The Pan-African Merger Control Regime. Uniformity or Added Complexity?

Client briefing | The Emerging Pan-African Merger Control Regime
Africa | Merger Control
31 July 2026

African merger control remains fragmented between national and regional regimes. Transactions involving several African jurisdictions may therefore require multiple filings under rules that differ in terms of jurisdictional thresholds, procedures, review periods and enforcement practice. This may expose the same transaction to overlapping reviews, additional regulatory costs and potentially inconsistent outcomes.

The African Continental Free Trade Area (AfCFTA) seeks to address this fragmentation by establishing a continent-wide competition framework. The Protocol to the Agreement Establishing the African Continental Free Trade Area on Competition Policy (AfCFTA Competition Protocol) was adopted in February 2023 and provides for the creation of an AfCFTA Competition Authority, alongside an AfCFTA Competition Tribunal responsible to hear appeals.

The AfCFTA Competition Protocol has not yet taken effect and the proposed institutions are not operational. There is currently no separate AfCFTA merger filing obligation. Still, efforts to implement the regime are ongoing. In February 2026, the African Union Assembly said that Member States should move ahead with ratifying the AfCFTA Competition Protocol by the end of the year. A few months later—in May 2026—the inaugural AfCFTA Conference on Competition Policy and Law was held which further discussed progress on the Pan-African competition framework. These constitute the most relevant developments since 2023. The process appears to be gaining traction. This client brief considers the practical implications of these recent developments.

Addressing fragmented enforcement

The proposed continental regime is intended to address competition matters that extend beyond the jurisdiction of any single national or regional authority. Although more African jurisdictions have adopted merger control rules, institutional capacity remains uneven, and existing regional regimes do not cover all transactions affecting several African regions.

Under the current framework, domestic and regional authorities may assess the same transaction largely separately. Decisions and remedies will be limited to single—or in some cases joint regional—jurisdictions. Parties must manage review processes with different regulators and abide by several, often differing rulings. The AfCFTA Competition Protocol seeks to address this. It aims to promote cooperation and information-sharing between African competition authorities, and enable a more coordinated approach to cross-border merger review.

Still, the future AfCFTA Competition Authority is intended to complement, rather than replace, existing national and regional authorities. The effectiveness of the future regime will, therefore, depend largely on how jurisdiction is allocated between the continental, regional, and national enforcement levels.

Steps towards establishing the regime

The adoption of the AfCFTA Competition Protocol in February 2023 established the legal foundation for the continental competition regime. The Protocol requires ratification by 22 Member States before it can enter into force. This threshold has not been reached.

Implementation efforts have continued since its adoption. In February 2026, the African Union Assembly urged Member States to complete ratification of the AfCFTA Competition Protocol by the end of 2026. It also directed the launch of the process to select the host country for the AfCFTA Competition Authority and Tribunal, and to prepare their institutional and funding arrangements.

The inaugural AfCFTA Conference on Competition Policy and Law, held in Lomé in May 2026, further reflected the increasing focus on the practical implementation of the future regime. Discussions addressed coordination between national, regional, and continental authorities, cross-border merger review and the role of competition policy in supporting African market integration.

These developments highlight how work on the regime's legal and institutional structure is progressing. However, ratification, the adoption of implementing regulations and the operational establishment of the Authority and Tribunal remain necessary before the future regime can begin reviewing transactions. Furthermore, several questions concerning the Pan-African regime remain unresolved.

Outstanding issues

The unresolved matters include notification thresholds, filing fees, review timetables, local nexus requirements, and detailed procedural rules.

The interaction between the future AfCFTA Competition Authority and existing national and regional competition authorities also remains a central issue. The AfCFTA Competition Protocol does not presently establish a one-stop-shop mechanism under which a continental filing would automatically replace national or regional filings. Without such a superseding jurisdiction of the continental regime, its implementation risks adding additional complexity to the already fragmented African competition law landscape.

To address this fragmentation risk, future implementing regulations will need to address (1) the allocation of jurisdiction between continental, regional, and national authorities; (2) referral or case-allocation mechanisms; and the coordination of review periods, information requests, and remedies among the different regulators.

Key takeaways

The AfCFTA competition regime is not yet operational. Thus, there is currently no separate AfCFTA merger filing obligation. Still, the adoption of the AfCFTA Competition Protocol and the ongoing work to establish the AfCFTA Competition Authority and Tribunal demonstrate continued progress towards a continental competition framework.

Parties operating across Africa, must therefore continue to assess transactions and activities under the applicable national and regional merger control regimes, while closely monitoring the Protocol's entry into force. Whether the Pan-African regime will be of practical value will depend on if it improves coordination between competition authorities and reduces duplicative reviews, rather than introducing an additional layer of regulatory scrutiny.

IKRAM OUDDIDA

Associate

Ikram.ouddida@bremerlf.com

Ikram is an associate of the region law firm BREMER and part of the firm’s Antitrust & Merger Control team. She represents PE firms and corporates in antitrust investigations and advises them on merger control review in Morocco and handles merger control filings under the COMESA and ECOWAS merger control regimes. She works in English, French, and Arabic languages.

FADWA ISSA

Associate

Fadwa.issa@bremerlf.com

Fadwa is an associate of the region law firm BREMER and part of the firms Antitrust & Merger Control team. She advises international corporates and PE firms on behavioral antitrust matters and merger control review under Egyptian law, the COMESA Competition Regulations, as well as the laws of other MENA jurisdictions. She works in Arabic, English, and French.

NICOLAS BREMER

Partner

Nicolas.bremer@bremerlf.com

Nicolas is a partner and attorney with the regional law firm BREMER where he heads the firm's Antitrust & Merger Control team. He oversees the firm's Riyadh and Cairo representations and has extensive experience in advising international and domestic clients on merger control and antitrust matters as well as broader regulatory M&A matters in Saudi Arabia, the UAE, Egypt and the wider Near and Middle East. He works in English, Arabic and German languages.