MONTHLY

Newsletter

ISSUE 02
NOVEMBER 2024

Editor's Note
November Edition

As the world continues to shift, so too does the landscape in which businesses operate. With this evolving environment, the legal and financial frameworks guiding businesses become ever more intricate. In this November edition, we explore three timely, cross-border topics that are not only shaping the global economy but also providing new opportunities and challenges for businesses today.

We begin with the dynamic world of FinTech, where Monalisa Mushobozi, with the invaluable input of Said Nyawambura, delves into how technology is revolutionizing the financial services sector. From the rise of blockchain to the emergence of digital currencies, their analysis reveals the risks of inadequate regulation in the Tanzanian FinTech space and how businesses can safeguard themselves in this rapidly evolving field.

Next, we shift to Transfer Pricing, a topic of growing significance as businesses increasingly operates across borders. Valentina Clifford provides a thorough exploration of this crucial subject, shedding light on the complexities of cross-border taxation and the heightened need for businesses to comply with international standards. This piece offers essential insights on what every company should know about Transfer Pricing in today's interconnected world.

Finally, we turn to Carbon Trading, an area gaining considerable momentum as the world confronts the urgent need for climate action. Allanus Severius walks us through the emerging market of carbon credits, explaining how businesses can not only contribute to sustainability but also tap into this growing financial market for both growth and environmental responsibility.

Each of these articles offers a glimpse into a fast-changing world. Whether you're navigating the complexities of international tax laws, embracing the power of digital finance, or exploring new pathways in environmental markets, we hope these insights provide the tools and knowledge you need to succeed.

Happy reading, and as always, we look forward to hearing your thoughts!

FINANCIAL TECHNOLOGY (FINTECH), DIGITAL ASSETS & BLOCKCHAIN IN TANZANIA:

WHAT SERVICE PROVIDERS CAN DO TO STAY VIGILANT.

Imagine scanning a QR code to settle a restaurant bill, accessing your bank account through a mobile app, or obtaining a loan through a mobile network operator (MNO). These everyday conveniences exemplify how FinTech is revolutionizing financial transactions.

FinTech refers to innovative technologies that enhance & automate financial services while Blockchain is a transformative technology within the broader FinTech ecosystem, providing a secure, transparent, & decentralized method for recording and verifying transactions. Blockchain underpins many FinTech innovations, such as cryptocurrencies, smart contracts, decentralized finance (DeFi), & secure payment systems. Digital assets are also part of FinTech, they represent valuable items in digital form, managed electronically, including cryptocurrencies & non-fungible tokens (NFTs).

FinTech, second only to the internet in its pace of adoption, is transforming the financial services industry. From blockchain & digital currencies to crowdfunding platforms & digital banking, these innovations promise enhanced efficiency & transparency. However, in a rapidly evolving financial ecosystem like Tanzania's, they also introduce unique risks, magnified by the absence of a comprehensive regulatory framework.

THE STATE OF FINTECH REGULATION IN TANZANIA

In Tanzania, the Bank of Tanzania (BOT), the principal financial regulator, has adopted a cautious stance toward FinTech. While the world increasingly embraces blockchain technologies and digital currencies, BOT's stance remains cautious. It has issued warnings against cryptocurrency use, citing risks like fraud, money laundering, and the lack of consumer protection.

This measured stance could pose significant challenges. Without robust oversight, consumer trust in FinTech platforms may erode, and innovation may be stifled, leaving Tanzania lagging in a sector that is becoming a cornerstone of modern financial systems.

Regulation, far from being a mere compliance burden, can serve as a competitive advantage, fostering innovation and protecting stakeholders.

As Tanzania continues to navigate this landscape, service providers must remain vigilant. Below are some of the critical risks they face and potential solutions to mitigate them.

1. INSOLVENCY RISK OF PLATFORM OPERATORS

Intermediary platforms are central to many FinTech services. Consider crowdfunding platforms that connect investors with borrowers or cryptocurrency exchanges that facilitate digital coin trading. What happens if these platforms collapse overnight due to bankruptcy or technical glitches?

For consumers, the collapse of a platform can mean losing access to their funds, as their investments or receivables are often entangled with the platform's operations. And in most cases, customer funds are treated as unsecured liabilities, leaving them vulnerable to devaluation or significant delays in recovery during insolvency proceedings.

One potential safeguard is ensuring that platforms act purely as intermediaries rather than counterparties holding funds. For instance, cash and credit transfers should occur simultaneously and directly between the involved parties, minimizing the risk posed by a platform's insolvency.

To further reduce these risks, service providers could adopt mechanisms like third-party insurance, which ensures customer funds are protected through guarantees from unaffiliated banks or insurance companies.

Another approach is using trusts to segregate customer funds thereby rendering them unavailable for distribution to creditors in the event of a firm's bankruptcy. A notable example is Kenya's M-Pesa, where all funds in M-Pesa are held in trust not by Safaricom, but by a separately incorporated corporation, M-Pesa Holding Co. Limited.

Safaricom then transacts with upper-tier agents in connection with the issuance and redemption of M-Pesa as agent for the trustee corporation rather than on its own account, with the effect that all funds received are impressed with the trust from the outset.

2. DATA BREACHES

Even with cutting-edge security, FinTech platforms remain prime targets for cyberattacks. For instance, Finastra, a global FinTech leader serving 45 of the world's top 50 banks, recently suffered a significant data breach. In Tanzania, the absence of comprehensive data protection laws compounds this risk, leaving customers vulnerable to their personal and financial data being misused or sold.

Service providers must prioritize robust cybersecurity measures. Regular data backups & reliable recovery protocols are essential to minimize disruptions in case of breaches. Transparency is equally important; clearly communicating data privacy policies to users fosters trust and ensures compliance.

Moreover, service providers must educate their teams on cybersecurity best practices. Human error remains a significant vulnerability, and regular training can drastically reduce the risk of breaches. For cross-border data transfers, FinTech companies must navigate varying jurisdictional data protection rules to ensure compliance.

3. STIFLED INNOVATION

Inconsistent or absent regulation presents a paradox for the FinTech industry. While overregulation can suffocate creativity, the complete absence of clear standards creates uncertainty that discourages investment and hinders growth.

Local FinTech companies often face challenges when attempting to partner with global institutions or expand across borders. Without adherence to international regulatory standards, they struggle to gain the trust and credibility needed to operate on a global scale.

In light of the above, service providers can align themselves with globally recognized regulatory & operational standards, even in the absence of local regulations. Adopting frameworks like ISO/IEC 27001 for data security or adhering to international anti-money laundering (AML) protocols signals credibility to consumers and global partners. This readiness ensures smoother collaboration with regulated entities and opens doors to international markets.

Furthermore, service providers can establish self-regulatory organizations (SROs) to create & enforce codes of conduct, ethical guidelines, & best practices. Such associations can lobby for favourable policies, provide collective solutions to industry challenges, & present a unified voice to the government and international stakeholders.

CONCLUSION

Digital assets and blockchain technologies are reshaping industries, creating opportunities for i nnovation & financial inclusion. Yet, with these advancements come significant complexities, caused by unregulated environments. These challenges demand more than just technological solutions; they require a strategic understanding of the legal intricacies that underpin FinTech operations.

For service providers, the path to success lies in more than just embracing innovation, it requires navigating a web of potential liabilities, cross-border implications, & compliance demands. Consumers, on the other hand, must contend with safeguarding their investments & personal data in a space that often lacks robust protections.

FINANCIAL TECHNOLOGY (FINTECH), DIGITAL ASSETS & BLOCKCHAIN IN TANZANIA:

WHAT SERVICE PROVIDERS CAN DO TO STAY VIGILANT.

This is where the guidance of experienced legal professionals becomes indispensable. In an era of rapid technological advancement and regulatory uncertainty, the importance of sound legal counsel cannot be overstated. Lawyers with expertise in FinTech offer more than just advice they provide a framework for mitigating risks, ensuring regulatory compliance, and structuring operations in a way that aligns with both local and international standards. Whether it's drafting agreements, setting up trust mechanisms, or advising on cross-border operations, their role is critical in turning potential pitfalls into opportunities for growth and stability.

As seasoned legal professionals with expertise in FinTech, digital assets, & blockchain, we understand the intricate challenges and opportunities that come with operating in this rapidly evolving space. Whether you're a service provider looking to ensure compliance and mitigate risks or a consumer seeking to protect your investments and data, we can provide tailored legal solutions to meet your needs. If you require assistance navigating the complexities of FinTech in Tanzania, feel free to reach out at info@mwebesalaw.co.tz

THE BALANCE BETWEEN BORDERS:

NAVIGATING TRANSFER PRICING IN TANZANIA

Transfer pricing refers to determination of prices charged for intercompany transactions between associated enterprises, such as subsidiaries, affiliates, or divisions of a multinational company. In the intricate waters of global commerce, transfer pricing flows as a crucial current, steering the tides of cross-border transactions. As the legendary economist Adam Smith aptly said “Taxes are the price we pay for civilization,” a reminder that fair compliance keeps businesses secure in an ever-evolving global tax landscape. For Tanzanian companies engaging in international transactions, the challenge lies in navigating tax audits and adjustments through accurate pricing and thorough documentation. With proactive compliance and insight, companies can navigate the intricate waters of transfer pricing with clarity and precision, ensuring that their “catch” is both fair and sustainable amidst global scrutiny.

As the global economy moves towards deeper integration, Tanzania has intensified its efforts to ensure that transactions between affiliated entities are fair, transparent, and, crucially, at arm’s length. This article will explore the intricacies of transfer pricing in Tanzania, legislative framework, methods, the challenges it presents, the broader tapestry of international standards & precedents, & uncover the lessons that businesses can draw to thrive within the shifting tides of tax scrutiny.

THE GENERAL BASICS OF TRANSFER PRICING: AT ARM’S LENGTH

Transfer pricing involves intercompany transactions which encompass a broad range of commercial or financial dealings, including the sale of goods, provision of services, transfer of intellectual property, or financing arrangements like intercompany loans or guarantees. At the heart of transfer pricing, the principle that serves as the benchmark for evaluating intercompany transactions, is the "arm's length principle". This principle ensures that transactions between associated enterprises mirror those between unrelated parties.

The term "arm's length" is derived from the idea of maintaining a figurative "arm's length" distance between parties to ensure objectivity and independence in transactions. This is the fundamental standard against which inter-company transactions are measured, ensuring they reflect market realities rather than artificial profit shifting and colluding or adjusting terms based on their relationship. In Tanzania, **Section 33 of the Income Tax Act** and **Regulation 4 of the Tax Administration (Transfer Pricing) Regulations of 2018** captures this doctrine, requiring taxpayers and the Tanzania Revenue Authority (TRA) to assess whether intercompany transactions occur at market value. This principle resonates with **Article 9 of the OECD Model Tax Convention and the Transfer Pricing Guidelines, 2020** which underscore that transfer pricing should be based on independent transaction conditions, protecting both revenue authorities and businesses from unfair tax burdens or profit allocations.

A FRAMEWORK FOR COMPLIANCE IN TANZANIA

Under Section 33 of Tanzania’s Income Tax Act and the Tax Administration (Transfer Pricing) Regulations of 2018, businesses must uphold the arm’s length principle. The Tax Administration (Transfer Pricing) Regulations, 2018 introduced a structured approach to compliance. With requirements for documentation, functional analyses, and transfer pricing adjustments, the Regulations push entities towards transparency. These rules align closely with the OECD’s guidelines and the UN Model Convention, 2017 but are distinctively tailored to reflect Tanzania's specific economic and regulatory environment.

To comply, businesses must submit contemporaneous documentation with their tax returns to substantiate their pricing methods and functional analysis. The TRA evaluates if these elements align with what would be expected in an arm’s length arrangement, and whether any profit-shifting has occurred.

A. CONTEMPORANEOUS DOCUMENTATION: THE KEY TO COMPLIANCE

Tanzanian businesses engaged in controlled transactions must prepare contemporaneous documentation to substantiate their transfer pricing arrangements as stipulated under Regulation 7. This documentation must be submitted alongside tax returns and retained for at least five years. Key documents include:

1. **Financial Statements:** Audited accounts reflecting the economic substance of transactions.
2. **Income Tax returns:** Representing the value of all controlled transactions in a particular year of income. They should be available for TRA inspection upon request.
3. **Inter-company Agreements:** Contracts and agreements between related entities specifying terms, prices, and obligations.
4. **An overview of the multinational group:** Including its structure, business operations, and global transfer pricing policies.
5. **Local File:** Detailed information about the Tanzanian entity, including financial data, descriptions of controlled transactions, and transfer pricing methods.
6. **Transactional Data:** Invoices, contracts,& inter-company agreements that define pricing terms.
7. **Functional and Risk Analyses:** Documentation demonstrating the roles, risks, and asset contributions of each entity.

B. THRESHOLDS FOR CONTEMPORANEOUS DOCUMENTATION

Regulation 7(3) provides the threshold of filing documentation. . Entities whose total transactions amount to TZS 10 billion, must file transfer pricing documentation along with the Income Tax Returns for the particular year of income. For other businesses below this threshold, the documentation must still be maintained and submitted upon request.

C. FUNCTIONAL ANALYSIS: A CORNERSTONE OF COMPLIANCE

A functional analysis forms the basis of transfer pricing compliance by examining the roles and responsibilities of each related entity in a transaction. It must answer three critical questions:

1. **Functions Performed:** What economic activities (e.g., manufacturing, distribution, or R&D) does each entity undertake?
2. **Assets Utilized:** What tangible and intangible assets, like intellectual property or brand value, are employed?
3. **Risks Assumed:** What operational, financial, and market risks does each entity bear?

In Tanzania, this analysis forms the cornerstone of compliance especially with intellectual property as provided under Regulation 11(2). For instance, if a local affiliate is responsible for significant manufacturing functions but retains minimal profit, the TRA may investigate whether the transfer pricing arrangement truly reflects its economic contributions. In this realm, TRA also evaluates the methods used ensuring they align with the arm's length principle.

TRANSFER PRICING METHODS: ENSURING EQUILIBRIUM IN TRANSACTIONAL VALUES

Tanzania under **Regulation 5 of the Tax Administration (Transfer Pricing) Regulations, 2018** endorses several primary transfer pricing methods, echoing the OECD guidelines:

1. Comparable Uncontrolled Price (CUP) Method: Compares the price and conditions of products or services in a controlled transaction with those of an uncontrolled transaction between unrelated parties. This is preferred when there’s adequate and reliable data on comparable transactions between unrelated parties.

THE BALANCE BETWEEN BORDERS:

NAVIGATING TRANSFER PRICING IN TANZANIA

2. **Resale Price Method (RPM):** Employed when goods are purchased from related parties and then resold to independent parties, this method calculates the margin earned in comparable transactions.
3. **Cost-Plus Method:** Commonly used in transactions involving services or production, it applies a markup on costs associated with the provision of goods or services.
4. **Profit Split Method: The Profit Split Method (PSM)** allocates profits in controlled transactions by analyzing how independent third parties would divide them in similar circumstances. It offers a holistic view of profit allocation, making it particularly effective for evaluating intangible assets or complex, multi-transaction scenarios.
5. **Transactional Net Margin Method (TNMM):** Often a fallback when other methods lack available comparable, TNMM examines the net profit margin relative to an appropriate base.

While these methods reflect international best practices, the TRA in the **Transfer Pricing Guidelines, 2020 & Regulation 12** has prioritized the CUP method for determining the arm's length price of controlled transactions involving the sale or purchase of commodities or similar products. Nonetheless, the Tax Administration (Transfer Pricing) Regulations permit flexibility, allowing businesses to choose the most appropriate method based on the transaction's specifics. Tanzanian businesses can draw from both local & global jurisprudence.

JUDICIAL INSIGHT: LESSONS FROM TANZANIA AND BEYOND

Tanzania: Two landmark cases underscore the judiciary's stance on transfer pricing and rigorous path to compliance:

1. **Aggreko International Projects Limited vs Commissioner General, Tanzania Revenue Authority (Civil Appeal No.456 of 2021) [2023] TZCA 17606**

   In this recent decision, the Court of Appeal delved into the validity of the TRA's transfer pricing adjustment against Aggreko.

   The TRA contended that Aggreko's pricing with affiliated entities fell short of arm's length standards. The Court upheld the TRA's approach, underscoring that compliance with the arm's length principle requires robust & verifiable documentation.

   It articulated a stricter interpretation of the Tax Administration Regulations. The decision exemplifies a clear judicial endorsement of strict compliance in transfer pricing.

2. **Alliance One Tobacco Tanzania Limited vs Commissioner General (TRA) (Civil Appeal No. 118 of 2018) [2019] TZCA 242**

   The TRA levied a significant transfer pricing adjustment on the company, arguing that its pricing did not adhere to the arm's length standard. The Court examined the TRA's reliance on international comparable, and. reviewed pricing methods. The Court found that the TRA had inadequately justified its method and had failed to substantiate its transfer pricing adjustments adequately. The decision reinforced that while international standards are critical, they must be backed by reliable data and emphasizes the need for the TRA to rigorously justify any transfer pricing adjustments, upholding principles of fairness and transparency.

Global Comparative Analysis:
In Coca-Cola v. Commissioner (2020) & the Facebook case, U.S. courts also demanded a high standard of proof for related-party transactions, mirroring Tanzania's insistence on evidence-backed adjustments. These cases collectively highlight that while jurisdictions may differ in transfer pricing frameworks, the principle of rigorous documentation prevails globally.

COCA-COLA V. COMMISSIONER (2020)

In a landmark U.S. case, the IRS challenged Coca-Cola's transfer pricing method, arguing that its inter-company arrangements diverted taxable income from U.S. operations.

The Tax Court sided with the IRS, asserting that Coca-Cola's pricing structure failed the arm's length standard, resulting in a massive tax adjustment. The case underscores the importance of consistent, economically justified methods, a lesson that Tanzanian businesses can heed to avoid costly audits.

FACEBOOK & INTERNATIONAL TRANSFER PRICING DISPUTES

Facebook's global transfer pricing disputes echo the challenges of accurately valuing intangibles like technology & data. The U.S. IRS scrutinized Facebook's licensing practices, contending that profits from U.S.-developed intangibles were diverted to low-tax jurisdictions. Similar disputes have arisen globally, underscoring that valuing intellectual property in cross-border transactions is complex and high-stakes.

THE COST OF NON-COMPLIANCE: FINES & TRA ACTIONS

When intercompany pricing does not adhere to the arm's length principle, the Tanzania Revenue Authority (TRA) steps in. Non-compliance with transfer pricing regulations can cast a heavy net of penalties:

1. **Failure to Submit Contemporaneous Documentation:** A fine of 3,500 currency points (TZS 52.5 million) in accordance with Regulation 7(4).
2. **Tax Adjustments:** The Commissioner General has mandate under **Section 33(2) of Income Tax Act and Regulation 15(1)** to make adjustments consistent with the arm's length principle. For example, if a Tanzanian company sells goods to its foreign affiliate at below-market rates, the TRA may adjust the pricing to reflect market realities.
3. **Severe Repercussions:** The TRA can initiate audits, adjust tax returns, and even impose penalties of up to 100% of the additional tax liability if intentional evasion is suspected.

The TRA's net can sweep far and wide, leaving businesses exposed to financial losses and reputational damage if they fail to navigate these waters with care.

CONCLUSION: FINDING BALANCE BETWEEN BORDERS

Transfer pricing compliance demands a proactive approach. Documenting each transaction's commercial rationale and economic substance, along with using a suitable transfer pricing method, remains critical to effectively mitigate audit risk. Practically, this means:

- **Choosing the Best Method:** Where comparable are available, CUP remains the gold standard. However, method selection should suit economic reality & evaluated for its ability to capture the economic substance of the transaction. Businesses engaged in unique or high-value transactions may benefit from using the profit split or TNMM methods, provided they align with economic substance. In cases of intangible asset transfers, such as intellectual property, the Profit Split or TNMM methods are often more appropriate.
- **Ensuring Regular and Accurate Functional and Risk Analyses:** An accurate functional analysis forms the backbone of a compliant transfer pricing strategy. This reveals how entities contribute to profits based on their operational roles and financial risks. The TRA expects robust analyses to support pricing methods, a requirement emphasized in Aggreko and Alliance One.
- **Robust and judicious Documentation:** Documentation should be meticulous and contemporaneous, reflecting not only transactional data but also the strategic intent behind inter-company pricing. Documents like financial statements; invoices & transactional data.
- **Inter-company Agreements:** Contracts & agreements between related entities specifying terms, prices, and obligations. These agreements should be clear and enforceable, like those that would be drawn up with unrelated parties.
- **Regular audits of transfer pricing arrangements**
- **Adopting a Global Mindset:** Keeping up-to-date with OECD and UN guidelines helps Tanzanian businesses align with international best practices.

THE BALANCE BETWEEN BORDERS:

NAVIGATING TRANSFER PRICING IN TANZANIA

CLOSING THOUGHTS: **CASTING YOUR NETS WISELY**

In transfer pricing, businesses must set their nets in the waters of compliance, knowing that accurate documentation and the right methodology are the keys to avoiding hefty tax adjustments, keep businesses afloat and their nets full. Companies must find balance, precision, and insight to avoid an unwieldy catch of penalties. The path to compliance, like transfer pricing itself, is complex. But with careful consideration of the applicable laws and best practices, companies can navigate the Tanzanian transfer pricing with greater confidence.

THE DEFINITIVE GUIDE TO CARBON TRADING IN TANZANIA:
UNLOCKING SUSTAINABLE OPPORTUNITIES.

WHAT IS CARBON TRADING?

Carbon trading is a financial system that involves the buying and selling of carbon credits. These credits allow businesses or organizations to emit a specific amount of greenhouse gases (GHGs) or, alternatively, to offset those emissions by reducing or removing an equivalent amount of GHGs. GHGs include carbon dioxide (CO2), methane, nitrous oxide, sulfur hexafluoride, and hydrofluorocarbons.

CO2 is the most significant contributor, accounting for 70-80% of all GHG emissions, according to the Intergovernmental Panel on Climate Change (IPCC). The consequences of unchecked emissions are severe: floods, food and water shortages, droughts, the spread of diseases like malaria, and even the disappearance of small islands and glaciers. Carbon trading aims to reduce these environmental threats by incentivizing companies to cut their emissions.

LEGAL FRAMEWORK: LOCAL & INTERNATIONAL CONTEXT

Internationally, carbon trading is governed by key agreements designed to curb climate change. The **Kyoto Protocol (1997)** and **the Paris Agreement (2015)** set global frameworks for reducing carbon emissions and have influenced both national and corporate policies on climate action.

The Kyoto Protocol introduced the idea of carbon credits, allowing nations to trade emissions reductions. This helped countries like China, which initially had limited carbon trading schemes, develop national carbon markets such as the **China Emissions Trading Scheme** and the Paris Agreement expanded this by making carbon trading a key part of strategies to cut emissions both internationally and within national supply chains. These efforts are transforming how businesses approach sustainability, investment, and supply chain management.

In line with these international commitments, Tanzania has also committed to reducing greenhouse gas emissions and addressing climate change by introducing the **Environmental Management (Carbon Trading) Regulations GN No. 636 of 2022.** These regulations, along with the National Carbon Trading Guidelines, aim to establish a framework for carbon trading in Tanzania. To ensure effective implementation, the government established the **National Carbon Monitoring Centre and Registry,** overseen by the Ministry of the Vice President's Office (Union and Environment), which helps to ensure transparency and effective management of carbon trading projects. The **National Carbon Committee** further supports the implementation of these regulations, with the legal framework being strengthened by the amended **GN No. 721 of 2023.**

HOW TO GET INVOLVED IN CARBON CREDIT PROJECTS IN TANZANIA

If you're considering engaging in a carbon credit project in Tanzania, here are the essential steps to ensure your project meets all the necessary legal and operational requirements:

i. To register the project with the Registrar of National Carbon Trading Registry.

ii. To be registered with the Registrar, it needs to have and do the following:

- Letter of consent and participation of partners engaged in the project.
- Clearance of ownership of the property involved in the project.
- Involve the local communities in the implementation of the project.
- Disclose relevant project information including estimated revenues, costs incurred, and verified emission reduction.
- Indicate expected employment creation to the national experts and local communities.
- Indicate commitment to corporate social responsibility.
- Adhere to national priority carbon trading sectors.
- Comply with the national policies, laws and strategies.
- Show how the project will contribute to the nationally determined contributions.
- Adhere to transparency and fairness in business.
- Adhere to national investment priorities, ecological, social, cultural & economic safeguards.

iii. The Registry shall within thirty (30) days process and respond to the project proponent or managing authority on the registration of the project idea.

iv. Development and submission of Project Concept Note; The Project Concept Note shall be submitted to the Carbon Authority for review and evaluation, accompanied by proof of payment of the project registration fee, which is 1% of the expected Certified Emission Reductions (CERs) from the project.

v. Review and Response by the Carbon Authority.

vi. Submission of Project Document for Ministerial Endorsement; the Carbon Authority shall review it to ensure it meets all the required criteria. If satisfied, the Carbon Authority shall submit the project proposal to the Minister responsible for the environment for endorsement of implementation.

vii. The project proponent or managing authority can within two (2) years after receiving the endorsement start implementing the project.

Adding to the above, a Company is permitted to transfer carbon credits to another company abroad, but only with prior authorization from the relevant authority, as outlined in Regulation 24(3) of the amended regulations. This process allows for emissions reduction to be shared internationally, provided it follows the procedures, methods, and standards set by the 2015 Paris Agreement.

However, like any venture of significance, there are circumstances where a project may face the difficult decision of cancellation.

- Where the proponent submits an official notice for voluntarily cancelling a project.
- Where the endorsement was obtained through misrepresentation.
- Where the continued operation of the project activity is likely to be injurious to the environment or human health.
- Where the project activities are overridden by other public interests.
- Where there was insufficient or holding of information in the application process.
- Failure to submit the Project Concept Note or Project Document within the prescribed time.
- Failure to commence the project activities within the prescribed time.
- Non-compliance with the project requirements as stipulated under the Regulations.

CONCLUSION

By aligning with international standards & establishing a clear regulatory framework, Tanzania is positioning itself as a key player in the global push towards sustainability. Currently, the government is eyeing a registration of 35 carbon trading projects worth around $1 Billion (about Tsh. 2.4 trillion) once it completes the registration of planned schemes in Tanzania. The Carbon credit system serves as a powerful tool to reduce emissions, promote local job creation, and stimulate sustainable industries, but its success depends on the commitment of all stakeholders to transparency, fairness, and the common good.

MWEBESA
LAW GROUP

DAR ES SALAAM (HQ)

House No. 113, Plot No. 948,
Chole Road, Masaki
P. O. Box 23077
Dar es salaam, Tanzania

ZANZIBAR BRANCH

Block 024, Plot No 55
Mbweni Road, Mazizini, Unguja
Zanzibar, Tanzania

For more information:

Phone: +255 767 348 716 | +255 742 812 125 | +255 716 955 304
Email: info@mwebesalaw.co.tz

www.mwebesalaw.co.tz