and procedures, on the condition that such person committed the prescribed violation.

Law stated - 19 January 2023

Private rights of action

Do private rights of action apply to violations of national financial services authority rules and regulations?

The Banking Law stipulates that the CBE's board of directors shall issue a regulation organising the rights of customers, including in particular the commitment of the licensed financial entities practising banking activities to the following, inter alia, provide a fast and free mechanism to deal with customer complaints fairly, transparently and effectively in the event of a violation of the Banking Law, the CBE rules and regulations by the licensed financial entities practising banking activities.

For any violation related to financial entities practicing non-banking activities, the customers shall have the right to file complaints to the FRA and the latter may take the necessary disciplinary actions, in addition to the customer's right to file a case for indemnification in the event of damage resulting from such violation to the customer.

Law stated - 19 January 2023

Standard of care for customers

What is the standard of care that applies to each type of financial services firm and authorised person when dealing with retail customers?

The Banking Law provides that the board of directors of the CBE shall issue a regulation organising the rights of customers, including in particular the commitment of licensed financial entities practising banking activities to the following:

- transparent and credible disclosure of material data and information for the services it provides;

- formulate the terms and conditions of service contracts in a clear and understandable manner for all categories of customers;
- deal with customers without discrimination in accordance with the principles of justice, fairness and credibility;
- ensure that financial entities performing customer services comply with the rules for protecting customer rights, without prejudice to the responsibility of financial entities for any damage caused to customers as a result;
- provide secure systems that ensure the integrity and confidentiality of customer data and accounts; and
- publication of a list of prices and basic data for the services it provides.

The FRA regulating the non-banking activities requires all financial entities practising non-banking activities to deal with customers based on a standard rule of care, including, inter alia: (1) disclosure requirements according to different customer categories; (2) confidentiality of customers' accounts in application of the Data Protection Law No. 151 of 2020; and (3) protection of customers' right to file complaints against financial entities in breach of the FRA's requirements and conditions.

Law stated - 19 January 2023

Does the standard of care differ based on the sophistication of the customer or counterparty?

The standard of care shall remain the same for all customers of financial entities practising banking and non-banking activities.

Law stated - 19 January 2023

Rule-making

How are rules that affect the financial services industry adopted? Is there a consultation process?

The rules affecting the financial services industry in the practice of banking and non-banking activities shall be adopted as follows:

- the Banking Law stipulates that members of the CBE's board of directors may participate in the issuance process for the laws relevant to banking activities by providing their opinions regarding the said laws;
- the Banking Law provides that the CBE's board of directors adopt regulations, circulars and instructions, declared for all financial entities practising banking activities, whereby the CBE's board of directors shall be composed of the Governor, and seven non-executive members with experience in economic, monetary, banking, financial, legal, accounting or information technology matters;
- all FRA rules and regulations, affecting the financial services industry, shall be adopted by a board of directors composed of a chairman and the membership of two vice-chairmen, one of the two Deputy Governors of the CBE selected by the Governor of the CBE and five members with experience in the economic, financial and legal fields; and
- The House of Representatives' Economic Affairs Committee formed in accordance with Law No. 1 of 2016 regarding the issuance of the internal regulations of the House of Representatives, shall study and express an opinion on draft legislation, proposed legislation, and decrees related to the FRA's governance rules. Therefore, financial entities practising non-banking activities shall be required to comply with such adopted legislation assessed by the House of Representatives' Economic Affairs Committee.

Law stated - 19 January 2023

CROSS-BORDER ISSUES

Cross-border regulation

How do national financial services authorities approach cross-border issues?

All financial entities practising banking activities in Egypt shall be required to be exclusively subject to the provisions of the Banking Law No. 194 of 2020, as such entities shall be fully licensed and registered with the Central Bank of Egypt (CBE) and their first board of directors' appointment shall be approved by the CBE's Governor.

The same rule applies to non-banking financial services regulated under Egyptian law. Any legal entities performing any regulated activities in Egypt must be licensed by the Financial Regulatory Authority.

Law stated - 19 January 2023

International standards

What role does international standard setting play in the rules and standards implemented in your jurisdiction?

The Egyptian Legislative Authority engages with international entities in order to strengthen cooperation and improve practices with regard to financial services compliance. Furthermore, the Egyptian Legislative Authority may take into consideration international laws and standards when drafting new laws or amendments.

The Banking Law regulates the cooperation and exchange of information between local and foreign entities and in that regard, the CBE may conclude memoranda of understanding, agreements or protocols.

Law stated - 19 January 2023

UPDATE AND TRENDS

Key developments of the past year

Are there any other current developments or emerging trends that should be noted?

On 14 March 2022, Egypt approved the issuance of securitisation bonds and issued its governing rules.

Law stated - 19 January 2023

Jurisdictions

	Australia	Herbert Smith Freehills LLP
	Egypt	Soliman, Hashish & Partners
	Finland	Waselius & Wist
	Hong Kong	Davis Polk & Wardwell LLP
	Indonesia	ABNR
	Ireland	Dillon Eustace LLP
	Japan	Anderson Mōri & Tomotsune
	Luxembourg	AKD
	Netherlands	Baker McKenzie
	Russia	EMPP
	United Kingdom	Davis Polk & Wardwell LLP
	USA	Davis Polk & Wardwell LLP