



Legal Syndication Primer Tanzania

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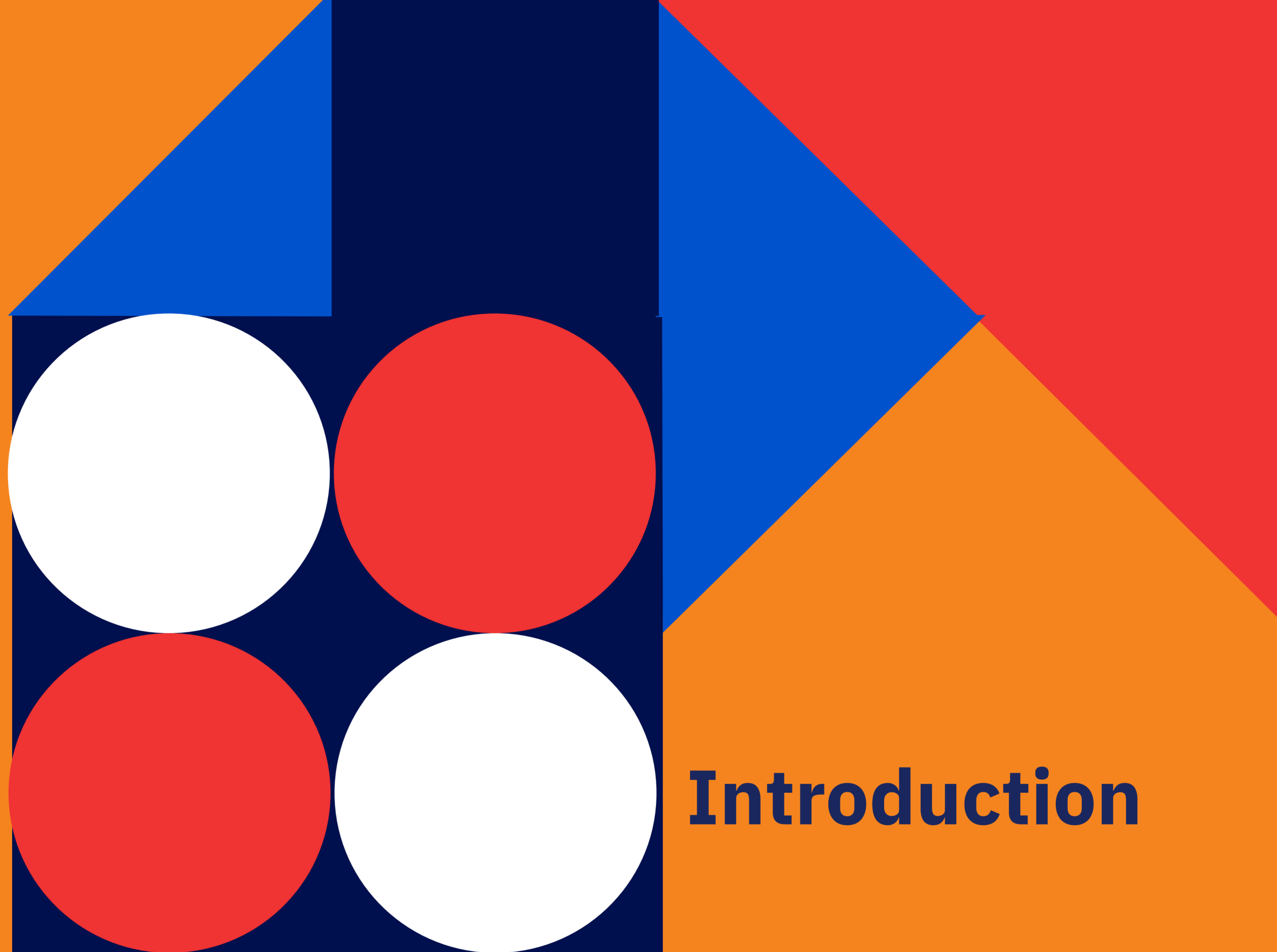
Legal Syndication Primer

Tanzania



Contents

Introduction	5
About This Legal Primer and Its Creators	6
Part 1: Overview	11
Part 2: Syndication legal structures	15
Sole proprietorships	16
Partnerships	18
Private limited companies	19
Summary: A comparison between the various legal structures	22
Part 3: Investment instruments for investing in early-stage companies	25
Part 4: Tanzanian investors investing internationally	31
Tax considerations	32



Introduction

About the African Angel Academy

The African Angel Academy (AAA) is an online programme and knowledge community, which was established in 2020 by Viridian and ViKtoria Ventures. The academy's aim is to grow the number of active angel investors on the continent. Drawing on the expertise of early-stage investors from across Africa, the academy offers virtual learning and networking courses for those looking to start or grow their angel investing portfolio. As of 2024, the AAA's Alumni network comprises more than 500 members from 23 countries



The AAA online course is available for anyone to purchase and start learning at their own pace, and the academy also offers cohort programmes with partners throughout the year. In the cohort format, the online course is offered to selected participants along with live masterclasses, investor Q&As, networking and mentorship opportunities, and showcase events featuring promising local startups.

To find out more about AAA's programme and course offerings, visit africanangelacademy.com/programmes.

About Viridian

Viridian is an impact agency that designs and delivers programmes for early-stage entrepreneurs, investors, and entrepreneur support organisations across Africa's entrepreneurial ecosystem. Our programmes act as a catalyst for these key economic actors, ultimately growing shared prosperity across Sub-Saharan Africa.

www.viridian.africa

The logo for Viridian consists of the word 'VIRIDIAN' in a bold, green, sans-serif font.

About ViKtoria Ventures

ViKtoria Ventures is a consulting and fund management firm with a focus on entrepreneurial finance in East Africa.

www.viktoria.co.ke

The logo for ViKtoria Ventures features the word 'VIKTORIA' in a large, bold, blue font, with 'VENTURES' in a smaller, bold, black font below it.

About the International Tech Hub Network

The development of these legal guides is supported by the Dutch Good Growth Fund (DGGF), an initiative of the Netherlands Ministry of Foreign Affairs as a part of the Seed Capital and Business Development (SC&BD) facility. The SC&BD is working with the AAA to train new and aspiring angel investors, and build stronger business angel networks across the continent over three years, while developing unique, local content for the angel community at the same time.



About the authors

Established in January 2017 with an experienced team, our office in Dar es Salaam has already grown to be awarded the Tanzanian Law Firm of the Year 2020' prize by IFLR1000, be top-ranked by Chambers Global for General Business Law and has two of the top 5 ranked lawyers in Tanzania, according to Legal 500. We are part of Bowmans, an international legal practice comprising Coulson Harney LLP (Kenya), Bowmans (Mauritius) Limited (Mauritius), Bowman Gilfillan Incorporated (South Africa), Bowmans Tanzania Limited (Tanzania) and B & M Legal Practitioners (Zambia).

Our team comprises leading corporate, commercial, and M&A lawyers and dispute resolution experts. We have extensive experience in proactively managing risks and offering commercial solutions to the challenges faced by our clients in the context of mergers and acquisitions, financing, joint ventures, and capital market transactions, among others. Our expertise extends to all key sectors, including aviation, consumer goods, infrastructure and construction, real estate, natural resources, and telecommunications. We also have significant experience in all forms of dispute resolution, including commercial arbitration, litigation and intellectual property disputes. While Bowmans Tanzania provides a full-service offering, it is particularly experienced in advising clients in the financial services, consumer goods and retail, hospitality and leisure, industrials and manufacturing, infrastructure, mining, oil and gas, as well as the technology, media and telecommunications sectors.

About the Legal Syndication Primer for Tanzania

This short guide was developed as a resource for AAA Alumni, as well as the broader African investor community for a new supplementary AAA module: the AAA Active Angel Series Syndication Module. The guide outlines common syndication and angel deal structures available to angels in Tanzania as of December 2023. For further detail on each structure and the suitability of using a specific structure for your deal or syndicate, please feel free to reach out to michael.strain@bowmanslaw.com, james.pius@bowmanslaw.co.tz, edwin.prosper@bowmanslaw.co.tz, oscar.mashaguri@bowmanslaw.co.tz or flora.mukasa@bowmanslaw.co.tz.



Please note that the content of this guide cannot be considered to be legal advice and that the AAA or Bowmans Tanzania Limited is not responsible for any consequences arising from the selection of any of the structures outlined in this guide.

These course notes serve as an introduction to the legal structures angel investors in Kenya can employ when making an investment and structuring a syndicate.

These notes have been developed by Bowmans Kenya for the African Angel Academy as part of the African Angel Academy's Syndication Module. The content developed for this module was funded by the UK Government's International Tech Hub Network via its UK-Kenya Tech Hub.

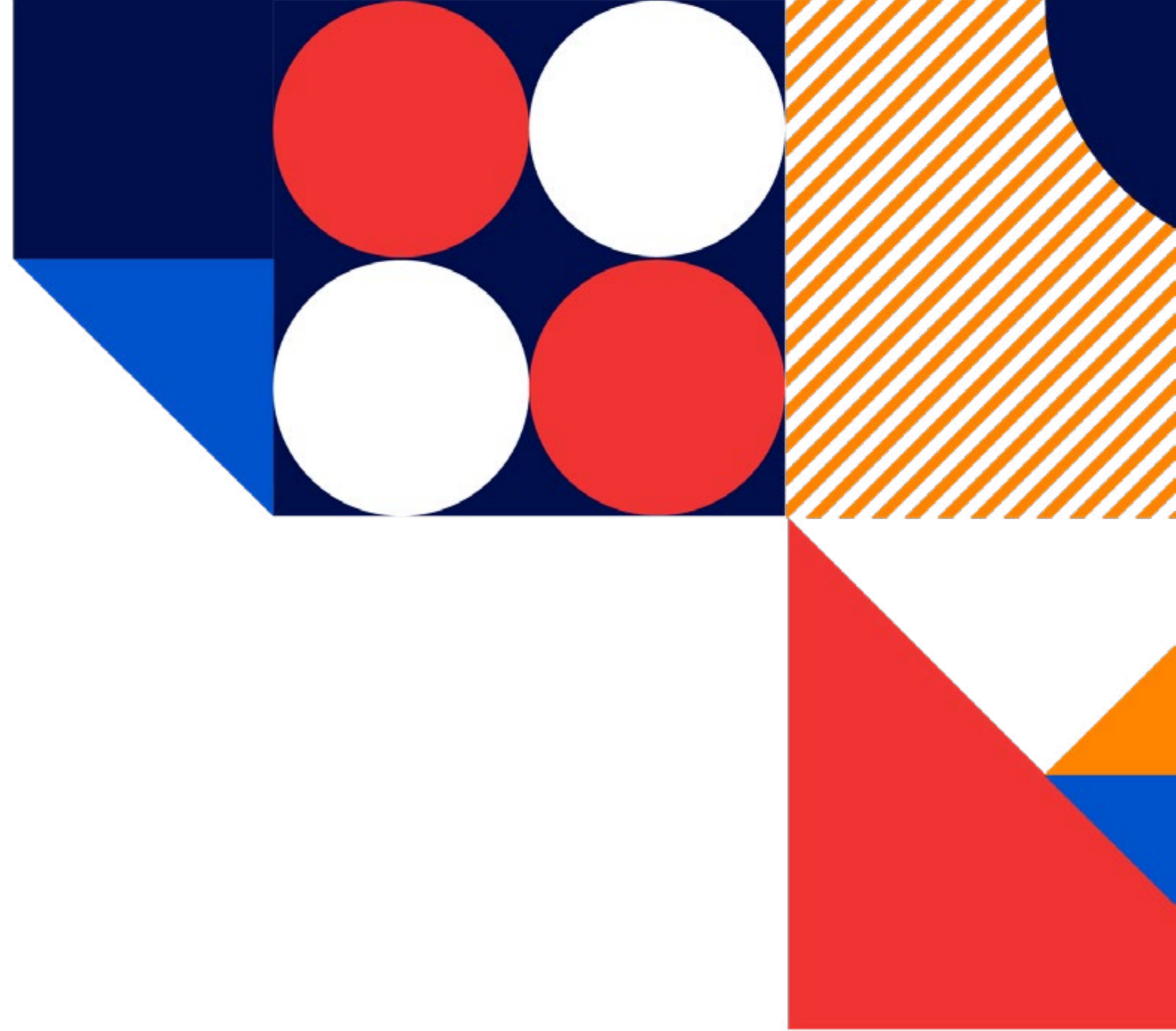


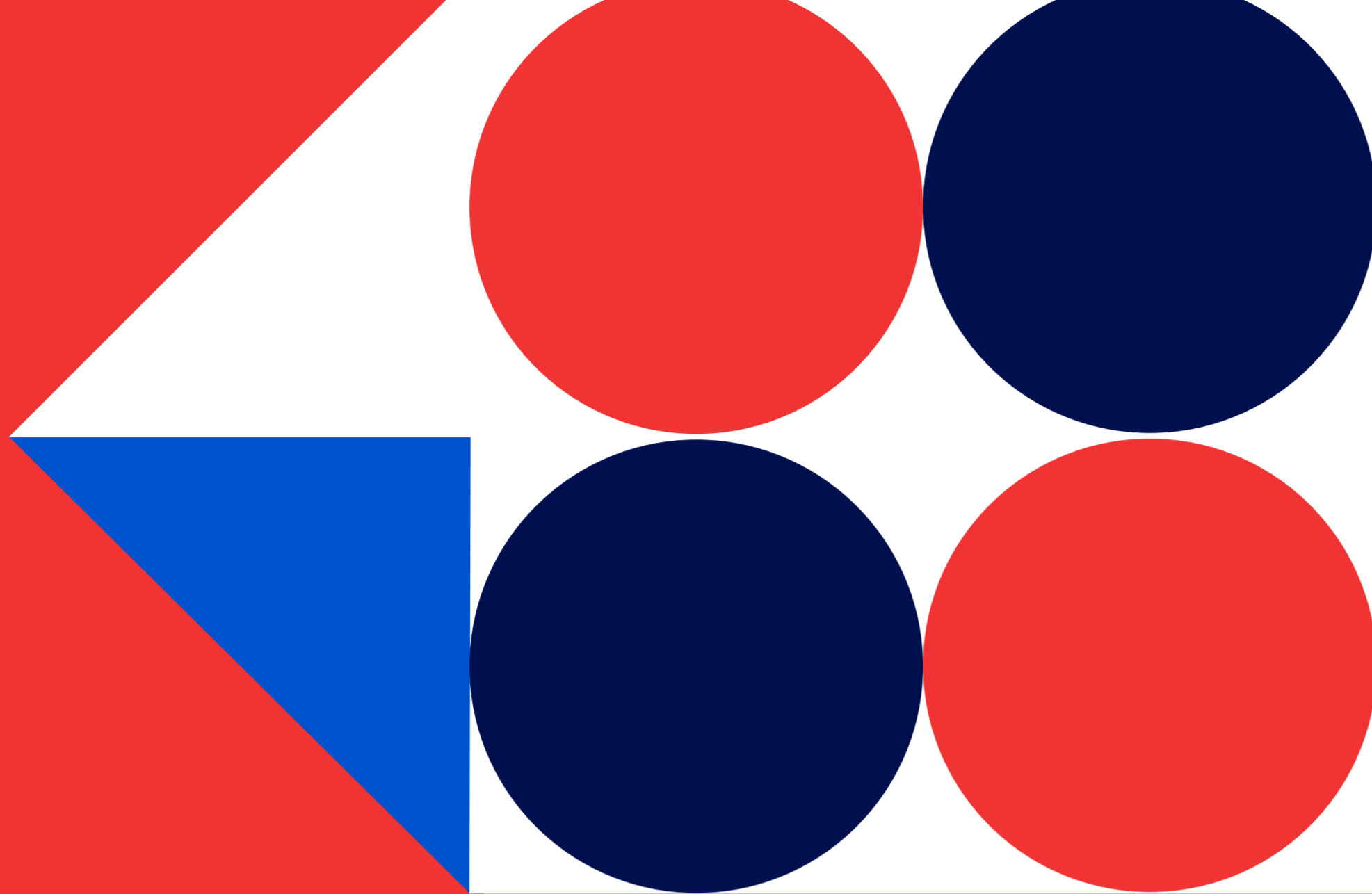
Part 1

Overview

Overview of legal framework

Tanzania does not have specific legal requirements for angel investors. The investment regime accommodates any person, local or foreign, subject to standard registrations and sector-specific regulatory requirements depending on the industry which investors wish to operate their business. Individual foreign investors intending to run their investments in-country must take an extra step to obtain residency status, that is, work and residence permits.





Part 2

Syndication legal structures

The following are various forms that can be used by angel investors: sole proprietorship, partnership, and private limited company.

As a highlight, foreign investors who are non-residents in Tanzania, subject to obtaining bespoke tax and legal advice, should consider investing directly into a startup or target company, rather than registering a private limited company.

Sole proprietorships

Angel investors can operate their business in Tanzania by either using their names or registering a business name with the Business Registrations and Licensing Agency (BRELA). This option is most favourable to local angel investors, as foreign angel investors would first have to obtain a national identification number for residents (after obtaining a residency status) to be able to register a business name with BRELA and obtain a taxpayer identification number (TIN) from the Tanzania Revenue Authority (TRA).

Deregistration of a business name is straightforward, as the investor only needs to issue a notice of cessation of business. In practice, it is likely that BRELA may require a tax clearance certificate (TCC) from the TRA to be presented together with the notice.

Key considerations	Notes
Liability of investors	A sole proprietor's liability is unlimited.
Tax treatment	<p>Tax-resident individuals are taxed on their total income earned during the year at progressive tax rates of up to 30% as per the current tax brackets. For individuals whose income consists exclusively of business income, and whose turnover during the year of income does not exceed TZS100 000 000 (approximately USD40 000) may elect to be taxed using presumptive income tax scheme, whereby a maximum tax of 3.5% of the turnover will be levied to the individual with a turnover of TZS11 000 000–100 000 000 (approximately USD4 400–40 000). The presumptive scheme will not be applicable to individuals earning income from independent professionals and providers of technical, management, construction and training services having a source in Tanzania.</p> <p>Non-resident individuals deriving income in Tanzania that have not attained tax resident status, will be taxed at a flat rate of 30% on the total income earned during the year of income that has a source in Tanzania.</p>

Key considerations	Notes
Regulatory requirements	<ul style="list-style-type: none"> • Registration of a business name • Obtaining a TIN from the TRA • Obtaining a TCC from the TRA • Obtaining a general business licence for the intended business • Obtaining a fire safety certificate for the business premises • Registration of a workplace and obtaining a compliance licence from the Occupational Safety and Health Authority (OSHA) • Registration with the Workers' Compensation Fund (WCF) • Registration with the National Social Security Fund (NSSF) • Sector-specific registration, if required – oftentimes this is a prerequisite to obtaining a general business licence
Key characteristics	One cannot separate the business from the investor and the liability of the investor is unlimited
Specific requirements for foreign investors	A foreign investor must obtain residency status and a national identification number to be able to register a business name and obtain a TIN. In relation to land ownership, a foreign investor can occupy land in Tanzania – either under a lease agreement or through a derivative title from the Tanzania Investment Centre (TIC). For a derivative title, a foreign investor would have to register with the TIC. The current TIC registration investment threshold is USD500 000.
Advantages	<ul style="list-style-type: none"> • Registration is straightforward, and the registration fee is inexpensive • Fewer statutory and compliance requirements • Deregistration is straightforward • Autonomy
Disadvantages	<ul style="list-style-type: none"> • Unlimited liability • No separation of the business (including assets) from the owner, hence less legal protection • May require assistance with the daily operations and management of the business
Ideal use case for this option	Sole proprietorship is ideal for investors who wish to run and manage their own business.
Scope and cost of legal work needed to set up the structure	<p>The costs to register a business name are minimal and the investor can procure the registration without incurring legal costs. Ongoing compliance with BRELA is also minimal, as the investor is only required to pay an annual maintenance fee and notify BRELA of any changes in the registered particulars. Regulatory compliance requires the renewal of the business licence (including sector-specific registration, if required), the fire safety certificate, and the compliance licence from OSHA on an annual basis. The investor would also be required to remit contributions to the WCF and NSSF on a monthly basis.</p> <p>The investor may wish to hire an accountant, lawyer, auditor and tax consultant. These costs largely depend on the scale of business operations and scope of services required.</p>

Partnerships

According to the law of contract, a partnership relationship arises from contract and not status. Therefore, a partnership deed would have to be put in place to regulate the partners' relationship. Furthermore, the law provides that partners are bound to carry on business for the greatest common advantage, to be just and faithful to each other and to render true accounts and full information of the things affecting the partnership to any partner or legal representatives. Subject to the partnership deed, partners are entitled to share equally in the capital, profits and losses of the partnership business.

A partnership that is entered into for a fixed term can be dissolved upon the expiration of that term. If a partnership is entered into for a single venture or undertaking, it would be dissolved upon the termination of that venture or undertaking. For a partnership entered into for an undefined time, it can be dissolved by one partner giving notice to the other partners. These ways of dissolution are subject to any agreement in the partnership deed between the partners. A partnership can also be dissolved by death or bankruptcy of any partner, or by any charge or illegality of partnership.

Key considerations	Notes
Liability of investors	The liability of a partnership is unlimited. According to the law of contract, every partner is liable for all debts and obligations incurred while they are a partner in the usual course of business by or on behalf of the partnership. Furthermore, a partner who retires from the firm does not cease to be liable for partnership debts or obligations incurred before retirement, unless discharged from such by agreement of the members of the newly constituted firm and creditors.
Tax treatment	A partnership, much like a sole proprietorship, is not a separate legal entity from its owners and as such, it is not a taxpayer. The partners are liable to tax on the partnership profits in their individual capacities. Each individual partner will have to account for his or her percentage interest in any income of the partnership as set out in the partnership arrangement, and pay tax on the allocated income, just as a sole proprietor would. The tax implications will therefore be the same as explained above for a sole proprietorship.
Regulatory Requirements	<ul style="list-style-type: none"> • Registration of a business name • Obtaining a TIN from the TRA • Obtaining a TCC from the TRA • Obtaining a general business licence for the intended business • Obtaining a fire safety certificate for the business premises • Registration of a workplace and obtaining a compliance licence from OSHA • Registration with the WCF • Registration with the NSSF • Sector-specific registration, if required – oftentimes this is a prerequisite to obtaining a general business licence
Key characteristics	A partnership does not create a separate legal entity between itself and the partners, and the liability of the partners is unlimited.
Specific requirements for foreign investors	A foreign investor must obtain residency status and a national identification number to be able to enter into a partnership

Advantages	<ul style="list-style-type: none"> • Registration is straightforward, and the registration fee is inexpensive • Fewer statutory and compliance requirements than some other forms of legal structures • Deregistration is straightforward • Collaboration in capital contribution and management of the business.
Disadvantages	<ul style="list-style-type: none"> • No separate legal personality and the liability of the partners is unlimited – this extends to dissolution of the partnership • Based on trust • Partnership property is owned by individual partners subject to the partnership deed, hence most likely to create issues upon an exit of a partner or dissolution of the partnership
Ideal use case for this option	A partnership is favourable for a group of people with similar business interests and a common investment goal.
Scope and cost of legal work needed to set up the structure	<p>The costs to register a business name are minimal and the investor can procure the registration without incurring legal costs. It is advised that the partners seek legal assistance with the drafting and finalisation of the partnership deed. There is minimal ongoing compliance with BRELA, as the partners are only required to pay an annual maintenance fee and notify BRELA of any changes in the registered particulars. The partnership must renew its business licence (including sector-specific registration, if required), the fire safety certificate, and the compliance licence from OSHA on an annual basis. The partnership must also remit contributions to the WCF and NSSF on a monthly basis.</p> <p>It is advised that the partnership hires an accountant, lawyer, auditor and tax consultant to properly manage the affairs of the partners and business. The hiring costs largely depend on the scale of business operations and scope of services required.</p>

Private limited companies

A private limited company is a company that, by its articles, restricts the right to transfer its shares and limits the number of its members or shareholders to 50. A private limited company prohibits any invitation to the public to subscribe for any shares.



Every company must have a minimum of two directors not below the age of 18. There are no restrictions under the law as to foreign directorship: a director of a company may be a citizen or a foreigner. It is recommended that a company should have a local director for liaising with authorities such as the TRA for tax-related matters and other Tanzanian authorities regarding other administrative matters. A private company limited by shares must have a minimum of two and a maximum of 50 shareholders. There are no restrictions under the law as to foreign shareholding.

A private limited company can be dissolved through either voluntary winding up or winding up by court. Voluntary winding up can either be members' voluntary winding up or creditors' voluntary winding up and is usually a lengthy process.

Key considerations	Notes
Liability of investors	The liability of a private limited company is limited. Once a company is registered, it attains a legal personality separate from its shareholders. The liability of an individual shareholder is limited to the extent of the amount that remains unpaid on their shares. A company's liability can extend to the shareholders through the piercing of the corporate veil for reasons such as fraud and improper conduct.
Tax treatment	Generally, a limited liability company will be taxed at a rate of 30% on the profit generated during the year of income, or to the extent that the company generates tax losses for three consecutive years of income, then an alternative minimum tax would become payable (which is levied at the rate of 0.5% of the turnover for the year, with the exception of a corporation conducting agricultural business or engaged in the provision of health or education). Furthermore, at the time of paying dividends to the shareholders, the company would also be required to withhold income tax at a rate of 10% on the dividend payable to the shareholders, which essentially results in an effective tax rate of 37% on the profit generated by the company.
Regulatory Requirements	<ul style="list-style-type: none"> • Incorporation of a company • Obtaining a TIN from the TRA • Obtaining a TCC from the TRA • Obtaining a general business licence for the intended business • Obtaining a fire safety certificate for the business premises • Registration of a workplace and obtaining a compliance licence from OSHA • Registration with the WCF • Registration with the NSSF • Sector-specific registration, if required – oftentimes this is a prerequisite to obtaining a general business licence

Key characteristics	A company has a legal personality separate from its shareholders and the shareholders' liability is limited to the extent of the amount that remains unpaid on their shares.
Specific requirements for foreign investors	<p>There are no specific requirements for foreign investors.</p> <p>A local company in which the majority of shares are held by a foreigner is regarded as a locally registered company, but not an indigenous company. In other words, it is a foreign-owned company. This is relevant in relation to issues such as land ownership – that is, a granted right of occupancy, which is the highest form of land tenure in Tanzania, is reserved to Tanzanian citizens and Tanzanian majority owned companies. Majority foreign-owned companies can hold land for investment purposes through a derivative title issued by the TIC.</p>
Advantages	<ul style="list-style-type: none"> • Incorporation is usually straightforward • Separate legal personality from the shareholders • Liability of the shareholders is limited to the amount that remains unpaid on their shares • Suitable for long-term business ventures • Relatively inexpensive registration fee
Disadvantages	<ul style="list-style-type: none"> • Complex winding up procedure, it could take up to 18 months to wind up a private limited company and the process can be expensive. • Many statutory regulatory and compliance requirements, such as: <ul style="list-style-type: none"> • filing annual returns – these are filed together with audited financial statements • holding annual general meetings • filing changes in the company • filing beneficial owners' information • Requires the preparation of incorporation documents; hence takes longer to incorporate the company
Ideal use case for this option	A private limited company is suitable for long-term business ventures.
Scope and cost of legal work needed to set up the structure	<p>The cost to incorporate a company is relatively inexpensive. It is advised that investors seek legal assistance with the preparation of the incorporation documents and the application for company incorporation. As pointed out above, there are many statutory and compliance requirements.</p> <p>The company must renew its business licence (including sector-specific registration, if required), its fire safety certificate and compliance licence from OSHA on an annual basis. The partnership must also remit contributions to the WCF and NSSF on a monthly basis.</p> <p>It is advised that the company hires a company secretary, accountant, lawyer and tax consultant. The law requires a company to appoint auditors to prepare audited financial statements. The hiring costs largely depend on the scale of business operations and scope of services required.</p>

Summary: A comparison between the various legal structure

Legal structure	Compliance	Cost and Timeline	Advantages	Disadvantages
Sole proprietorship	<ul style="list-style-type: none"> • Payment of an annual maintenance fee • Notification of any changes in particulars registered with BRELA • Renewal of the business licence • Renewal of the fire safety certificate • Remission of WCF and NSSF contributions 	<ul style="list-style-type: none"> • Application fee: TZS15 000 (approximately USD6) • Maintenance fee: TZS5 000 (approximately USD2) • Alteration of particulars fee: TZS15 000 (approximately USD6) • Business licence renewal fee: to be assessed by the licensing authority • Fire-safety certificate renewal fee: TZS300 000 (approximately USD130) 	<ul style="list-style-type: none"> • Registration process is straightforward; registration fee is inexpensive • Fewer statutory and compliance requirements • Deregistration is straightforward • Autonomy 	<ul style="list-style-type: none"> • Unlimited liability • No separation of the business (including assets) from the owner, hence less legal protection • May require assistance with the daily operations and management of the business
Partnership	<ul style="list-style-type: none"> • Payment of an annual maintenance fee • Notification of any changes in particulars registered with BRELA • Renewal of the business licence • Renewal of the fire safety certificate • Remission of WCF and NSSF contributions 	<ul style="list-style-type: none"> • Application fee: TZS15 000 (approximately USD6) • Maintenance fee: TZS5 000 (approximately USD2) • Alteration of particulars fee: TZS15 000 (approximately USD6) • Business licence renewal fee: to be assessed by the licensing authority • Fire safety certificate renewal fee: TZS300 000 (approximately USD130) 	<ul style="list-style-type: none"> • Registration process is straightforward; registration fee is inexpensive • Fewer statutory and compliance requirements • Deregistration is straightforward • Collaboration in capital contribution and management of the business 	<ul style="list-style-type: none"> • No separate legal personality and liability of the partners is unlimited – this extends to dissolution of the partnership • Based on trust • Partnership property is owned by individual partners subject to the partnership deed, hence most likely to create issues upon an exit of a partner or dissolution of the partnership
Private limited company	<ul style="list-style-type: none"> • Annual returns must be filed Annual general meetings must be held • Changes in the company must be filed • Filing beneficial owners' information • Renewal of the business licence • Renewal of the firesafety certificate • Remission of WCF and NSSF contributions 	<ul style="list-style-type: none"> • Incorporation fee: TZS66 000 (approximately USD28) for filing of memorandum and articles of association, TZS5 000 (approximately USD2) for stamp duty and registration fee of between TZS95 000 and TZS440 000 (approximately USD38–184) depending on the share capital of the company. • Annual return filing fee: TZS22 000 (approximately USD9) • Fees for filing changes in the company: TZS22 000 (approximately USD9) per prescribed document • Business license renewal fee: to be assessed by the licensing authority • Fire safety certificate renewal fee: TZS300 000 (approximately USD130) 	<ul style="list-style-type: none"> • Incorporation process is usually straightforward Legal structure has separate legal personality from shareholders • Liability of the shareholders is limited to the amount that remains unpaid on their shares • Suitable for long-term business ventures Inexpensive registration fee 	<ul style="list-style-type: none"> • Complex winding up procedure; it could take up to 18 months to wind up a private company and the process can be expensive. • Many statutory regulatory and compliance requirements • Requires the preparation of incorporation documents, hence takes longer to incorporate the company



Part 3

Investment instruments for investing in early-stage companies

The following investment instruments for angel investors in startups should be considered: equity, shareholder loans, convertible debt and Simple Agreements for Future Equity.

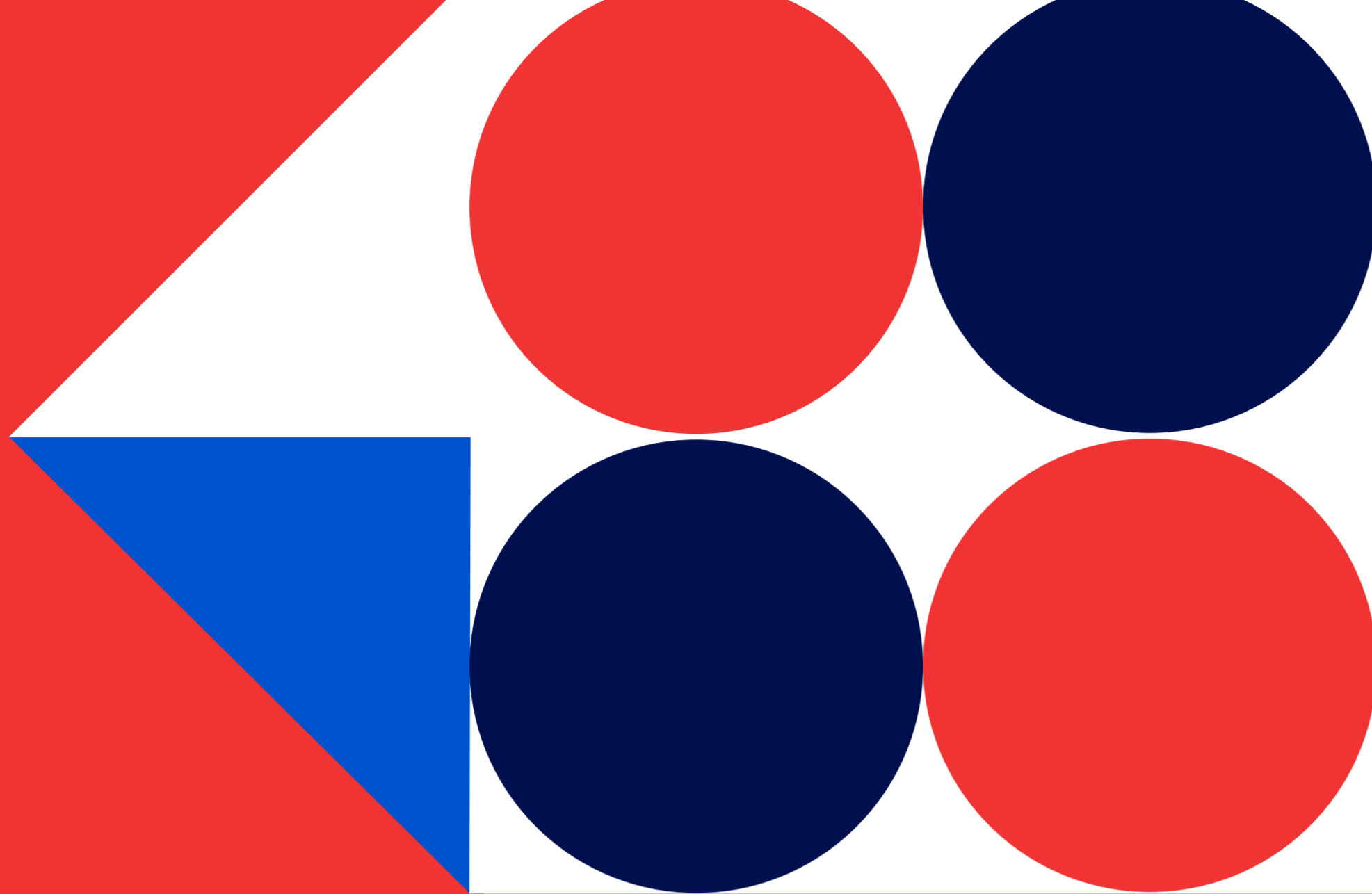
For shareholder loans and convertible debt (debt financing options), it is important to point out that charging interest in these loans is likely to be considered as a business reserved for banks and financial institutions in Tanzania. Furthermore, for a convertible debt, the lending business is reserved for banks and financial institutions, and one must be properly licensed to engage in such business. The issue of interest rate and licensing has been flagged in multiple Tanzanian court decisions. Therefore, angel investors should be cautious in exploring these options and should ensure that bespoke legal advice is sought before taking any action.

Key considerations	Notes
Key terms and characteristics	<p>Equity</p> <p>An angel investor can directly subscribe to the shares of a startup and inject capital by way of equity contribution. The investor would then benefit from the equity contribution by way of dividends. An investor can either subscribe to ordinary shares in the company, which would give the investor voting rights in general meetings, or preference shares, which do not give him or her voting rights but would rank higher in dividends distribution. Preference shares also rank higher than ordinary shares during liquidation (but not higher to creditors).</p> <p>The shareholders' agreement and the memorandum and articles of association should clearly state the rights attributed to the shares of the company, be they ordinary shares, preference shares and any other class of shares. There should also be a clear dividend policy.</p> <p>Shareholder loan</p> <p>An angel investor can subscribe to the shares of a startup and issue a loan to the company, simultaneously. The shareholder loan can be converted to equity subject to an agreement between the shareholder and the company. This results in an increase of the equity of the shareholder in the company, and hence entitles the shareholder to more dividends.</p> <p>Convertible debt</p> <p>Convertible loans are a form of debt financing, which will either be repaid or – in most cases – converted into equity at a future date.</p>

	<p>With convertible loans, a business borrows money from a lender or investor, and both parties enter the agreement with the intent for the business to repay all (or part) of the loan by converting it into a certain number of its preferred or common shares at some point in the future. Unlike bank loans, convertible loans aren't designed to be paid back. Should the investors become creditors of the company and should the startup go into liquidation, the following will be considered as preferential debts:</p> <ul style="list-style-type: none"> • Government taxes payable or due within 12 months; • Government rent not more than one year in arrears; • Employees' wages and salaries; and • Secured creditors. <p>Simple Agreements for Future Equity (SAFEs) According to Thomson Reuters Practical Law, such agreements, or SAFEs, are a financing contract that may be used by a startup company to raise capital in its seed financing rounds. The instrument is viewed by some as a more founder-friendly alternative to convertible notes. We are not aware if SAFEs are a common form of investment instrument in Tanzania. Contractually, an angel investor can enter into a SAFE with a startup. However, as it is an uncommon practice, it is likely that the Bank of Tanzania (BOT) may inquire into the arrangement to confirm its regulatory mandate since it is not a traditional loan–debt arrangement. Furthermore, we would suggest that bespoke finance advice be sought to determine how a SAFE is treated in the company's books of account – perhaps as capital through debt or equity, depending on specific contractual arrangements.</p>
Applicability in local and international contexts	Equity contributions, shareholder loans, convertible debts and SAFEs have the same applicability in both local and international contexts.
Risks associated with the instrument to local and foreign investors.	<p>Equity – the investors take an economic risk, as it is possible that the business might not take off.</p> <p>Shareholder loan and convertible debt – depending on the amount of loan advanced, the company may be considered insolvent if the liabilities outweigh the assets.</p> <p>SAFE – it depends on the occurrence of a future event, such as a future equity financing round.</p>
Regulatory considerations	<p>Foreign investors should seek legal and regulatory advice on whether there are any shareholding restrictions or local shareholding requirements in the sectors they wish to do business.</p> <p>For shareholder loans and convertible debt, generally, as angel investors are individuals, regulatory compliance under the BOT does not apply.</p> <p>SAFEs are unlikely to be regulated by the BOT. However, it is generally recommended to engage with the BOT for clarification and guidance.</p>
Scope and cost of using the instruments	<p>For equity, the costs would be payment of the subscribed shares and capital injection into the business – these are subjective.</p> <p>The cost for utilising a shareholder loan and convertible debt is subjective, depending on the agreement between the investor and the company.</p> <p>The cost of utilising a SAFE is dependent on the arrangement between an angel investor and the startup.</p>

<p>Advantages</p>	<p>Equity</p> <p>Equity contribution results in no debt that must be repaid, therefore, it is seen as a lower risk option because investors seek a return on their investment rather than the repayment of a loan.</p> <p>Shareholder loan</p> <ul style="list-style-type: none"> Secured shareholder loans can provide a company with access to financing when other sources of financing may not be available. Since unsecured shareholder loans are not secured by any assets of the company, the company does not stand to risk its own assets in the event of default <p>Convertible debt</p> <ul style="list-style-type: none"> This is beneficial for startups and risky ventures as it provides an ability to raise cash quickly in the early stages. If the company fails to raise sufficient investment, the investor can either ask for the loan to be repaid or, in the event of insolvency, rank ahead of the company's shareholders. A greater degree of control remains with the existing founders and shareholders as the investor would ordinarily only seek minimal rights as a lender, and additional shareholder rights would be granted upon conversion of the loan into shares. <p>SAFE</p> <ul style="list-style-type: none"> A SAFE holder receives a lower price on conversion of its financing to equity at the next equity financing round. It is not considered as a loan, and hence would likely not be regulated by the BOT.
<p>Disadvantages</p>	<p>Equity</p> <p>The investor takes a direct economic risk should the company not perform as projected.</p> <p>Shareholder loan</p> <ul style="list-style-type: none"> Increases a company's debt and can create conflicts of interest between shareholders and other stakeholders. For secured shareholder loans, by pledging the company's assets as collateral, the company is putting its own assets at risk in the event of default on the loan. <p>Convertible debt</p> <ul style="list-style-type: none"> The investor has very few rights prior to conversion, other than their rights to information regarding the company. If the company requires bank funding, then it is common for the loan notes to be subordinated to any bank debt, meaning that the investors would not rank as highly in the event of insolvency. Any valuation cap or conversion price mechanism still needs to be documented at the outset, which means there will be some time and cost spent negotiating these points. <p>SAFE</p> <ul style="list-style-type: none"> It is dependent on the occurrence of a future event, such as the next equity financing round. It is not a common investment instrument in Tanzania.

<p>Ideal use case for this option</p>	<p>Equity</p> <p>Equity or equity contribution is ideal in circumstances where the investor and the company intend to source debt-free capital, rather than obtain funds through loans.</p> <p>From a tax perspective, returns earned from equity investment (that is, dividends), will be subjected to final tax in the form of withholding tax at the rate of 10%. A reduced withholding tax rate of 5% applies if the company paying the dividend is listed on the Dar es Salaam Stock Exchange (DSE), or when the dividend payment is made by a resident corporation to another resident corporation where the corporation receiving the dividend holds 25% or more of the shares.</p> <p>Upon disposal of the equity interest in the company, capital gains tax is payable by the seller on the gain derived (if any). Generally, the rate is 30% for a resident corporation and 10% for resident individuals. Stamp duty is also payable at 1% of the consideration amount.</p> <p>Shareholder loan</p> <p>This option is preferred where the shareholder and the company wish to avoid third-party or external loan exposures.</p> <p>From a tax perspective, interest income forms part of the total income of the lender and will be subjected to tax at the respective tax rates. The borrower will also be subject to a withholding tax of 10% when making interest payments to the lender. The withholding tax is an advance tax to the lender.</p>
	<p>Convertible debt</p> <p>This option is ideal for an investor who does not wish to subscribe to the shares of the company until a certain point in the future.</p> <p>The tax treatment of interest on convertible debt would be the same as for a shareholder loan. If the company requires bank funding, then it is common for the loan notes to be subordinated to any bank debt, meaning that the investors would not rank as highly in the event of insolvency.</p> <p>SAFE</p> <p>This option is ideal where an angel investor prefers equity over debt.</p> <p>The Income Tax Act requires a person or company to account for income in accordance with the general acceptable accounting principles. The tax treatment would therefore depend on how the transaction has been categorised from an accounting perspective. However, given the characteristics of a SAFE, it is likely that its tax treatment will be similar to that of equity, although one must look at the facts and circumstances of the specific situation. We reiterate that bespoke finance advice should be sought accordingly.</p>



Part 4
Tanzanian
investors investing
internationally.

An individual or entity who plans on investing internationally by issuing loans (without distinction as to type) to foreign companies is generally restricted under the Tanzania foreign exchange regime and would require approval from the governor of the BOT. Such transactions are considered credit accommodation in favour of non-residents, and they are restricted transactions pursuant to regulation 37(b) of the Foreign Exchange Regulations 2022 (as amended) (FX Regulations). The FX Regulations define “credit accommodation” as loans, overdrafts and advances, leasing, acceptances, performance and bid bonds, letters of credit, guarantees, foreign exchange contracts or any other form of a direct or indirect financial obligation, including interest due and unpaid to a bank or financial institution.

Regulation 33 of the FX Regulations allows the governor of BOT to grant exemptions from restrictions imposed under regulation 37(b). In this regard, the BOT would, when considering an application for exemption, likely request to be provided with documentation (such as intragroup loan agreements) evidencing that the loan or benefit guaranteed has been used for activities within Tanzania and/or proof of disbursement in favour of the Tanzanian subsidiary.

Where such exemption or approval is obtained, and if the tenure of the loan being secured exceeds 365 days, the credit accommodation is required to be submitted to the BOT for registration and issuance of a debt record number (DRN) which shall be the reference for disbursement and debt servicing.

The FX Regulations do not specify the type of legal entity that is prohibited from investing internationally, in other words, whether it is a sole proprietorship, company or partnership, and hence generally apply to everyone. Please note that this prohibition applies to a resident – a person who resides consecutively or whose centre of predominant economic interest is in the United Republic of Tanzania for 12 months or more.

For SAFEs and direct equity investments, the FX Regulations generally prohibit a resident from engaging in outward portfolio investment, acquisition of real estate and outward direct investment outside the prescribed territory. It is generally advised to engage with a regulator for clarification and guidance in regulated matters such as this one.

Tax considerations

Angel investors investing in their own names

If you are a resident individual (other than an individual who has been in Tanzania for two years or less in total during the whole of the individual’s life), you are required to pay tax on your worldwide income. That means an angel investor earning income from foreign jurisdictions (that is, interest, dividends, capital gains) would be required to pay tax in Tanzania provided he or she has been in Tanzania for two or more years during the whole of the investor’s life. In general, a relief for double taxation is available by way of granting tax credits in respect of foreign tax paid – but only to the extent of the rate of income tax payable in Tanzania.

Angel investors investing through partnership

Since each individual partner is liable to pay tax at their individual capacity, the tax implication of angel investor investing in foreign jurisdiction through a partnership, would be the same as for individual as explained above.

Angel investors investing through a company

If you are a company, you must report your worldwide income (that is, interest, dividends, capital gains). A relief for double taxation is available by way of granting tax credits in respect of foreign tax paid – but only to the extent of the rate of income tax payable in Tanzania.





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