

IN-DEPTH

Merger Control

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In-Depth: Merger Control (formerly The Merger Control Review) provides an incisive overview and analysis of the pre-merger competition and notification regimes across key jurisdictions worldwide, as well as a discussion of recent decisions, strategic considerations and likely upcoming developments. Given the ability of most competition agencies with pre-merger notification laws to delay, and even block, a transaction, it is imperative to take each jurisdiction – small or large, new or mature – seriously.

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Introduction

The Law No. 175 of 2022, amending the Law No. 3 of 2005 on the Protection of Competition and the Prohibition of Monopolistic Practices (Egyptian Competition Law, ECL), marked a significant reform in Egypt's competition framework by introducing mandatory pre-merger notification requirements. As of 1 June 2024, following issuance of the amended Executive Regulations (ER) of ECL, certain transactions meeting specific financial thresholds require the prior approval of the Egyptian Competition Authority (ECA) before implementation. This evolving framework signals a broader shift toward enhanced regulatory scrutiny of economic concentrations in Egypt.

Historically, since the enactment of ECL in 2005, Egypt operated under an ex-post merger control regime, where transactions were only notified to the ECA after its completion. The ECA had no authority to approve or block economic concentrations. However, before the introduction of a mandatory pre-merger control regime, the ECA actively exercised its enforcement powers to scrutinise transactions with significant implications under the general anticompetitive provisions of ECL. This proactive approach signalled to market participants that even in the absence of formal ex-ante merger notification, anticompetitive mergers would face regulatory scrutiny, a stance later formalised with the adoption of the ex-ante merger control regime.

This article first reviews key developments over the past year. It then examines the core elements of Egypt's merger control regime, outlining in particular the definition of economic concentration, the ex-ante notification procedure, the substantive assessment criteria and the consequences of non-compliance. The article then turns to strategic considerations, addressing related party transactions, foreign-to-foreign transactions and cross-border implications.

Year in review

The year 2024 has been an active and transformative one for the ECA, especially after the issuance of the ER amendments, which had put the ex-ante merger control regime into effect as of 1 June 2024.

First, to enhance awareness and transparency, the ECA published on its official website in April 2024, both in English and Arabic, a comprehensive 'Merger Q&As' and an infographic detailing the Control of Economic Concentrations under the new amendments. Additionally, the ECA issued the notification forms for the standard procedures, simplified procedures, and notification forms related to the transactions that shall be notified to the Financial Regulatory Authority (FRA).

According to the Statistics on Merger Control published by the ECA, during the period from June 2024 to December 2024, the total number of merger notifications received amounted to 60. Of these, 28 notifications were submitted under the standard procedures, while 32 were submitted under the simplified procedures.

These notifications span a diverse range of sectors, including but not limited to real estate, pharmaceuticals, engineering consulting, investment management, energy,

petrochemicals, transportation, construction, logistics, healthcare, mining and quarrying, manufacturing and education.

Regarding the notifications received, 87 per cent were approved, 11 per cent were conditionally approved, and 2 per cent were deemed non-jurisdictional. Regarding the average review duration, it was 16 working days for standard procedures and 14 working days for simplified procedures.

In addition, as of 1 January 2025, the ECA issued two supplementary guidelines to support the implementation of the new merger control regime. The first, published in January 2025, provides guidance to companies on best practices during the due diligence phase to avoid unlawful exchange of commercially sensitive information and ensure compliance with the ECL. The second, issued in June 2025, is an updated version of the Merger Control Q&As, addressing key enquiries received by the ECA from companies and law firms, particularly in relation to the calculation of turnover under the ECL and procedural requirements for the notification files.

The merger control regime

Notion of economic concentration

Definition

The ECL adopts a broad and inclusive notion of economic concentration, defining it as any transaction that results, directly or indirectly, in a change of control or material influence over one or more persons. In this regard, the ECL specifies three main forms of economic concentrations, which are as follows:

1. Mergers, where two or more previously independent persons combine their operations into one. This covers mergers by absorption where the legal personality of a previously independent person expires through their merger into an existing person who retains its legal personality following the merger, and mergers by integration where two or more persons cease to exist as separate legal entities as they are integrated into a newly created one.
2. Acquisitions, where one person gains control or material influence over another through the acquisition of shares, assets or other mechanisms.
3. Joint ventures, where two or more persons collaborate to create a new person, or acquire an existing person, to operate independently in the market on a lasting basis.

Control and material influence

Control is defined as the ability of one or more persons to exercise decisive influence over the economic decisions of one or more persons according to Article 2/h ECL. Control may

be exercised individually (sole control) or jointly (joint control) by two or more persons. In this regard, the common forms of control are as follows:

1. the ownership of 50 per cent or more of the total voting rights or total shares or stocks of the capital of another person;
2. the ownership or the right to use and exploit all or the majority of the assets of another person;
3. the acquisition of rights, which confers the ability to the controlling person to appoint the majority of the members of the board of directors or to control the decisions of the board of directors or the general assembly meetings;
4. if more than half of the members of the board of directors or the general assembly becoming the same persons in both the acquiring and the acquired persons;
5. the acquisition of assets if these assets constitute a business with a market presence that can derive a turnover and substantial enough to bring about structural changes on the market; and
6. the acquisition from joint control to sole control is considered as economic concentration.

Material influence is defined as the ability to affect, directly or indirectly, solely or jointly, the strategic or commercial decisions of another person. The ECL recognises that minority shareholdings, often overlooked in traditional merger control regimes, can still exert significant strategic influence over businesses. Even without outright control, such shareholdings may enable a non-controlling investor to influence key decisions, including market strategies, competitive conduct or coordination among competitors.

Article 50 ER provides the following instances that are considered as material influence:

1. holding 25 per cent or more of the voting rights or shares in the target person;
2. holding less than 25 per cent of the voting rights, combined with additional factors, such as the following:
 - the rank as a holder of voting rights and differences in the ratios of voting rights among the holders;
 - the existence of any provisions in the articles of association, the shareholders' agreement or any other document that confer the acquirer special rights such as special voting or veto rights;
 - the existence of common shareholders between the acquirer and the acquired person; and
 - the presence of one or more representatives of the acquirer in the board of directors of the acquired person.

Holding less than 10 per cent of the total voting rights, shares or stocks of the capital in another person is not considered as material influence, unless the acquirer is ranked among the top three shareholders or stakeholders in the acquired person.

Joint ventures

As per the ECL, joint ventures are considered as an economic concentration and subject to the merger control regime. In this regard, a joint venture shall be considered as an economic concentration if the following three cumulative conditions are met:

1. the joint venture must be controlled by two or more persons;
2. the joint venture must be independent and fully functional. In this regard the following criteria are taken into account and assessed on a case-by-case basis:
 - the joint venture must engage in an economic activity beyond performing one specific function of its controlling persons;
 - the joint venture must have independent resources, including financing, employees and assets; and
 - the joint venture's sales and purchases operations must not be limited to the controlling persons; and
3. the joint venture must be prepared to operate on a lasting basis.

Exceptions

In line with the best practices, the ECL excludes certain transactions from the merger control scope. First, temporary acquisition of securities with the intention to resell within a year is excluded, provided that the acquiring entity does not exercise voting rights or influence the target's strategic decisions during this period. The ECA may extend this period, upon request, if the acquirer proves that the resale was not possible within one year.

Second, restructuring and intra-group transactions are also not considered as economic concentrations, as long as there is no change in control.

Thresholds

According to Article 19 *bis* ECL, economic concentrations must be notified to ECA if any of the following two thresholds are met:

1. Domestic thresholds: the combined turnover or value of assets of all the relevant persons in Egypt is more than 900 million Egyptian pounds for the last audited consolidated financial statements; and the turnover or value of assets of each of at least two of the relevant persons in Egypt is more than 200 million Egyptian pounds for the last audited consolidated financial statements.
2. International thresholds: the combined worldwide turnover or value of assets of all the relevant persons is more than 7.5 billion Egyptian pounds for the last audited consolidated financial statements; and the turnover or value of assets of at least one of the relevant persons in Egypt is more than 200 million Egyptian pounds for the last audited consolidated financial statements. The ECA guidelines confirmed

that the individual threshold of 200 million Egyptian pounds must be fulfilled for the target entity.

The method for calculating notification thresholds under Egypt's merger control regime is explicitly outlined in the ER as well as the updated Q&As published in June 2025. Specifically, the aggregated turnover and asset values of all parties involved in the transaction and their related parties are calculated to determine whether the thresholds are met.

In this respect, sellers who fully exit the target entity following the transaction are excluded from the calculation. However, if the seller remains a related party to the target entity after the implementation of the economic concentration, they will be included in the assessment.

Notification process

Notifying person

The notifying person varies according to the type of transaction as follows:

1. in case of merger: the notifying persons shall be the merging persons;
2. in case of an acquisition that leads to sole control or material influence over one or more persons: the notifying person shall be the acquirer;
3. in case of an acquisition that leads to joint control or material influence over one or more persons: the notifying persons shall be the acquirers; and
4. in case of the establishment or the acquisition of a person to establish a joint venture: the notifying persons shall be the acquirers or the persons establishing the joint venture.

When to notify?

Any transaction shall be notified to the ECA by the notifying person before the implementation of the transaction.

The ECA guidelines state that it is preferable to notify the ECA in the following phases:

1. the conclusion of a memorandum of understanding or letter of intent;
2. conducting serious negotiations concerning the economic concentration;
3. the announcement of the purchase offer; and
4. the conclusion of any other agreement whether binding or that entitle the acquisition of control or material influence.

Notification forms

Before initiating the formal notification, the parties concerned are required to compile and submit a complete notification file that meets all documentary and substantive requirements set out under the ER. The ECA has issued the notification files, which include those for standard procedures, simplified procedures and procedures before the FRA.

The notification files are standardised and include key legal and corporate documents, such as commercial registry extracts, articles of association and the transaction agreements, along with financial information, including the most recent audited consolidated financial statements. They also contain detailed economic and market data to enable the ECA to assess jurisdiction and the transaction's potential competitive effects. In particular, they include information on the relevant product and geographic markets, the parties' market shares, the identity and size of competitors and existing barriers to entry.

Fees and costs related to the notification file

The notification file is subject to filing fees which vary between 80,000 Egyptian pounds and 100,000 Egyptian pounds depending on the total combined turnover or value of assets and are payable upon submission.

In addition to the filing fees, the publication costs are born by the notifying party. In this regard, the sum of 50,000 Egyptian pounds must be paid to the ECA upon submission of the file. This amount is an advance payment for the actual costs. If the actual publication cost is lower, the difference will be refunded. Conversely, if it is higher, the ECA will notify the notifying parties of the additional amount due.

Interrelated transactions

Interrelated transactions generally refer to a series of separate but connected deals that form part of a broader strategic plan or are executed between the same parties within a short time frame. The ECA considers, however, that each of these transactions as a distinct and separate one, which requires the submission of a separate notification file for each transaction even if they are interrelated.

Procedures

Pre-notification discussions

A preliminary step in the merger notification process is the pre-notification discussions, where the parties may engage with the ECA to clarify whether the transaction falls within the scope of the ECL. Such discussions do not have any legal implications.

Examination phases

If the transaction qualifies as an economic concentration and the notification file is submitted, the ECA shall review the notification file to ensure that it includes all the required information and documents within five working days.

According to Articles 19 *bis* c) and 19 *bis* d) ECL, once the file is deemed complete, the ECA shall start its assessment as follows:

1. Phase 1:

- the assessment may take up to 30 working days; this period could be extended for an additional 15 working days if the parties submit a proposal of remedies; and
- decisions that can be adopted by the ECA after phase 1: non-jurisdiction of ECA to examine the notification file; dismissal of the request; approval; conditional approval; and referral to phase 2 of the examination; and

2. Phase 2:

- if the transaction requires further analysis because of its potentially harmful effect on competition, the file will be transferred to a second phase. During this phase, the ECA would have another period of 60 working days to complete its assessment. This period could be extended for an additional 15 working days if the parties submit a proposal of remedies;
- during this phase, the concerned parties have due process rights to ensure fair and transparent procedures. These include the right to respond to inquiries from the ECA, providing clarifications or additional information, conducting hearing sessions with the concerned parties to discuss the transaction and address competition concerns;
- if the ECA identifies any competition concerns, it will issue a statement of objections, outlining its preliminary findings. The concerned parties can then submit a written reply to address these objections and present their arguments before a final decision is made; and
- decisions that can be adopted by the ECA after phase 2: dismissal of the request; approval; conditional approval; refusal.

If the examination time period lapses without a response from ECA in any of the phases, it is considered as a non-objection to the implementation of the economic concentration.

Neither the ECL nor the ER provides for stopping the clock instances.

In addition, a non-confidential summary of the transaction is published by ECA once the file is deemed complete, allowing third parties to submit comments or objections within 15 calendar days.

Simplified procedures

The ECA guidelines introduced simplified procedures for economic concentration that are unlikely to restrict competition in the markets. Under these procedures, the examination period is shorter, with the notification file being examined within 20 working days. The simplified procedure requires the completion of a short-form notification file, which includes less information and documents from the parties compared to the standard notification file.

The ECA reserves the right to transform the file to standard procedures if it determines, during its review, that the transaction requires a more in-depth analysis, or found that standard procedures apply.

In this regard, economic concentrations that are eligible for simplified procedures are limited to the any of the following cases:

1. transactions meeting the domestic thresholds where the combined annual turnover or asset value in Egypt of the involved parties does not exceed 2 billion Egyptian pounds, based on the latest audited consolidated financial statements;
2. transactions meeting the worldwide thresholds where the target entity's annual turnover in Egypt does not exceed 500 million Egyptian pounds, based on the latest audited consolidated financial statements (only applicable if the domestic thresholds are not met);
3. establishment or acquisition of a joint venture conducting independent and permanent economic activity outside Egypt;
4. establishment or acquisition of a joint venture operating in markets that are neither horizontally nor vertically related to those in which the parent companies operate;
5. conglomerate economic concentrations between parties operating in unrelated markets; and
6. acquisition of sole control over an entity where the acquiring party previously exercised joint control over the same entity.

Standstill obligation

Under the standstill obligation, parties to an economic concentration are prohibited from implementing the transaction before obtaining ECA clearance or the expiry of the legal review period.

During the review period, parties must refrain from any conduct that could be considered as gun jumping. This includes, in particular, the exchange of commercially sensitive information, early integration of business activities, or interference in each other's strategic decisions. In this regard, the ECA had recently published specific guidelines on the exchange of commercially sensitive information during due diligence.

Economic concentrations relating to activities regulated by the FRA

While all economic concentrations should be notified to the ECA, Articles 19 *bis* e) and 19 *bis* f) ECL provide for different procedures for the economic concentrations undertaken in any of the economic activities regulated by the FRA.

The parties are required to notify the FRA of the economic concentration before concluding the contract (as opposed to implementation under regular procedures). The FRA is then required to consult the ECA before approving the economic concentration according to Article 19 *bis* e) ECL.

The ECA must issue its decision within 30 calendar days starting from the following day of receiving a complete notification file from the FRA according to Article 19 *bis* f) ECL. The ECA may issue any of the following decisions regarding the FRA notification: non-jurisdiction; dismissal of the request; recommendation of approval; recommendation of refusal. In this regard, the ECA's opinion is not binding to the FRA.

The ECA notifies the FRA of its decision. If the examination time period lapses without a response from the ECA, it is considered as a non-objection to the implementation of the economic concentration.

If the target person is operating in activities regulated by the FRA and other non-regulated activities, the transaction shall be notified to the ECA as well as the FRA through the submission of separate notification files to each regulator.

Key evaluation criteria and substantive analysis

Economic concentrations are assessed under Article 19 *bis* b) ECL and Article 54 ER to determine whether they could limit, restrict or harm the freedom of competition. The assessment considers several key factors:

1. market structure: the ECA evaluates the structure of the relevant market or markets and the degree of actual or potential competition; this includes competition from both domestic and international players that may impact Egypt's markets;
2. market position of the concerned parties: the analysis considers the economic and financial strength of the parties involved, comparing their position to existing and potential investments in the market;
3. availability of substitutes: the ECA assesses the availability of alternative suppliers, customers and consumers;
4. the existence of barriers to entry and expansion: such barriers may include regulatory restrictions, high investment costs or technical limitations;
5. impact on consumers and actual and potential investments;
6. innovation and development: the ECA considers whether economic concentration will encourage or impede innovation and development in the market; and
7. actual and potential effects on the freedom of competition in the market.

Remedies and commitments

The parties may submit commitments and remedies proposals during Phase I or Phase II of the review if the ECA identified competition concerns. These commitments aim to mitigate the harm to the competition and may include:

1. structural remedies: commitments to divest or retain certain assets, securities or shares; and
2. behavioural remedies: commitments to undertake or refrain from specific actions.

The ECA assesses whether the proposed commitments effectively mitigate potential anticompetitive effects. If accepted, the ECA issues a conditional approval decision outlining the agreed commitments, their duration and a monitoring system to ensure compliance.

Exceptions for economic concentrations with anticompetitive effects

The ECL empowers the ECA to approve economic concentrations despite its anticompetitive effects, subject to approval by the Cabinet of Ministers. Such exceptions may be granted in only the following cases:

1. if the parties demonstrate that failing to implement the economic concentration would result in the exit of one of them from the market, provided that:
 - one of the parties is experiencing financial distress severe enough to lead to its market exit along with its assets; and
 - there is no less anticompetitive alternative to the proposed economic concentration;
2. if efficiency gains outweigh its anticompetitive effects – this requires proving that:
 - the economic efficiencies are verifiable;
 - these efficiencies cannot be achieved without implementing the economic concentration; and
 - the efficiencies provide direct benefits to consumers; and
3. if the economic concentration is deemed necessary for national security protection.

Ex-post intervention

The ECL also empowers the ECA to review non-notifiable economic concentrations that may harm competition within one year of their implementation, if evidence suggests they may restrict or harm competition. In this case, the ECA may only impose behavioural remedies but may not prohibit the economic concentration.

Non-compliance penalties and settlement

The ECL enforces strict measures to address non-compliance with the ex-ante merger control. In this regard, according to Article 22 *bis* d) ECL, in case of establishing a merger control infringement, the relevant persons shall be punished by a criminal fine not less than 1 per cent and not exceeding 10 per cent of the value of the transaction, or the total annual turnover, or the value of assets, of the persons concerned by the economic concentration, whichever is higher, according to the last audited consolidated financial statements. If the turnover, value of assets or value of the transaction cannot be calculated, then the criminal fines shall be not less than 30 million Egyptian pounds and not exceeding 500 million Egyptian pounds. The infringements related to the merger control subject to this article are as follows:

1. failure to comply with the obligation to notify and the standstill obligation;
2. failure to comply with the conditional approval decision;
3. failure to comply with the refusal decision; and
4. obtaining from the ECA or the FRA an approval of the economic concentration decision based on false data, information or documents, while knowing so.

The ECL also empowers the ECA to impose corrective measures to address anticompetitive effects. These measures may include requiring divestitures, modifying agreements or other actions to restore market competition. Additionally, contracts that violate merger control rules will be declared null and void.

Also, Article 21, Paragraph 2, ECL introduces a settlement mechanism that allows companies or individuals to settle such violations with the ECA. If a settlement is reached, the ECA shall be the responsible entity for determining the settlement amount that will be paid by the violating parties.

Rights of appeal

Decisions taken by the ECA are subject to rights of appeal. Firstly, according to Article 19 bis d) ECL, the ECA may reject an economic concentration if it would limit, restrict or harm competition. A grievance against the refusal decision may be filed before the ECA within 30 days from the date of notifying the concerned parties. With respect to other ECA decisions, including the decision on the grievance against the refusal, the parties may file an appeal before the competent administrative court within a period of 60 calendar days.

Other strategic considerations

Related parties considerations

Under Article 49 ER, the concerned persons in an economic concentration include both the parties to the transaction and their related parties. The concept of related parties plays a fundamental role in assessing both the procedural and substantive aspects, as it directly impacts the assessment of economic concentrations, relevant products and markets to the transaction, and calculating the thresholds.

According to Article 5 ER, two or more persons are deemed related if they meet either of the following criteria: ownership or actual control.

1. The ownership criterion applies when two or more persons, where the majority of the shares or stocks of one of them are owned directly or indirectly by the other person or are owned by one person; or if a third person owns more than the majority of shares or stocks of both. The majority of shares or stocks are those that exceed 50 per cent of the total.
2. The actual control criterion captures broader relationships where a person or persons are under actual control of another person. Actual control means every

situation, agreement or ownership of stocks or shares, whatever their percentage, in a way that leads to control over management or decision-making. Actual control also includes family links consisting of the spouse and relatives down to the second degree.

Economic concentrations relating to activities regulated by the Central Bank of Egypt

The Central Bank of Egypt and the activities that fall under its supervision are regulated by the Central Bank Law No. 194 of 2020 (CBE Law). Article 221 of the CBE Law establishes that licensed entities are exempt from the ECL. Accordingly, economic concentrations in the banking sector are not subject to a notification obligation to the ECA.

Nonetheless, the CBE has the power to investigate anticompetitive practices according to Article 222 of the CBE Law. Regarding economic concentration, according to Article 75 of the CBE Law, any transaction that will lead to the transfer of ownership of more than 10 per cent of the issued capital of the bank or of the voting rights or to own any percentage that leads to actual control over it should be approved by the CBE.

Foreign-to-foreign transactions

A foreign-to-foreign transaction refers to an economic concentration that takes place outside Egypt and does not involve direct operational or legal activities in Egypt. However, such transactions may still be subject to the ECL and the merger control ECA if they qualify as an economic concentration and meet any of the thresholds specified under the ECL and accordingly will have an economic impact on the local market.

In other words, the fact that foreign-to-foreign transactions do not take place in Egypt does not, by itself, exempt them from the obligation to notify the ECA. In this regard, thresholds will be calculated based on the worldwide and local combined financial figures of the party and all its related parties (as defined above).

Absence of 'one-stop-shop' principle

The new merger control regime applies even in cases where a transaction falls within the jurisdiction of both the ECA and the COMESA Competition Commission (CCC), highlighting the absence of a 'one-stop-shop' principle. Under both the COMESA rules and the ECL, notification obligations are independent, meaning that transactions meeting the relevant thresholds under the ECL must be notified to the ECA, regardless of whether they have already been submitted for review by the CCC.

This dual notification requirement is particularly relevant for economic concentrations involving parties with operations in both Egypt and other COMESA member states. While the CCC assesses transactions that have a regional impact across multiple COMESA jurisdictions, the ECA retains the authority to conduct its own competitive assessment within the Egyptian market. As a result, the parties to an economic concentration must comply with separate procedural and substantive requirements under both regimes.

Outlook and conclusions

In 2024, Egypt's merger control regime has undergone a fundamental shift from an ex-post to an ex-ante system, requiring mandatory pre-merger notification and approval. The ECA now exercises broader oversight to regulate economic concentrations and mitigate potential anticompetitive effects.

The ECA strengthened its enforcement efforts by issuing guidelines, Q&As and standardised notification forms which the ECA regularly updates providing greater clarity on procedural and substantive requirements. These ongoing regulatory developments will contribute to a more structured and transparent enforcement landscape, requiring businesses to remain vigilant in navigating Egypt's evolving competition law framework.

In practice, the ECA occasionally follows the rules and guidelines adopted by the European Commission and the UK's Competition and Markets Authority, particularly in relation to procedural tools and substantive assessment standards.

Endnotes

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