Recent amendments to Egypt's corporate regime

LAW

By Dr Nicolas Bremer

As part of a larger economic reform program to entice foreign investment and spur growth, Egypt's government recently issued a number of amendments to Law No. 159 of 1981 regarding commercial companies. The new legislation aims to increase regulatory oversight over stock market transactions and other trade with financial products.

The majority of these amendments address shareholding structures and company management, for example by introducing the single person company, which essentially is a single shareholder limited liability company, and by abandoning the requirement for limited liability companies to appoint at least one Egyptian national to its management. Significant changes directly affecting investors also were included.

In addition to registration with the current regulatory authorities, such as the tax authority and commercial register, Egyptian law now requires joint stock companies and companies limited by shares to register with the new electronic central depository system maintained by the Misr for Central Clearing, at the time of their incorporation. With this registration the companies have to provide information on their share capital, shareholders and the capital market and other securities transactions they conduct.

Companies incorporated prior to the amendments coming into effect have to comply with the new registration requirement by mid-April 2019. Failure to do so will result in fines. Furthermore, companies not in compliance will no longer be able to utilize services offered by the General Authority for Investment (GAFI), such as notarization of general assembly resolutions, transfer of shares or disbursement of dividends.

Moreover, the changes in the law establish additional requirements for shareholders in joint stock companies and companies limited by shares. Any entity or individual holding shares in such a company now has to elect a custodian. Custodian services may be offered by brokerage companies or banks registered in Egypt. Any transactions relating to the shareholding in these companies, such as disbursement of dividends, transfer of shares and issuance of financial instruments, will have to be done involving the custodians.

While this step will increase regulatory oversight of the Egyptian financial market, the relevant amendments to the Egyptian corporate regime appear to have been made in haste, without regard in the form of exceptions for closed joint stock companies, which are not permitted to issue securities and do not trade shares on the stock market. The new requirements are aimed at companies engaged in capital market and other financial transactions, but now also apply to such companies that operate outside this parameter.

However, aside from these defects, the amendments are expected to have largely positive effects on the financial industry. The electronic registration system for financial transactions will reduce the costs of issuing financial instruments by abolishing the requirement to issue paper-based documentation of printing and issuing shares, which are solely recorded on paper. The move away from a paper-based system also may increase transparency and reduce the risk of tampering and fraud. Such risks will be further reduced by when the central depository system finishes building a register that documents financial transactions and shareholding in joint stock companies and companies limited by shares.

The added transparency offered by a central database may help attract investment in Egypt. In particular, investors will now be able to access reliable records on the shareholding, the financial activities and the debt structure of investment targets. Thus, investors seeking to acquire shares in or securities offered by a company can rely less on the target itself for information, and more on comprehensive public records.

Dr Nicolas Bremer is a partner at Alexander & Partner. He can be contacted at nb@alexander-partner.com.