

Summary Notes on the Roundtable Discussion Entitled:
“Finance & Distressed Assets: SME Chronic Problems”
What’s New?”

Wednesday March 7, 2018, from 9:00 am to 3:00 pm

Session 2: New Economic Legislations

Speakers:

- Couns. Hesham Ragab, Legal Advisor, Ministry of Trade and Industry
- Mohamed Al-Ehwany, Legal Advisor, Federation of Egyptian Banks and Suez Canal Bank

Moderator:

- Sherif Samy, Former Chairman of the Egyptian Financial Supervisory Authority

Main points addressed during this RTD:

- First and foremost, there are a range of challenges facing small and medium enterprises:
 - o First, no matter how good provisions are, the challenge always lies in implementation.
 - o Second, training and qualification are another challenge for these enterprises, as well as the burden of government procedures, such as licensing.
 - o Taxes, insurance and the Labor Law: Egypt's ranking in the labor law flexibility index is very low.
- International indicators do not reflect the reality of challenges facing small and medium enterprises, and there is a need for a local indicator in this respect.
- A law was issued to encourage sole proprietorships, by defining their liability, meaning that the project owner shall be liable except within the limits of the project capital, without prejudice to own funds.
- In accordance with the Small Enterprises Law, the net profit attributable to administrator of a sole proprietorship is not taxable once again.
- The Industrial Licensing Law was passed, changing the existing licensing system in place since 1954 to make it faster and simpler.
- Egypt did not have an agreed mechanism to turn real estate wealth into an asset through which bank financing can be secured. This problem was resolved in the new small enterprises law through temporary allocation of land in the name of the financing bank until

the enterprise owner repays the loan, thus removing both hurdles of registration and mortgage.

- There was also a problem with respect to usufruct, namely, is its low value in case of a desire to secure a loan using it as collateral, due to its expiry with the death of the beneficiary or the dissolution of the company. This problem was resolved in the new law so that the usufruct remains valid any loans obtained using it as collateral are repaid.
- The Movable Guarantees Law has overcome the problem of the priority of the State in collecting tax and insurance dues in the case of the enterprise's insolvency, with the priority determined according to the percentage of these dues. In case of financing an insolvent enterprise, the financier has priority over the State in the restoration of his rights.
- The Law also grants the SME Authority the right to reschedule or write off some State rights in the troubled project if it finds that there is an opportunity to inject funding into the project and revive it.
- The project also extends tax and non-tax incentives to small and medium-sized enterprises as well as to supporting companies for such enterprises, such as tax credits on venture capital gains.
- There is a full package of policies and incentives to encourage the informal economy to formalize, including granting these enterprises temporary licenses for 3 years until they adjust.
- The Movable Guarantees Law addresses a basic problem, namely, the need to declare the creditor's right over the mortgaged asset. There was no problem in real estate, as there is the real estate registration office, but the main problem lies in the movable asset. The legal practice is that the mortgaging of the movable asset shall be followed by the transfer of possession from debtor to creditor to exercise the right of retention and enforcement, which is a fundamental problem for small enterprises since this movable is the basis of the production process in this case. Accordingly, the new draft law attempts to declare the right of a creditor to a mortgage without transferring possession through an electronic record administered by the Financial Supervisory Authority or outsourced to an administrator, and through which disposals are declared on the movable asset, while remaining in the mortgaging debtor's possession.
- The law contains severe penalties for any possible crimes, and the mortgaging debtor is also liable to a criminal penalty in case of disposing of the movable asset.
- Draft Commercial Franchise Law is also being prepared to address the problems of the old law.

The main points discussed during this session:

- The problem of crowd financing in Egypt is that lending is undertaken outside the banking system and licensed companies. In the case of ownership, the crowd is not defined in advance, therefore violating the rules of the capital market.

- Tax incentives alone will not encourage the informal sector to formalize because it does not pay taxes at all.
- The State must remove obstacles that may face the informal sector as it reconciles its situation, such as availing legal places to move to.
- These laws should be complemented by issuance of executive regulations.
- It is necessary to establish real criteria for the prescribed exemptions, and not to leave them up to the discretion of the competent minister.
- The reason why final industrial licenses are not issued is that the conditions under which licenses are granted are not officially issued, because they need to be approved by the Legislation Department of the State Council first. Once officially issued, the final license will be available for all enterprises within a period not exceeding 6 Months after these time horizons were indefinite.