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There’s a new merger sheriff on the continent: Navigating the East African Community’s pending merger notification regime

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On 1 July 2025 the East African Community Competition Authority (“**EACCA**”) published a notice (“**Notice**”) announcing that the EACCA will commence receiving and reviewing merger notifications for its approval with effect from 1 November 2025.

The EACCA was established in terms of the 2006 East African Community Competition Act and is the competition regulatory authority of the East African Community (“**EAC**”), a regional economic bloc comprising eight “Partner States”, namely Burundi, the Democratic Republic of the Congo, Kenya, Rwanda, Somalia, South Sudan, Uganda and Tanzania. The EACCA has exclusive jurisdiction on all competition and consumer protection matters (and all economic activities and sectors) having a cross border effect within the EAC. It is based in Arusha, Tanzania.

Definition of a merger in the EAC Competition Regime

A merger is widely defined as “the acquisition of shares, business or other assets whether inside or outside the community resulting in the change of control of a business, part of a business or an asset of a business in the community in any manner and includes a take over”.

When a merger is notifiable to the EACCA

A merger (as defined) will be notifiable to the EACCA if –

- (a) it has a “cross border effect” i.e. it involves undertakings with operations in two or more EAC Partner States; and
- (b) the combined turnover or assets (whichever is higher) of the merging undertakings in the EAC, equals or exceeds USD 35 million; and
- (c) at least two undertakings to the merger have a combined turnover or asset value of USD 20 million in the EAC.

However, if each of the parties to a merger achieves at least two thirds of its aggregate turnover or asset value in the same Partner State of the EAC, the merger will not be notifiable to the EACCA but may be notifiable to a national competition or other regulator having jurisdiction.

Notification to the EACCA is mandatory and a failure to notify and obtain approval results in the merger not coming into effect. Penalties of up to 10% of an undertaking’s annual turnover within the EAC in the preceding financial year may be imposed for a failure to notify or for implementing a notifiable merger without prior approval.

Merger notifications must be made in a prescribed form and e-notifications will be allowed. The EACCA is obliged to decide mergers within 120 days (which the EACCA interprets as 120 working days) failing which the merger may be implemented without approval.

The Notice states that –

- (a) merger proceedings for mergers with a cross-border effect within the EAC, that have commenced or are pending before a national competition regulator or any other relevant authority in a EAC Partner State before the date of publication of the Notice (being 1 July 2025), will be finalised by that regulator and/or authority. It is unclear whether mergers notified to a national regulator or authority during the period 1 July 2025 to 31 October 2025 will also (if notifiable) have to be notified to the EACCA for approval if it is not finalised by the national regulator and/or authority before 1 November 2025;
- (b) mergers with a cross-border effect within the EAC that have been notified to the EACCA are not required to be notified to the national competition authorities of EAC Partner States. The EACCA is accordingly intended to function as a “one stop shop” for competition merger approvals in the EAC.

EACCA merger filing fees

The Notice sets out the merger filing fees payable to the EACCA. Mergers in which the aggregate turnover or asset value (whichever is higher) is –

- (a) USD 35 million to USD 50 million will have a fee of USD 45 000;
- (b) above USD 50 million to USD 100 million will have a fee of USD 70 000; and
- (c) above USD 100 million will have a fee of USD 100 000.

Overlap with COMESA Competition Commission

Six of the eight countries within the EAC (other than South Sudan and Tanzania) are also members of the Common Market for Eastern and Southern Africa (“**COMESA**”) which has its own regional competition regulator, the COMESA Competition Commission (“**CCC**”), whose merger control regime has been operational since 2014.

On 10 June 2025, the CCC and EACCA signed a Memorandum of Understanding which however only provides a general framework for cooperation between them for example facilitating information sharing, technical assistance, capacity building and coordinating enforcement activities. No detail is provided on how the CCC and EACCA will deal with mergers that are notifiable to both of them.

What the EACCA’s notification regime means for Merging Parties

The commencement of the EACCA’s suspensory merger control regime from 1 November 2025 will require parties planning mergers within the EAC to consider (and if required comply with) the EAC’s merger control requirements. Whilst the EACCA envisions itself as being a “one stop shop” for merger control, it is not yet clear to what extent the CCC and national competition regulators of EAC Partner States will (or are legally competent under their own merger control regimes to) relinquish their jurisdiction over mergers to the EACCA. It is helpful that –

- (a) the EACCA has signed memoranda of understanding with the Tanzanian, Rwandan and Kenyan competition authorities which provide a framework for dealing with overlaps;
- (b) South Sudan and Somalia do not yet have a binding competition law in place.

With the fast approaching 1 November 2025 EACCA commencement date, the risk however exists that a merger could be notifiable to both the EACCA and the CCC as well as to national regulators. This would result in the duplication of fees and processes and undermine the “one stop shop” nature of both the EACCA and the CCC. Merging parties will accordingly have to –

- (a) prepare for potential multiple notifications to the EACCA, CCC and national authorities. This will add to the costs and may affect transaction closing timetables; and
- (b) consider whether work-arounds and “carve outs” can feasibly be incorporated into the transaction to ring fence affected undertakings until approval for the merger is obtained.

Contact the Werksmans [Competition practice area](#) to assist you in navigating the new EACCA merger control regime and for advice on merger filings in South Africa and across the African continent.



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