



EU Macro-Financial Assistance and ECA Merger Control Reform

Egypt entered a Macro-Financial Assistance (MFA) arrangement with the European Union of up to EUR 4 billion, subject to the implementation of structural and economic reforms. A central pillar of these reforms concerns the strengthening of competition law enforcement, with particular emphasis on market efficiency, transparency, and competitive neutrality. In this context, the Egyptian Competition Authority (ECA) is a key institutional actor responsible for delivering a substantial part of the competition-related reform commitments.

Under the MFA, Egypt is expected to enhance its competition regime through more effective merger control, stricter prevention of anti-competitive practices, and the promotion of a level playing field between state-owned and private undertakings. The reform agenda also foresees the development and issuance of interpretative and procedural guidance by the ECA, aimed at increasing legal certainty and regulatory predictability. These include guidelines on trade associations, digital markets—including market definition and market power assessment—ancillary restraints, merger control jurisdiction, and gun-jumping.

Compliance with these commitments is a condition for the disbursement of tranches under the MFA. In this context the ECA is expected to adopt a more active enforcement posture and further formalize its practice in line with international competition law standards.

Procedural merger control reform

The ECA is currently developing and refining their pre-merger notification regime through emerging interpretative instruments designed to enhance clarity, consistency, and enforcement effectiveness. Although not all guidelines are

formally consolidated or publicly available as standalone instruments yet, these developments are increasingly reflected in advisory practice and legal commentary.

In particular, the ECA is working toward the formal articulation of Ancillary Restraints Guidelines. These, while not yet available as a standalone publicly accessible instrument, are increasingly referenced in legal and advisory materials. The guidelines are intended to define the circumstances under which contractual restrictions connected to a transaction—such as non-compete, non-solicitation, confidentiality, intellectual property licensing, and supply or purchase obligations—may be considered directly related to and necessary for the implementation of a notified concentration and, therefore, deemed compatible with the applicable merger control framework.

Jurisdictional Guidelines

The Jurisdictional Guidelines set out the ECA's approach to determining whether a transaction constitutes a notifiable economic concentration. They address the scope of merger control jurisdiction under Egyptian law, including merger notification requirements, certain below-threshold review transactions, filings involving the Financial Regulatory Authority, withdrawal situations, and post-clearance structural changes.

The Guidelines clarify the concept of economic concentration, encompassing mergers, acquisitions, and joint ventures, and define control and material influence. However, they do not amend the stockholding thresholds for material influence. The Guidelines also explain how control may arise through share or asset acquisitions—including intangible assets and business units—capital increases, voting patterns, or contractual arrangements.

They distinguish between sole, joint, direct, and indirect control, as well as between economic and strategic decision-making in assessing material influence.

The Guidelines also identify notifiable changes in control, including shifts between sole and joint control or changes in controlling shareholders. Certain categories of transactions are explicitly identified as non-notifiable, including commercial pledges, court-ordered transfers, and inheritance-related transfers.

The Guidelines further elaborate on turnover and asset calculation methodologies, including sector-specific rules—e.g. for investment funds, holding companies, insurance firms, and concession agreements—geographical allocation of turnover, and application of Incoterms. However, the Guidelines do not change the monetary notification thresholds. They also address jurisdictional overlaps, withdrawal scenarios, and ex post review powers, including scrutiny of below-threshold call in powers for certain transactions such as killer acquisitions.

Gun-Jumping Guidelines

The Gun-Jumping Guidelines establish the ECA's authorities for identifying and sanctioning premature implementation of concentrations. Violations may result in significant penalties, including fines ranging from 1% to 10% of the transaction value, turnover, or assets (whichever is higher). The fines will be increased to 2 to 12% with a pending amendment of the Egyptian competition law.

The Guidelines identify key categories of prohibited pre-closing conduct, including the exchange of competitively sensitive information between merging parties, interim covenants that exceed what is necessary to preserve the target's ordinary course value, *de facto* implementation of the transaction prior to clearance, early integration measures such as premature coordination of business activities, pre-closing non-compete arrangements, irrevocable transfer or payment of consideration prior to closing, and the early transfer or licensing of intellectual property rights before completion.

These provisions collectively aim to prevent any situation in which parties effectively implement a transaction prior to regulatory approval, thereby safeguarding competition and ensuring the integrity of the merger control process.

The MFA significantly elevates the importance of the ECA within Egypt's regulatory and reform architecture. The ongoing development of jurisdictional, ancillary restraints, and gun-jumping guidance reflects a broader shift toward a more structured, transparent, and enforcement-driven merger control regime. These reforms aim to align the Egyptian merger control regime closer with international best practices and are intended to strengthen legal certainty, improve compliance, and ensure effective competition enforcement in Egypt.



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