

Briefing

Registration of private sector foreign loans with the Bank of Tanzania

The Bank of Tanzania requires that all foreign loans from the private sector in Tanzania are registered with them. In this month's banking update, we look at what this registration means in practice.

Private Sector Foreign Loans (**PSFL**) can be defined as the total amount of arrears that is owed to foreign lenders from private sector businesses. These lenders may include commercial banks, citizens, governments or international financial institutions. The involvement of the private sector in economic activity through external borrowing has increased in Tanzania and the rising trend has been for companies to borrow money from foreign commercial banks and other financial institutions rather than from the more expensive domestic market.

Requirements / Procedure for Registration

Section 57 of the Bank of Tanzania Act, 2006 (**BoT Act**) authorises the Bank of Tanzania (**BoT**) to demand public offices, banks and financial institutions as well as private enterprises or any organization within Tanzania, to provide any information the Bank considers necessary for the collection of any monetary or financial statistics on the financial sector. Section 57 (4-5) of the BoT Act stipulates that should a public office, bank, private enterprise or financial institution fail to comply with the BoT request for such financial records, they will be subject to punishment of different degrees

for every day of non-compliance with this order. These penalties are in the form of fines.

Section 3.1 of the Foreign Exchange Circular number 6000/DEM/EX.REG/58 of September 1998 deals with what requirements and steps that are to be taken by commercial banks once a loan has been approved. This is done by informing BoT as to the details of the loan and providing it with information concerning the contents of the loan agreements.

BoT has to receive all the necessary information within 14 days of the loan being approved so that the Debt Record Number, which shall be the reference for the debt repayment and disbursements, shall be issued. Without a Debt Record Number repayment to the foreign lender cannot occur. BoT clearance takes a minimum period of 1 week.

Furthermore, the BoT has announced 12 steps that they use to monitor and improve the process of foreign loans in the private sector. BoT has instructed private sector borrowing entities to report, in the detail provided below, their borrowing activities to their local commercial bank which will then report the gathered information to the central BoT.

To facilitate the monitoring of PSFL by the BoT, borrowing entities should avail to the BoT through their commercial banks, the following information:

- Duly signed loan agreements containing at a minimum the following information:
 - Name of lender and borrower;
 - Contact details such as postal address, fax number, telephone number and physical address of lender and borrower;
 - Loan amount and currency of transaction;
 - Purpose of the loan;
 - The applicable interest rate;
 - Loan maturity period;
 - Loan repayment schedule with clearly indicated dates;
 - Clauses on events of defaults and consequences thereof;
 - A clause indicating applicable law;
 - Company's seal affixed on the loan document;
 - Attestation by a notary public and commissioner for oaths; and
 - The party responsible for paying withholding tax.

- Related loan information (updated periodically):
 - Disbursements indicating amount, disbursement date and currency;
 - Debt service payments indicating principal and interest paid and value dates;
 - Other charges paid, i.e. commitment fee, management fees etc;
 - Details on loan enhancements or cancellations; and
 - Details on loan restructuring or refinancing.

Conclusion

In practice, the issues to be aware of from a transactional perspective centre on conditions precedent (**CP**) to disbursement. A foreign lender will generally make registration with BoT a CP to the disbursement of the loan. As discussed above, the obligation to notify BoT sits with the commercial bank for which a borrower intends to disburse the repayment of monies to the foreign lender. Regardless of this, the obligation will be on the borrower to produce a debt record number obtained from BoT which will allow for payment of the loan to the foreign lender. This is an important area to review by all parties.

Further information

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