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# TRANSITIONING TO A CASHLESS ECONOMY PROPOSED EXECUTIVE ROADMAP

January 2018





*This paper is translated into English from the original Arabic*

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# BACKGROUND

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## AND EXECUTIVE SUMMARY

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Over the past three years, there has been a growing interest in moving Egypt from a cash-based economy to a cashless economy. A modern cashless economy whereby financial transactions are primarily carried out through banking and electronic means, ensures protection of citizens and efficiency in transacting. Additionally, a cashless economy helps combat corruption, and many crimes including tax evasion, money laundering, financing of terrorism, drug trafficking and other financial and economic crimes associated with cash transactions.

This interest in transitioning to a non-cash economy was coupled with a parallel interest in the concept of financial inclusion and the expansion of the base of those using banking services and other formal financial system. The premise of this latter interest is that increasing the availability and access to these services to all citizens—especially low income groups and groups that are traditionally excluded from the banking system—is a necessary step towards promoting non-cash transactions and limiting parallel markets.

Against this backdrop, in 2015 the Federation of Egyptian Industries (FEI) and the Federation of Egyptian Banks (FEB), with support from the Center for International Private Enterprise (CIPE), commissioned Thebes Consultancy to explore the phenomena of cash transactions

in the Egyptian economy. The study, published in January 2016, examined the scope and magnitude of the cash phenomena in Egypt and its adverse impacts on the national economy. It highlighted the benefits of moving to a cashless economy, outlined the major barriers obstructing the transition in Egypt and provided leading international experiences to inform the transitioning process. The study suggested a comprehensive and well-informed program to guide Egypt's gradual transition to a cashless economy. The proposed program centered on banking and other government policies that would facilitate this transition. The study also presented a proposed draft law to serve as a legislative and oversight umbrella to guide the transition.

In this regard, it is important to acknowledge that right at the outset, the Egyptian government has demonstrated a keen interest in addressing the cash phenomena. Ample evidence support this statement. A number of ministers, representing the core economic group of Egypt's Cabinet, participated in launching the aforementioned study, and actively engaged in the on-going discussion. In November 2016, the Supreme Council for Investment, chaired by President El-Sisi, convened, and issued a number of critical decisions aimed at improving the investment climate in Egypt. Among the key decisions taken was approving the establishment of the National Council for Payments (NCP), with the aim of limiting the use of cash outside the banking system. Establishment of the NCP signaled the beginning of Egypt's move towards a cashless economy and ushered in the implementation of a transformation program. Subsequently, in February 2017, President El Sisi issued a decree that delineated the composition of the NCP and the scope of its responsibilities.

In fact, the NCP has already convened and issued a number of decisions and recommendations to facilitate the implementation of the national program for modernizing the payments system and the realization of Egypt's overarching objective of transitioning to a cashless economy and expanding financial inclusion. Revisiting the rules, regulations and mechanisms for the opening of bank accounts was among the areas that

received the immediate attention of the NCP in an effort to promote the use of financial services by a wider segment of the population and expand financial inclusion.

In the same vein, in January 2016, the Central Bank of Egypt (CBE) launched an initiative in support of financing small and medium-sized enterprise (SMEs). More so, in November 2016, the CBE issued new regulations to govern mobile-based payments. In April 2017, the CBE sponsored an initiative to expand financial inclusion, an initiative applied through Egyptian banks. The initiative designated the last week of April—starting April 27th—as the “Week for Financial Inclusion”, with the aim of making banking services more available and accessible to a broader base of the population. On September 13, 2017, Egypt hosted the International Conference for Financial Inclusion in Sharm El Shekih. The conference, which was sponsored and attended by President El Sisi, was a further indicator of Egypt’s sustained interest and commitment to pushing forward reforms and required steps needed to advance financial inclusion.

Advances in the area of financing through non-banking institutions also indicate this interest to move to a cashless economy and expand financial inclusion. Egypt promulgated Law No. 141 of 2014 to regulate micro-finance, and the Financial Regulatory Authority (FRA), formerly known as Egyptian Financial Supervisory Authority (EFSA), issued a number of executive decisions to facilitate its implementation.

Postal financial services managed by the National Post Organization (NPO), the prime network providing small clients and depositors with modern non-cash payments methods, continued to witness improvements during the past years. Currently, the NPO serves more than 22 million clients through 4,000 outlets. Last but not least, besides the government demonstrated interest in the transition, FEI and FEB, along with the Egyptian Parliament actively advocated for the adoption of reforms to realize this transition.

In this context, to proceed from the phase of strategy development to the next phase—formulating a set of detailed actionable policies for advancing the move to a cashless economy and expanding financial inclusion—FEI and FEB, with support from CIPE, commissioned Thebes for Consultancy to develop a roadmap, based on the findings, conclusions and recommendation of the 2016 study mentioned earlier. The roadmap is to translate the general visions contained in the study into detailed and specific policies, programs, and procedures that can support and facilitate the government’s effort in this regard.

Thus, this paper sets out a roadmap for moving Egypt towards a cashless economy. The roadmap comprises six foundational elements essential for ensuring a smooth and successful transition. The paper presents the following: 1) An actionable proposal for the institutionalization of the NCP and increasing its effectiveness, 2) Specific recommendations regarding the policies and programs needed to realize this transformation in the area of non-bank financial mechanisms, 3) Concrete recommendations for policies and programs related to payments associated with sovereign-related transactions, 4) An overview of a national program for formalization of the informal enterprises, and 5) A national titling program for the formalization of informal or unregistered property.

***The paper proposes key recommendations around the following six topic areas:***

■ *The National Council for Payments*

Certainly, the fact that the presidency of the National Council for Payments (NCP) is held by the Egyptian President lends it substantial political and executive weight, and indeed this chairmanship should continue. To further strengthen the effectiveness of the NCP’s operations, it is recommended that a number of measures be taken towards this end including: 1) Developing its institutional structure and transforming it into a special-status unit affiliated with the CBE, 2) Forming an advisory committee to include representatives from the

private sector and civil society. This will ensure the representation of the various stakeholders—whether those directly relevant to delivery of financial services or benefiting from them, 3) Granting additional authorities and responsibilities to the NCP, as detailed in the paper, 4) Including the President of the NPO to the membership of the NCP to ensure better integration between postal financial services and banking services, and 5) Add a chapter to the Banking Law to regulate the licensing of electronic payments activities and ensure the adequacy of oversight over these activities, similar to other banking activities regulated by that law.

#### ■ *Joint stock and limited liability companies*

Mandate that all transactions related to the financial operations of these companies be carried out through banking and electronic mechanisms, rather than cash. This includes all operations associated with the paid up capital of the company and its increases, the purchase and sale of the shares, and the distribution of dividends and the liquidation proceeds.

#### ■ *Non-banking financial markets and activities*

For activities that fall under the supervision of the Financial Regulatory Authority (FRA) , it is recommended that new provisions be added to the laws regulating these markets to prohibit the use of cash payments and require the use of banking and electronic mechanisms, once the transaction exceeds a certain minimum threshold. This should apply to any transaction related to the buying and selling of shares, or payment of insurance installments, or finance leasing payments or real estate mortgage payments, or any other relevant payments. In the instance that the transaction does not exceed this threshold, mobile payments should be an available option.

### ■ *Payments associated with state-related transactions*

Amend the laws governing income tax, value-added tax, real estate tax, stamp duties customs, social insurance, payment of government salaries, and payment of private sector salaries so that payments are limited to banking or electronic means, once the respective payment exceeds a certain amount. In the instance that the transaction does not exceed this specified amount, mobile payments should be an available option.

### ■ *Formalizing informal activities*

1) Finalize the development of the unified companies law to standardize the rules and procedures for establishing all types of companies and improve the processes and procedures for establishing companies, increasing their capital and changing their legal structure, 2) Promptly proceed with issuing the long awaited law for governing SMEs, 3) Allow a grace period for informal enterprises to formalize without imposing any penalties on them, and 4) Vest adequate powers in the new Micro, Small, and Medium-sized Enterprises Development Authority to enable it to adequately support these enterprises. Support should not be limited to facilitating access to finance, but extend to other services including, marketing, training and technology transfer.

### ■ *Real estate Registration*

While the issue of real estate registration falls outside the scope of the Transitioning to a Cashless Economy Program and the proposed draft law, however, the issue is very relevant as payments associated with real estate transactions account for a significant share of annual payments in society. In this respect, it is critical that government adopts a national program to register unregistered property—land and real estate—similar to programs implemented in other countries over the past two decades. The program should entail the following: 1) Adopting a modern automated tracking system to enumerate and survey all the transactions related to the property, and link it to a unique number-

e.g., the national ID number, 2) Putting in place streamlined and quick mechanisms to allow for reporting unregistered property, investigating its ownership and recording it. This system should be adopted in the different geographical locations in a sequential manner, 3) Developing summary judicial mechanisms to allow for the expeditious resolution of disputes that arise at the time of registering the property 4) Ending the interaction between citizens and the offices of the General Survey Authority. Citizens should transact any registration-related business with the offices of the real estate registry offices and private companies authorized to carryout surveying, elevation and boundary delineation services, 5) Putting in place a specially designated efficient mechanism for registering properties located in new urban communities 6) Banning the levying of any additional fees on legalizing property ownership, 7) Allowing citizens a grace period to apply for registering property located in the areas that are to be selected in a sequential manner, 8) Imposing harsh penalties for offences related to manipulating property registration documents and related power of attorney documents, and 9) Empower the authorities to enforce court rulings related to possession and eviction, and ensure the speedy and forceful compulsory enforcement of the rulings.



# I. INSTITUTIONAL DEVELOPMENT

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## OF THE NATIONAL COUNCIL

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### FOR PAYMENTS

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#### **Institutional Framework**

As currently constituted, the National Council for Payments (NCP) enjoys significant political, executive and technical weight. At present, it includes in its membership appropriate representation of competent ministers and officials with direct relevance to its mandate. That said, given the volume and reach of the financial services provided by the National Post Authority (NPO) - reaching 22 million Egyptians who represent a significant societal group already dealing in non-cash transactions, it is recommended that the NCP's membership expand to include the president of the NPO. This will ensure better integration between postal financial services and banking services, drive the process of financial inclusion, and the transitioning to a cashless economy.

A careful examination of the NCP's current institutional arrangements revealed the need for some reconsideration of a number of its aspects. First, having the Central Bank of Egypt (CBE) serve as the technical secretariat of the NCP, the current arrangement, does not necessarily guarantee sustainability and effectiveness of its operations. Rather, it is critical that NCP be transformed into a special-status unit affiliated with the CBE, similar to case with the Anti-Money Laundering and Combatting the Financing of Terrorism Unit at the CBE. More so, as

a special-status unit, it should be supported by a fully-dedicated and permanent executive administration.

Second, strengthening the institutional structure for the NCP, to enhance its effectiveness and sustainability, necessitates expanding the core areas of competences granted to it in the Presidential Decree No. 89 for 2017. Specifically, it is recommended that the following new competences be assigned to NCP: 1) Setting annual targets for implementing the national program for transitioning to a cashless society, identifying entities responsible for their achievement, and monitoring progress towards achieving these targets, 2) Assessing the effectiveness of the policies and programs that are designed to catalyze the shift to a cashless society, 3) Coordinating among the various government entities that are involved in providing SME support and finance, and 4) Carrying out sustained awareness raising campaigns and programs on the importance of financial inclusion and the transitioning to a cashless economy. The campaigns and programs should communicate information regarding available non-cash payment mechanisms and the benefits that would accrue to small entrepreneurs and traders from this transition.

Third, as designed, the NCP's composition is entirely governmental. It includes the President, the Prime Minister, six ministers, four representatives of public agencies, two high ranking CBE officials, the president of one of the public banks, and a legal advisor. As clear, there is no representation of the private sector, or any entity that includes in its membership small and micro entrepreneurs of those working closely with them, or any of the companies working in the area of electronic payments. Thus, it is recommended that an advisory committee be constituted to include other non-government stakeholders. The advisory committee should be headed by the CBE's sub-governor responsible for electronic payments and include representatives from each of the following stakeholders groups: 1) The Federation of Egyptian Banks, 2) Private sector banks, 3) Entities working in the area of microfinance, 4) Companies working in the area of electronic payments, 5) The Federation of Egyptian Industries, 6) The Federation of the Egyptian

Chambers of Commerce, 7) Investors' Associations, preferably from a remote location, outside Cairo, 8) Accounting firms, and 9) A small and medium-sized enterprise (SME) finance expert or more.

Along the same lines, to ensure the effectiveness and continuity of the advisory committee proposed above, it is recommended that the decree setting up the committee include the following: 1) A clear definition of its areas of responsibilities and duties, and 2) A requirement that the advisory committee should convene meetings periodically, no less than once a month, and that it should issue periodical reports to be presented, along with any recommendations, to the NCP.

## **The Role of NCP in promoting Financial Inclusion**

There is clear evidence of a growing and sustained interest in advancing financial inclusion in Egypt. Indeed, the various initiatives launched by the CBE during the past two years attest to this. Among the leading CBE-sponsored initiatives working towards expanding financial inclusion are: the Initiative to promote the SME finance, the initiative to support Tourism, and the initiative to finance housing for middle- and low-income groups. Over and above, Egypt hosting of the September 2017 International Conference for Financial Inclusion, which issued significant recommendation towards advancing financial inclusion, is another indicator of this growing interest in financial inclusion.

To further advance financial inclusion, it is recommended that the following be considered, with the support of the Central Bank of Egypt:

1. Establish a permanent Financial Inclusion Forum under the umbrella of the CBE, the Financial Regulatory Authority (FRA) and the Federation of Egyptian Banks (FEB). The forum's technical secretariat should be adequately staffed with full-time employees, and assume the prime responsibility of facilitating and overseeing the discussions and cooperation between the CBE and other stakeholders in the financial and banking sectors, other state agencies, the private sector and the economic civil

society organizations (such as business association and the like). Directives and recommendations issued by the forum should be consensus-based, and the technical secretariat should have the responsibility of monitoring progress towards implementing these directives and recommendations.

2. Develop a national plan for financial inclusion. The plan should include long-term and interim goals, implementation mechanisms, performance indicators (e.g., percentage of automation, rate of inclusion, percentage increase in bank branches and coverage, rate of increase in Points of Sale, and electronic payment and withdrawal terminals and coverage) and a plan for geographic coverage.
3. Adopt a plan to expand the use of mobile phones and internet services nationwide at a reasonable cost.
4. Obligate banks to create special departments for financial inclusion and automation of payment systems.
5. Amend the regulations governing mobile-payments so that banks provide mobile wallet users all the benefits offered to traditional bank account holders.
6. Obligate microfinance companies to disburse loans to its clients either through their bank accounts or mobile wallets. At the same time, require that loan repayments be made either through banking or electronic methods, such as cards or mobile wallets.
7. Reconsider the requirement that clients need to sign in person for opening bank accounts or mobile wallet accounts. In this regard, laws governing account opening need to be amended so that clients can self register through any electronic mechanism, and enter all the required personal information, including, the National ID Number and the mobile phone number. Upon successfully completing this enrolment process, the bank account will be opened.

8. Review the system for assessing the creditworthiness of individuals who do not hold bank accounts. In this regard, it is possible to adopt a smart system that relies on Big Data science and advanced digital technology. This system can merge the attractive features of informality with the needs of individuals, such as the need for health commensurate with their financial capability. This should result in expanding financial inclusion, improving economic situation in Egypt, overcoming problems related to subsidy system, and providing the government with a tool to monitor this category of cash flows. Certainly, the most significant feature in this system is that it is National ID Number-based, which is at the same time the certified number of the bank account of the individual. Thus, it can be accessible to all citizens through a vigorous outreach strategy to reach potential clients including, ATMs, Payment cards, the widely available government-owned supermarkets, designated distribution outlets for government subsidized goods, and telephone exchange centers. Therefore, it could be said that this smart system shall extent to three basic services in the short-run, and serve as a springboard for more services in the medium and long-run. Following are the basic services that should be targeted in the first phase:

- a. *Payments and Fund Transfers:* The starting point for this service is to use the National ID Number as the number of the bank account, which is to be activated by calling a call center. Upon activating the bank account, electronic payment cards are to be issued on the spot. The account is to be linked to a smart wallet using the Block Chain technology which should allow the recording of both the cash and non-cash tokens (e.g., subsidized goods tokens, insurance and pension tokens, health insurance records, property-based registration records and voters database). This system will allow direct transacting without the need for intermediaries, of any sort. Accordingly, the cost of transaction will be significantly reduced, and the money conversion cycle will be faster by 200% to 300%.

- b. *Smart Lending*: Undoubtedly, the current lending system is not far reaching since many individuals and companies have no credit history and banks require collaterals that many segments of the society (e.g. new graduates, owners of small enterprise) lack. On the other hand, the smart lending system is primarily based on analyzing mobile phone data, personal data contained in the National Identification Card and other data to determine the credit worthiness of potential clients. Accordingly, individuals can have immediate access to a lending system that can allow them to engage in carrying out different economic activities. In other word, under the smart lending system, assessment of credit worthiness does not rely on the traditional assessment method of examining the individual's financial history, but rather, on examining the ability of the individual to repay the loan. The latter is determined through evaluating the individual's financial identity and consumption patterns using data engineering tools that assess the individual's records using a large set of alternative data (data on the individual's use of social media, payment of water and electricity bills, average call duration, land line consumption, modes of transportation and mobility pattern etc.).
- c. *Micro Insurance*: Create a comprehensive and innovation insurance system that low-income citizens can readily join as it will provide a wider insurance coverage at a lower price, and at the same time, available on demand and in sync with the citizen's record. It is worth noting that the cost of risk coverage, from the point of view of the insurance company, will be greatly reduced due to the high capacity of this financial platform to aggregate a community of beneficiaries and distribute the risks more efficiently.

Thus, based on the above, it is clear that this smart system has a remarkable capacity to classify societal groups based on consumption patterns and cash flows. This can help prompt thinking about moving from an in-kind subsidy system to an automated monetary subsidy system which, the smart system can facilitate in a just manner as it ensures impartiality and avoids pitfalls resulting from human intervention with the process. The distribution channels of components of this initiative are varied and include, call centers, mobile applications, ATMs, post offices and Ministry of Supply outlets. In brief, the Mobile Money model is comprised of three main pillars: 1) building an accurate database (data source from the Egyptian government and telecommunication companies), 2) data analysis (through alternative lending companies and credit rating companies), and 3) electronic channels to interact with customers.

9. Evaluate the various initiatives sponsored by the CBE, particularly the ones related to expanding credit to SMEs. The evaluation should focus on assessing the extent to which the initiative has achieved its intended objectives so far, and identify and analyze any shortcoming in order to inform and enhance implementation of the initiative during the remaining two years of its life. In the meantime, it is recommended that the scope of activities eligible for receiving micro and small enterprise (MSE) financing be revisited and expanded to include activities that, in and of themselves, are geared towards securing such financing or creating enabling opportunities and conditions for investment by SMEs. In this regard, consideration should be given to including companies that ultimately benefit MSEs, such as companies that provide MSE financing and insurance, companies involved in establishing and managing industrial and investment areas benefiting small enterprises, and venture capital firms investing in these enterprises and others as long as they serve the purpose of funding small enterprises.

10. Consistent with findings and conclusions of research and studies, support to small enterprises should not be limited to facilitating access to finance. Rather, support should extend to include a full range of services such as training and rehabilitation services, assistance with marketing (in both the domestic and foreign markets), legal and accounting services, and providing information on market performance. At present, these support services are dispersed among multiple government entities, such as the Ministry of Investment, the Ministry of Industry and the Ministry of Finance. Thus, to enhance the effectiveness and efficiency of the support services, it would be optimal if a single institutional entity has the overarching responsibility for supporting these enterprises. In this regard, a solid point of departure would be constituting a national council for developing SMEs, similar to the NCP.

***Besides the various responsibilities included in the decree establishing the NCP, and the additional responsibilities proposed above, it is recommended that the NCP assumes the following additional responsibilities related to non-cash payments:***

- Activating the electronic payments system and urge all concerned entities to adhere to its implementation timetable.
- Formulating national programs, with support from international organizations, to develop non-banking financial intermediaries, financial markets, financial leasing companies, insurance companies and the like, with the objective of expanding their use of electronic payment systems.
- Carrying out public awareness campaigns on the importance and benefits of transitioning to a cashless society. Adopting programs targeting students in universities and other educational institutes to encourage them to obtain credit cards (limited-use cards) and utilize mobile wallets.

## II. NON-BANKING FINANCIAL SERVICES

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This section of the report deals with the wide range of financial transactions that take place through non-banking service providers. Law No. 10 for 2009 that regulates the non-banking financial markets and instruments gives FRA the mandate to oversee these operations. Article 2 of the said law stipulates that “The Authority shall supervise the non-banking financial markets and instruments including capital markets, derivative markets on financials and commodities, insurance activities, mortgage finance, financial leasing, factoring and securitization.”

While the jurisdiction of FRA does not extend beyond firms that are engaged in the financial operations enumerated in Article 2 mentioned above, however, this section addresses the formation of joint stock and limited liability companies and other issues relevant to their operations (e.g., increasing capital and distribution of dividends), which generally fall under the jurisdiction of the General Authority for Investment and Free Zones (GAFI). The premise for addressing these companies in this section is that many of their operations are directly relevant to non-banking financial services.

That said, this section will not address other forms of companies, such as general partnership and limited partnership companies, since their inherent nature and capital structure do not make them fall under the jurisdiction of either FRA or GAFI. It should be noted that this section will primarily focus on how best to move the non-banking financial services industry from using cash, towards use of non-cash transactions. Other forms of companies will be addressed in another section of the report, Section IV, albeit with a focus on facilitating the establishment and licensing of small enterprises, in an effort to limit informal transactions, and facilitate the move towards a cashless society and expand financial inclusion. This section will also address postal savings accounts managed by the National Post Organization.

## **1. Joint stock companies and limited liability companies**

Law No. 159 of 1981 regulates the formation of joint stock companies and limited liability companies, increasing their capital, distributing dividends, and liquidation. By law, companies are obliged to deposit the required capital in a bank account and obtain a certificate from an authorized bank confirming the deposit. With the aim of advancing cashless transaction, this system can be improved on by specifically:

- 1) Requiring banks not to accept any cash deposits for the purpose of forming companies or increasing their capital, in other words, only cashless transactions can be used for payments toward the issued share capital or increasing it,
- 2) Adopting controls to ensure that distribution of profits or dividends to partners and shareholders may not be made in cash, rather through a deposit into a bank account,
- 3) Requiring that any transaction related to share trading, in the case of joint stock companies (whether the shares are registered or not in the Stock Exchange), or the transfer of shares, in the case of limited liability companies, be only carried out using banking accounts or any other verifiable form of electronic mechanism, and
- 4) Mandate that the distribution of liquidation proceeds, whether the liquidation is voluntary or compulsory, be made only through a deposit into a bank account.

## 2. Capital Market Operations

Capital market operations encompass a wide array of activities that are regulated by the Capital Market Law No. 95 of 1992. Article 27 of the law specifies these activities, among which are<sup>1</sup>:

- Listing and trading securities in the Stock Exchange
- Promoting and underwriting of securities
- Participating in establishing companies which issue securities, or sharing in their capital increase
- Venture capital
- Clearance and settlement
- Formation and management of portfolios and investment funds (mutual funds)
- Brokerage in securities
- Securitization
- Factoring
- Portfolio management
- Services of independent financial advisors

The detailed regulations, procedures and conditions for carrying out of these activities are contained in the Executive Regulations of the law issued by the Minister of Economy and Foreign Trade (Decree No.135 of 1993), as well as in other numerous decrees issued by FRA and Egyptian Stock Exchange. It is not surprising that neither the Executive Regulations nor the various decrees focused, in any way, on the concept of cashless transactions. At the time of issuing these regulations and directives the idea of moving towards a cashless society was not a priority. Thus, these regulations aimed primarily, and rightly so, at setting ground rules for regulating capital market operations, protecting those involved in these operations, and ensuring the stability of the financial transactions and market. Now, that the notion of shifting to a cashless economy has gained significant traction

and became a priority, it is critical to develop new general parameters to guide the operations of the capital market, and bring them in sync with this new orientation.

Specifically, it is recommended that a new provision be introduced to the Capital Market Law to require that all payments related to any of activities regulated under the Capital Market Law, and the Central Depository and Registry Law, Law No. 93 of 2000, be made only through banking or electronic mechanisms, excluding transactions that do not meet a specified minimum threshold. At the same time, payment through mobile wallets should be made available for transactions with a value less than this minimum threshold.

### 3. Insurance

Law No. 10 of 1981 regulates the insurance sector in Egypt. Besides regulating insurances companies (life insurance and property insurance), the law also regulates other insurance related activities including reinsurance, insurance broking and appraisal. Compared to global statistics, insurance activities in Egypt remain limited. More so, cash continues to dominate payments for insurance premiums, particularly for household vehicle and health insurance. Law No. 53 of 1975 regulates private insurance funds. Thus, in an effort to bring these transactions in sync with a cashless paradigm, it is important that provisions be added to the relevant laws to require non-cash payments. Specifically, a provision should be added to the Law No. 10 of 1981 requiring insurance and insurance broking companies not to accept any cash payments for insurance installments, and at the same time, the provision should require them to make claim payments or disbursing returns to policy holders only through banking and electronic mechanisms. Towards the same end, a provision should be added to Law 54 of 1975 requiring that benefits to subscribers should only be paid through banking and electronic mechanisms.

## 4. Mortgage Financing

The Mortgage Law, Law No. 148 of 2001, provides a regulatory framework for issuance of mortgages. Mortgage financing falls under the jurisdiction of FRA. The law regulates the operations of mortgage companies, as well as the operations of mortgage broking companies, mortgage refinancing and appraisal. To further promote non-cash transactions, a new provision should be added to the law prohibiting the buying of property, through the mortgage system, or the signing of the tripartite agreement between the buyer, seller and the lender (whether a mortgage company or bank) except if the share of the seller has been settled through a banking or electronic mechanism. In the same vein, the law should oblige the buyer to pay the remaining installments through non-cash mechanisms. It is also recommended that the same requirements be applied to all payments—down payments and installments—related to other social housing programs.

## 5. Financial Leasing

Financial Leasing is regulated by Law No.95 of 1995. In 2009, it was brought under the supervision of FRA. A new provision should be added to the law obliging financial leasing companies not to buy the subject asset except through banking or electronic means, and not to accept installment payments from the lessee except through similar means.

## 6. Postal Savings Accounts

The NPO was established via Presidential Decree No. 710 of 1957, and is currently regulated by Law No. 19 of 1982. The NPO manages the postal savings accounts which are regulated by Law 86 of 1954, and its amendments. Over the past years, the NPO's savings account system witnessed significant developments.

In the financial landscape, postal savings accounts represent the largest medium through which citizens conduct non-cash payments and money transfer transactions. Currently 22 million Egyptians use the financial services of the NPO. Indeed, the profusion of branches and post offices throughout the country—4,000 branches—provides the NPO access to remote areas which is currently not the case for other institution.

Thus, it is recommended that the NPO be included as a key stakeholder in all financial inclusion and transitioning to a cashless economy programs, and, as noted earlier, that the President of NPO be included as a member of the NCP. Furthermore, it is recommended that the legal framework regulating the postal savings accounts be amended so as to grant the NPO more authority to market some basic banking, insurance and finance products through its outlets. This will further expand the user base of financial services.

## III. PROGRAMS AND POLICIES

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### ASSOCIATED WITH STATE-RELATED

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### TRANSACTIONS

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No doubt the state has a central role to play in catalyzing the shift to a cashless economy. Particularly, it can encourage society to use non-cash mechanisms for settling due payments such as taxes, custom duties to name a few. There are a number of measures that, if adopted, can further bolster the role of the government in prompting non-cash transactions in a number of areas.

#### 1. Tax Payments

The Egyptian tax system is governed by four laws: Income Tax Law, Law No. 91 of 2005, the Property Tax Law, Law No. 196 of 2008, Value-added Tax Law, Law No. 67 of 2016, and Stamp Tax Law, Law No. 111 of 1980.

Income tax is levied on natural and juridical persons falling under the Income Tax Law<sup>2</sup>. For natural persons, the tax is imposed on the total net income of residents and non-residents as long as their income was derived in Egypt. It is also imposed on residents even if their income is derived abroad<sup>3</sup> in the case that Egypt is the center of their commercial or industrial or professional activity<sup>4</sup>. In the case of juridical persons, the tax is imposed on their annual profits<sup>5</sup>. Chapter Six of Book Two of the law outlines the methods for distributing and determining profits for tax purposes.

As for property tax, it is imposed on any natural or juridical persons who has the right to own, use or utilize the property, even if the right to the property is not formally registered<sup>6</sup>. This tax applies to all properties established on Egyptian land, including properties designated to managing public utilities, irrespective if it was established on land owned by the state or not<sup>7</sup>.

The value-added tax (VAT) is levied on private and public natural and juridical persons, whether producers, traders, service providers, importers or exporters for any good or service subject to the law<sup>8</sup>. Last, the stamp tax is levied on different types of activities. Documents, publications, financial transactions, other assets, events and other tax bases specified in the law are subject to the tax. These include personal status documents (marriage and divorce contracts), legal documentations, commercial advertisements to name a few. The tax is also imposed on a number of services such as transportation services, whether for individual or commodities, mail services, as well as licenses and permits issued by the government<sup>9</sup>.

In 2014, Law No. 201 of 2014 amended Article 103 of the Income Tax requiring corporations and public juridical persons to make their tax payments via electronic means<sup>10</sup>. Subsequently, the Minister of Finance issued two decrees (No. 117 of 2015 and No. 172 of 2015) amending the Executive Regulations of the Income Tax Law to reflect the amendment to the law which was introduced in 2014. The amended Executive Regulations specified the means of electronic payment to include bank transfers, smart cards, and the various outlets and networks of banks and the NPO<sup>11</sup>.

That said, despite this positive change towards non-cash transactions the Tax Law and its Executive Regulations do not oblige other taxpayers to make electronic tax payments. Electronic payments remain an available option and not a requirement<sup>12</sup>. On the other hand, while there was no update or revision made to what is considered electronic payments mechanisms, the article introduced through the Ministerial Decree No. 117 of 2015, allowed the use “of any other electronic mechanisms offered by the banks” that are within the network of banks assigned to

receive tax payments. As phrased, the article allows for a wide range of non-cash payment mechanisms that can be used for making income tax payments<sup>13</sup>.

Nevertheless, other tax laws lack similar provisions related to electronic tax payments. Accordingly, and in line with the shift to a cashless society, such provisions should be introduced to the other tax laws to require electronic payments, for amounts that exceed a certain threshold.

## 2. Customs Duties

The Customs Duty Law, Law No. 66 of 1963, and the Importers' Registry Law, Law No. 121 of 1982 regulate the payment methods for the various dues, including fees for registering in importers' registry, custom duties, other dues associated with customs services and customs fines. The Importers' Registry Law requires the registration of any natural or juridical person engaged in importation of goods for the purpose of trade, it also specifies the required registration fees<sup>14</sup>. To register, the law requires payment of a cash deposit or submitting a letter of credit in an amount ranging from LE 50,000 to LE 200,000, depending on whether it is a natural or a juridical person to be registered<sup>15</sup>. Along the same lines, the Customs Duty Law imposes an import duty on goods entering Egypt as prescribed in the customs duty schedule, and requires that these duties be paid to the public treasury<sup>16</sup>. Chapter Six of the law regulates the fees associated with customs services provided by the Customs Authority such as storage, moving, insurance, and other additional fees associated with depositing and inspecting the cargo<sup>17</sup>. Chapter Seven regulates the rate of fines to be imposed in the event a customs infraction occurs. These fines are usually estimated as a percentage of the potential revenue from customs duties that was forgone due to the infraction<sup>18</sup>.

In this case too, similar to tax laws mentioned above, the Customs Duty Law lacks any provisions that prohibit cash payments for settling customs duties, fees and fines, in the event they exceed a certain amount. Such is the case with the Importers' Registry Law too.

### 3. Administrative agencies and bodies and public sector entities

Administrative and public sector entities are regulated by two laws: The Public Entities Law, Law No. 61 of 1963<sup>19</sup>, and the Public Sector Companies and Entities Law, Law No. 97 of 1983. The pertinent law gives the respective entity the right to set its own rules and procedures for managing its funds and collecting charges associated with services it might provide and any other fees. However, there are no provisions in either laws that require electronic payments. The Egyptian National Railway Authority, the NPO, the Egyptian Civil Aviation Authority, the Agriculture Authority, the National Authority for Insurance and Pensions, and the National Authority for Arts and Literature are but a few of the public entities.

As for public sector entities (regulated by Law No. 97 of 1983), they are a type of public entities entrusted with overseeing public sector companies operating in specified areas. For example, the Egyptian General Petroleum Corporation oversees Egyptian public sector companies working in the petroleum field<sup>20</sup>. Indeed, public sector entities contribute to the development of the national economy, primarily through the companies that fall under their supervision, or by holding shares in some of these companies. In fact, these entities have the authority to form joint stock companies or own shares in companies, either by buying these shares or by contributing to the capital of these companies. More so, public sector entities have the authority to give loans to companies that fall under their jurisdiction, or provide guarantees in the event that these companies secure loans<sup>21</sup>.

On the other hand, the majority of administrative entities are local administration units which are regulated by the Local Administration Law, Law No. 43 of 1979. Financial transactions of local administration units fall under the category of “sovereign payments” which includes taxes, licensing fees for vehicles and other modes of transportation licensed by the governorate<sup>22</sup>. The law also includes a large array of fees imposed by the governorate- and city- level local popular councils. For

example, at the governorate level, local popular councils impose fees on local services and development activities as well as on profits generated by local productive activities<sup>23</sup>. At the city level, the councils impose fees on birth and other health-related activities, fees quarry and mining fees, fishing fees, and other fees associated with managing utilities such as wastewater, roads, public parks, and fees on water and electricity consumption, beach usage to name a few<sup>24</sup>. Fee collection is governed by the same rules governing the collection of taxes and other public fees, thus, the law does not require that payments be made through bank transfers or the use of smart cards or checks.

#### **4. Judicial Fees (Court Fees)**

The Judicial and Registry Fees Law, Law No. 90 of 1944, regulates the collection of court fees for cases brought in front of the court. Court fees are proportional, and determined according to the value of the claim, if known, based on a schedule included in the law. If the value of the claim is unknown, a fixed fee, ranging from LE 5-LE 50, is levied<sup>25</sup>. The Registration and Retention Fees Law, Law No. 92 of 1944, regulates the procedures and fees associated with registering contracts or actions or rulings. The law applies to requests for registering business formation contracts, or amending or voiding these contracts, as well as requests for displaying these contracts, or their summary, on the notice board of the court. Reviewing both laws reveals the absence of any provisions that require payment of these fees through non-cash mechanisms.

#### **5. Government Salaries**

The Civil Service Law, Law No. 81 of 2016, regulates, among other things, the salary and wage system of public servants in ministries and affiliated agencies, the bureaucracy, local government units and other public authorities<sup>26</sup>. Law No. 48 of 1978 regulates the salaries of public sector companies' employees<sup>27</sup>. Similar to the above mentioned cases, both laws lack any provisions that require payment of salaries and wages through non-cash mechanisms.

## 6. Pensions and Social Security Payments

Pensions and social security benefits are regulated by a number of laws. In the lead are the Social Insurance Law, Law No. 79 of 1979, the Exceptional Pensions and Bonuses Law, Law No. 71 of 1964, the Pensions and Social Insurance for Business Owners Law, Law No. 104 of 1976, Social Insurance for Egyptians Abroad Law, Law No. 50 of 1978, the Comprehensive Social Insurance Law, Law No. 112 of 1980, and finally the Increasing Pensions and Amending Some of the Provisions of the Social Insurance Law, Law No. 80 of 2017. None of these laws require the payment of social insurance benefits through non-cash mechanisms.

## 7. Private Companies - Salaries and Social Insurance

The Labour Law, Law No. 12 of 2003, regulates the pay of private sector employees. In 2011, the Prime Minister issued a decree (No. 1133 of 2011) reconstituting the National Council for Wages which is responsible for setting the minimum wage, and determining the periodic annual raise<sup>28</sup>. As for social insurance, all laws mentioned in the section above apply to private sector employees.

## Recommendations

The above overview clearly demonstrates that all laws governing government payments and revenues do not require the use of either electronic or banking mechanisms, with one exception: Law No. 201 of 2014, and the two decrees issued by the Minister of Finance (Decree No. 117 of 2015 and Decree No. 172 of 2015) regarding income tax payments.

Thus, it is recommended that all these laws be amended so as to require the use of banking or electronic payments mechanisms, once the amount to be paid exceed a certain level. At the same time, payment through mobile wallets should be made available for transactions with a value less than this minimum threshold.

## IV. FORMALIZING THE INFORMAL ECONOMIC ACTIVITIES

Informal economic and commercial activities, dubbed as the parallel economy, account for a significant share of the Egyptian economy. Due to its informal nature, economic researchers and others continue to disagree over estimating the size of the informal sector. Irrespective of its size, it is without doubt that cash dominates the large array of transactions in the sector, especially that they operate outside the boundaries of formalities. Thus, any serious effort to shift the Egyptian economy away from cash and towards a banking and electronic payments system must include a substantive and ambitious program to formalize all informal economic and commercial activities- of all types and in any field of operation- and bring them under the umbrella of the formal economy. This effort requires a strategic mix of laws, programs and policies to encourage this transformation.

### 1. Legal Form for Carrying out Economic Activities

In general, the Egyptian laws offers two structures for carrying out commercial activities: a sole proprietorship or a company. The key difference between the two structures is that the former, the sole proprietorship, is owned and run by one natural person, who assumes personal responsibility for all operations. As for the other structure, the

company, it represents a partnership between two or more individuals for establishing a commercial activity. Companies, in contrast to sole proprietorship, are separate legal entities from their owners.

Activities carried out through either structure are considered commercial activities. The Egyptian laws adopt a wide definition of commercial activities. Examples of commercial activities include, but are not limited to, the following: Buying and renting movables for the purpose of selling or leasing them, establishing trading companies, providing goods and services, industry, banking and money exchange operations, construction, purchase or rental of realties with the aim of selling or leasing them<sup>29</sup>. The law defines a trader as “Whoever exercises by way of profession, in his name or for his own account, a commercial activity”, and “Each firm assuming one of the forms prescribed in the laws concerning the companies, whatever the purpose for which the firm is established<sup>30</sup>.”

Formalizing informal commercial activities necessitates that these activities adopt either structure. In the event that a sole proprietorship form is chosen, registration and licensing will be required. On the other hand, if the choice is a formalize in the form of a company, this entails constituting the company, registering it, and obtaining the required licenses.

In general, there are three types of companies, categorized according to the law regulating each type: 1) Companies regulated by the Civil Law, 2) Companies regulated by the Commerce Law, and 3) Companies regulated by the Companies Law. The first type, which falls outside the scope of this paper, is of a non-commercial nature. As for sole proprietorship, they are regulated under the Commerce Law, whereas as other types of companies are regulated under the Companies Law and the Commerce Law. Following is a brief overview of the regulations governing each of these enterprises.

## **a. Sole proprietorships**

A sole proprietorship is a business structures under which the owner carries out commercial activities. It does not enjoy a separate legal personality from its owner and thus, the owner has unlimited personal responsibility for any debts or liabilities incurred by the business.

## **b. Companies**

There are five basic types of companies in Egypt: 1) General Partnership Companies, 2) Limited Partnerships, 3) Joint stock Companies, 4) Stock Partnership Companies, and 5) Limited Liability Companies. The first two types of companies are regulated under the Commerce Law, Law No. 17 of 1999, as well as Section One of Chapter Two of the abolished Commerce Law No. 1 of 1883<sup>31</sup>. The latter three types of companies are regulated by the Companies Law, Law No. 159 of 1981.

### **General Partnership Companies**

This type of company is formed based on a partnership between two or more partners for the purposes of undertaking commercial activities. It has a separate legal personality from its partners who share equally in both responsibility and liability, and none of the partners have a limited responsibility. This type of company requires a written partnership agreement<sup>32</sup>, the summary of which should include the following information: names of the partners, their addresses, their positions, address of the company, names of those authorized to manage, amount of capital, whether paid or yet to be not, and the duration of the partnership. All procedures need to be completed within 15 days of signing the agreement, otherwise the partnership is considered void<sup>33</sup>.

### **Limited Partnerships**

Under this type of company, a partnership is entered with one or more partners, and the structure has a separate legal personality from the owners. Under this structure, partners are either general partners or limited partners, however, at least one partner has to be a general

partner, i.e., bearing unlimited liability. Partnership agreements should be in writing<sup>34</sup>, and the summary of which should include the following information: names of the partners, their addresses, their positions, address of the company, names of those authorized to manage, amount of capital, whether paid or yet to be not, and the duration of the partnership. All procedures need to be completed within 15 days of signing the agreement, otherwise the partnership is considered void<sup>35</sup>.

### ***Joint Stock Companies***

This company structure has a legal personality separate from that of the shareholders. Its capital is divided into equal shares, that can be traded. The shareholder bears limited liability, confined to the value of the shares to which he/she subscribes. The law requires that joint stock companies have at least three founders, that the board of directors has at least three members, and that it has a general assembly.

### ***Partnership Limited by Shares***

This type of company has an ownership structure and management similar to that of partnership agreements regulated by the Commerce Law. Under this type, some partners— joint partners —enjoy management responsibility, and do not bear limited liability. Other partners do not engage in management, and bear limited liability, relative to the number of shares they subscribed to. It should be noted that this type of company barely exists in Egypt.

### ***Limited Liability Companies***

A limited liability company has its own legal personality, separate from that of the partners. The law requires that the number of shareholders be at least two, and not exceed fifty, each bearing limited liability relative to his/her share in the company. There is no minimum capital requirement for this type of company, and capital is divided into shares owned by the partners. Transfer of shares is subject to the terms and conditions set out in the company's agreement. The foundation of the company, the increase of its capital or borrowing to its account is not

permissible through public subscription. Additionally, this type of company is not allowed to issue tradable shares or bonds.

It is worth noting in this regard that the government submitted to the Parliament a draft law to introduce a new legal structure for companies—the One-Person Company. This is considered a significant development as it allows individuals to create a single person enterprise which enjoys its own legal personality, separate from that of the owner, and has limited liability.

## 2. Establishing Procedures

In general, the law prohibits those whose names are not registered in the Commercial Registry (a registry set up in all governorates or cities to register traders) from engaging in commercial activities<sup>36</sup>. Registration in the Commercial Registry is valid for five years, and is renewable<sup>37</sup>. Applicable fees vary according to the type of company to be formed<sup>38</sup>.

### a. Sole proprietorship

The Commerce Law, Law No. 17 of 1999, regulates the formation of sole proprietorships. It requires registration in the Commercial Registry. A sole proprietorship may also be established under the jurisdiction of GAFI, if the activity(ies) to be pursued is included in the Investment Law, Law No. 72 of 2017. Following are the key steps for forming this type of company:

1. Notarize the lease of the business's premise by the Notary Public<sup>39</sup>.
2. Obtain a tax card from the Tax Authority.
3. Obtain a license to operate the business from the chamber of commerce located in the company's main domicile<sup>40</sup>.
4. Register the business in the commercial registry located in the company's main domicile<sup>41</sup>.
5. Register the business and the employees in the social insurance office (in the instance of hiring employees).

## **b. General Partnership and Limited Partnerships Companies.**

The Commerce Law, Law No. 17 of 1999, and Section One of Chapter Two of the abolished Commerce Law No. 1 of 1883<sup>42</sup> regulate the formation of general partnership and limited partnership companies. It should be noted here that these companies could be established under the jurisdiction of GAFI, if the activity(ies) to be pursued is included in the Investment Law, Law No. 72 of 2017. Following are the key steps for forming these types of companies:

1. Have a lawyer write up the contract, and its summary.
2. Have the contract stamped by the commercial registry located in the company's main domicile.
3. Register the contract, and its summary, in the commercial registry of the court in the company's main domicile<sup>43</sup>.
4. Publish the summary of the contract in any daily specialized in judicial announcements<sup>44</sup>.
5. Obtain the tax Card from the Tax Office located in the company's main domicile.
6. Obtain a license to carryout trading or commercial activities from the chamber of commerce located in the company's main domicile<sup>45</sup>.
7. Register the company in the commercial registry<sup>46</sup>.
8. Open a company file and register employees with the National Authority of Social Insurance.

## **c. Limited Liability Companies<sup>47</sup>**

The Companies Law, Law No, 159 of 1981, and its Executive Regulations regulates the establishment of the limited liability companies. In all cases, this form of company is established under the jurisdiction of GAFI, not only in the case that its activities fall under the jurisdiction of the Investment Law, Law No. 72 of 2017. Following are the key steps for forming this type of company:

1. Obtain a certificate from the Commercial Registry office at GAFI confirming that the name of the company is not confused with any existing business name (certificate of non-confusion).
2. Deposit the company's capital in one of the banks registered with the CBE and obtain a certificate from a bank indicating that the funds have been deposited<sup>48</sup>.
3. Have the contract of the company written up at the Department for Establishing Companies at GAFI<sup>49</sup>.
4. Obtain a license to operate from the competent chamber of commerce<sup>50</sup>.
5. Notarize the contract of the company by the Public Notary.
6. Register the company with the competent commercial registry office<sup>51</sup>.
7. Obtain a tax card from the Tax Office at GAFI.
8. Open a company file and register employees with the National Authority of Social Insurance.

#### **d. Joint Stock Companies**

The Companies Law, Law No, 159 of 1981, and its Executive Regulations regulates the establishment of joint stock companies. Similar to the case with limited liability companies, in all cases, joint stock companies are also established under the jurisdiction of GAFI, not only in the case that its activities fall under the jurisdiction of the Investment Law, Law No. 72 of 2017. Joint stock companies can be established via public subscription, or subscription may be limited only to the founders or other individuals previously identified<sup>52</sup>. If the company is established through public subscription, shares are not to be traded except after receiving FRA's approval of the subscription prospectus, which must be signed by all the founders. The prospectus should include specific information including the name of the company, its legal form, its purpose, the name of the founders and the date of the preliminary

contract, its issued capital and the nominal value of the shares<sup>53</sup>. FRA has the right to object within two weeks from the date of receiving the subscription prospectus. If it does not object within the specified period, the founder may start the procedures for offering shares for public subscription<sup>54</sup>. Following are the key steps for forming these two types of companies:

1. Obtain a certificate from the Commercial Registry office at GAFI confirming that the name of the company is not confused with any existing business name (certificate of non-confusion)<sup>55</sup>.
2. Deposit all or a portion of the company's capital in one of the banks registered with the CBE, and obtain a certificate from a bank indicating that the funds have been deposited<sup>56</sup>.
3. Have the contract of the company written up at the Department for Establishing Companies at GAFI<sup>57</sup>.
4. Obtain a license to operate from the Chamber of Commerce<sup>58</sup>.
5. Obtain the approval of FRA to issue and trade shares<sup>59</sup>.
6. Obtain a certificate confirming that the company's shares have been deposited at a central deposit company<sup>60</sup>.
7. Notarize the contract of the company by the Public Notary<sup>61</sup>.
8. Obtain a certificate confirming that GAFI has been notified of the company's formation<sup>62</sup>.
9. Register the company with the Commercial Registry Office<sup>63</sup>.
10. Obtain a tax card from the Tax Office at GAFI.
11. Open a company file and register employees with the National Authority of Social Insurance.

In the instance that the company is established via public subscription, four additional steps are warranted as follows:

1. Obtain the approval of FRA of the subscription prospectus<sup>64</sup>.
2. Publicize the subscription prospectus<sup>65</sup>.
3. Obtain a certificate from the bank confirming the total subscription of all shares of the company, and that the value that should at least be settled of the shares have been paid and placed at the disposal of the company until it acquires its juridical personality<sup>66</sup>.
4. Register the company with the registry at FRA<sup>67</sup>.

### **3. Legal Framework for Enabling Small and Medium-Sized Enterprises**

To date, Egypt lacks a unified and comprehensive legal and regulatory framework to govern SMEs. That said, over the years, a number of key laws and decrees have impacted the sector. Among these laws and decrees are: 1) The Law for Developing Small Enterprises, Law No. 141 of 2004 and its Executive Regulations, 2) Presidential Decree No, 40 of 1991 establishing the Social Fund for Development (SFD), 3) Prime Ministerial Decree No. 1034 of 2015 that details the procedures for establishing and licensing enterprises through the now-defunct one-stop-window of the SFD, and 4) Prime Ministerial Decree No. 947 of 2017 establishing the Micro, Small, and Medium-sized Enterprises Development Authority (MSMEDA), and which replaced the SFD. Additionally, these enterprises are subjected to many other requirements included in other laws such as, the Industrial and Commercial Shops Law, Law No.453 of 1954, the Commercial Registry Law, Law No. 34 of 1976, and the Income Tax Law, Law No. 157 of 1981. Following is a brief overview of the key laws that currently regulate the sector.

### **a. Small Enterprise Development Law No. 141 of 2004<sup>68</sup>**

For the first time, the law introduced a definition MSEs, using two quantitative criteria: size of the capital and number of employees. A micro enterprise is defined as a sole proprietorship engaged in economic activities in the fields of production or services or trade, and with a working capital of LE 50,000. On the other hand, a small enterprise is defined as a sole proprietorship or company with a working capital ranging from LE 50,000 to LE 1 million, and employing no more than 50 employees<sup>69</sup>.

While the law mandated the establishment of nation-wide units, including at the local level, to support small enterprises, including registration, licensing and obtaining approvals, yet the reality on the ground was different. This can be primarily attributed to the failure to address many of the procedures and obstacles contained in other laws, and also the lack of a clear and cohesive approach in amending these laws in a manner that supports these enterprises. For example, Article 12 of the Small Enterprise Law stipulates that government entities and agencies should set aside 10% of their procurement budget for small enterprises. However, many of procurement officials refuse to apply this provision. Either procurement officials feel obligated to abide by the Tender and Bids Law of 1998<sup>70</sup>, or government procurements, which are usually very large, are difficult to break up into components to provide the opportunity for small enterprises to compete for the 10% set aside. Small enterprise also face many obstacles in taking advantage of some of the positive provisions included in the law. These obstacles particularly evident the case of acquiring land, and obtaining approvals and permits for construction and industrial operations licenses.

### **b. Presidential Decree No, 40 of 1991<sup>71</sup>**

This decree which was issued in 1991 established the SFD to oversee, among other tasks, the development of the small enterprises sector in Egypt. Initially, it was affiliated with the Cabinet, but in 2015, it became affiliated with the Ministry of Commerce and Industry. One of

the most often voiced criticisms that transpired over 26 years—the life of the fund— was that it combined two functions: oversight and lending, which clearly involves a conflict of interest.

### **c. Prime Ministerial Decree No. 947 of 2017 establishing the Micro, Small, and Medium-sized Enterprises Development Authority**

The decree established a new authority— the Micro, Small, and Medium-sized Enterprises Development Authority (MSMEDA)<sup>72</sup>, which is affiliated with the Ministry of Industry and Foreign Trade. MSMEDA replaces the SFD, as the new coordinator for SME policies and activities. All assets belonging to the Industrial Modernization Center, the Council for Industrial Training and the Industrial Council for Technology and Innovation Centers, all of which are affiliated with the Ministry of Commerce and Industry, are to be transferred to MSMEDA. The decree was issued as a preceding step to the promulgation of a new SME law, which is currently being prepared by the Ministry.

The decree lays out a two-tier system for managing MSMEDA: a board of directors and a board of trustees. MSNEDA has an executive president to oversee the implementation of policies to be developed by the board of directors and approved by the board of trustees. The Prime Minister chairs the board of trustees, and the membership of the board includes the Ministers of Trade and Industry, Planning, Local Development, Social Solidarity and International Cooperation, as well as the President of the Federation of Egyptian Industries. The Minister of Commerce and Industry chairs the board of directors, which its membership includes the executive president and a number of individuals with expertise, not to exceed 10. Both the board of trustees and the board of directors may invite to their meetings relevant representatives of ministries and other entities, however, they shall not have the right to vote. Like its predecessor, the revenues of MSMEDA consist of budgetary allocations from the state's general budget, grants and loans, including agreements and grants from international organizations directed to supporting activities of microenterprises and entrepreneurial activities, in addition

to fees charged for services provided by MSMEDA, and other fees mandated by other relevant laws.

While it appears that the objective of prescribing a two-tier management system is to ensure consistency with the provisions of the law, yet, the lack of representation of non-governmental organizations, including business associations which are closely linked to the work of small enterprises generated criticism.

As for the powers, authorities and duties of the MSMEDA, they are very similar to those of the now-defunct SFD. For example, MSMEDA is tasked with developing a national program for the development of small enterprises, promoting a favorable environment for their operation, motivating citizens to enter the labor market through these enterprises, and promoting the culture of entrepreneurship, research and innovation. It is also tasked with coordinating the efforts of all entities, bodies and stakeholders working in the sector, proposing legislation and developing training programs for capacity building, marketing and supply chains to name a few, as well as facilitating collective bargaining, encouraging exports and facilitating licensing procedures and approvals.

MSMEDA is also tasked with establishing a database for all micro, small and medium-sized enterprises (MSMEs), and preparing and disseminating information regarding the services it provides. The board of directors is responsible for developing marketing and awareness-raising plans regarding these services. MSMEDA is also empowered to create companies and funds, either on its own or in partnership with others, related to its objectives and for the purpose of achieving its interests. It is worth noting that the decree establishing MSMEDA granted it the power to provide funding which, similar to the case with the SFD, represents a role conflict. The board is also responsible for developing performance indicators to help monitor progress of the services and different programs provided by the MSMEDA, as well as similar services provided by other entities and which fall within its jurisdiction. Additionally, the board has the authority to develop a classification system for projects, based on size, working capital and number of employees.

Finally, MSMEDA is entrusted with other responsibilities prescribed in the Small Enterprise Law No. 141 of 2004 (those which were assigned to the now-defunct SFD, as mentioned in earlier.) Specifically, MSMEDA is responsible for creating units to help serve and support MSEs with regards to facilitating their establishing, and the issuance of licenses, approvals needed for carrying out their operations<sup>73</sup>.

#### **d. Micro Finance Law No. 141 of 2014<sup>74</sup>**

In 2014, for the first time in Egypt, a law to regulate micro finance was promulgated. This was primarily a culmination of the effort of FRA. The Micro Finance Law, Law No. 141 of 2014, aims at providing limited amount of funds to micro enterprises for carrying out economic activities. In doing so, it aims at alleviating poverty by making available financing for individuals and groups who stand to benefit from this type of financing. Since at its core, micro financing is a non-banking activity, it falls under the jurisdiction of FRA according to Law No. 10 of 2009<sup>75</sup>. That said, banks that provide this type of financing are subject to the Banking Law and the rules and regulations issued by the CBE. The significance of regulating micro financing lies in the fact that it allows companies and civil society organization that wish to engage in this kind of activities to provide micro and small enterprises with much needed funding. Ultimately, this helps in narrowing the funding gap that these enterprises face.

The law established the Egyptian Federation for Micro Finance, which includes companies and civil society organization engaged in microfinance. The federation aims at ensuring the representation of the sector, raising awareness of its needs, and taking the necessary administrative measures against those who violate the professional standards set by the federation.

## **e. Initiatives sponsored by the Central Bank of Egypt**

Beginning in 2015, the CBE issued a number of directives to banks in support of SME funding –collectively termed as the CBE initiatives. These initiatives aim at making available funding for small enterprises primarily through a number of measures including exemption from the reserve requirement on direct facilitates extended by banks to small enterprises, and encouraging banks to allocate 20% of their loan portfolio to small enterprises over a period of four years. Additionally, the CBE reduced the eased risk assessment criteria related to the minimum capital requirements for bank loans to small enterprises.

What is most significant about these initiatives, which at the same time stirred controversy, is that they introduced a special definition for micro, small and medium-sized enterprises based on two criteria: capital and number of employees. This definition is not consistent with the definition included in the Small Enterprise Law No 141 of 2004.

### **Establishing Micro and Small Enterprises:**

According to the laws and regulations mentioned above, establishing MSEs entails submitting a request to MSMEDA for registering and obtaining the required licenses, approvals. To facilitate this, MSMEDA includes representatives from different government bodies and entities that are responsible for providing these approvals. For example, it includes representatives from the Companies Authority, the Tax Authority, the Commercial Registry, as well as representatives from entities responsible for allocating land and other spaces that enterprises need for operation, such as representatives from governorate-level shop licensing office, the Federation of the Chambers of Commerce and the Industrial Development Authority (IDA)<sup>76</sup>. The enterprise should include in its request for registration information on its working capital and the number of workers employed<sup>77</sup>. Once the request for licensing meets all the requirements, the MSMEDA submits a request for a temporary license to the competent committees set up to review such requests. The committees must respond within seven working days

of receiving the request. Permanent licenses are issued by the relevant administrative entities, which are required to respond within thirty days of submitting the required documents to them<sup>78</sup>. If they do not respond within the specified period, the temporary license is considered permanent, and the registration of the enterprise is entered into a special registry at MSMEDA. The enterprise then receives a national ID number that should be used for concluding all its transactions<sup>79</sup>.

Thus, it is clear from the above presentation that all procedures pertaining to establishing this type of companies or sole proprietorships are now brought under the umbrella of MSMEDA. Opening a file at the Tax Authority and obtaining a tax card, obtaining a certificate to carryout commercial activities and registration in the commercial registry, opening a file at the National Authority of Social Insurance and obtaining a social insurance number to name a few are accessible through the MSMEDA<sup>80</sup>.

Additionally, the law offers MSMEs other incentives including a reduction in the cost of services provided to these enterprises. For example, the law prescribes that enterprises pay 1% of the paid capital in return for receiving the services, and sets a maximum ceiling ranging from LE 500 and LE 200 for required charges, depending on the size of the enterprise<sup>81</sup>. More so, the law mandates that 10% of the land allocated for investment purposes be made available to these enterprise<sup>82</sup>, as well as allowing them to apply for land use rights at an annual charge not to exceed 5% of the estimated value of the land<sup>83</sup>. The law also offers enterprise owners the right to obtain permits to use spaces at a cost that does not exceed 50% of the cost specified for occupying these spaces<sup>84</sup>.

While the law mandated the establishment of nation-wide units, including at the local level, to support these enterprises, including registration, licensing and obtaining approvals, yet the reality on the ground was different. This can be primarily attributed to the failure to address many of the procedures and obstacles contained in other laws, and the lack of a clear and cohesive approach in amending these laws

in a manner that supports these enterprises. For example, Article 12 of the Small Enterprise Law stipulates that government entities and agencies should set aside 10% of their procurement budget for small enterprises. However, many procurement officials refuse to apply this provision. Because they feel obligated to apply by the Tender and Bids Law of 1998<sup>85</sup>.

Therefore, despite the various attempts to overcome the obstacles that prevent the entry of MSEs in the formal sector, challenges remain in implementation- primarily on two levels. On one level, the complexity of the bureaucracy and the lack of flexibility on the side of the entities dealing with these enterprises result in the problems continuing unresolved - small enterprises and entrepreneurs are unable to take advantage of the incentives provided in the laws. Second, inconsistency between the different applicable laws hinders the operation of these enterprises. In addition, there is an apparent lack of any meaningful attempt to integrate existing informal enterprises into the formal economy by developing special procedures that allow them to reconcile their status and formalize.

#### **4. The legal framework to enable Industrial Enterprises**

Industrial enterprises are primarily regulated by the Law on Streamlining of Industrial Facility Licensing Procedures, Law No. 15 of 2017, and its Executive Regulations. This law abolished Chapter One of Book One of the Regulation and Promotion of Industry Law, Law No. 21 of 1958, which regulated the licensing and registering of industrial establishments. The law defines an industrial establishment as "any establishment, company or industrial shop of any size..." that undertakes specific operations included in the law<sup>86</sup>. The law gives special attention to micro, small, and medium-sized industrial enterprises. A separate decree defines medium-sized industrial enterprise as "each company or establishment that carries out an industrial activity, and which annual operations is not less than LE 50 million and not more than LE 200 million". As for new companies and establishments that are yet to

establish a volume of work, the decree uses a different criteria to define them, stipulating that for new enterprises “the paid capital should not be less than LE 5million and does not to exceed LE 15 million”<sup>87</sup>. For micro and small enterprises, the decree adopted the same criteria. For the annual turnover criteria, it stipulated that “it should not be less than LE 1 million and not exceed LE 50 million for small enterprises, and should not to exceed LE 1 million for micro enterprises”<sup>88</sup>. As for the paid capital criteria, it stipulates that “it should not be less than LE 50,000 and not exceed LE 5 million for small enterprises, and should not exceed LE 50,000 for micro enterprise” It is clear that the definition of small enterprises, based on the of amount of paid capital, is inconsistent with the definition contained in the MSE Law. The latter sets a ceiling of LE 1 million and not LE 5 million for defining small enterprises with regards to the paid capital.

Law No. 15 of 2017 attempted to address many of the shortcomings in the licensing system. Prior to its promulgation, issuance of licenses for the operation of industrial and commercial enterprises was subject to the Industrial/Commercial Shops Law, Law No. 453 of 1954<sup>89</sup>. The law had a wide scope, regulating all types of industrial and commercial enterprise - from small shops to heavy industries. More so, many of the various laws and decrees that are related the licensing process added more conditions on the issuance of licenses. They required the approval of many other entities including civil defense, environment, motor vehicle, and wastewater. Thus, the legal and regulatory framework that regulated licensing had many shortcomings, the most pronounced of which was that licensing was regulated by different laws and regulations, and any attempt to try to fully grasp all the information pertaining to the licensing process was a major challenge. More so, implementing the procedures differed from one governorate to the other, and also between governorates and the new urban communities. As local units exercised their discretionary powers in applying the laws and regulations, inconsistencies surfaced and licensing fees varied from one location to the other.

The law governing IDA, which was established by a Presidential Decree in 2005 (Presidential Decree No. 350 of 2005), granted it the exclusive authority to issue industrial licenses. The law also mandated the establishment of a committee within IDA— “the Licensing Requirements Committee”. The law gave the committee the exclusive power to determine all the licensing requirements, irrespective of the rules contained in other laws, and categorize these requirements according to a risk classification scheme. In addition, the committee is tasked with setting the requirements and codes for relevant buildings and identifying other non-substantive requirements. The committee is also entrusted with setting licensing requirements appropriate to the nature of micro, small and medium-sized enterprises<sup>90</sup>. To signify the seriousness of intent to activate the role of the committee, the law obligated all competent entities to provide the committee with an inventory of all the licensing requirements and relevant decrees which have been applicable prior to the issuance of the law<sup>91</sup>. The committee was formed on September 17, 2017 (Ministry of Trade and Industry Decree No. 1135 of 2017), however, as of October 2017, it had not issued any requirements.

The law establishes two new licensing systems: licensing by notification and licensing by approval. The law allows individuals wishing to establish or manage an industrial facility that does not represent a significant degree of risk to notify IDA. The notification should be submitted in a form attesting to compliance with the license requirements, and be accompanied by the following documents: 1) An up-to-date certificate from the Commercial Registry, 2) A proof of payment of the prescribed license fees and an acknowledgment that the applicant has received an approved copy of the Manual for Carrying out Industrial Activities, and 3) A document of title to the land or building, whether an ownership, lease or use contract<sup>92</sup>. IDA is obliged to acknowledge receipt of the notification on the day it was submitted, and provide the applicant with a proof of receipt, to be considered a license to operate. In the instance that the enterprise does not fulfill all the requirements, it should be given 180 days, renewable, to do so. Failure of the enterprise to adjust

its status during the extended period, shall give IDA the right to request the enterprise to shut down its operations.

Regarding higher-risk industrial enterprises, the law requires that for any industrial enterprise that is considered high-risk, a prior approval should be sought before establishing, managing or operating the enterprise. A schedule annexed to the Executive Regulations of the law specifies higher-risk enterprises which include meat processing, sugar, textile-related industrial processes, and other enterprises established in specific geographic areas as specified by the Prime Minister. A request for licensing should include all the required documents that indicate compliance with the requirements listed above<sup>93</sup>. IDA has to determine the extent to which the request complies with the requirements within 14 days of submitting it. If the request meets all requirements, IDA must respond to the licensing request within 30 days of its receipt. In the event that some of the requirements are not met, IDA must inform the applicant of the missing documents within 7 days. Upon submission of these documents, IDA must decide on the request within 14 days. In the event that the request is denied, IDA must inform the applicant of the reason for denying the licensing request within 14 days. In the event IDA does not abide by the dates specified above, the requestor may file a grievance to the Grievance Committee mandated by the law.

This new law and its Executive Regulations have also unified the licensing fees. The law specified a maximum ceiling of LE 20,000 for an enterprise requiring a prior approval, and LE 5000 for an enterprise that can obtain a license by notification, provided that the area of the land on which the enterprise is established exceeds 500 square feet. If the area of land is less than 500 square feet, the Executive Regulations specified the fee to be LE 2,500 for enterprise that can obtain a license by notification, and LE 10,000 for enterprises that must obtain a prior approval<sup>94</sup>. The law also exempted micro and small industrial enterprises from 50% of the licensing fees<sup>95</sup>. The law also mandates that all issued licenses be unlimited-duration licenses, except in cases

when the enterprise fails to meet the substantial requirements. In this latter case, until these requirements are fulfilled, the enterprise is to be issued a one-year temporary license that is renewable for a maximum period of three years<sup>96</sup>. Last but not least, the law gave special attention to integrating the informal sector in the economy. It granted IDA the power to issue one-year temporary licenses to these enterprises until they adjust their status. The temporary license is renewable for another period, by decision of the Minister of Industry and the recommendation of IDA<sup>97</sup>.

Thus, comparing Law No.15 of 2017 to the law regulating small enterprises, it is safe to conclude that the former is quite an ambitious law that aims at seriously addressing the myriad of problems afflicting the current licensing system. Thus, it is considered one of the most significant economic laws that have been recently promulgated. In fact, many important steps have already been taken towards its implementation including, issuing the executive regulation, developing a definition for micro, small and medium-sized enterprises, forming the Licensing Requirement Committee, and identifying the relevant entities. To summarize, the promulgation of Law No.15 of 2017, combined with the swift action to put in place the various tools for its implementation, are a testimony to the seriousness of the effort to tackle the current obstacles facing licensing.

## Recommendations

The previous discussion confirms that there is still much room for improvements to overhaul the legal framework governing the establishing and licensing of companies and enterprises. This will be particularly significant for enterprises operating informally which, are by and large are micro and small enterprises. This reform should center on the following:

1. Promptly finalize the unified companies draft law that has been under consideration for many years. Once promulgated, the

new law should replace the current Companies Law and the applicable chapters in the Commerce Law. The anticipated law is of significant importance as it promises to introduce many needed changes. In brief, it will introduce unified procedures for establishing all types of companies, positively impact the business ecosystem, open the door for business partners to choose the terms and conditions of their agreements, ease the procedures for increasing capital and changing the legal form of an enterprise. The latter expected positive outcome—changing of the legal form of an enterprise— should facilitate the establishing of small enterprises and their growth.

2. Promptly promulgate the anticipated small and medium-sized enterprises law. The new law should provide informal small and medium-sized enterprises with transparent, speedy and uncostly mechanisms not only to adjust their status, but equally important, to govern their interaction with government entities after formalization. For example, the new law provides these enterprises with a simplified and streamlined framework for fulfilling the requirements of the various government entities with regards to labour issues, social insurance, income tax, and VAT to name a few. The new law should allow these enterprises to be a part of the formal business economy, however taking into account considerations of flexibility and ease of procedures needed in the case of these enterprises compared to larger enterprises.
3. Provide support and assistance to microfinance companies so that they can extend their services through the internet and the mobile using electronic hosting services. This will help them avoid expenses associated with procuring computers, mobile phones or building their own IT infrastructure.
4. Allow informal enterprises a period of grace to formalize their status, without retroactively taking any punitive measures against them for their earlier informality.

5. Provide the new MSMEDA with the adequate powers and authority so that it can provide comprehensive support to small enterprises. Support should not be limited to the area of finance, but should extend to other areas including marketing, training and technology transfer.

# V. THE PROGRAM RELATED TO

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## LEGALIZING REAL ESTATE

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### OWNERSHIP

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Registration of real estate<sup>98</sup> is directly and significantly linked to the issue of limiting cash transactions. Real estate registration refers to the set of laws, policies and program that aim at facilitating registration and conferring title to vacant and occupied buildings, as well as the land on which they are constructed thereby, facilitating any official transactions related to these properties. In the past years, this topic enjoyed much attention, focusing on its expected positive impact on economic efficiency, and the expected benefits that will accrue to property owners with regards to enjoying the financial fruits of their property and being able to realize fair economic returns. Yet, much of the discussions did not specifically focus or highlight the expected impact of formalizing ownership on promoting and advancing banking and electronic transactions. While the program for legalizing real estate falls outside the immediate scope of the Transitioning to a Cashless Economy Program, however, it is essential that it be covered here as it is considered a complementary program which can contribute to limiting cash transactions in the real estate sector.

## 1. Impact of Real Estate Legalization on Economic Efficiency

The primary objective of establishing any modernized and comprehensive system for real estate registration is to protect owners by acquiring title to their property, which has an absolute evidentiary value that can be used in cases of disputes or infringements on the property. More so, it allows owners to freely transact in their property, whether through sale, lease or mortgage, and to make use of it for personal or commercial, under the protection of the law. Thus, formalization of real estate offers a number of economic benefits including:

- Allowing citizen to receive a realistic economic return on the real estate assets they own.
- Stimulating real estate investment by financial institutions and specialized investment funds.
- Encouraging owners to maintain their property thereby increasing their value.
- Allowing large segments of small investors and owners of small and medium-sized enterprises access to finance by using their property as collateral.
- Facilitating the free movement of individuals between different locations and property as with formalization, rights to ownership are secure and leasing of properties is more available.
- Limiting real estate disputes and litigations that drain time, money and energy, not only of litigants but also the state and courts.

Besides the potential economic benefit for formalizing ownership which are listed above, no doubt, securing ownership will also have significant positive impacts on the social stability and psychological security of millions of Egyptians who either own or reside in unregistered property.

## 2. Impact of Real Estate Legalization on Cash Payments

The positive impact of real estate registration on the process of transitioning to a cashless economy lies in the fact that buyers, sellers and lessees of property can be required to conduct their transactions -which will be based on official and solid documentations- in an orderly manner through banking and/or electronic mechanisms. At the same time, they may also be obligated to conduct the cash part of the transaction in an official manner. Additionally, interest in registering real estate which is expected to accompany the availability of timely and easy registration system, in and of itself, would encourage the use of banking transactions. Finally, risks associated with dealing in large sums of cash could be a further driving force, urging individuals to rely on banks rather than cash for concluding their transactions.

## 3. The Current Legal Framework

Considering all the potential significant benefits associated with real estate registration, whether to owners, sellers, buyers, lessees, the state or the national economy, begs the questions: Why is real estate registration stalled? What is hindering the expansion in real estate registration? The answer to these questions lies in the complexity of legal framework governing real estate registration, and the cumbersome registration procedures, which together, limit the realization of the economic benefit expected from registration.

In brief, Egypt has two main registration systems: *Sigueal el-shaksi*, and *Sigueal el-ainee*. The former, *Sigueal el-shaksi*, is a “personal registry” –in other words the registration of property is made against the name of a person. The *Sigueal el-ainee* is a “registry of real property”, in other words it is property-based system containing all property-specific information, whether the property is land or a building. In the case of *Sigueal el-shaksi*, one is able to retrieve all registration information through the name under which the property is registered. However, the system does not allow one to retrieve the name of the property owner

through the data of the property itself<sup>99</sup>. On the other hand, the *Sigueal el-ainee* is a property-based system for registering buildings and land.

Many studies have concluded and recommended that the property-based *Sigueal el-ainee* as a preferable registration system for many practical reasons including, guaranteeing more clarity in property ownership. Compared to the *Sigueal el-shaksi* - the personal registry system - the *Sigueal el-ainee*, by virtue of being a property-based system, does not lend itself to recording multiple owners for the same property<sup>100</sup>.

There are two laws that regulate real estate registration in Egypt: 1) The Law for Property Registry and Certification, Law No.114 of 1946 (governs the *Sigueal el-shaksi*-personal registry), and 2) The Law for Real Folio System, Law No. 142 of 1964 (governs the *Sigueal el-ainee*-property-based registry). In practice, Law No.114 of 1946 is the prime legal instrument used for registration. In fact, Egypt did not know property-based registration until the promulgation of Law 142 of 1964 which aimed at converting real estate registration from a personal registry system to a property-based one<sup>101</sup>. Yet, to date, Law 142 of 1964 has not been implemented nation-wide. This has created a dual system for real estate registration, each being implemented in different geographic location in the country. Despite the passage of time since Law 142 of 1964 was promulgated, and the issuance of various decrees related to its implementation, serious gaps in law implementation continue. In fact, subsequent ministers of justice have issued various decrees adding land plots that would naturally fall under the jurisdiction of the property-based registration system— *Sigueal el-ainee* —in addition to issuing other decrees related to registration procedures. For example, most recently, the current Minister of Justice issued a number of decrees aiming at modernizing and automating the registration procedures, and at the same time, delaying the implementation of the law in the governorates of Minya, Sohag and Qena until January 1, 2018<sup>102</sup>. Among the recent decrees is one that amended the Executive Regulation of the law in order to modernize the registration procedures. Examples of changes introduced to the system include abolishing all

legal requirements that mandate the placement of postings to describe the property, granting the entities entrusted with implementing the law the right to automate the procedures, including surveying of buildings, mapping, and all other relevant documents. In addition, the Minister issued a decree amending some of the procedures for filling and registering conciliation certificates that are required in the event that formal contracts are lacking, and also in cases that involve title by occupancy.

Despite the benefits of the property-based *Sigueal el-ainee* system, a Ministry of Finance study reveals that to date, 80% of the agrarian land in Egypt are covered by the property-based *Sigueal el-ainee* system. Most of the buildings in major cities are registered using *Sigueal el-shaksi* - personal registry. This is a cause of concern regarding the security and stability of ownership rights, and reduces the expected gains from real estate registration.

#### **4. Responsible Entities and Registration Procedures**

While there are a number of entities engaged in real estate registration, two principle entities are directly being responsible for the registration process: The Notary Public- Real Estate Registry -affiliated with the Ministry of Justice, and the Egyptian General Survey Authority (EGSA) which is affiliated with the Ministry of Irrigation and Water Resources.

Article 2, Paragraph 2, of the Presidential Decree No. 827 of 1975 which reconstituted EGSA, granted it the jurisdiction over real estate inspection (whether land or buildings)<sup>103</sup>. Inspection is to take place with any transfer of ownership, even if no changes were introduced to the property. It is worth mentioning that the status of EGSA has been changed, transforming it to a special economic entity. Since the decree also grants it the right to define the fees for providing its surveying and mapping services, EGSA charges exuberant fees that do not appear commiserate with the services it provides. As a matter of fact, the Ministry of Finance 2005 study indicated that the fees reach 2% of the

value of the property, and that such high fees are considered among the main reasons discouraging property owners from formally registering their properties<sup>104</sup>. This contrasts sharply with the significant decline in registration fees charged by the Real Estate Registry (Notary Public). Registration fees were originally 12% of the property value, however they declined over time, reaching 3% according on Law No. 3 of 2004<sup>105</sup>.

Besides the high registration fees, labyrinthine and very complex registration procedures (under both system) is one of the main reasons that hinder formalization of property ownership. According to the same study mentioned earlier, registration under the personal registry system consume 193 days in Egypt, compared to 26 days in Jordan, 4 days in Turkey and 9 days in Canada. A quick glance at the list below which outlines, in a simplified manner, the steps required for each and every registration transaction reveals the complexity of the procedures:

1. Submission of request to the Registry branch.
2. Submission of request to the Survey branch.
3. Survey field inspection and the description issued by the Survey Authority.
4. Obtaining a certified copy of the original contract from the Notary Public.
5. Obtaining a copy of the inclusions form “Moshtamalat” from the Real Estate Tax Authority.
6. Developing the draft final contract and obtain the approval of the Registry branch.
7. Paying of fees, signing the final contract at the Registry branch.
8. Receiving the registered contract from the Registry branch.

## 5. National Program for Legalizing Real Estate Ownership

Achieving real and speedy progress in the area of real estate registration cannot be realized simply by relying on the current legal framework, even if property-based registration system - *Sigueal el-ainee* – becomes fully implemented and replaces the *Sigueal el-shaksi* - the personal registry system. Unfortunately, the current rules, regulations and mechanisms adopted by either system does not allow for a real impact in the area of registration. Thus, it is recommended that the government develop a national program for formalizing real estate ownership- similar to the practice in many countries over the past two decades. This national program should be based on the following:

- Adopt a modern automated tracking mechanism to enumerate and survey all the real estate related transactions, and link them to a unique number-e.g., the national ID number.
- Put in place streamlined and quick mechanisms to allow for reporting unregistered property, investigating its ownership and recording it. This system should be adopted in the different geographical locations in a sequential manner.
- Put in place summary judicial mechanisms to allow for the expeditious resolution of disputes that arise at the time of property registration. For disputes that do not lend themselves to quick resolution (either through the facts on the ground or through supporting documents), they may be transferred to the regular civil court system.
- Limit citizen's interaction to the real estate registry offices, and restrict their interaction with offices of EGSA. Citizens may also use the services provided by licensed private sector survey firms. In all cases, only real estate registry offices and licensed private sector survey firms are the ones to interact with EGSA.
- Put in place an efficient mechanism to allow for the registration of property in new urban communities.

- Ban the levying of any additional fees on formalizing property ownership.
- Allow citizens a grace period to apply for registration in areas that are to be selected sequentially. In the case citizens exhaust the grace period for registration, higher registration fees should be imposed.
- Impose harsh penalties for offences related to manipulating property registration documents and related power of attorney documents.
- Empower the authorities to enforce court rulings related to possession and eviction and ensure the compulsory enforcement of the rulings in a speedy and forceful manner.

## ENDNOTES

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- <sup>1</sup> Capital Market Law, Articles 26 and 27.
- <sup>2</sup> Income Tax Law, Article 1
- <sup>3</sup> Income Tax Law, Article 3
- <sup>4</sup> Income Tax Law, Article 16
- <sup>5</sup> Income Tax Law, Article 46 bis.
- <sup>6</sup> Property Tax Law, Article 2
- <sup>7</sup> Property Tax Law, Articles 8 and 9
- <sup>8</sup> Value-Added Tax Law
- <sup>9</sup> Stamp Tax Law, Article 1
- <sup>10</sup> Law No. 201 of 2014, Article 1 (amending a number of provisions of the Income Tax)
- <sup>11</sup> Executive Regulation of Income Tax Law, Article 82
- <sup>12</sup> Executive Regulation of Income Tax Law, Articles 52 bis (2), 77 bis, 82 and 89
- <sup>13</sup> Executive Regulation of Income Tax Law, Article 123 bis.
- <sup>14</sup> Importers' Registry Law, Articles 1 and 3.
- <sup>15</sup> Importers' Registry Law, Articles 1 and 3 bis.
- <sup>16</sup> Customs Duties Law, Article 5.
- <sup>17</sup> Customs Duties Law, Article 111.
- <sup>18</sup> Customs Duties Law, Articles 114120-.
- <sup>19</sup> The Public Entities Law, Article 4.
- <sup>20</sup> Public Sector Companies and Entities Law, Article 1 and Presidential Decree No. 433 of 1983 regarding the oversight role of the Egyptian General Petroleum Corporation over Egyptian public sector companies working in the petroleum field, Article 1.
- <sup>21</sup> Public Sector Companies and Entities Law, Articles 1, 7 and 8.
- <sup>22</sup> Local Administration Law, Article 35 (b).
- <sup>23</sup> Local Administration Law, Article 37.
- <sup>24</sup> Local Administration Law, Article 51.
- <sup>25</sup> The Judicial and Registry Fees Law.

- <sup>26</sup> Civil Service Law.
- <sup>27</sup> Public Sector Employees Law.
- <sup>28</sup> Prime Ministerial Decree No. 1133 of 2011, Article 3.
- <sup>29</sup> Commerce Law, Articles 47-.
- <sup>30</sup> Commerce Law, Article 10.
- <sup>31</sup> Commerce Law No. 1 of 1883 was abolished after the issuance of Law No. 17 of 1999, except for the Chapter referred.
- <sup>32</sup> Commerce Law No. 1 of 1883, Article 46.
- <sup>33</sup> Commerce Law No. 1 of 1883, Articles 5051-.
- <sup>34</sup> Commerce Law No. 1 of 1883, Article 46.
- <sup>35</sup> Commerce Law No. 1 of 1883, Articles 5051-.
- <sup>36</sup> Commerce Law No. 17 of 1999, Article 3, Commercial Registry Law, Articles 1 and 17.
- <sup>37</sup> Commercial Registry, Article 9.
- <sup>38</sup> Commercial Registry Law, Article 15.
- <sup>39</sup> Industrial/Commercial Shops Law, Articles 2 and 3, Commercial Registry Regulations, Article 1 and Annex (1).
- <sup>40</sup> Commercial Registry Law, Article 2, Commercial Registry Regulations, Article 1 and Annex (1).
- <sup>41</sup> Commercial Registry Law , Article 2.
- <sup>42</sup> Commerce Law No. 1 of 1883 was abolished after the issuance of Law No. 17 of 1999, except for the Chapter referred.
- <sup>43</sup> The Commerce Law No. 1 of 1883, Article 48.
- <sup>44</sup> The Commerce Law No.1 of 1883 , Article 49.
- <sup>45</sup> Commercial Register Law, Article 3
- <sup>46</sup> Commercial Register Law, Article 2
- <sup>47</sup> Executive Regulations of the Companies Law, Articles 5 and 44..
- <sup>48</sup> Companies Law No., Article 17.
- <sup>49</sup> Executive Regulation of the Companies Law, Articles 64 and 65.
- <sup>50</sup> Commercial Registry Law, Article 3.
- <sup>51</sup> Commercial Registry Law, Article 2.

- <sup>52</sup> Executive Regulations of the Companies Law, Articles 10 -37
- <sup>53</sup> Executive Regulations of the Companies Law, Articles 12 -13 and Annex (2)
- <sup>54</sup> Executive Regulations of the Companies Law, Article 14.
- <sup>55</sup> Executive Regulations of the Companies Law, Articles 5 and 44.
- <sup>56</sup> Companies Law, Article 17
- <sup>57</sup> Companies Law, Article 15 and Executive Regulation of the Companies Law, Articles 44 and 46 .
- <sup>58</sup> Commercial Registry Law, Article 3.
- <sup>59</sup> Capital Market Law, Article 2, Executive Regulations, Articles 7 and 45.
- <sup>60</sup> Companies Law No. 159 of 1981, Article 17 (d).
- <sup>61</sup> Executive Regulation of the Companies Law, Article 3.
- <sup>62</sup> Companies Law, Article 17.
- <sup>63</sup> Commercial Registry Law, Article 2, Companies Law, Article 17.
- <sup>64</sup> Companies Law Articles 1213- (Annex 2), Capital Market Law, Articles 45-, Executive Regulations of Capital Market Law, Articles 40 and 42.
- <sup>65</sup> Executive Regulations of Capital Market Law, Article 50.
- <sup>66</sup> Companies Law, Articles 17 (d) and 32.
- <sup>67</sup> Capital Market Law, Article 28.
- <sup>68</sup> Small Enterprise Development Law.
- <sup>69</sup> Small Enterprise Development Law, Articles 12-.
- <sup>70</sup> Tender and Bids Law.
- <sup>71</sup> Presidential Decree No. 40 of 1991 establishing the Social Fund for Development.
- <sup>72</sup> Prime Ministerial Decree No. 947 of 2017 establishing the Micro, Small, and Medium-sized Enterprises Development Authority.
- <sup>73</sup> Small Enterprise Development Law, Article 3.
- <sup>74</sup> Micro Finance Law.
- <sup>75</sup> Non-banking Financial Markets and Instruments Law.
- <sup>76</sup> Small Enterprise Development Law, Article 3, Decree No. 1034 of 2015 regarding the establishing and Licensing of micro and small enterprises, Article 2.

- <sup>77</sup> Executive Regulation for the Small Enterprise Development Law, Article 7.
- <sup>78</sup> Small Enterprise Development Law, Article 3, Decree No. 1034 of 2015 regarding the establishing and Licensing of micro and small enterprises, Article 3.
- <sup>79</sup> Small Enterprise Development Law, Article 3.
- <sup>80</sup> Decree No. 1034 of 2015 regarding the establishing and Licensing of micro and small enterprises, Article 4.
- <sup>81</sup> Small Enterprise Development Law, Article 13.
- <sup>82</sup> Small Enterprise Development Law, Article 10.
- <sup>83</sup> Small Enterprise Development Law, Article 11.
- <sup>84</sup> Small Enterprise Development Law, Article 15.
- <sup>85</sup> Tender and bids Law.
- <sup>86</sup> Law on Streamlining of Industrial Facility Licensing Procedures, Article 1.
- <sup>87</sup> Decree No. 1081 of 2017 defining micro and small enterprises as referenced in Law No. 15 of 2017 Article 1.
- <sup>88</sup> Ibid.
- <sup>89</sup> Law 453 of 1954.
- <sup>90</sup> Law on Streamlining of Industrial Facility Licensing Procedures, Law No. 15 of 2017, Articles 2 and 14.
- <sup>91</sup> Law on Streamlining of Industrial Facility Licensing Procedures, Law No. 15 of 2017, Article 16.
- <sup>92</sup> Executive Regulation of Law on Streamlining of Industrial Facility Licensing Procedures, Articles 12.
- <sup>93</sup> Executive Regulation of Law on Streamlining of Industrial Facility Licensing Procedures, Articles 16.
- <sup>94</sup> Executive Regulation of Law on Streamlining of Industrial Facility Licensing Procedures, Article 33, Executive Regulation of Law on Streamlining of Industrial Facility Licensing Procedures, Article 48.
- <sup>95</sup> Law on Streamlining of Industrial Facility Licensing Procedures, Article 33.
- <sup>96</sup> Law on Streamlining of Industrial Facility Licensing Procedures, Article 3, Regulation of Law on Streamlining of Industrial Facility Licensing Procedures, Article 21.
- <sup>97</sup> Law on Streamlining of Industrial Facility Licensing Procedures, Article 3.

<sup>98</sup> As used in this translation, the term “real estate” refers to land and buildings.

<sup>99</sup> The Real Estate Registry offers some services that allow individuals to know a property ownership history. For example, the Real Estate Registry issues “The Real Estate Transaction Certificate» which is required for mortgage transactions. The certificate includes the ownership data of the property in the last ten years. In all cases, however, the absolute authenticity of ownership is not as strong under this system, compared to Sigueal el-ainee, the property-based registration system.

<sup>100</sup> The Ministry of Finance (2005). Research Study on Streamlining the Egyptian Laws, Regulations and Procedures Governing Registration of Property: International Comparative Study and Recommendations Report, by Megacom. Cairo, Egypt.

<sup>101</sup> Presidential Decree No. 142 of 1964 on Sigueal el-ainee, property-based registry.

<sup>102</sup> Minister of Justice Decree No. 11264 of 2016 amending some of the provisions of the executive regulations of Law No. 142 of 1964 on Sigueal el-ainee, property-based registry, Minister of Justice Decree No. No. 11262 of 2016 amending Decree No. 1749 of 1975 on the Conciliation Form stipulated in Article (19) of the Law on Sigueal el-ainee, property-based, Law No. 142 of 1964.

<sup>103</sup> Presidential Decree No. 827 of 1975 restructuring the General Survey Authority.

<sup>104</sup> The Ministry of Finance (2005), P. 20 and P. 33.

<sup>105</sup> Law No. 3 of 2004 amending some of the provisions of Law No. 70 of 1964 regarding registration fees.

