

Business Reorganisation Assessment

📍 Egypt



European Bank
for Reconstruction and Development



Special thanks to:

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Part A

General Information

Macro Data

100.878

Population (million)¹

2.5%

GDP growth rate¹

US\$ 3,830

GDP per capita¹

ج.م.ع
Egyptian pound EGP

Currency

22.5%

Corporate tax rate²

4.8%

Inflation rate¹

9.8%

Unemployment rate¹

Insolvency Legislation

The law governing insolvency (bankruptcy) and restructuring of businesses of legal and natural persons known as 'traders' in Egypt is the Law 11/2018 on Restructuring, Preventive Composition and Bankruptcy (the Insolvency Law) (as amended on 29 April, 2021).

Insolvency and restructuring are further regulated by the Minister of Justice Decree 1889/2018 on formation of a standing committee to monitor implementation of the Minister's decrees in respect of bankruptcy matters and Decree 1899/2018 on the conditions and procedures for the registration of bankruptcy experts, including restructuring experts, insolvency practitioners (known as bankruptcy trustees) and appraisers, on the official lists of economic courts. Experts are further regulated by the Minister of Justice Decree 6214/2018 issuing rules regarding the work of restructuring experts and their engagement. None of the insolvency legislation is freely available online.

In 2019, the Minister of Justice of Egypt issued two further decrees to clarify the fees of the bankruptcy department experts in the economic courts (Minister of Justice Decree 2208/2019) and the registration of specific names of restructuring experts

(both legal entities and natural persons) at the bankruptcy department in the economic courts (Minister of Justice Decree 2215/2019). According to Decree 2215/2019, restructuring experts can include the National Bank of Egypt (Department of Debt Restructuring) and persons on the Central Bank of Egypt Committee.

Insolvency Data

Insolvency data is not publicly available.

¹ IMF – Source as of July 2021: www.imf.org/en/Countries/EGY

² KPMG – Source as of July 2021: www.home.kpmg/eg/en/home/services/tax/tax-tools-and-resources/tax-rates-online/corporate-tax-rates-table.html





Company Information

The Companies Law No. 159 of 1981 (as amended) and related regulations is the main legislation governing companies in Egypt. All companies must be enrolled in the commercial register. The register is not available online and an official extract of a company's commercial register must be requested from the competent registration office. The fee depends on the number of pages but on average is around EGP 300 (approximately €16). The central department maintaining the commercial register is part of the Egyptian Ministry of Internal Trade and Supplies. It has offices in the GAFI (General Authority for Free Zones and Investment), where all companies and investment vehicles are incorporated. To retrieve information about an entity enrolled in the commercial register, an applicant must provide the entity's commercial registration number. All changes in the management and share capital in terms of capitalisation of the company as well as the entity's corporate objectives are registered in the entity's commercial register entry. The commercial register does not provide any financial statements or data, nor details of the company shareholding structure. Information about insolvency is recorded in the commercial register pursuant to Article 7 of the Commercial Register Law No. 34 of 1976.

Insolvency Courts, Regulatory Authorities and Practitioners

Bankruptcy cases in Egypt are handled by first instance economic courts and jurisdiction is determined according to the registered domicile of the debtor. Each of the economic courts has a specific department that receives applications for restructuring, preventive composition, declarations of insolvency (bankruptcy) and mediation proceedings. Insolvency practitioners and other experts need to be registered with the bankruptcy departments of the economic courts (Bankruptcy Departments) – however, the register is not available online. Qualification requirements include an appropriate high-level qualification from a university or institute in any of the spheres related to the Insolvency Law but there is no entry examination. The Ministry of Justice is responsible for the legislative framework for insolvency.

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Part B

Business Reorganisation

Are there any incentives for extrajudicial voluntary agreements (workouts)?

No, there are no incentives for extrajudicial agreements. However, the law contains provisions regulating court-supervised mediation to resolve commercial disputes through the bankruptcy judge as a mediator who shall promote an amicable agreement between the parties and suggest appropriate solutions to any disputes (Articles 4 to 9).

What is the nature and purpose of the reorganisation procedure?

There are two different reorganisation procedures: the restructuring procedure (إعادة الهيكلة) (Articles 15 to 29) and the preventive composition procedure (الصلح الوقفي من الإفلاس) (Articles 30 to 74 bis). **Click here** for a high-level overview of the reorganisation procedures.

Restructuring procedure

This procedure aims to help the debtor to manage financial and administrative disturbance (Article 1). It aims to develop a plan to restructure or reorganise the debtor's business and to help the business to exit its financial and administrative turmoil, to pay off its debts and to identify a proposed source of financing. Reorganisation methods include re-evaluating assets, restructuring debts (including State debts), capital increase, increasing internal cash flow, decreasing expenditure and administrative restructuring (Article 18).

Preventive composition procedure

This procedure enables a good faith debtor in financial difficulties to avoid insolvent liquidation (known as bankruptcy) (Articles 1 and 30). Its aim is to prevent insolvent liquidation, to protect the debtor's reputation and to make use of formal court proceedings to approve a settlement plan (Article 30).

Who can commence the process and what entry conditions apply?

Restructuring procedure

This procedure may be initiated on application of the debtor. There is no entry threshold for financial distress. The debtor must have a capital of at least 1 million Egyptian pounds; have carried out the business continuously for at least two years before submitting the restructuring application; and have not committed any fraudulent actions. The debtor cannot commence the procedure if it is already in liquidation (Article 15). The debtor must submit an application to the court (the bankruptcy judge) that details the causes of its financial difficulties along with supporting documents listed under Article 19, including the proposed restructuring plan.

The submission of an application for restructuring is not permitted if a judgment declaring bankruptcy has been issued against the debtor, or if the preventive composition procedure has been initiated. Once the restructuring application is submitted, any subsequent application for the declaration either of bankruptcy or preventive composition is stayed until a final decision is reached on the restructuring application (Article 17).

The restructuring procedure can be initiated by the debtor's inheritors within one year of the debtor's death, if they all agree.

Preventive composition procedure

The procedure may be initiated by a debtor who is eligible to declare bankruptcy if its financial condition is distressed in a way that can lead to a state of cessation of payments (Article 30). A creditor with a non-disputed commercial debt also has the right to request commencement of the procedure if the debtor is in financial distress and has ceased to pay its commercial debts due to business disruption (Article 36 bis).

To apply, the debtor must: not have not committed fraud or mistake according to a legal standard of the 'reasonable or normal' trader; submit the application for preventive composition within 15 days of being in default of due payments; if the debtor is a company, not be in liquidation and have the approval of the majority of its shareholders to submit the application; and have carried out its business continuously for at least two years before submitting the application (Articles 30 and 31). The creditor only needs to submit certain documents required by law or an explanation to the judge as to why it is unable to submit such documents.



References to Articles are to Articles of the Insolvency Law, unless specified otherwise. For an explanation of technical terms, please see the **Glossary of the Main Assessment Report**

The debtor's inheritors can initiate the preventive composition procedure within three months from the date of the debtor's death, if they decide to continue the business and if the debtor was eligible to apply for preventive composition prior to death (Article 32).

The preventive composition application must be submitted by the debtor (or the creditor) to the head of the Bankruptcy Department at the competent court identifying the reasons for the business disorder, the proposals for composition (including method of paying debts, organisation of debts, proposal of classifying creditors according to the nature and type of debt, proposed financing indicating amounts, interest rates, financing source, and term of financing) and the method of implementing such proposals (Article 35). The court can then approve or refuse the application (Articles 38 and 40). If it approves the application, a preventive composition procedure will be formally commenced (Article 40). If the court rejects a preventive composition application, it may sentence the debtor to a fine if it finds that the debtor's intentions were to falsely imply that the trading business was in distress or if the debtor intentionally caused such distress to its business. Such fine will not be less than 20,000 Egyptian pounds (approx. €1,100) and will not exceed 100,000 Egyptian pounds (approx. €5,500) (Article 39).

Is there any court involvement?

Yes, both the restructuring procedure and the preventive composition procedure are court-supervised procedures. In the case of the restructuring procedure, the court receives the application by the debtor to open proceedings and ratifies the restructuring plan. In the case of the preventive composition procedure, the court either approves or refuses the preventive composition application and supervises the procedure up until approval or rejection of the preventive composition plan by the creditors.

Are there any hybrid procedures?

No, there are no hybrid reorganisation procedures since all procedures are fully supervised by the court.

Does the debtor remain in possession of and continue to manage its business?

Restructuring procedure

Yes, the debtor remains in possession of its business and is responsible for the obligations entered before and after the ratification of the restructuring plan (Article 24). The bankruptcy judge can appoint an assistant for the debtor from the list of insolvency practitioners or experts in the roster of the Bankruptcy Department at the relevant economic court or from other persons designated by the parties. Such assistant submits a quarterly report to the judge and the parties about the progress of the restructuring plan (Article 21). During the procedure, the debtor is prohibited from taking actions that harm the creditors' interests, such as selling of its assets outside the ordinary course of business, making donations, or borrowing or giving loans, gifts or guarantees or security in a manner that violates the restructuring plan (Article 25). The bankruptcy judge has oversight of any petitions by concerned third parties with respect to the restructuring plan (Article 26).

Preventive composition procedure

Yes, the debtor remains in charge of managing its funds and maintains the power to carry out all actions required within the ordinary course of business. However, the debtor is subject to supervision by the insolvency practitioner (known as the composition trustee). The debtor may also not accept a settlement, create a pledge or transfer ownership outside the ordinary course of business unless approved by the judge supervising the preventive composition, and without prejudice to bona fide rights, all acts otherwise carried out shall not be binding upon the creditors (Article 46). If the debtor, after submitting its preventive composition application, hides or damages parts of its property or, in bad faith, carries out harmful acts with respect to the creditors, or acts constituting a violation to the provisions of Article 46 the court shall cancel the composition proceedings (Article 49).

Is there a need to appoint an insolvency practitioner?

Restructuring procedure

No, there is no need to appoint an insolvency practitioner. However, the procedure foresees the involvement of a restructuring committee, which prepares a report for the bankruptcy judge within six months from the date of the debtor's application with its opinion on the reasons behind the debtor's financial difficulties and the viability of the restructuring. The six-month period may be extended for a similar period with the permission of the bankruptcy judge if the restructuring plan is implemented within no more than five years. However, this period may be extended for two more years by the bankruptcy judge at the request of any of the parties to the plan or the assistant, if all restructuring plan parties agree (Article 20). Furthermore, the bankruptcy judge may deem it necessary to appoint, and therefore appoint, an assistant to the debtor from the list of insolvency practitioners or experts (Article 21). The role of the assistant is to help the debtor with its financial and administrative status, provide advice and technical support, develop the mechanism for implementation of the restructuring plan procedure, assist with implementation of an approved restructuring plan, and submit a quarterly report to the judge and the parties about the progress of the restructuring plan (Article 22).

Preventive composition procedure

Yes, on approval of the preventive composition application, the court shall appoint a judge to oversee proceedings and one or more insolvency practitioners (known as trustees) (Article 40). The insolvency practitioners are appointed from the individuals or companies specialised in financial analysis and recorded in the roster of preventive composition trustees at the Bankruptcy Department. Insolvency practitioners are required to record each day all the work carried out in relation to the composition in a special ledger signed or stamped by the composition judge who shall affix at the end of the ledger an annotation marking its end (Article 41).

Is there any applicable stay or moratorium?

Restructuring procedure

After ratification of the restructuring plan by the bankruptcy judge, no court action may be initiated between the debtor and any of the signatory creditors in relation to such plan. The prescription periods pertaining to the lawsuits, claims and debts shall cease to have effect until the restructuring plan is completed (Article 29). Creditors that do not participate in the procedure are not bound by the plan. However, there is no automatic moratorium on commencement of the procedure.

Preventive composition procedure

All court actions and enforcement proceedings filed against the debtor shall be stayed from the court judgment for opening preventive composition proceedings. The moratorium applies to secured and unsecured claims. However, any proceedings brought by the debtor and enforcement proceedings commenced shall remain in force (Article 47).

Is there any protection for essential contracts and to prevent termination of contracts by third parties?

There is no protection for essential contracts and to prevent termination of contracts by third parties for either of the reorganisation procedures provided these do not involve a declaration of insolvency (bankruptcy). The Insolvency Law provides some protection in respect to leasehold agreements for a debtor who is declared bankrupt (Article 143).

Is new financing protected by law?

The restructuring plan may include the debtor obtaining new financing, provided that the amount of the financing, its duration, the interests due, the method of payment, and the terms of the financing, whether it is provided by the creditors or other parties, is stipulated in the restructuring plan. If the restructuring plan fails and results in the debtor's insolvency (bankruptcy), the new financing claims shall be paid in priority to amounts due

to criminal fines, taxes and social insurance but after secured creditors have been paid in full with respect to their secured debts. The new financing provider may agree with secured creditors which hold in-kind securities to have priority over their secured debts (Article 20 bis).

Does the law recognise separate classes of creditors for voting purposes?

Restructuring procedure

No, creditors do not vote. The restructuring plan submitted by the debtor in its application is reviewed by the restructuring committee of experts registered with the court. The committee submits a report to the court within three months as from the date of the application evaluating the feasibility of the plan and after approval by creditors, which sign the plan. Provided the opinion of the restructuring committee is positive, the bankruptcy judge ratifies the plan.

Preventive composition procedure

Yes, voting is in accordance with a system in which the bankruptcy judge divides the creditors, which may collect all or part of their debts if the debtor's assets are sold because of its insolvency (bankruptcy), into different classes for voting purposes (Article 60). Creditors are categorised according to the nature and type of their debts. In the case of a company, its general assembly or the majority of its partners must also approve the composition (Article 60).

However, if the value of the debtor's assets does not exceed 500,000 Egyptian pounds (approx. €27,000), the bankruptcy judge either may, independently or at the request of the insolvency practitioners or one of the creditors, allow the creditors to vote as one class. In such a case, an absolute majority of creditors will approve any composition proposal by value. Nonetheless, the bankruptcy judge may, either independently or at the request of the insolvency practitioner or one of the creditors, allow creditors to vote as one class if creditors cannot be divided into classes for voting purposes (Article 74 bis).

What are the majorities required to approve a reorganisation plan?

Restructuring procedure

The Insolvency Law does not foresee any majority cram down provision. Therefore, the plan is binding only on creditors which have signed it. The ratification of the restructuring plan by the bankruptcy judge binds all parties that sign the plan including secured and unsecured creditors (Article 21). The bankruptcy judge will ratify a plan submitted for approval provided that the plan is accompanied by a positive opinion of the restructuring committee.

Preventive composition procedure

The decision to approve or reject the composition, within each class of creditors, is determined by creditors representing the majority of the value of the debt represented in the vote. Each class of creditors has a vote. Approval of the composition is based on a numerical majority of all classes that participated in the vote. However, secured creditors should all approve the plan (Article 60 bis). After approval of the plan at the creditors' meeting, the court allows creditors 10 days to voice any objections to the plan and decides whether to ratify the plan. The debtor is permitted to submit an objection under certain circumstances. The court may refuse to ratify the composition if the objecting creditor would receive one-fifth less than what it would have received from liquidation and sale of the debtor's assets (Article 65). If the court rejects the debtor's objection, or refuses to adopt the preventive composition, or ends the preventive composition procedure, and it is proved that the debtor is insolvent, then the court must decide at its own initiative, in the same judgment, the insolvency of the debtor. This decision is without prejudice to the right of interested parties to appeal the insolvency judgment (Article 65 bis).



Who does the reorganisation plan bind?

Restructuring procedure

The ratification of the plan by the bankruptcy judge only binds the parties that signed the plan including secured and unsecured creditors (Article 21). The restructuring procedure does not provide for any form of cram down of dissenting creditors.

Preventive composition procedure

The preventive composition shall come into force and apply upon the issuance of a court judgment ratifying the composition. It shall apply to all unsecured creditors with ordinary claims, even if they did not participate in the proceedings or did not approve its terms (Article 68). The court can, at the request of the debtor, grant a time limit for settlement of any debts to which the composition does not apply, provided the time limits granted by the court do not exceed those prescribed in the composition (Article 69).

Furthermore, the court may, on request of all creditors to whom the composition terms apply, render a judgment rescinding the composition if the debtor: fails to execute the agreed-upon composition terms; disposes of the ownership of its trade store without acceptable justification after ratification of the composition; or dies and his/her heirs and the trustees do not submit, within three months from the date of death of the debtor, a request to continue the preventive composition. Creditors shall not refund amounts collected before the court judgment rescinding the composition is issued (Article 72).

What is the timeframe for the reorganisation procedure and any moratorium?

Restructuring procedure

There is no specific timeframe in the Insolvency Law for the duration of the procedure. However, the restructuring committee must provide its opinion on the reasons for the debtor's financial difficulties and a proposed restructuring plan within six months from the date of the debtor's application.



Such period can be extended with the permission of the bankruptcy judge for a similar period. The restructuring plan must be executed and implemented within a maximum period of five years, however such implementation period may be extended for two further years, at the request of the parties to the plan or the assistant, if all parties to the plan agree (Article 20). The plan is terminated by the judge once it is fully executed, or if it is not possible to execute it, or if it is breached for any reason, on the request of any of its parties (Article 28).

There is no automatic moratorium. However, after ratification of the restructuring plan, no court action may be initiated between the debtor and any of the creditors which are signatories to the plan. The prescription periods pertaining to the lawsuits, claims and debts shall cease to have effect until the restructuring plan is completed (Article 29).

Preventive composition procedure

There is no specific timeframe in the Insolvency Law for the duration of the procedure or for the implementation of any preventive composition. The moratorium that arises on opening of preventive composition proceedings remains in place until the proceedings are closed. The court may, at the request of any creditor subject to the preventive composition procedure,

rescind the preventive composition if: the debtor did not execute the terms of the preventive composition as agreed; the debtor transfers title of its business without acceptable reason; or the debtor is deceased and the preventive composition is not expected to be completed (Article 72).

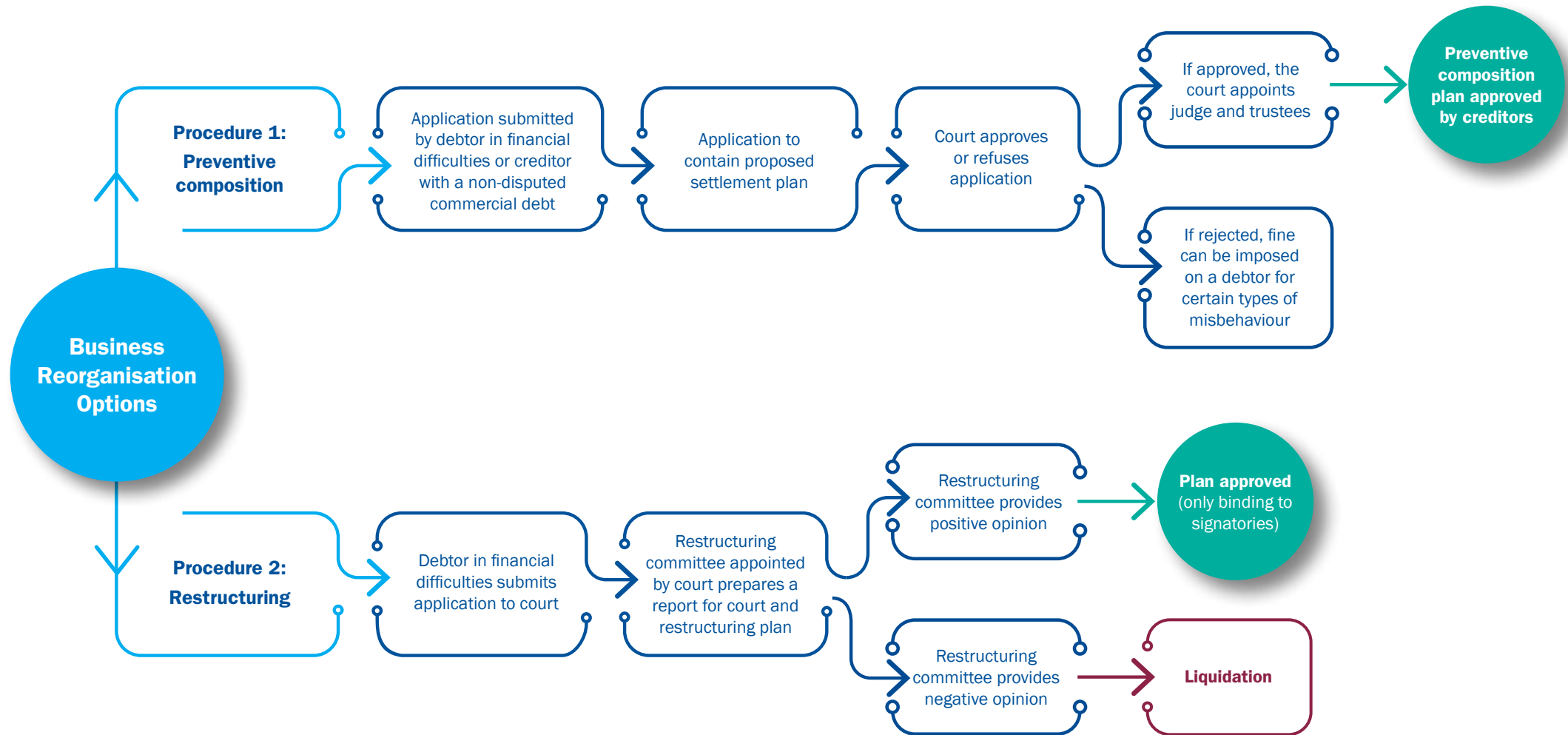
Has the UNCITRAL Model Law on Cross Border Insolvency been adopted?

No, the UNCITRAL Model Law has not been adopted and there are no provisions on cross border insolvency (including with respect to cooperation with foreign courts and representatives) in the Insolvency Law.

Special features/observations:

- The Insolvency Law expressly allows for electronic litigation.
- In the restructuring procedure, a court-appointed committee of experts evaluates the application made by the debtor and decides on the feasibility of the proposed restructuring plan. The expert list includes, among others, members of the National Bank of Egypt (Department of Debt Restructuring) and the Central Bank of Egypt Committee.

Overview of Egyptian Business Reorganisation Procedures*



* This provides a high-level overview of business reorganisation procedures for legal entities only. See the commentary in this profile and the Insolvency Law for further details, including with respect to any applicable moratoria and creditor voting thresholds.

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