

A Step towards Cashless Economy

Law No. 18 of 2019 Promulgating the Law Regulating the Use of Non- Cash Means of Payment.

Source: Law No. 18 of 2019, issue No. 15 (bis) B of the Official Gazette dated 16 April 2019.

As part of a broader government drive to boost financial inclusion and reduce reliance on cash. The Egyptian Legislator has approved Law No. 18 of 2019 “**E- Payment Law**” or the “**Law**” promoting electronic payment services, under the E- Payment Law, government institutions, and private companies shall be obliged to use electronic payment to pay employees, contractors and service providers.

The E-Payment Law comes in the context of a broader strategy aiming at overcoming the Infrastructural, legal and regulatory barriers of financial inclusion and cashless economy. One of the first regulatory milestones in this regard was the formation of the National Payment Council which was established by Presidential Decree no. 89 in February 2017 and is headed by H.E. the Egyptian President. The main objective of the Council is to reduce the use of banknotes outside the banking sector and support and stimulate the use of digital financial services as a primary payment method.

Overview of E-Payment Law

The E- Payment Law regulates the kind of transactions that cannot be concluded in cash form; in this regard, it is worth noting that the law does not regulate all means of payment as far as it regulates cashless payment. The application of certain provisions in the Law depends on certain thresholds, which is set to be determined by the executive regulations of the E-Payment Law to be issued within 6 months from the date of the enforcement of the law.

The E-payment Law defines the cashless means of payment as any means that results in crediting to a bank account of the beneficiary; including deposit, transfer, any debit orders, credit and debit cards, mobile payments, or any other means to be approved by the Central Bank.

Given the adjustment required by the Law to the payment systems of the addressed entities the E-Payment Law allows for a grace period of six months from the enforcement of its executive regulations for the addressed entities to comply with the law. Nevertheless, the Law allows the Prime Minister upon the proposal of the Minister of Finance and the approval of the Cabinet and the Governor of the Central Bank to extend the aforementioned grace period for a similar period or to exempt certain geographic areas from the application of the Law for a specific period.

The Addressees of the E-Payment Law

Addresses of the E- Payment Law are i) all state authorities and bodies, ii) public legal entities, iii) companies entirely or predominantly owned by the state, iv) private legal entities (private owned companies) (the “Addressees”).

By virtue of article 2 of the E-Payment Law, the Addresses shall pay any amounts due to their members, employees, experts, chairpersons, and members of board of directors and committees, as well as social insurance subscriptions via cashless means of payment. In this regard, it should be noted that the application of the provisions of this article to private owned companies is subject to a certain threshold concerning the number of their employees, or the total amount of their monthly wages.

Application of the E-Payment Law

The Cases where E-Payment is obligatory for the Addresses to pay via cashless means of payment whenever their amounts exceeds a certain thresholds:

i) the dues to the suppliers, contractors, service providers, and other contracting parties, ii) provision of cash finance, iii) distribution of dividends, iv) disbursement of the amounts due to the members of syndicates and to subscribers of private insurance funds and insurance compensations, v) payment of donations by civil society organizations or the Addressees, vi) payment of the prices of sale, lease, use, or usufruct of lands, real estate, or rabid transit vehicles by the Addresses.

Further, the E-Payment Law sets out the cases where payment should be collected via cashless means whenever their amounts exceeds a certain thresholds as follows:

i) Taxes, custom duties, fees, and fines, ii) Payments for the services rendered and payment due to the entities that provide public services or manage public utilities, iii) Installments of cash finance, insurance policy premiums, subscriptions for syndicates and private insurance funds, iv) Receipt of donations by civil society organizations or the Addressees. V) Collection of the prices of sale, lease, use, or usufruct of lands, real estate, or rabid transit vehicles by the Addresses.

It should be highlighted that the Prime Minister may upon the proposal of the Minister of Finance and the approval of the Governor of the Central Bank, add other cases where payment or collection shall be done via cashless means of payment.

As part of the legislators effort to encourage and facilitate the use of cashless means of payment the Law obliged state authorities and bodies, as well as legal persons and establishments that renders public services to the public, or manage public utilities to make available to their dealers means of acceptance of cashless payment across all service charge collection points without imposing additional charges. It is worth noting that the aforementioned free of charge application shall not be applied in case rendering the service is accompanied by delivering it to the recipient.

Further, it sets out the right of the legal entities that deal with the public, after obtaining the approval of the Minister of Finance, to provide incentives for payment through cashless means of payment.

The Offences and Penalties

the E-Payment Law identified the offences and set out different penalties for the violation of different provisions; in relation to the violation of the obligation of the entities providing public services or managing public utility the offender shall pay a fine of not less than 100,000 EGP and not exceeding 300,000 EGP. As for the violation of the rest of the provisions, the offender shall be fined by an amount not less than 2% and not exceeding 10 % of the amount paid in cash, with a maximum limit of one million EGP.

Further, the Law stipulated that whoever fragment payments with the intent of avoiding the application of the thresholds established by the law should be penalized with the same penalty. Moreover, it stated that in case of recurrence the stated fines should be doubled.

Liability of the Persons Responsible for the Actual Management.

As a deterrence for violating the provisions of the Law, the Law established the liability of the person responsible for the actual management of the legal person and stated that he shall be penalized with the same penalty imposed on the acts committed in violation of the provisions of the Law. In case, his knowledge of such violation is proven and his breach of his duties has contributed to the commission of the crime.

To conclude, the law is a great step towards reaching financial inclusion and cashless economy, however, it remains to be seen how it will be implemented in practice.

FRA DECREE NO. 33 OF 2019 – FUTURE CONTRACTS EXCHANGES ACTIVITIES.

Source: issue No. 90 of the Official Gazette dated 17 April 2019.

The amendments of the Capital Market Law no. 95 of 1992 made last year by the law no. 17 of 2018 have added the Future Contracts Exchanges operating in trading in derivatives. This Decree has been issued by the FRA on 19 March 2019 to implement such activity. The decree has not only regulated the grant of license to newly established companies, but has also allowed the Egyptian Stock Exchange (EGX) to operate in Future Contracts activity. The Decree provides the necessary conditions and procedures to establish a company operating in the Future Contracts Exchanges activities, the necessary requirements for the license to be granted either to companies or the EGX.

This Article shall briefly highlight the major conditions, requirements and rules provided by the Decree.

I- Establishing Requirements and Conditions

Joint- stock companies are allowed to engage in Future Contracts activity and to trade in derivatives after meeting certain requirements as explained below.

a- Form, Capital and Shareholding structure Requirement:

The entrepreneur wishing to operate in the field of Future Contracts Exchanges to trade in derivatives, shall establish a joint stock company under the umbrella of capital market law and in accordance with the rules governing the establishment of companies operating in financial securities field, with a minimum fully paid up capital of 20 Million Egyptian Pounds or its equivalent in foreign currencies in accordance to the rate announced by the Egyptian Central Bank.

The decree further requires that the contributions of the financial institutions, exchanges or companies operating in capital markets shall not be less than 75% of the shareholding structure of the future exchange.

b- Management and corporate governance:

The Decree ensures that the Board of Future Exchange shall be appointed for a period of three renewable years. In addition, the Decree mentions certain jobs that needs to be appointed in a future exchange such as two financial auditors, internal auditor, risk manager, credit manager and compliance manager. It is worth mentioning that the Decree has emphasized the importance for the future exchanges to comply with corporate governance decree no. 107 of 2016 concerning the companies operating in financial securities.

c- Pecuniary requirements:

The Pecuniary requirements of Future Exchanges includes license fees of One Hundred Thousand Egyptian Pounds and Insurance fees of 5 ‰ of the issued and paid capital. The Insurance amount shall always remain 5 % of the issued and paid capital, which

means that in case of increase of capital, the future exchange shall add insurance fees to keep the percentage of 5 %. The insurance amount shall be returned to the shareholders in case of cancellation of the license. FRA shall use the insurance amount to pay any financial obligations due by the Future Exchange yet unpaid.

II- Transparency and efficiency requirement:

The Decree requires the establishment of a digital trading system that is transparent enough to protect the traders' interests and the stability of the market transactions. The decree also calls for a digital and electronic link to be established between the Future Exchange and the FRA, MCDR and all relevant entities. In addition, the decree highlights the importance of the confidentiality and the protection of confidential information.

III- The Egyptian Stock Exchange operating in trading in derivatives

The FRA has allowed the EGX to operate in trading in derivatives without having to establish a joint stock company. However, the EGX shall meet all the licensing requirements including allocating an amount of 20 Million Egyptian Pounds to practice the activity.

The EGX shall also technically, financially and functionally fully separate its activities in the field of the securities markets from its activities in trading in derivative. Further a committee of at least seven members and of a maximum of eleven members shall be appointed to supervise the trading and having the same powers as the BOD of the Future Exchange Companies. In addition, the EGX shall also appoint a fulltime executive manager to manage the trading in derivatives activity.

The EGX shall fight any violations and infringements that may occur. In this respect, the Decree imposes on the EGX chairman or the executive manager of the activity in the EGX, as the case may be to notify the FRA as soon as any infringement comes to his knowledge, including the infringements made by the traders or by the brokerage companies; the occurrence of any conflict of interest with regard to the deals and transactions taking place; any material change of the Future Exchange's shareholding structure, financial position; any changes concerning the license information; any disputes; etc