**The Tanzania Foreign Exchange Regulations 2022 and What It Means for Traders and Investors in Tanzania and The EAC?**

The Tanzania Foreign Exchange Regulations, Government Notice No. 294 published on 13/5/2022 (the “Tanzania Foreign Exchange Regulations”) are creating quite some noise in Tanzania amongst traders and investors. Given the efforts that the government of Tanzania has been undertaking to lure foreign investors to Tanzania (#RoyalTour) and reassuring them of a conducive and easy business environment, the regulations come as a surprise since they seem to somehow contradict some of these efforts.

Tanzania being a member of the International Monetary Fund (IMF) has the obligation under Article VIII of the International Monetary Fund Articles of Agreement to enable currency convertibility for current transactions—goods, services, travel, interest, and dividend payment and this is a condition of its membership of good standing. The Article of Agreement of the IMF remain silent with regards obligations of Member States and capital accounts. While the Tanzania Foreign Exchange Regulations do not prohibit current account transactions, the government has added Non-Tariff Barriers making it more bureaucratic and therefore dissuasive to engage in these types of transactions. I am going to focus on three areas: investment, trade and the regional integration and the implications on these areas that the Tanzania Foreign Exchange Regulations has.

**Foreign Direct Investment**

Foreign Direct Investment is expressly referred to at *Regulation 24 (2)* which prohibits **Equity to Debt Swaps**. Equity / Debt swaps is a type of financing whereby specified class shareholders are given the right to convert their stock for a pre-determined amount of debt in the same company. The conversion is usually into corporate bonds. While an investor gets the chance of receiving bond payments in the form of yield interest rates monthly, it takes away the ownership /equity that they have in the company. This is method of financing that allows the company to make a merger for example or engage in other business activities without diluting the share price / share capital is prohibited in Tanzania

On shareholder dividends and profits and repatriating the same outside of Tanzania, *Regulation 17* provides for a mechanism of submitting audited financial statements, board resolution with approval from directors or shareholders for payment of dividends.

With regards to inter company loans or loans that a foreign investor may take from outside of Tanzania, the known mechanism of registering the loan at the Central Bank is reinforced and this is key so as to have interest payments approved as deductible expenses and not to be treated as income.

**Trade**

An exporter of goods and supplies from Tanzania to a customer outside of Tanzania must receive the proceeds in a bank account in Tanzania. This implies that the exporter must formalise its business in accordance to the Companies Act or Business Names Registration Act (if it is a Tanzanian) and fulfil compliance requirements of opening a bank account in Tanzania namely having a certificate of incorporation, Tax identification number, business license, and lease agreement.

For importers who are importing goods of a value more than USD 10,000 they must undergo a host of requirements namely that the payment must be made through a bank or financial institution in Tanzania.

**Regional Integration**

I remember having been engaged by the International Finance Corporation almost a decade ago to undergo an analysis of the laws in Tanzania related to free movement of capital and whether they match the commitments made by Tanzania under the EAC Treaty and its Protocol on Common Market in the EAC. The results back then evidenced that Tanzania still had a lot of work to do with the Foreign Exchange Regulations of 1998 and the Foreign Exchange (Listed Securities) Regulations of 2003 which were applicable at the time posing many problems in terms of exchange control restrictions and capital control restrictions as well.

Fast forward to 2022, the Foreign Exchange Regulation has not really advanced in removing the non-tariff trade barriers (NTBs) when it comes to free movement of capital in the EAC with only one notable improvement in the area of financial securities, interest coupons and participatory rights in collective investment schemes.

A resident in Tanzania may purchase, issue, sell or transfer these to a resident in the EAC and a resident may remit funds for purchasing securities or participatory rights in collective investment schemes that is in the EAC or a public sale of securities within the EAC. In addition, a resident in the EAC can purchase, sell, or transfer government securities in Tanzania. This has to be recognised as progress. A notable feature for those in the mobile money business is that outward remittances from Tanzania to the EAC are permitted without any supporting documents but with provision of reasons to remit.

While cross border trade is facilitated by enabling receipt and expatriation of foreign currencies in Tanzania from the EAC countries however, it must be done in accordance with directives of the Central Bank of Tanzania.

Restrictions that are causing a lot of stirs are as follows:

* The prohibition of residents having a bank account outside of Tanzania except where a bank account in the EAC is held for purpose of settlement of securities held within the EAC territory or where the resident has received approval from the Governor of the Central Bank.
* Equally for remittance outside of Tanzania for services outside of Tanzania, this must be done through a mobile operator, bank, or financial institution in Tanzania.
* Supporting documents are required for expatriate residents in Tanzania who are getting payments made to their bank accounts in their home countries for example or residency. For example, a work permit and employment contract must be given as supporting documents to the bank before the payments can be made.
* Where an insurance from outside of Tanzania has been contracted by a resident in Tanzania, a letter of no objection from Tanzania Insurance Authority has to be obtained.

**Conclusion**

These foreign exchange controls and restrictions will pose challenges for international businesses and foreign investors in Tanzania. When introducing approvals and making it necessary for just about every kind of transaction, foreign exchange restrictions add a level of complexity to investor’s business model and implementation strategy. The Tanzania Foreign Exchange Regulations require authorisations and justifications for several areas including exporting, importing or simply where a non-resident is direct investing in Tanzania. While there could be a problem with income being paid outside of Tanzania for activities that are taking place in Tanzania, putting foreign exchange controls rarely constitutes the answer to encouraging investors to keep their funds in the country. The government of Tanzania will still need to ok address what it has been avoiding: making real and lasting reform in the business environment to curb cases of companies and individuals choosing more friendly jurisdictions to park their private capital.