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ESG IN TANZANIA AND WHY IT MATTERS

In recent years, there has been a significant shift in the way companies report their performance to stakeholders. Environmental, Social and Governance (ESG) reporting has become a critical tool for businesses worldwide, reflecting a growing awareness of the interrelation of corporate success and societal well-being.

The modern concept of ESG, took shape in the mid-2000's, which were largely orchestrated by the institutional investors, environmental groups and social activists. The investors were advocating into curtailing short-termism and placing towards stakeholders' engagements which include employees, creditors, vendors, shareholders and public at large for the long termism and sustainability of the company.

It is imperative to note that, ESG became important as various research and forums has indicated that executives in different multinationals companies would decrease discretionary spending on areas such like research and development, advertising, maintenance and hiring to meet short termism earning targets and sacrificing long-term investment which ultimately would benefit of the larger community and stakeholders.

A 2004 report from the United Nations, titled Who Cares Wins carried a widely considered the first mainstream mention of the ESG in the modern context. The report heavily encouraged all business stakeholders to embrace ESG long-term sustainability.

These developments coincided with the increased international attention for the implementation of ESG in most jurisdictions, governments worldwide have updated their laws to emphasize ESG.

For example, United Kingdom has enacted both hard and soft laws in curtailing short termism, with the enactment of Section 172 (1) of the Companies Act as a hard law, other soft laws include the UK Corporate Governance Code and the UK Stewardship Code. While Section 172 (1) has a wide coverage of ESG, it mainly fosters for the stakeholder's engagement for the long-term success of the company. The UK Corporate Governance Code has requirements for directors to "comply or explain" and many large companies over the last few years have adopted "statements of values" or internal ethical codes in an effort to make directors and employees to treat their customers, suppliers and fellow staff members properly.

The UK Stewardship Code of 2020 has integrated environmental social and governance issues (ESG) among other rules to be reported. The Stewardship insist on the adherence of Section 172 (1) of the Companies Act and it went further that the Code comprises a set of "apply and explain" principles. The Code does not prescribe a single approach to effective stewardship, it allows organisations to meet the expectations in a manner that is aligned with their own business model and strategy.

In other notable jurisdiction, such as Japan, the Japan Financial Services Agency has published the second and revised version of the Stewardship Code of 2020, the code although is not legally binding, it set out the principles for institutional investors to fulfill their responsibilities for sustainable growth of companies and enhancing medium to long term investment return for their clients and beneficiaries, through constructive engagement and purposeful dialogues. The code adopted a "comply and explain" approach under institutional investors can either disclose its intention to comply with the principle or provide sufficient explanation as to why it is not suitable to adopt such principle. The code redefines "stewardship responsibilities" and explicitly instructs institutional investors to consider sustainability including ESG factors.

The ESG factors has been largely divided as follows:

Environmental (E): This aspect focuses on how a company's operations impact the environment. It includes issues such as carbon emissions, energy efficiency, waste management, and conservation efforts.

Social (S): The social component of ESG evaluates a company's relationships with its employees, customers, communities, and other stakeholders. Factors include labor practices, diversity and inclusion, human rights, and community engagement.

Governance (G): Governance refers to the structure and practices that guide a company's decision-making processes and overall management. Good governance includes transparent and ethical leadership, effective board oversight, and adherence to legal and regulatory standards.

In implementation of ESG compliances, Tanzania has not been left out, although critical approaches are needed for its implementation since there are various companies and multinationals that comprises of institutional investors. The Dar es Salaam Stock Exchange has made a step forward for implementing sustainability and it requires all listed companies in Tanzania to report on sustainability through strategic corporate plans and actions.

In the wake of the ESG implementation the Capital Markets and Securities Authority has sanctioned the DSE Rules. The Rules are keenly designed for ESG supply chain and applicable to companies that are publicly listed on the Dar es Salaam Stock Exchange in Tanzania, although this is a bold move but there are a lot needed to be done for the ESG implementation to cut across to all companies and not only public listed companies.

The DSE Rules under the attachment 4 contains the "Guidelines to Sustainability Reporting", the same include the statement that emphasizes the growing awareness among investors on the sustainability of ESG factors for the long-term value creation of the company.

The DSE Rules define the purpose, reporting frequency, and the specific ESG factors that must be included while reporting. The rules make reference to the Global Reporting Initiative as a source for ESG reporting standards and templates.
The Rules went further to stipulate requirements for all listed companies to take sustainability reporting as fundamental part of governance, operating and reporting culture. The sustainability reporting is applicable for listed companies as follows:

a. operate in industries that are susceptible to environmental and social risks.
b. operate in industries that produce significant environmental pollutants.
c. are heavy users of natural resources; or
d. are part of a supply chain where end customers demand that suppliers and contractors behave responsibly.

The Rules emphasizes the responsibilities of the Board of Directors, including directing the company's strategic course, comprehends the wide-ranging incorporation of environmental, social, and governance factors into the company's strategic framework.

Notably in Tanzania, Tanzania Breweries Public Limited (a subsidiary of ABInBev) since 2022 is publishing a comprehensive ESG Report among other things covering employee value proposition, value chain (farmers, distributors, consumers, brewers and manufactures, customers and communities), stakeholders engagement approach, ESG Governance and structure, ESG Strategy and ESG priorities which include climate action, ethics and transparency and diversity and inclusion.

Whilst such implementation is a step forward for Tanzania, the same should cut across to all companies since ESG factors have not only become more prevalent in today's commercial world, but they are also now a critical component in the success of businesses in all sectors, of all shapes and sizes and at all stages of their lifecycles, we can adopt the implementation that have been championed by other jurisdictions. Investors have been using ESG factors to make capital allocation decisions and to monitor asset performance for a while, often demanding that investee business have formal ESG policies in place.

FURTHER INFORMATION:
This editorial is intended to give you a general overview of the Law. If you would like further information and clarification on any issue raised in this editorial, please contact.

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