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Modernising the legal framework for Tunisian capital markets

With the support of the EBRD¹, the Tunisian authorities have launched a project aimed at modernising the regulatory framework that governs capital markets. Its objective is to improve the attractiveness of the market and at the same time ensure adequate protection and access for local and international investors, increase capital inflow and improve the stability of domestic savings, channelling it more towards financing the local economy, and increase the level of confidence in the Tunisian market.

A high-level steering committee has been set up to coordinate the implementation of the reform programme. This committee includes members from the private sector as well as the public sector and is chaired by the Tunisian Minister of Finance. Also, on the committee are the Governor of the Central Bank of Tunisia, the Chairman of the Financial Market Council (the regulator), the CEO of the Stock Exchange, the CEO of the Central Depository (Tunisia Clearing) and the chairmen of the APTBEF² (banks), AIB³ (securities brokers), ATIC⁴ (private equity) and FTUSA (insurance) professional associations.

An initial diagnostics phase revealed several areas for improvement and resulted in an action plan, which principally involves:

- Modernising the regulatory environment;
- Strengthening the missions and powers of the stock market regulator;
- Modernising the investment services and market infrastructure industries;
- Facilitating access to stock-market financing for issuers;
- Improving the attractiveness of the Tunisian market for investors;
- Developing new financial instruments;
- Supporting money market activities;
- Modernising the public-debt market and its supervision.

The recommendations relate to the replacement of texts governing the Tunisian financial market with one principle law based on international best practices.

The regulator's scope of activity will be extended, promoting market-based financing of the economy as well as detecting market abuse by strengthening its capacity to oversee

transactions.

The market authority should have full jurisdiction over the distribution of stock-market products (investment services) and the authorisation of intermediaries, regardless of the entity that is responsible for production or distribution (brokers, management companies, or banks). Its powers will be reinforced with a range of sanctions and the introduction of administrative transactions.

The regulator's governance will be strengthened, with more representation from the private sector on the Board, whose members will be appointed based on their skills, experience and knowledge of the market.

The new system for public offerings of securities will be aligned with international standards (exemption threshold, introduction of qualified-investor status, etc.), even though progress has already been made in this area.

The project also involves the implementation of a legal framework inspired by the UNIDROIT Principles of 2013 and covering both the OTC and the regulated markets, which is conducive to the development of the market for hedging instruments (derivative products). The legal validity of derivative products is required, especially for the enforceability of close-out netting clauses, or the delivery of collateral in the case of collective proceedings by a participant, etc.

The second phase of the project will begin in September 2020 and is scheduled to last for 24 months, with the aim of implementing a roadmap based on the recommendations drafted during the first phase.

¹ EBRD: European Bank for Reconstruction and Development

² APTBEF: The Tunisian Professional Association of Banks and Financial Institutions

³ AIB: Association of Stock Market Intermediaries

⁴ ATIC: Tunisian Association of Capital Investors

⁵ FTUSA: The Tunisian Federation of Insurance Companies