

THE EAST AFRICAN COMMUNITY INTRODUCES A NEW REGIONAL COMPETITION AND MERGER CONTROL REGIME



1. Introduction

On 1st July 2025, the East African Community Competition Authority ("EAC Authority") announced that, effective 1st November 2025, it will commence the receipt and assessment of notifications for mergers and acquisitions with a cross-border dimension within the East African Community ("EAC") region. This development represents a pivotal milestone in the evolution of regional competition law within East Africa and is anticipated to significantly influence cross-border transactional activity.

2. Composition of the EAC and Existing Competition Law Landscape

The EAC currently comprises eight Partner States: Burundi, the Democratic Republic of Congo (DRC), Kenya, Rwanda, Somalia, South Sudan, Tanzania, and Uganda. All Partner States, with the exception of Tanzania, are also members of the Common Market for Eastern and Southern Africa ("COMESA"), which maintains its own regional competition law framework. Tanzania, meanwhile, is a member of the Southern African Development Community ("SADC"). Accordingly, competition law in the EAC region is presently governed through a combination of national regimes and regional frameworks, including those of COMESA and SADC.

3. Regulatory Implications

The operationalization of The EAC competition regime introduces an additional layer of regulatory oversight for transactions involving businesses operating within the region. While regional integration remains a central objective of the EAC, the concurrent application of multiple regimes raises concerns around potential jurisdictional overlap and regulatory uncertainty. The manner in which such conflicts—particularly between national authorities, the COMESA Competition Commission, and the EAC Authority—will be resolved remains to be clarified.

4. Legislative Background

The legal foundation for the EAC competition regime was established by the EAC Competition Act, 2006, which sought to create a harmonized competition framework across Partner States. However, the EAC Authority remained largely dormant until recent developments. In 2024, an amendment Bill was passed introducing substantive changes to the 2006 Act. Thereafter, in mid-2025, a series of regulations, rules, and guidelines were promulgated to facilitate the implementation of the competition framework.

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5. Jurisdiction and Scope of Application.

From 1 November 2025, the EAC Authority is expected to exercise exclusive jurisdiction over mergers and acquisitions with a cross-border effect within the EAC region—although the precise delineation of jurisdiction vis-à-vis national and COMESA frameworks remains uncertain.

Under the EAC framework, mandatory notification to the Authority will be required where the following thresholds are met:

- The combined turnover or asset value of the merging parties within the EAC is at least US\$ 35 million; and
- At least two parties involved in the transaction each have turnover or assets amounting to at least US\$ 20 million within the EAC;

Unless each party to the transaction derives at least two-thirds of its aggregate turnover or assets from one single EAC Partner State.

Importantly, the EAC regime is suspensory in nature. This means that transactions meeting the above thresholds must not be implemented prior to receiving clearance from the EAC Authority.

6. Filing Fees.

Merger filing fees have been prescribed by the Authority in the range of US\$ 45,000 to US\$ 100,000, depending on the combined asset or turnover value of the parties involved.

7. Implications for Market Participants

Businesses and investors engaged in transactions within the EAC will need to consider the expanded regulatory landscape and undertake a thorough competition law analysis at the early stages of deal planning. The proliferation of national and regional regimes—such as those in Kenya, Tanzania (including the semi-autonomous regime in Zanzibar), Uganda, Rwanda, and the DRC—necessitates a coordinated and jurisdiction-specific approach to competition filings.

8. Transitional Provisions and Outstanding Questions

The EAC Authority has indicated that any cross-border merger proceedings initiated or pending before a national competition authority or other relevant body in a Partner State

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prior to the issuance of the Gazette Notice (dated 1st July 2025) will continue to be handled by those respective authorities. However, ambiguity remains regarding the treatment of transactions initiated between 1st July 2025 and 1st November 2025—the interim period before the Authority formally begins to receive applications.

9. Conclusion and Next Steps

The activation of the EAC Competition Authority marks a significant evolution in the region's regulatory environment. Market participants should closely monitor further developments, particularly guidance on jurisdictional overlaps and transitional arrangements. We are currently undertaking a detailed analysis of the regulations and intend to publish a comprehensive client briefing in due course. In the meantime, stakeholders are encouraged to seek tailored legal advice in respect of any ongoing or proposed transactions that may trigger regulatory scrutiny under the new EAC regime.

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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