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REGULATION OF PRIMARY SACCOS' CREDIT ADVANCEMENT IN TANZANIA

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ABSTRACT
Notably, in 1991 during major financial reforms, Primary SACCOS were established as equity based microfinance institutions for financial inclusion of low and middle income earners. Accordingly, regulation of Primary SACCOS' Credit Advancement (PSCA) enlists principal objects to be achieved by Primary SACCOS such as: to advance credit that correspond with members' needs, to improve living standards and economic growth of members' households, and to contribute to economic growth of the country. It became imperative therefore to ascertain the extent to which the existing regulation of PSCA enables Primary SACCOS to achieve their principal objects. The use of interview and documentary review, led to the conclusion that, to some extent the existing regulations enable Primary SACCOS to achieve their principal objects. Undeniably, much is still needed to be done in order for Primary SACCOS to be able to achieve their principal objects and purpose of their existence to a full extent.
Keywords: *Regulation, Primary SACCOS, Credit Advancement, Economic Growth, and Microfinance.*
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1.0 INTRODUCTION

The Tanzania Development Vision 2025 (TDV 2025) harbours a Tanzania's dream of by 2025 to have the nation with high quality livelihood, peace, stability, unity, good governance, a well educated and learning society, and a competitive economy capable of producing sustainable growth and shared benefits (The United Republic of Tanzania, 1995:2- 3; Magigi, 2016:12). To realise this dream, Tanzania needed *inter alia* to improve its financial services to low and middle income segment of the population. Accordingly, microfinance services were enabled (Randhawa & Gallardo, 2003:1). The microfinance institutions that were enabled to offer microfinance services include; commercial banks, regional and rural unit banks, SACCOS, Non-Governmental Organisations, and Community Microfinance Groups (Section 5 (1) (a) – (d) of the Microfinance Act, No. 10 of 2018; Randhawa & Gallardo, 2003:4).

However, Primary SACCOS seems to be the mechanism to help low and middle income segment of the population to acquire credit. It seems so because, banks and other financial institutions have difficult conditions for credit compliance by the low and middle income segment (Maleko & Msuya 2015:86). In his words, His Excellency President of the United Republic of Tanzania, Benjamin William Mkapa (as he then was) stated that "cooperative societies must direct themselves to contributing towards effective implementation of the objectives of the TDV 2025" (The United Republic of Tanzania, 1995; Hansard, 2013:254-350). Words of the former President implies that, Primary SACCOS has a role to play in improving living standards by providing credit to individuals and small enterprises that can lead to competitive and enhanced economy.

Undeniably, Primary SACCOS' achievement of their principal objects such as economic growth, and ultimate Poverty Reduction and Poverty Alleviation (PRPA) endeavour through PSCA, touches to the core of their existence (The United Republic of Tanzania, 2017). According to the law and economic legal theory, good laws have an ability to promote economic growth and social welfare in the community (Mahajan, 2013:17). Thus, effective regulation is vital for Primary SACCOS to achieve their principal objects (The United Republic of Tanzania, 2017; Massawe, 2017). Regulation of PSCA aims at promoting development of Primary SACCOS by ensuring compliance to the laws, guidelines, and supervision of Primary SACCOS as per Section 2 of the Cooperative Societies Act, No. 6 of 2013.

In order to achieve the regulatory aim, the legal and regulatory framework governing PSCA in Tanzania, places Self-Regulation and State Regulation as two sides of coin over Primary SACCOS' regulation. Through Self-Regulation, PSCA are regulated by their own set of rules accepted by members in By-Laws, Policy, and Contracts, on one hand as per Section 30 and Section 52 of the Cooperative Societies Act, No. 6 of 2013. On the other hand, Primary SACCOS are regulated by their own regulatory organs such as the Management Board of Primary SACCOS, General Meetings, Supervisory Committee, Credit Committee, and Technical Loan Committee as per Section 52 and Section 68 of the Cooperative Societies Act, No. 6 of 2013, and Regulations 30, 40, 47, and 49 of the Savings and Credit Cooperative Societies Regulations, G.N. No. 115 of 2016.

Through State Regulation, PSCA are regulated by principal and subsidiary legislation. In addition to that, Primary SACCOS are regulated by various Governmental Organs. It seemed that Self-Regulation was more advocated as an effective model of regulation as it is cost effective, market-based-incentive regulation, and embraces flexibility that may reduce administration cost and maximise profits. On the other hand, State Regulation was alleged to be restrictive, costful, and hinders innovations that may maximise profits (Pagliari, 2012; Malloy, 2010). Although Self-Regulation seemed to be an ideal model of regulation, but according to the command-and-control legal theory, it is a positive morality that cannot be enforced in a court of law (Singh, 2006:18). This raised questions as to the legitimacy of Self-Regulation and its capabilities of protecting PSCA from harm. It is important therefore, to assess the extent to which the existing regulation enables Primary SACCOS to achieve their principal objects.

2. CONCEPTUAL FRAMEWORK

2.1 Regulation

Regulation can be defined to mean "every constitutional, legal or institutional regulations and other kind of public policies and practices put into effect by government for social and economic goals" (Delikanli). Regulation can also be defined to mean an act or process of regulating or being regulated by rule or restrictions, on one hand, or a rule or directive made and maintained by an authority, on the other hand (Wehmeir, 2006:1227; Garner, 2009:1398). Regulation can also be defined to mean subsidiary legislation made under the enabling principal Act upon which the term regulation is used as per Section 4 of the Interpretation of Laws Act [Cap. 1 RE 2002]. Thus, in this study, regulation is adopted to mean both rules or directives (legal framework) and an act or process of regulating or being regulated (regulatory framework).

2.2 Primary SACCOS

Primary SACCOS is a registered cooperative society whose principal objects *inter alia* are to encourage thrift among its members and to create a source of credit to its members (Sections 2, 21 (1), and 23 of the Cooperative Societies Act, No. 6 of 2013; Magigi, 2016:5). Primary SACCOS is also a microfinance institution engaging in provision of microfinance as per Sections 5 (1) (c), and 8 of the Microfinance Act, No. 10 of 2018. Primary SACCOS is categorised into three major groups. These are: community-based Primary SACCOS such as Lugaluga SACCOS Ltd, Tajirika SACCOS Ltd, and Tuinuane SACCOS Ltd; employee-based Primary SACCOS such as Ufundi SACCOS Ltd, Tanzania Revenue Authority (TRA) SACCOS Ltd, and University of Dodoma (UDOM) SACCOS Ltd; gender-based Primary SACCOS such as Arumeru Women SACCOS Ltd; and religious-based Primary SACCOS such as Lusemo SACCOS Ltd (Christians), Mtakatifu Gregory SACCOS Ltd (Christians), and Tanzania

Muslim Professionals (TAMPRO) SACCOS Ltd (Muslims). However, there are other types of SACCOS other than Primary SACCOS. These are Secondary SACCOS, Federation SACCOS, Probationary SACCOS, Pre-Cooperative SACCOS, and Financial Cooperative Societies (FICOS).

2.3 Credit Advancement

Credit advancement is an issuance of a loan to a qualified borrower who demonstrated ability to repay the loan as per Regulation 71 (2) of the Savings and Credit Cooperative Societies Regulations, G.N. No. 115 of 2016. Credit advanced intends to fill a gap of a budget deficit of the borrower. Credit advancement has undeniable advantages to both creditor and debtor (International Labour Office, 2013:42-47). Advantages are many but to mention a few are as follows: it helps expand business of the lender because, every credit advancement accrue interest sum payable by the borrower; it contributes in economic growth of a country because, lending help to finance various economic activities; and it helps in creating jobs because, credit advanced are invested in various economic activities hence demands labour power (Ibid).

2.4 PSCA

PSCA refers to Primary SACCOS issuing loans to their members who primarily falls in the category of financial exclusion by banks and other financial institutions in the provision of financial services as per Regulations 6, 9 (1), 11 (1) and (2), and 28 of the Savings and Credit Cooperative Societies Regulations, G.N No. 115 of 2016. Primary SACCOS' members are to contribute shares, savings and deposits before they can qualify for credit as per Regulation 66 (2) of the Savings and Credit Cooperative Societies Regulations, G.N No. 115 of 2016. PSCA can only be practiced when minimum number of shares as permissible in the law and By-Laws of Primary SACCOS are met as per Regulation 57 (3) of the Savings and Credit Cooperative Societies Regulations, G.N No. 115 of 2016. PSCA is distinguished from credit advancement by banks, financial institutions, and other microfinance institutions. The distinction can be seen in tripartite.

First, traditional securities against credit advancement most preferred by banks and financial institutions include land, shares, life insurance policy, guarantee, salary, wealth bank accounts, hypothecation, debenture, pledge, banker's lien, the right of set off, and the right to combine bank accounts (Sections 2, and 111 - 119 of the Land Act [Cap. 113 RE 2002]; Nditi, 2010:37–59; Binamungu & Ngwilimi, 2006:81-92). Thus, for an individual who cannot offer any of the aforementioned collaterals is automatically excluded from credit financing by banks and financial institutions. But, can well be accommodated by Primary SACCOS as it can offer both secured and unsecured credit to low and middle income segment of the Tanzania population as per Section 2 of the Cooperative Societies Act, No. 6 of 2013, and Regulation 6 of the Banking and Financial Institutions (Financial Cooperative Societies) Regulations, G.N. No. 81 of 2005.

Second, value of collateral offered against credit by banks and financial institutions is ordinarily of greater value than the credited amount. For example in the case of *National Bank of Commerce Limited v. Somo Contractors Ltd [2004] TLR 430*, the court stated that it is unreasonable on the part of the borrower to question why the property offered as security against credit was of greatest value than the credited amount. While in PSCA the value of security is lower than the credited amount because, in PSCA, credit is secured by voluntary shares, savings, deposits, or goods. Also, a member is allowed to borrow amount valued up to not more than 10 percent of the core capital of the Primary SACCOS as per Regulation 66 (2) of the Savings and Credit Cooperative Societies Regulations, G.N. No. 115 of 2016. Third, in order to access credit from Primary SACCOS, one must be a member but in other microfinance institutions membership is not required as per Section 72 (1) of the Cooperative Societies Act, No. 6 of 2013, and Regulation 68 (1) of the Savings and Credit Cooperative Societies Regulations, G.N No. 115 of 2016.

3. METHODOLOGY

This paper is a result of author's PhD thesis that is prepared under research approaches maintained in the discipline of law and related studies. In the course of carrying out this study, interview (structured and unstructured), and documentary review were employed for collection of data in Morogoro Municipality, Dar es Salaam Ilala Municipality, and Dodoma City. While interview was employed to gather information from 123 Respondents in 18 Primary SACCOS, 12 Government Regulatory Organs, and the Judiciary of the United Republic of Tanzania, documentary review was employed to collect both primary and secondary data from legislation, judicial decisions, and publications.

The study applied random and purposive sampling design to gain its 123 Respondents. Furthermore, cross-sectional survey design was employed in collecting primary data. The study applied content analysis, and black-letter and socio-legal approaches for data analysis and interpretation. Further, the study is guided by relevant theories namely, the command-and-control legal theory, and the law and economic legal theory.

This study observed rules of ethics and confidentiality. Respondents were informed the purpose of this study, and permission to disclose their identity (where needed) as source of information was sought. Majority of Respondents gave verbal consent to the disclosure. However, some few of them preferred anonymity. Both preferences are respected by the Author. Furthermore, this is an original work of the Author, where publications are used; proper acknowledgement is accorded.

4. FINDINGS

In the discussion, it has been revealed that, the existing regulation takes the form of two models of regulation namely Self-Regulation and State Regulation. It became important therefore, to assess the extent to which the existing regulation enables Primary SACCOS to achieve their principal objects. When enacting the Cooperative Societies Act, No. 6 of 2013, the legislature intended to have the law in place that facilitates and supports sustainability and development of PSCA (Hansard, 2013:254-269). Whether the existing regulation facilitates and supports Primary SACCOS to achieve their principal objects through PSCA, it is an important point to debate for a concise and valid conclusion. It has been reported that, the existing regulation enables Primary SACCOS to achieve their principal objects, through provisions that provides for; cautionary procedures, Cooperative Principles and Value (CPV), setup of procedures for prudential lending, grant of privileges, protection of Primary SACCOS from invalidities, Alternative Dispute Resolution (ADR), guards against conflict of interest and favouritism, financial consumer protection, and prohibition of adverse conducts.

4.1 Setup of Cautionary Procedures

The existing regulation sets up cautionary procedures for formation, establishment, and management of Primary SACCOS. Cautionary procedures are adopted to ensure that once registered, Primary SACCOS acquires ability to operate sustainably towards achieving their principal objects. Cautionary procedures can be variously seen such as in; number of members of Primary SACCOS, competence of membership, sufficient capital, and systematic stages towards existence of Primary SACCOS.

Number of Primary SACCOS' Members should not be less than 20 members as per Sections 20 (1) (b), and 29 (1) of the Cooperative Societies Act, No. 6 of 2013, and Regulation 4 (1) of the Savings and Credit Cooperative Societies Regulations, G.N No. 115 of 2016. This number is considerably reasonable to start up a successful cooperative. Further, Primary SACCOS may have a greater number as possible upon which their shares, savings, deposits, and capital may increase tremendously. The increase may boost up credit advancement activities and hence moving more closely to improving living standards and economic growth in members' household and eventually country's economic growth.

Competence of members on the other hand, can substantially contribute to development and sustainability of Primary SACCOS. The competence of Primary SACCOS' members is made up by the following qualifications; a member should be an adult person, of sound mind, is trading or working in undertakings relevant to the objects of the Primary SACCOS, has a common need of which Primary SACCOS seek to satisfy, and has ability to pay fees and acquiring shares as per Section 20 (a) – (d) of the Cooperative Societies Act, No. 6 of 2013, and Regulation 4 (1) of the Savings and Credit Cooperative Societies Regulations, G.N No. 115 of 2016.

Further, it is important for Primary SACCOS to have sufficient capital to qualify for PSCA. Capital adequacy for Primary SACCOS is quoted to be made of a minimum capital adequacy ratio of core capital of not less than 8 percent of total assets of which at least 6 percent is institutional capital and not more than 2 percent is made up by membership shares pursuant to Section 29 (5) of the Cooperative Societies Act, No. 6 of 2013, and Regulations 3, and 53 (1) (a) of the Savings and Credit Cooperative Societies Regulations, G.N No. 115 of 2016. Furthermore, the minimum capital adequacy ratio is made up by institutional capital of not less than 6 percent of total assets, and net institutional capital of not less than 6 percent of total assets pursuant to Regulations 3, and 53 (1) (b) – (c) of the Savings and Credit Cooperative Societies Regulations, G.N No. 115 of 2016.

However, Primary SACCOS may be required to maintain higher minimum capital adequacy ratio (more than 8 percent) to be able to continue with PSCA upon circumstances whereby; it experience losses as a result of capital deficiency, it has significantly exposed to risks, it has a high or particularly severe volume of poor quality assets, or is growing rapidly without adequate capitalisation and risk management as per Regulation 53 (2) of the Savings and Credit Cooperative Societies Regulations, G.N No. 115 of 2016. Capital sufficiency is very important to the extent that Primary SACCOS with insufficient capital can be sanctioned or cannot be allowed to operate as per Section 29 (5) of the Cooperative Societies Act, No. 6 of 2013, and Regulations 10 (f), and 57 (3) of the Savings and Credit Cooperative Societies Regulations, G.N No. 115 of 2016.

Generally, the existing regulation lays foundation for viability of Primary SACCOS. It is important to note that, Primary SACCOS is an economic institution of which its success lies to those eager to improve the economy. For example, although the law has established minimum startup capital of TZS 5,000,000/= to start up a Primary SACCOS, the law allows also reasonability of judging as to whether TZS 5,000,000/= may suffice as a start up capital to Primary SACCOS with 100 members as it is usually the case to the one with 20 members.

Also Primary SACCOS are subjected to follow systematic establishment procedures for successful PSCA. These are initial meeting stage, formation committee stage, formation meeting stage, application for registration stage, determination stage, registration stage, and licensing stage, pursuant to Sections 30, 31, 33, and 34 of the Cooperative Societies Act, No. 6 of 2013, and Regulations 4, 5, 7, 8, and 9 of the Savings and Credit Cooperative Societies Regulations, G.N No. 115 of 2016. In initial meeting stage, persons who wish to start up Primary SACCOS are required to hold initial meeting. The meeting is designed for the purpose of discussing and agreeing on the formation of the Primary SACCOS pursuant to Regulation 4 (1) – (3) of the Savings and Credit Cooperative Societies Regulations, G.N No. 115 of 2016.

In formation committee stage, the committee is formed of such a number as determined by the initial meeting. The formation committee is obligated *inter alia* to consider in detail the type of Primary SACCOS to be formed and determine its objects, and also to undertake a feasibility study, pursuant to Regulations 5 (1) – (4), and 6 (a) – (g) of the Savings and Credit Cooperative Societies Regulations, G.N No. 115 of 2016. Feasibility study is done in order to determine economic viability of the intended Primary SACCOS so that upon its registration and licensing is able to operate successfully in PSCA as per Section 30 (1) (b) of the Cooperative Societies Act, No. 6 of 2013, and Regulations 5 (3) (b), 6, 7 (3) (f), 8 (1) (f), and 9 (1) of the Savings and Credit Cooperative Societies Regulations, G.N No. 115 of 2016.

Feasibility study is as important as existence of Primary SACCOS and subsequent success of PSCA. For example, in 1963, the Cooperative Societies Ordinance, 1963 waived the economic viability test as a condition for cooperative registration. This move enabled more Primary SACCOS to register. However, majority of the registered Primary SACCOS were economically weak hence failed to operate successfully in PSCA (Lyimo, 2012:107). Currently, failure to conduct the feasibility study or if report of feasibility study shows that the proposed Primary SACCOS is not economically viable, it will be refused registration as per Section 32 (1) of the Cooperative Societies Act, No. 6 of 2013, and Regulation 10 (1) (c) and (g) of the Savings and Credit Cooperative Societies Regulations, G.N No. 115 of 2016.

The formation meeting stage, requires the formation committee to convene a formation meeting for the purpose of receiving the formation committee's report for forming and registering a Primary SACCOS as per Regulation 7 (1) – (3) of the Savings and Credit Cooperative Societies Regulations, G.N No. 115 of 2016. In application for registration stage, persons interested to start up a Primary SACCOS with permissible number, capital, and shares are to apply to the Registrar of Societies (RoS) for registration of the Primary SACCOS in prescribed form No. 2 pursuant to Section 30 (1) – (2) (a) of the Cooperative Societies Act, No. 6 of 2013, and Regulation 8 (1) of the Savings and Credit Cooperative Societies Regulations, G. N. No. 115 of 2016.

Following the application, the RoS has to determine the application and make decision within 60 days from the date of receipt of the application as per Section 31 (1) of the Cooperative Societies Act, No. 6 of 2013. In determining the application, the RoS shall take into account the economic viability of the intended Primary SACCOS and that the potential Primary SACCOS has fulfilled the conditions for registration pursuant to the law as per Regulation 9 (1) – (3) (a) – (f) of the Savings and Credit Cooperative Societies Regulations, G. N. No. 115 of 2016.

In registration stage, the RoS must satisfy himself if all of the requirements are met before registering the potential Primary SACCOS. Upon that satisfaction, Primary SACCOS is registered and issued a signed certificate of registration and *vice versa* is also true pursuant to Section 31 (1) – (5) of the Cooperative Societies Act, No. 6 of 2013. Thereafter, Primary SACCOS is required to apply for license to the Bank of Tanzania (BoT) or Tanzania Cooperative Development Commission (TCDC), to carry out microfinance business. For without license, Primary SACCOS cannot engage in PSCA contrary of which it is penalised by a fine of not less than TZS 10,000,000/= but not exceeding TZS 50,000,000/= as per Sections 16 – 23 of the Microfinance Act, No. 10 of 2018. Upon receipt of the license application, the BoT or the TCDC as the case may be, will consider the application by looking into its compliance. Thereafter, license will be issued upon satisfaction of the compliance and *vice versa* is also true pursuant to Sections 20 – 23 of the Microfinance Act, No. 10 of 2018. These systematic stages aimed at creating a strong foundation upon which Primary SACCOS can operate successfully in their PSCA endeavours.

4.2 CPV

The existing regulation sets up CPV for better functioning of PSCA as per Section 3 (2) (a) – (h) of the Cooperative Societies Act, No. 6 of 2013. CPV is also used as a standard of a good law. For example, Theron (2010:18) have argued that regulation for cooperatives is regarded as the *sine qua non* of cooperative development. Thus, it is important to establish a supportive regulation for cooperative development (ibid). Regulation for cooperative development must incorporate cooperative values (self-help, self-responsibility, democracy, equality, equity, and solidarity) and principles (voluntary and open membership, democratic member control, member economic participation, autonomy and independence, education, training, and information, cooperation among cooperatives, and concern for community). Majority of cooperative laws of East and Southern Africa do not incorporate CPV. The reason being difficulty to incorporate them because values are not legally enforceable and that there is a degree of flexibility in how principles are applied in practice (ibid). The Cooperative Societies Act, No. 6 of 2013 incorporates both principles and values in one. CPV guides Primary SACCOS to operate successfully and eventually be able to contribute to their members' well-being and the country in general.

4.3 Setup of Procedures for Prudential Lending

The existing regulation sets up principles of good lending for prudential practice. Primary SACCOS' members are required to make a formal loan application. The application will go through scrutiny and approval process to determine its viability and repayment possibilities pursuant to Regulation 63 – 67 of the Savings and Credit Cooperative Societies Regulations, G.N. No. 115 of 2016. Data obtained through interviews revealed that, the regulation also empowers Regulators to guard against bad decisions of Primary SACCOS in PSCA. For example, the TCDC discourages Primary SACCOS to borrow from banks or financial institutions for the purpose of advancing credit to members. The discouragement is necessitated by the fact that, once Primary SACCOS borrows, that is a financial liability payable in principal sum plus interest. The interest, of which Primary SACCOS is liable to pay, creates repercussion on their members, upon which they will be credited in higher interest rate than it would have been in a case where Primary SACCOS has no such a liability.

But, if it is necessary for the Primary SACCOS to borrow from outside sources, it must not exceed 25 percent of total assets of the Primary SACCOS. In order to ensure viability of the credit and repayment, credit issued must correspond to the borrowers' capacity of repayment. Thus, Regulators are empowered by the law, to scrutinise and thereafter issue Certificate of Maximum Liability upon satisfaction that Primary SACCOS will be able to repay the credit issued in their favour as per Regulation 82 the Savings and Credit Cooperative Societies Regulations, G.N. No. 115 of 2016. Less liability is equal to more ability of Primary SACCOS, to serve their members well that may lead to advance credit that correspond to members' need, improve their living standards and economic growth in their households, and eventually contribute to economic growth of the country.

4.4 Grant of Privileges

Regulation of PSCA grants Primary SACCOS some special privileges that may give them competitive advantages over other corporate entities (Katende, 1976:1006). Special privileges such as charges of defaulters, exemptions of compulsory requirements, and tax exemptions are great opportunities for Primary SACCOS to excel. Grant of privileges is a regulatory technique of public-benefit-conferral. The technique is set for a specific purpose of achieving regulatory aim of creating conducive social, economic, and legal environment for the development and prosperity of cooperative societies in Tanzania as set out under Section 4 of the Cooperative Societies Act, No. 6 of 2013. Creation of a charge, exemption of registration of instruments, and tax exemptions are hereby discussed as special privileges to Primary SACCOS for their growth, development, and prosperity.

4.4.1 Creation of a Charge

Primary SACCOS are allowed to create a charge on outstanding demands or dues payable to Primary SACCOS pursuant to Sections 61 – 62 of the Cooperative Societies Act, No. 6 of 2013, and Sections 6, 7, and 10 of the Chattels Transfer Act [Cap. 210 RE 2002]. Data collected through interviewed revealed that, creation of charges in a way protects Primary SACCOS from financial losses. Creation of a charge is basically affords Primary SACCOS, as secured creditor, the right of claim over property of a defaulted party. Suffering financial losses may weaken ability of Primary SACCOS to offer credit to members or generally failure to discharge their principal objects. That, being the case, creation of a charge is a form of protection that Primary SACCOS needs in building up their financial strength for better PSCA.

4.4.2 Exemption of Registration of Instruments

Primary SACCOS are exempted from compulsory registration of instruments relating to shares, and debentures pursuant to Section 66 of the Cooperative Societies Act, No. 6 of 2013. Registration of instruments accrues some financial liability and loss of time, of which is dispensed with, by virtue of exemption privilege. Primary SACCOS conceded to the fact that, the exemption is a huge assistance in building financial ability because fund and time served, can be applied in more economic activities that can lead to accumulation of more funds. Needless to say, Primary SACCOS with financial ability has an opportunity to; offer credit that correspond to members need, improve living standards and economic growth in members' households, and contribute to economic growth of the country.

4.4.3 Tax Exemptions

Primary SACCOS are exempted in part or in full from income tax, and Value Added Tax (VAT) of which, may be payable in respect of the accumulated funds, or dividends of the Primary SACCOS, or other payments received by members on the account of accumulated funds as per Section 67 (1) – (2) of the Cooperative Societies Act, No. 6 of 2013. However, the exemption of income tax is open to Primary SACCOS whose turnover in a year of income do not exceed TZS 50,000,000/= pursuant to Paragraph 1 (g) (i), (ii) (dd), and (iii) of Second Schedule of the Income Tax Act [Cap. 332 RE 2008]. Primary SACCOS praises the exemption of income tax, revealing that it is of great help in growth and sustainability of Primary SACCOS. However, they are of the opinion that, it would be even greater help if the bar is raised from TZS 50,000,000/= to at least TZS 100,000,000/=. The reason given being, the payable tax rate of 30 percent is expensive and very high. Undeniably, the exemption can real help at a great deal in strengthening up capital of Primary SACCOS. That, Primary SACCOS with strong capital, is in a better position for PSCA.

Furthermore, Primary SACCOS are exempted in part or in full from stamp duty which may be payable in respect of instruments executed by or on behalf of a Primary SACCOS or by an officer or member relating to the business of the Primary SACCOS of any class of such instruments as per Section 67 (1) (b) and (2) of the Cooperative Societies Act, No. 6 of 2013, and Section 16 (1) of the Stamp Duty Act [Cap. 189 RE 2002]. Both Regulators and Regulatees have agreed through interviews that, tax exemptions are of great help to the growth and prosperity of Primary SACCOS.

4.5 Protection of Primary SACCOS from Invalidities

Primary SACCOS are protected against invalidities that may result out of matters done in good faith. The protection is imminent despite a defect in By-Laws, or Board's decisions, or in the appointment or election of an officer whose, during the appointment or election was disqualified for such an appointment as per Section 59 of the Cooperative Societies Act, No. 6 of 2013. However, Regulators stresses on a point that, this protection go hand-in-hand with control of Primary SACCOS in order to avoid any sort of malpractice. Protection from invalidities saves finances and time of Primary SACCOS that can be applied in more productive activities beneficial to Primary SACCOS and members.

4.6 ADR

Regulation of PSCA provides for ADR that allows Primary SACCOS to settle their disputes amicably by way of negotiation or reconciliation pursuant to Regulation 130 (1) of the Savings and Credit Cooperative Societies Regulations, G.N. No. 115 of 2016. Primary SACCOS are at par with this arrangement citing absence of courts' technicalities as well as affordability in terms of finances as an advantage. Absence of court's technicalities helps Primary SACCOS to solve their disputes timely. It is important to note that, PSCA is a financial service that is required to be traded timely. Furthermore, ADR has a financial advantage compared to court cases as it has minimal expenses and do not require hiring of advocates. Thus, ADR is an opportunity to Primary SACCOS to solve their disputes timely, with little expenses both of which are nuts and bolts for strengthening Primary SACCOS.

4.7 Guards Against Conflict of Interest and Favouritism

Existing regulation of PSCA guards against conflict of interest through guiding operations of Primary SACCOS. In its guidance, the regulation formulates a basis for operations of Primary SACCOS. Regulation 68 (5) of the Savings and Credit Cooperative Societies Regulations, G.N. No. 115 of 2016, primarily do not allow PSCA to a Board member, Committee member, or an employee, without prior approval of the majority vote of the Board or Committee as the case may be. Furthermore, Regulation 68 (6) of the Savings and Credit Cooperative Societies

Regulations, G.N. No. 115 of 2016, prohibits a member whose loan application is discussed to attend the same meeting. Instead such a member is required to recuse himself from the meeting when the application is being discussed. These provisions guard against conflict of interest that is vividly present when a person judges his own case. The requirement is also the same when comes to dealing with loan application of a related party to a Board member, Committee member, or an employee.

On the other hand, Regulation 68 (7) the Savings and Credit Cooperative Societies Regulations, G.N. No. 115 of 2016, guards against favouritism of an officer or an employee of Primary SACCOS and their relatives to be offered PSCA under such terms, rates, or conditions that are favourable to them compared to other members. Guarding against conflict of interest and favouritism is very much appreciated by both Regulators and Regulatees for the protection and strengthening of Primary SACCOS. Undeniably, the prohibition protects from unethical personnel that may misuse Primary SACCOS' fund for individual gains to the detriment of all other members.

4.8 Financial Consumer Protection

Regulation of PSCA provides for consumer protection to members in financial products and services. Section 50 (3) of the Microfinance Act, No. 10 of 2018 define consumer protection as follows; "Consumer protection includes principles intended to ensure transparency of the products and services of the microfinance service provider, fair treatment and safeguard of the interests and rights of consumers and fair complaints handling and dispute resolution mechanism."

The provision is literally requires Primary SACCOS to disclose important matters related to PSCA in order to protect interest and rights of their members. The disclosure is required all the way from terms and conditions of credit, interest rates, fee, penalties, vetting standards credit contracts or agreements, to full disclosure of relevant information on financial products and services as per Section 50 (2) of the Microfinance Act, No. 10 of 2018, and Regulation 115 of the Savings and Credit Cooperative Societies Regulations, G.N. No. 115 of 2016. Further, Primary SACCOS are required to give full disclosure either in writing or verbally relevant information to their members pertaining shares, savings, and deposits as per Regulation 115 (1) of the Savings and Credit Cooperative Societies Regulations, G.N. No. 115 of 2016.

Principles of financial consumer protection also requires Primary SACCOS to offer financial education to members pursuant to Section 50 (2) (e) of the Microfinance Act, No. 10 of 2018. Both Regulators and Regulatees conceded to the fact that, financial consumer protection reminds Primary SACCOS to do well with their members in PSCA. Accordingly, the disclosure and financial education enables their members to understand how to healthily navigate through PSCA purposely and successfully. In turn members may be able to borrow within their limit which may be repayable on time and ultimately enables Primary SACCOS to generate more funds for better and timely financial services.

4.9 Prohibition of Adverse Conducts

The Regulation of PSCA prohibits adverse conducts that may be detrimental to growth, development, and sustainability of Primary SACCOS. For example, Section 129 (1) of the Cooperative Societies Act, No. 6 of 2013 prohibits solicitation of violation of contracts against Primary SACCOS. That, any person, firm, or company who solicits or persuades or contracts any person to sell or deliver goods or services in violation of By-Laws of Primary SACCOS commits an offence. Liability for the offence is provided to include fine of not less than TZS 5,000,000/= for an individual. But, not less than TZS 10,000,000/= for a firm or a company.

Nonetheless, in addition to a fine, the offender is required to pay the Primary SACCOS, a concerned market price of such goods or services as it was at the date of the commission of such an offence as per Section 129 (1) of the Cooperative Societies Act, No. 6 of 2013. The prohibition protects Primary SACCOS from any possible loss that may occur as a result of violation of By-Laws. Both Regulators and Regulatees revealed that the protection increase chances for the Primary SACCOS to grow and develop into a sufficient institutions able to perform their duties and carry out their obligations toward achieving their principal objects.

4.10 Achievements of Primary SACCOS

Evidently, Primary SACCOS had made tremendous achievements under the existing regulation of PSCA. Testimonies from members, leaders, and executive officers of Primary SACCOS and also Regulators attest to this fact. It has been submitted that, Primary SACCOS have been able to contribute in improvement of living standards to their members and economic growth of the country. This is because, Primary SACCOS has been able to issue credit in low interest rate of which members may apply the credit offered into various uses such as building houses, improve housing, start small businesses, payment of tuition fees, and buying plots. Also Primary SACCOS acts as a guarantor to their members when seeking material wealth elsewhere.

In addition to that, Primary SACCOS brings people together and promotes solidarity. Togetherness and solidarity brings about friendship and networking of which by virtue of their cooperation, more endeavours may be generated from that point forward and ultimately improve their living standards. Togetherness and solidarity also brings sense of a family bond amongst members of Primary SACCOS which may be a source of relief in social problems. Apart from that, Primary SACCOS reduces financial stress due to their ability to offer emergency credits to solve emergency issues such as sickness and funeral arrangements.

Moreover, Primary SACCOS are able to offer dividends annually to their members. Furthermore, Primary SACCOS offers saving opportunities of which savings help at the time of need whereby can satisfactorily solve financial need of a member without resort to credit facility. Saving opportunities also build saving culture which is a good culture to have. In addition to that, Primary SACCOS are able to offer education and training to their members in financial management, entrepreneurship, basics of legal knowledge, and cooperative education in shares and deposits. Not only that but also, education for financial behavioural change/shaping such as being honest, disciplined, accountable, and responsible.

Primary SACCOS further engages in social responsibility to their members. For example KKKT Arusha Road SACCOS Ltd maintains a policy of offering condolences to members. They offer TZS 500,000/= to a member with credit liability and TZS 200,000/= to a member who do not have credit liability. Reason for this difference is that, a member with credit liability is regarded as a member who contributes more to the growth, development and sustainability of Primary SACCOS as compared to a member who do not have credit liability. A member who has taken up credit, trades with Primary SACCOS through which, it brings more money into Primary SACCOS. The liability obligates the member to pay interest in addition to principal sum. Payment of interest is a financial gain for Primary SACCOS and may further be used as a source of income for further PSCA. This type of social responsibility was also narrated by TRA SACCOS Ltd of which it offers condolences to its members that value at TZS 1,500,000/= and TZS 2,000,000/= respectively.

Moreover, Primary SACCOS stimulates the economy and contributes to the economic growth of Tanzania through payment of taxes and engage in other economic projects and activities such as retail shops, food services, and sanitation services. The economic activities necessitate allocation of resources of which financial intermediation promotes savings and investments. Also, Primary SACCOS contributes in economic growth of Tanzania through employment of Tanzanians, charities to the need, and funds for the community development. For example, Ngome SACCOS Ltd had once approximately contributed hospital equipments that valued up to TZS 200,000,000/=. Also, Primary SACCOS stimulate the economy by injecting fund through PSCA to members. For example, as reported through interview, by the Minister of Agriculture, Hon. Japhet N. Hasunga (MP), last year alone (2017/2018), Primary SACCOS injected TZS 1.3 Trillion into the Tanzanian economy. The amount is helpful for their members to engage in various economic activities of which it may result into something great such as industrial economy.

Generally, Primary SACCOS contributes to the economic growth and PRPA because they are promoting financial inclusion that caters for the low and middle income segment of the population that is excluded by banks and financial institutions. In doing so, they enhance good livelihood of members. Accordingly, Primary SACCOS assist the Government of United Republic of Tanzania towards achieving Millennium Goals and Tanzania Vision 2025. Although, it is evidenced that Primary SACCOS performed tremendously with PSCA, there are some circumstances whereby failures of Primary SACCOS to achieve their principal objects in expected volume of strength, has been reported. Thus, there is still much needed to be done in order for Primary SACCOS to be able to accomplish their principal objects and purpose of their existence in a full expected way.

4.11 Failures of Primary SACCOS
Amongst 18 studied Primary SACCOS, majority of them has conceded to the fact that, they have not been able to achieve their principal objects of advancing credit that correspond to members' need, improve living standards of members, and contribute to economic growth to the point of their expectations and goals. Failures of Primary SACCOS under the existing regulation are argued to include, offering credit that do not correspond to members' need. For example, depends on a season (economic conditions) at the time, members may or may not be given the exact amount they have applied for. But sometimes, business circumstances of a member may also contribute for a member to receive a reduced credit. This occurs when the scrutiny of credit application suggests as such.

Sometimes members have to wait long before they can receive credit they have applied. Also members can find themselves in a debt vicious circle as may get tired of waiting and thus borrow some place else of which the credit may have high interest rate. Moreover, in some cases PSCA to members may be done in installment instead of getting the whole amount at once. Sometimes Primary SACCOS resort into borrowing fund from other financial intermediaries or employer in case of employee-based Primary SACCOS, in order to advance credit to their members. Borrowing money from banks or financial institutions is not preferred due to collateral arrangement be overwhelming. But, sometimes Primary SACCOS has to do that out of necessity. Borrowing from banks or financial institutions also has an implication on interest rate. The interest rate of PSCA to members may be higher compared to the fund accumulated by Primary SACCOS themselves.

Withdrawal of membership is another aspect of failure of Primary SACCOS. Members have been withdrawing due to various reasons. For example, some Primary SACCOS reportedly had 1,000 members or more, but currently the number has reduced to approximately 900 members. Withdrawals of members reduce chances for prosperity of Primary SACCOS. Some Primary SACCOS have argued that, the law may help by restricting withdrawals for some period of time. For example, a member once joins Primary SACCOS, should not be allowed to withdraw membership until lapse of three years or five years. Although, Primary SACCOS operates under cooperative principle of voluntarism of membership, protection of Primary SACCOS existence brings out necessity of somehow restricts this principle.

It is also been reported that, a number of existing Primary SACCOS is closer to 6000, but only approximate of 3000 Primary SACCOS operates actively. Implication of this statistic paints a picture that, approximately 3000 Primary SACCOS has failed to achieve their principal objects. It is further reported that, although Primary SACCOS contributes to the economic growth, their contribution is still low as Primary SACCOS has not been able to invest in large businesses. Despite the cited failures, Primary SACCOS are regarded as important institutions in economic growth of Tanzania. They are an alternative method to the economic growth and their importance is likened to blood in a human being. Thus, it is crucial to work towards removing any sources of failures for the benefit of Primary SACCOS, their members, and Tanzania community at large.

5. CONCLUDING REMARKS

This study assessed the extent to which the existing regulation of PSCA enables Primary SACCOS to achieve their principal objects. It is evidently shown that, to some extent the existing regulation enables Primary SACCOS to achieve their principal objects. The enabling has been possible through solid foundation that is made possible by existence of cautionary procedure for establishment. As submitted herein above, solid foundation test economic viability of Primary SACCOS so that once established, they can blossom into successful financial intermediaries.

The study also settles the dynamic that, Primary SACCOS enjoys various privileges such as tax exemptions that enables them to save money for more PSCA and income-generating activities. It is also submitted herein that, Primary SACCOS has been able to make some achievements though not to the extent that was expected. Cumulatively, from cautionary procedures to prohibition of adverse conducts, two elements of benefits to Primary SACCOS have become recurring features. These are, time and finances of which may be employed for further income-generation that may lead to adequate PSCA, improving living standards and economic growth of members' households, and economic growth of the country.

However, it has also been reported that while in some cases Primary SACCOS are doing well, some has reportedly are suffering from insufficient funds for PSCA, member withdrawals, and approximate to 3000 of Primary SACCOS do not operate actively. Meaning, they have failed to achieve their principal objects of advancing credit that correspond to members' need, improve living standards and economic growth in members' households, and contribute to the country's economic growth. Apparently, the failures are partly caused by the existing regulation of PSCA. At this juncture therefore, examination of the legal challenges affecting Primary SACCOS to achieve their principal objects, is subtle in order to settle the narrative that, the existing regulation affecting Primary SACCOS to achieve their principal objects.

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