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# **An Appraisal of Self-Regulation as an Alternative Regulatory Model for Primary SACCOS' Credit Advancement in Tanzania**

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## **Abstract**

An appraisal of Self-Regulation as an alternative regulatory model for Primary SACCOS' Credit Advancement (PSCA) in Tanzania became indispensable in order to settle the narrative that Self-Regulation is better than State Regulation. This study employed interview and documentary review as methods of data collection in order to impart knowledge presented in this study. Data collected were interpreted qualitatively using content analysis method. Further, Authors were aided by black-letter approach, socio-legal approach, and command-and-control legal theory in data interpretation and analysis. Findings show that, Self-Regulation has multiple advantages but it is equally embodies multiple challenges affecting PSCA. The discussed challenges includes: unenforceability of their self-made rules; breach of contracts and agreements; poor-capacity of Primary SACCOS due to weakness in their empowerment mechanism; lack of accountability on part of members, leaders, and executive officers of Primary SACCOS; and poor implementation of auditor's recommendations. Thus, it is risk to solely rely to Self-Regulation for successful PSCA. Unless Primary SACCOS amends their internal arrangements to remove the challenges, Self-Regulation cannot be made alternatively applicable to replace State Regulation for regulation of PSCA in Tanzania. It is therefore recommended herein that, Primary SACCOS' members, leaders, and executive officers to change their attitudes and behaviours to ensure auspicious regulatory environment for successful PSCA.

**Keywords:** Self-Regulation, State Regulation, SACCOS, Regulatory Model, Microfinance.

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## 1.0 Introduction

This study presents part of PhD research findings that concluded that, although Self-Regulation has multiple advantages, to be used as an alternative regulatory model in exclusion of State Regulation is impractical. Instead, Self-Regulation can be used to complement State Regulation for positive-impactful-regulation. Primary SACCOS is a financial intermediary with dual faces as in one hand, it is a cooperative society and on the other hand, it is a microfinance institution. Thus, in its complex existence, suitable regulatory model is imperative for Primary SACCOS to achieve their principal objects. Since, State Regulation is argued to not settle as a market-friendly-based-regulation, this study conducts an appraisal of Self-Regulation as an alternative regulatory model for successful Primary SACCOS' Credit Advancement (PSCA) in Tanzania.

## 2.0 Background

In Tanzania (then Tanganyika), credit advancement to low income earners began in mid 1920s. During this time, credit advancement was self-regulated, and it was carried out by Agricultural and Marketing Cooperative Societies (AMCOS).<sup>4</sup> State Regulation was introduced soon after through the Cooperative Societies Ordinance of 1932.<sup>5</sup> State Regulation did not help much into enabling flourishness of cooperatives because laws regulated cooperatives during colonial time in Africa, had promoted more division among people than bring them together.<sup>6</sup> The division hindered development of cooperatives and their activities.<sup>7</sup> State Regulation did not properly address some of the issues that were important to cooperatives.<sup>8</sup> For example, the laws during this period gave more powers to cooperative administrative officers.<sup>9</sup> This was contrary to international cooperative principles of volunteerism, ownership of

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<sup>4</sup> Charles Kimei, *Tanzania's Financial Experience in the Post-War Period* (UPPSALA 1987).

<sup>5</sup> The Uhuru Institute, *The Cooperative Movement and the Challenge of Development: A Search for Alternative Wealth Creation and Citizen Vitality Approaches in Uganda* (Centre for Basic Research and Action Aid 2013).

<sup>6</sup> Francis Lyimo, *Rural Cooperation in the Cooperative Movement in Tanzania* (Mkuki na Nyota 2012).

<sup>7</sup> Kembo Bwana & Joshua Mwakujonga, 'Issues in SACCOS Development in Kenya and Tanzania: The Historical and Development Perspectives' (2013) 3 Development Country Studies 5, 114.

<sup>8</sup> Tanzania Federation of Cooperatives, and Cooperative Development Department, *A Simplified Guide to the Cooperative Development Policy and the Cooperative Societies Act of Mainland Tanzania* (Tanzania Federation of Cooperatives 2006).

<sup>9</sup> Lyimo (n 6).

members and member management.<sup>10</sup> As a result the cooperative administrative officers misused the given powers as there were no checks and balance.<sup>11</sup> Thus, in post-independence Tanzania laws were improved to enhance better cooperative services.<sup>12</sup> The improvement was necessary because laws were found to be inadequate as they were developed in colonial masters' context.<sup>13</sup> Accordingly, Tanzania's first State Regulation that introduced Primary SACCOS in Tanzania was section 4 (1) and (2)(a)(ii) of the Cooperative Societies Act 1968. The provision provided that, cooperative societies which may be registered were those with objects to promote economic interests of members. State Regulation further introduced changes that aimed at achieving better regulation for Primary SACCOS. The changes included the following; first, repeal and replacement of the Cooperative Societies Act 1991 by the Cooperative Societies Act 2003.<sup>14</sup> The latter Act aimed at addressing challenges such as poor management system, poor leadership,<sup>15</sup> and inadequate provisions of credit that does not correspond to credit seeker needs.<sup>16</sup>

The Cooperative Societies Act 2003, could not effectively bring the desired transformation that is, to support and facilitate Primary SACCOS advance credit corresponding to members' needs, to improve living standards and economic growth in members' households, and to contribute to economic growth of Tanzania.<sup>17</sup> Due to the reason that, it embodied flaws such as an excessive powers given to the Registrar of Societies (the Registrar) that included power to order compulsory amalgamation or division of Primary SACCOS, and power to dissolve Primary SACCOS without being challenged in a court of law.<sup>18</sup> Power of this nature is likely to impede Primary SACCOS' development in Tanzania.<sup>19</sup>

Second, it was the integration of microfinance activities into banking system, through the enactment of the Bank of Tanzania Act 2006 and the

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<sup>10</sup> Uhuru (n 5).

<sup>11</sup> *ibid*

<sup>12</sup> Sam Maghimbi, 'Cooperatives in Zanzibar: Decline and Renaissance' (2010) Coop Africa Working Paper No. 17/2010.

<sup>13</sup> *ibid*

<sup>14</sup> The Cooperative Societies Act, No. 20 of 2003, Sect 134 (1).

<sup>15</sup> *ibid*, Sects 61 and 62.

<sup>16</sup> The United Republic of Tanzania Parliamentary Sessions, 31 July 2003, 12<sup>th</sup> Meeting Session, 36<sup>th</sup> Sitting.

<sup>17</sup> Sam Maghimbi, 'Cooperatives in Mainland Tanzania: Revival and Growth' (2010) Coop Africa Working Paper No. 14/2010.

<sup>18</sup> The Cooperative Societies Act, No. 20 of 2003, Sects 94, 96, and 97.

<sup>19</sup> The Tanzania Cooperative Development Policy (2002), Paras 3.3 and 3.4

Banking and Financial Institutions Act 2006.<sup>20</sup> The two laws aimed at: providing for comprehensive regulation and supervision of Primary SACCOS' activities, with a view of maintaining the stability, safety and soundness of the financial system so as to reduce risk of loss to depositors.<sup>21</sup> Third, it was the repeal and replacement of the Cooperative Societies Act 2003 by the Cooperative Societies Act 2013.<sup>22</sup> The Cooperative Societies Act 2013 provides for the establishment of the Tanzania Cooperative Development Commission (the Commission) for better regulation and supervision of Primary SACCOS, for formation, constitution, registration, and operation of Primary SACCOS, and for promotion and development of Primary SACCOS.<sup>23</sup> Section 3 (2) of the Cooperative Societies Act 2013, has incorporated cooperative principles and values as advocated by the International Cooperative Alliance and the African Confederation of Cooperative Savings and Credit Associations.

Fourth, it was the enactment of the Microfinance Act 2018. The Act brings about changes in the regulation and licensing of Primary SACCOS. The Act takes away powers of the Commission to regulate and supervise financial aspect of Primary SACCOS. Instead that power is now solely enjoyed by the Bank of Tanzania (the Bank). The Commission remain with the power to regulate and supervise cooperative aspect of Primary SACCOS. In addition to that, the Commission can only deal with the financial aspect of Primary SACCOS as a delegate of the Bank. The changes are said to be made in order to perfect the regulation of PSCA.<sup>24</sup> However, according to the standards set out by the World Council of Credit Unions (the World Council), State Regulation fall short of the standards. This is because PSCA in Tanzania are regulated by general Cooperative Societies Act, legislation intended for commercial banks, and microfinance institutions' legislation contrary to what the World Council has suggested. The design of the State Regulation is likely to impose regulatory burden partly resulting from proliferation of laws and multiplicity of regulators. It is for this important reason, an appraisal of Self-Regulation as an alternative regulatory model for PSCA in Tanzania became indispensable.

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<sup>20</sup> The Bank of Tanzania Act, No. 4 of 2006 [hereinafter 'the BoT Act'], Sect 71 (1); *See also* the Banking and Financial Institutions Act, No. 5 of 2006 [hereinafter 'the BFIA'], Sect 72 (1).

<sup>21</sup> The BoT Act, Long Title; *See also* the BFIA, Long Title.

<sup>22</sup> The Cooperative Societies Act, No. 6 of 2013, Sect 144 (1).

<sup>23</sup> *ibid*, Long title.

<sup>24</sup> The United Republic of Tanzania Parliamentary Sessions, 15 November 2018, 13<sup>th</sup> Meeting Session, 8<sup>th</sup> Sitting. <<http://parliament.go.tz/polis/uploads/documents/1543930006-15%20NOVE MBA,%202018.pdf>> accessed 17 April 2019; *See also* The United Republic of Tanzania Parliamentary Sessions, 16 November 2018, 13<sup>th</sup> Meeting Session, 9<sup>th</sup> Sitting. <<http://parliament.go.tz/polis/uploads/documents/1543930031-16%20NOVEMBA,%202018. pdf>> accessed 17 April 2019.

### 3.0 Self-Regulation v. State Regulation

#### 3.1 Self-Regulation

The term ‘self’, can be used to mean self as an individual or self as in collective group of individuals or entities.<sup>25</sup> In this study, it is used as in collective group of Primary SACCOS. Self-Regulation is a model of regulation that disciplines one’s own conduct by oneself. It is different from State Regulation.<sup>26</sup> Self-Regulation is also known as soft law or soft governance or new governance model of regulation.<sup>27</sup> It finds legal basis in the principle of freedom of association, and the principle of freedom to contract.<sup>28</sup> Self-Regulation is formed in three prerequisites namely: the activity regulated is somehow afflicted by financial market failure; private law instruments (State Regulation) are inadequate or too costly to correct the failure; and Self-Regulation is better (cheaper) method of solving the market failure.<sup>29</sup> Self-Regulation can command a greater degree of expertise and technical knowledge of practices.<sup>30</sup> Self-Regulation comes in different forms such as Mandated Self-Regulation (this is the form of Self-Regulation of PSCA in Tanzania), Sanctioned Self-Regulation, Coerced Self-Regulation, Voluntary Self-Regulation, and Embedded Self-Regulation.

Primary SACCOS sees Self-Regulation to be more suitable model of regulation than State Regulation. The reason being, Self-Regulation reflects more on Primary SACCOS’ own experience. For example experiences of Primary SACCOS in Dodoma City cannot be similar to that of Primary SACCOS found in other areas of the country. Or community-based Primary SACCOS’ experience cannot match up to that of employee-based Primary SACCOS. These differences of Primary SACCOS can be well addressed through Self-Regulation because State Regulation is more general and in reality it does not reflect Primary SACCOS’ own experience. Their preference is also supported by previous studies that have established that, Self-Regulation is an ideal and more effective model of regulation because of six important reasons.<sup>31</sup> First, self-regulatory

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<sup>25</sup> Julia Black, ‘Constitutionalising Self-Regulation’ (1996) 59 *The Modern Law Review* 1, 24.

<sup>26</sup> *ibid*

<sup>27</sup> Jakob Schemmel, ‘The ESA Guidelines: Soft Law and Subjectivity in the European Financial Market-Capturing the Administrative Influence’ (2016) 23 *Indiana Journal of Global Legal Studies* 2, 455.

<sup>28</sup> Fabrizio Cafaggi and Simona Rodriguez, ‘Self-Regulation in Italy’ (2007) European University Institute: New Modes of Governance Project No. CITI-CT-2004-506392.

<sup>29</sup> Anthony Ogus, ‘Rethinking Self-Regulation’ (1995) 15 *Oxford Journal of Legal Studies* 1, 97.

<sup>30</sup> *ibid*

<sup>31</sup> Black (n 25).

entities play a more fundamental role of acting as intermediaries linking different parts of the society. Second, self-regulatory entities mediate in a horizontal manner on different needs between state, market, and the community.<sup>32</sup> Third, self-regulatory entities focus greatly on systemic risk prevention.<sup>33</sup> Fourth, Self-Regulation breaks regulatory vicious circle created by State Regulation such as problem of regulatory arbitrage.<sup>34</sup> Fifth, Self-Regulation introduces flexibility and responsiveness into the regulatory regime. Sixth, Self-Regulation is cost effective as it deals with its own management and handling of dispute without involvement of litigation organs.<sup>35</sup>

State Regulation harbours weaknesses that affect financial services. For example, State Regulation fails to coordinate cross-border financial services due to inconsistency between standard setting and enforcement.<sup>36</sup> Further, State Regulation can no longer keep up with modern financial services.<sup>37</sup> Reasons being; it causes overlap and conflict of interests among agencies, it causes over-extension of agencies' mandate, its regulation is of no regard to cost or efficiency, it carries with it adverse attitudes between Regulators and Regulatees, and it is characterised with delays and duplicative reporting requirements.<sup>38</sup> Nonetheless, despite the weaknesses, it is often understood that, the responsibility to regulate private financial services is naturally fall to the state.<sup>39</sup>

### 3.2 State Regulation

Regulation is usually thought in terms of State Regulation but it is not always the case.<sup>40</sup> State Regulation is also known as public regulation or command-and-control regulation. It is a type of regulatory model in which power to enact rules is exclusively enjoyed by the state.<sup>41</sup> State Regulation

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<sup>32</sup> *ibid* 29.

<sup>33</sup> Saule Omarova, 'Wall Street as Community of Fate: Toward Financial Industry Self-Regulation' (2011) 159 *University of Pennsylvania Law Review* 2, 411.

<sup>34</sup> *ibid* 416.

<sup>35</sup> Cynthia Estlund, 'Rebuild the Law of the Workplace in an Era of Self-Regulation' (2005) 105 *Columbia Law Review* 2, 319.

<sup>36</sup> Fabrizio Cafaggi and Andrea Renda, 'Public and Private Regulation Mapping the Labyrinth' (2012) CEPS Working Document No. 370/2012.

<sup>37</sup> Omarova (n 33).

<sup>38</sup> Jack Barkenbus, 'Is Self-Regulation Possible?' (1983) 2 *Journal of Policy Analysis and Management* 4, 576.

<sup>39</sup> Stefano Pagliari, 'Who Governs Finance? The Shifting Public-Private Divide in the Regulation of Derivatives, Rating Agencies and Hedge Funds' (2012) 18 *European Law Journal* 1, 44.

<sup>40</sup> Chiara Chiumya, 'The Regulation of Microfinance Institutions: A Zambian Case Study' (DPhil thesis, University of Manchester 2006).

<sup>41</sup> Omarova (n 33).

takes many forms but mostly legal directives form. Legal directives are seen as traditional measures to which Regulators prevail before Regulatees.<sup>42</sup> Evidently, State Regulation for PSCA accompanies legal challenges such as; proliferation of laws, multiplicity of regulators, costly regulation, unfair competitive legal requirements, violation of cooperative principles and values, unnecessary restrictions, legislative monopoly, improper dispute settlement procedure, problems in accessibility of the regulation, and political interference. It follows therefore, a need for important actions in order to improve the existing regulation for Primary SACCOS' success.

Some of the Regulators argue that State Regulation is an important model to regulate PSCA in Tanzania because Self-Regulation is not suitable under which Primary SACCOS cannot develop. That, the argument State Regulation is not suitable has no merit because once Primary SACCOS comply with State Regulation, they can witness positive results. State Regulation protects not only sustainability of Primary SACCOS but also welfare of their members. For example, before the new enacted Cooperative Societies Act 2013, leaders of Primary SACCOS were monopolising power. The Cooperative Societies Act 2013 sets period of three years and can be re-elected only once for another three years. Change of leadership reduces any possibilities of embezzlement of funds, or any sort of malpractice. Without State Regulation, Primary SACCOS cannot be able to operate successfully. Further, Regulators argues that, there is a necessity of State Regulation because in absence of it, there would be bureaucracy and embezzlement of funds in operations of Primary SACCOS. Moreover, when there is a need to enforce contracts of Primary SACCOS or to seek justice in courts of law, it is State Regulation that is applicable and not Self-Regulation.

Previous studies have also criticised Self-Regulation for facilitating abuse of power and lacking easy, prompt, and fair redress process. Moreover, self-made regulations are not legally enforceable in courts of law,<sup>43</sup> harbours conflict of interest between interest of self-regulatory entities and state agencies,<sup>44</sup> cannot replace State Regulation, it must comply with State Regulation, it relies to State Regulation for enforcement of compliance, and it may be overruled by State Regulation.<sup>45</sup> Apart from

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<sup>42</sup> Bent Christensen, 'Public Regulation of Private Real Property' in Folke Schmidt (ed), *Scandinavia Studies Law 1969* (Stockholm Institute for Scandinavian Law 1969) Vol. 13.

<sup>43</sup> Ogus (n 26).

<sup>44</sup> Chiumya (n 40).

<sup>45</sup> Ubena John, *How to Regulate Information and Communications Technology?: A Jurisprudential Inquiry into Legislative and Regulatory Techniques* (Jure AB 2015).

that, Self-Regulation cannot balance between public and private interests and may fail to comply with regulatory requirements of validity such as legitimacy, accountability, and consistency.<sup>46</sup>

Some of the Regulators however, argue that, both Self-Regulation and State Regulation are very important in PSCA for economic growth, and development of Primary SACCOS. State Regulation gives general regulation but through Self-Regulation Primary SACCOS is allowed to regulate their conducts depending on their environment provided they are within the law. State Regulation is important to establish a base for Regulators to regulate, Self-Regulation is also important in establishing a base for Primary SACCOS to regulate themselves. In order to have a well-balanced practice in micro-financing or financial markets generally, both State Regulation and Self-Regulation must complement each other. State Regulation helps to prevent and avoid malpractice in the market because if Primary SACCOS are allowed to operate as they wish, for example investing their money as they wish, their very own purpose of existence may not be obtained. Practice has shown, in these circumstances, Primary SACCOS tends to have over-investment which does not help in their growth and development. For example in a period of 2007 – 2011 was the worst period for cooperative movement in the country because Self-Regulation was more into play and cooperative movement suffered due to dishonest and lack of discipline on part of cooperatives.

More importantly, Primary SACCOS operates like banks (trading in money) so it should be regulated because money is a delicate issue. It is even more important when it involves the general public money. Self-Regulation is important model of regulation to the extent that it developed cooperative principles and values but, for growth, development and sustainability of Primary SACCOS, both State Regulation and Self-Regulation must complement each other.

#### **4.0 Self-Regulation as an Alternative Regulatory Model**

Self-Regulation governing PSCA in Tanzania is made up by their Lending Policies, By-Laws, contracts, and self-regulatory-institutions. These documents and institutions are made in conformity with State Regulation, contrary of which will render them inapplicable. Thus, Self-Regulation is formed by describing the specific rules from the general rules laid down by the State Regulation. Moreover, Primary SACCOS may further create

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<sup>46</sup> ibid 71 – 72.



other policies and documents to regulate their own conducts. Policies such as; human resources policy, investment policy, record keeping and management policy, financial regulations policy, internal audit manual, and units and representative policy. For the purpose of this study however, discussion of Self-Regulation focuses on By-Laws, Lending Policy, Contracts, and their institutions. Unfortunately, in regulation of PSCA in Tanzania, Self-Regulation is characterised with various legal challenges affecting Primary SACCOS to achieve their principal objects. The challenges includes the following; unenforceability, breach of contracts and agreements, poor capacity of Primary SACCOS, lack of accountability, and poor implementation of auditor's recommendations.

#### 4.1 Unenforceability

Both *Singh & Reed et al* have argued that, according to the command-and-control legal theory, Self-Regulation is a positive morality and not a law to be enforceable in courts of law.<sup>47</sup> Nonetheless, it is worth it, because Regulatees enforces them with sanctions to defaulted member.<sup>48</sup> Although, *Reed et al* seems to establish that Self-Regulation is at equal footing with State Regulation to a sense that it can discipline defaulters just like State Regulation, truth of the matter is Self-Regulation lacks coercive apparatus. This fact makes members of self-regulatory entities such as Primary SACCOS disobedient to their own sets of rules and regulations. Unenforceability of Self-Regulation makes Primary SACCOS peculiar to losses consequent to non-compliance of their members.

Data obtained through interviews stresses on the peculiarity of Primary SACCOS. Knowing the unenforceability predicament, majority of Primary SACCOS do not seek justice from courts of law. Even for those few cases admitted, are not merited because they are treated as normal cases in form of breach of contracts or signatories issues but not as cooperative cases. Consequently, it leads to impracticable decree because unique features of Primary SACCOS are not captured in conclusions of those cases. For example, it was reported that, a certain case between Primary SACCOS and a member was entertained and decided on, in a court of law, as a mere case of a breach of contract. The court decided in a favour of the member and ordered assets of Primary SACCOS to be sold in execution of the given pecuniary decree. Decisions like these affect rights of other Primary SACCOS' members because the court failed to capture ownership feature of other members as well. Members of Primary SACCOS are both members and owners of the said Primary SACCOS. Clearly, this was the

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<sup>47</sup> Lee Reed, et al., *The Legal and Regulatory Environment of Business* (McGraw-Hill Irwin 2002).

<sup>48</sup> *ibid* 111 – 138.

decision given in disregard of cooperative laws and thus makes the execution decree impracticable. However, should the decree be carried out, all other members of Primary SACCOS and the Primary SACCOS itself stands to lose which may have a great repercussion in PSCA.

## 4.2 Breach of Contracts and Agreements

Breach of contracts and agreements is a real legal challenge to PSCA. Data collected from interviews revealed that, although some of Primary SACCOS do not have problem of non-repayment, other Primary SACCOS have members who often breach contracts for non-repayment or delay of repayments of a credit facility. Non-repayment and delay of repayments affects Primary SACCOS development. Non-repayment of a credit facility is also emerged as the main issue on dispute settlements that are referred before the courts of law. Although, Primary SACCOS may take disciplinary actions such as deregister a particular member who is responsible for non-repayment, but this often causes more delays and without payment at all.

Primary SACCOS' members should be responsible for repayment because it is a form of empowerment for Primary SACCOS to offer PSCA. That way, Primary SACCOS have an opportunity to offer adequate credit timely and improve the economy of both members and the country. Non-repayment is not only affects other members for not adequately enjoy credit advantages but also prevents defaulted members themselves. This is because a defaulted history of a member may cause such a member to receive reduced credit-amount than actual applied credit-amount or the application may be rejected altogether. Cementing on the effects of non-repayment and delay of repayments, *Magigi* has submitted that, non-repayment and delay of repayments have caused a collapse of SACCOS. Surprisingly, it caused a collapse of even those SACCOS known to be doing better in past years and for a very long time. In *Magigi's* words '*weka akiba mara kwa mara, kopa kwa busara, na lipa kwa wakati*' can strengthen financial stability of SACCOS.<sup>49</sup> Thus, it is an obligation for members to honour their credit contracts for repayment and do so timely.

Furthermore, Primary SACCOS are faced with breach of agreements with third parties in connection to PSCA. For example, in some cases it has been reported that, in relation to employee-based Primary SACCOS, employers do not timely disburse the deducted amount to Primary SACCOS after deducting repayment amount from salaries. In this case

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<sup>49</sup> Wakuru Magigi, *Vyama vya Ushirika wa Akiba na Mikopo (SACCOS), Ujasiriamali na Ajira: Nyenzo Katika Kujenga Tanzania ya Viwanda na Uchumi wa Kati* (Safi Publishers 2016).

employers are in breach of agreements that exists between them and Primary SACCOS' leaders for salary deductions. To solve this, Primary SACCOS resort into agreement with banks so that salary of an employee-member can be deducted. But this further brings in a challenge for double deductions to an employee-member even though when an employer disburses the deductions to Primary SACCOS, it will be credited back to an employee-member's account. Both breach of contracts and agreements in repayment affects ability of Primary SACCOS to achieve their principal objects through PSCA.

### **4.3 Poor-Capacity of Primary SACCOS**

It was also reported through interviews that, various Primary SACCOS operate in poor-capacity for a successful economic institutions. For example, it was reported that some of the Primary SACCOS has demonstrated poor knowledge on record keeping and management, poor manpower, and members who are few in number. Poor recording exposes them to undetectable losses that reduce their financial capacity to offer PSCA timely and adequately. Also, locations of these Primary SACCOS (mostly community-based) are too remote for effective promotion and supervision. Lack of effective promotion and supervision may as well limit a number of members that may bring more money into Primary SACCOS that may be used in PSCA. Apart from that, some of Primary SACCOS experiences low budgets that prevent them from building strength vital for PSCA. For example, low budget affects delivery of education and training to members because whenever they get new members, they need to educate them in entrepreneurship, cooperative, and financial management. Poor-capacity affects ability of the Primary SACCOS to offer PSCA and achieving their principal objects.

### **4.4 Lack of Accountability of Primary SACCOS**

Lack of accountability of members, leaders, and executive officers of Primary SACCOS was also reported to affect PSCA. Some of Primary SACCOS' members seek credit without any useful purpose. This may cause non-repayment or delays of repayments to the detriment of Primary SACCOS. Also some of leaders of Primary SACCOS fail to comply with the law. For example, circumstances to which are reported for failure to comply with law includes; engaging in embezzlement of funds, fail to conduct any statutory meetings, and engaging in dishonesty practices. Most of problems in Primary SACCOS may be solved with the change of attitudes by members, leaders, and executive officers. In addition to have effective laws, success of Primary SACCOS depends also on honesty,

discipline, accountability, and competence of members, leaders, and executive officers of these SACCOS.

Members' behaviours such as '*kuchepusha mkopo*' are very hurtful for Primary SACCOS' development. '*kuchepusha mkopo*' occurs when a member apply some amount of a credit facility for a different purpose other than what was intended for. For example, Member A credited TZS 5,000,000/= for business purposes, instead Member A injects TZS 3,000,000/= in business and TZS 2,000,000/= for buying home appliances. Clearly in this scenario there is a strong likelihood '*kuchepusha mkopo*' to cause non-repayment or delays of repayment because turnover of TZS 3,000,000/= in business may not be similar to turnover of TZS 5,000,000/=. The scenario was reported in connection to community-based Primary SACCOS.

Further, deposits and savings are very important to the sustainable development of Primary SACCOS, because deposits and savings create a source of credit to be lending out and accrue profit through accumulation of interests. Members often use their money in activities other than to credit their savings account. Assumedly, members are doing this in a belief that, other activities may bring more money than deposits or savings. This goes on to show that members are not accountable to their own acceptable rules and regulations. Moreover, Regulators have argued that, to succeed, Primary SACCOS must ensure that financial management is effectively exercised. For example, it is unreasonable to have Primary SACCOS' employee who is paid more than a bank employee. Also, Credit Committees and Technical Loan Committees of these Primary SACCOS need to work with full commitment at the determination of worthiness of credit applications and securities they offer. Contrary to that, problems of credit non-repayment or delays in credit repayment may never end. Moreover, Primary SACCOS must ensure compliance of the law because it helps a great deal in safeguarding their interests. Thus, members, leaders, and executive officers must embody accountability including compliance of the law in their daily activities as it contributes to the development and sustainability of Primary SACCOS.

#### **4.5 Poor Implementation of Auditor's Recommendations**

Poor implementation of auditor's recommendations was also reported as a challenge that affects Primary SACCOS in achieving their principal objects. That is the case because failure to rectify imperfections reported in the auditor's report has a negative implication on financial stability of a Primary SACCOS. Financial stability is one of the key elements for Primary SACCOS to achieve their principal objects. It is important

therefore for Primary SACCOS to implement auditor's recommendations on aspects that can genuinely improve their existence.

## **5.0 Conclusion and Recommendations**

### **5.1 Conclusion**

This study carried out an appraisal of Self-Regulation as an alternative regulatory model for successful PSCA in Tanzania. The study was found on the idea that, an effective regulation is an ideal for enabling Primary SACCOS to achieve their principal objects. That is also an idea of the Government of the United Republic of Tanzania, as it is committed to create conducive regulation for prosperity of Primary SACCOS in Tanzania. The study further revealed efforts made by the Government of Tanzania to achieve an effective regulation. Despite the efforts, findings revealed legal challenge emanates from both Self-Regulation and State Regulation, affecting Primary SACCOS to achieve their principal objects. The revealed legal challenges emanates from Self-Regulation discussed include; unenforceability of Self-Regulation, breach of contracts and agreements, poor-capacity of Primary SACCOS, lack of accountability of Primary SACCOS, and poor implementation of auditor's recommendations. Alternatively therefore, Self-Regulation cannot regulate exclusively from other regulatory models. But, it can function well when complements State Regulation.

### **5.2 Recommendations**

Based on findings of this study, although Self-Regulation cannot exclusively regulate PSCA, it is an important regulatory model that continues to exist. In this regard therefore improvements must be made to remove the identified challenges. Accordingly, this study recommends for behavioural change and change of attitude on part of Primary SACCOS, capacity building, and implementation of auditor's recommendation.

#### **5.2.1 Behavioural Change and Change of Attitude**

All of the legal challenges emanates from Self-Regulation except for unenforceability, are within ability of Primary SACCOS to be rectified. To remove these challenges, it only needs a behavioural change and change of attitude of members, executive officers, and leaders of Primary SACCOS. For example non-repayments, delay of repayments, and *kuchepusha mkopo*, which leads to lack of accountability and breach of contracts, can be settled by members to resort into being accountable to Primary

SACCOS. Furthermore, behavioural change and change of attitude of leaders is also of great help to the growth, development, and sustainability of Primary SACCOS. When leaders are accountable to Primary SACCOS, they will work more for the benefit of their Primary SACCOS that includes refrain from any sort of embezzlement of funds, dishonesty, fraud, and any sort of malpractice.

In addition to that, behavioural change and change of attitude is also needed on part of employers who failed to disburse employee salary deductions to employee-based Primary SACCOS. In this circumstance, employers are deliberately breach agreements exist between them and Primary SACCOS operates within their work premises. Honouring these agreements will enable Primary SACCOS to achieve their principal objects as deductions will boost their financial stability needed for PSCA. Moreover, behavioural change and change of attitude is also needed on part of members of Technical Loan Committees and Credit committees of Primary SACCOS. The committees need to work objectively against loan applications of members and decide on merits whether to accept or reject the applications. Any practice that may suggest acceptance of loan applications on a basis other than merits, may lead to non-repayments or delay of repayments of the credit offered.

### **5.2.2 Capacity Building**

Primary SACCOS that are capable to operate as successful economic institutions, partly contributes to the growth, development, and sustainability of Primary SACCOS in Tanzania. It is important therefore, for Primary SACCOS to build internal capacity for members, executive officers, leaders, and other employees so as to have required knowledge and skills. Required knowledge and skills in areas of record keeping and management, accounting, computer literacy, financial management, entrepreneurship, cooperative education, and legal knowledge, is of great help for the growth, development, and sustainability of Primary SACCOS in Tanzania. Capacity building of Primary SACCOS is also important in enhancing promotion skills so as to attract majority members whose shares, deposits, and savings may form strong foundation for PSCA hence may lead Primary SACCOS to achieve their principal objects.

Capacity building is also needed on areas of improvement of budgets of Primary SACCOS. Improvement of budgets through ways that can generate more funds such as side businesses may reduce low budgets that prevent Primary SACCOS from building strength that can be vital for PSCA. Improved budget will surely assist Primary SACCOS to deliver education and training to members, executive officers, leaders, and other

employees that may lead them to acquire required knowledge and skills for growth, development, and sustainability of Primary SACCOS in Tanzania.

### 5.2.3 Implementation of Auditor's Recommendations

Implementation of auditor's recommendations may also assist Primary SACCOS into achieving their principal objects. That is the case because implementation of auditor's recommendations amounts to the rectification imperfections reported in the auditor's report. Removal of detected imperfections can have a positive implication on financial stability of a Primary SACCOS. Financial stability ought to assist Primary SACCOS to achieve their principal objects by offering adequate credit, improving living standards and economic growth in members' households, and improving economic growth of Tanzania. Undeniably, implementation of auditor's recommendations can have promising results on performance of Primary SACCOS in the PSCA and eventually give meaning to their existence.

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