

REPUBLIC OF KENYA



Enhancing Accountability



THE NATIONAL ASSEMBLY
PAPERS LAID

DATE: 05 MAR 2024 DAY: TUESDAY

BY: Hon Owen Bayo, MP
Deputy leader, majority party

BY: Mzofu Mwale

PARLIAMENT
OF KENYA
LIBRARY

REPORT

OF

THE AUDITOR-GENERAL

ON

CRIMINAL ASSETS RECOVERY FUND

**FOR THE YEAR ENDED
30 JUNE, 2021**

ASSETS RECOVERY AGENCY



THE AUDITOR GENERAL
REGISTRY
JAN 2024
RECEIVED



ARA
ASSETS RECOVERY AGENCY

ASSETS RECOVERY AGENCY
CRIMINAL ASSETS RECOVERY FUND
ANNUAL REPORT AND FINANCIAL STATEMENTS
FOR THE FINANCIAL YEAR ENDED
30TH JUNE 2021

Prepared in accordance with the Accrual Basis of Accounting Method under the International Public Sector Accounting Standards (IPSAS)

CONFIDENTIAL

**ASSETS RECOVERY AGENCY
CRIMINAL ASSETS RECOVERY FUND
Annual Report and Financial Statements for the year ended June 30, 2021.**

Table of Contents		Page
1.	Acronyms, Abbreviations and Glossary of Terms	iii
2.	Key Entity Information and Management	vi
3.	The Board of Directors/Council.....	ix
4.	Key Management Team.....	x
5.	Chairman's Statement.....	xiii
6.	Report of the Director	xiv
7.	Statement of Performance against Predetermined Objectives for Financial Year 2020/2021	xv
8.	Corporate Governance Statement.....	xvii
9.	Management Discussion and Analysis And important disclosures.....	xviii
10.	Report of the Management	xx
11.	Statement of Management's Responsibilities	xxi
12.	Report of the Independent Auditor for the Assets Recovery Agency	xxiii
13.	Statement of Financial Performance for the year ended 30 June 2021	1
14.	Statement of Financial Position as at 30 June 2021	2
15.	Statement of Changes in Net Assets for the year ended 30 June 2021.....	3
16.	Statement of Cash Flows for the year ended 30 June 2021.....	4
17.	Notes to the Financial Statements	5
22.	Appendices	12

1. Acronyms, Abbreviations and Glossary of Terms

A: Acronyms and Abbreviations

ARA	Assets Recovery Agency
CEO	Chief Executive Officer
CBK	Central Bank of Kenya
CARF	Criminal Assets Recovery Fund
DG	Director General
ERP	Enterprise Resource Plan
ICPAK	Institute of Certified Public Accountants of Kenya
ICT	Information Communication Technology
IPSAS	International Public Sector Accounting Standards
Ksh.	Kenya Shillings
MD	Managing Director
MLA	Mutual Legal Assistance
NT	National Treasury
OCOB	Office of the Controller of Budget
OAG	Office of the Auditor General
OSHA	Occupational Safety and Health Act of 2007
PFM	Public Finance Management
PPE	Property Plant & Equipment
POCAMLA	Proceeds of Crime and Anti-Money Laundering Act
PSASB	Public Sector Accounting Standards Board
SAGAs	Semi-Autonomous Government Agencies
SC	State Corporations
WB	World Bank

ASSETS RECOVERY AGENCY
CRIMINAL ASSETS RECOVERY FUND
Annual Report and Financial Statements for the year ended June 30, 2021.

B: Glossary of Terms

Agency	Assets Recovery Agency
Assets	Movable and immovable property, tangible and intangible, including immovable property, stores, equipment, land, buildings, animals, inventory, stock, natural resources, intellectual rights vested in the state or proprietary rights.
Assets Recovery	The process of identifying, tracing, freezing, seizure, confiscation, and forfeiture of proceeds of crime.
Assets Management	Assets Management is a systematic process of planning, acquisition, operating, maintaining and disposing of assets in the most cost-effective manner including all costs, risks and performance attributes.
Comparative Year	Means the prior period.
Confiscation Order	An order issued by the High Court forfeiting, to the government, all or any of the property that is subject to the restraint order.
Fiduciary Management	Members of Management directly entrusted with the responsibility of financial resources of the organisation
Forfeiture Order	An order issued by the High Court forfeiting, to the government, all or any of the property that is subject to the preservation order.
Preservation Order	An order issued by the High Court prohibiting any person, subject to such conditions and exceptions as may be specified in the order, from dealing in any manner with any property that is a proceed of crime or has been used or is intended for use in the commission of an offence.
Restraint Order	An order issued by the High Court prohibiting any person, subject to such conditions and exceptions as may be specified in the order, from dealing in any manner with any property to which the order relates.
Proceeds of Crime	Any property or economic advantage derived or realized, directly or indirectly, as a result of or in connection with an offence irrespective of the identity of the offender.
Performance Indicator	A measurement that evaluates the success of an organization or of a particular activity (such as projects, programmes, products and other initiatives) in which it engages.

**ASSETS RECOVERY AGENCY
CRIMINAL ASSETS RECOVERY FUND
Annual Report and Financial Statements for the year ended June 30, 2021.**

- Strategic Objectives** These are what the organization commits itself to accomplish in the long term; they establish performance levels to be achieved on priority issues and measures of success in fulfilling critical mission statement elements.
- Forfeited Asset** These are assets that have been surrendered to the State by the Agency through a Court Order issued pursuant to Section 92 of the Proceeds of Crime and Anti-Money Laundering Act.
- Preserved Asset** These are assets that are frozen pending determination by the Court if they should be forfeited to the State. The assets are preserved pursuant to a Court order issued pursuant to Section 82 of the Proceeds of Crime and Anti-Money Laundering Act

CONFIDENTIAL

2. Key Entity Information and Management

(a) Background information

The Assets Recovery Agency is established under the Proceeds of Crime and Anti-Money Laundering Act No.9 of 2009 (POCAMLA) with the mandate of identification, tracing, freezing, seizing, and recovery of proceeds of crime.

(b) Principal Activities

Assets Recovery Agency (ARA) is a public entity established as a body corporate under Section 53 of the Proceeds of Crime and Anti-Money Laundering Act (POCAMLA), 2009 with the mandate recovery of proceeds of crime with a view of combating money laundering. It is one of the principal institutions within the criminal justice system implementing the Anti-Money Laundering and counter Financing of Terrorism (AML/CFT) framework in Kenya.

Vision

The Premier Assets Recovery Agency

Mission

To Combat Crime through recovery of proceeds of crime

The objective and functions of the Agency as defined by the Act include:

- i. Identification and investigation of proceeds of crime
- ii. Tracing of proceeds of crime and money laundering both within and without
- iii. Freezing assets suspected to be proceeds of crime held by persons under investigation or prosecution, preserving and maintenance of these assets
- iv. Seizure of proceeds of crime
- v. Recovery of proceeds of crime
- vi. Management of all preserved and recovered assets.
- vii. Disposal of all forfeited assets to state
- viii. Administering the criminal assets recovery fund as per the Act No.9 of 2009 (POCAMLA)
- ix. Doing and performing all such other acts or things as may be lawfully done by a body corporate.

(c) Key Management

During the period under review the Agency had the management team outlined under (d) below

The Advisory Board has not been operationalized at the end of the Financial Year.

**ASSETS RECOVERY AGENCY
CRIMINAL ASSETS RECOVERY FUND
Annual Report and Financial Statements for the year ended June 30, 2021.**

(d) Fiduciary Management

The key management personnel who held office during the Financial Year ended 30th June 2023 and who had direct fiduciary responsibility were:

No.	Designation	Name
1.	Director	Col. Alice M Mate
2.	Under Secretary Administration	Mr. Timothy Nderitu
3.	Senior State Counsel	Mr. Jennifer Gitiri
4.	Principal Supply Chain Management Officer	Mr. Kennedy Ogwengo
5.	Principal Accountant	Mr. Bonface Dimba

(e) Fiduciary Oversight Arrangements

The Agency had the underlisted key fiduciary oversight arrangements covering:

- Budget Implementation Committee
- Other oversight arrangements

(f) Entity Headquarters

Assets Recovery Agency
22nd Old Mutual Tower
P.O. Box 52420-00100
NAIROBI

(g) Entity Contacts

Telephone: +254-0202021009, +254-0202100331

E-mail: info@assetsrecovery.go.ke

Website: www.assetsrecovery.go.ke

(h) Entity Bankers

Kenya Commercial Bank-KICC Branch

KICC Building, Harambee Avenue

P.O Box 46950-00100

NAIROBI

(i) Independent Auditor

Auditor-General

Office of the Auditor General

Anniversary Towers, University Way

P.O. Box 30084

GPO 00100

Nairobi, Kenya

(j) Principal Legal Adviser

The Attorney General

State Law Office and Department of Justice

Harambee Avenue

P.O. Box 40112

City Square 00200

Nairobi, Kenya

3. The Board of Directors/Council

There was no board of directors during the Financial Year.

CONFIDENTIAL

4. Key Management Team



Brig. (Rtd.) Alice M Mate

Director

Brig (Rtd.) Alice M Mate is the Director Assets Recovery Agency. She holds a Bachelor of Laws (Honors) (LLB) Degree and Master of Laws Degrees in International Maritime Law from the IMO International Maritime Law Institute - Malta. She holds a Post Graduate Diploma in Law from the Kenya School of Law. Brig (Rtd.) Alice M Mate is an Advocate of the High Court of Kenya and member of the Law Society of Kenya



CS. Jennifer Gitiri

Deputy Director Legal Services and Corporation Secretary

Ms. Jennifer Gitiri is the Deputy Director Legal Services and Corporation Secretary. She holds a Bachelor of Laws (Honors) (LLB) Degree and two Master of Laws Degrees in Public International Law and Comparative Constitutional Law from the University of Nairobi and Central European University(Budapest,Hungary)respectively. She is a Certified Public Secretary (CPS-K) and a trained Financial Action Taskforce (FATF) assessor by the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG).

Ms Gitiri is an Advocate of the High Court of Kenya, a member of the Law Society of

	<p>Kenya and a Member of the Institute of Certified Public Secretaries of Kenya.</p>
	<p>Timothy Nderitu <u>Deputy Director Corporate Services</u></p> <p>Mr. Timothy Nderitu is the Deputy Director Corporate Services. He holds a Bachelor of Arts (Honors) Degree and a Master Degree in Public Policy Management from Strathmore University. He holds a Post Graduate Diploma in Public Administration from the Kenya School of Government. Mr. Nderitu is a member Institute of Directors Kenya</p>
	<p>Kennedy Ogwengo <u>Deputy Director Assets Management</u></p> <p>Mr Ogwengo is a seasoned management practitioner with over a decade long experience of practice in fields of Security, law, order and justice sector establishments. He holds Master's Degree in Business Administration. Diploma and certification in Assets Management. He is a member of the Kenya Institute of Management and Kenya Institute of Supplies Management. He is a certified forensic investigation professional</p>

**ASSETS RECOVERY AGENCY
CRIMINAL ASSETS RECOVERY FUND
Annual Report and Financial Statements for the year ended June 30, 2021.**



Titus Kemboi

Principal Accountant

Mr. Kemboi is a Certified Public Accountant (CPA) with 14-year experience in the Civil Service. He was appointed to the position with effect from 2019.

CONFIDENTIAL

5. Chairman's Statement

There was no board of Directors during the Financial Year.

CONFIDENTIAL

**ASSETS RECOVERY AGENCY
CRIMINAL ASSETS RECOVERY FUND
Annual Report and Financial Statements for the year ended June 30, 2021.**

6. Report of the Director

During the Financial Year 2020/2021 the Agency;

- The Agency successfully concluded the process of intelligence gathering, identification, freezing and recovery of proceeds of crime. In addition, 32 cases were successfully investigated with assets worth approximately Kshs.2 billion under investigation and 16 applications were filed for preservation
- The Agency preserved assets worth Kshs. Approx. 685 Million and assets worth Kshs. 136,221,763 were forfeited to the State;
- Managed all preserved and forfeited assets within the provisions of POCAMLA;
- The Agency was categorized as a State Corporation under the State Corporations Act;



Brig. (Rtd.) Alice Mate

Director Assets Recovery Agency

CONFIDENTIAL

7. **Statement of Performance against Predetermined Objectives for Financial Year
2020/2021**

CONFIDENTIAL

**ASSETS RECOVERY AGENCY
CRIMINAL ASSETS RECOVERY FUND**

Annual Report and Financial Statements for the year ended June 30, 2021.

Key result area	Strategic Objective	Key Performance Indicators	Activities	Achievements
Assets Management	Manage and dispose preserved and forfeited assets.	Value of assets under preservation and forfeiture managed and disposed	Undertake assets management activities and formulate assets management policy	<p>100% of seized, preserved and confiscated/forfeited assets were being managed.</p> <p>The Agency updated the Preserved and Forfeited assets register with view of conducting Valuation and re-valuation of the assets to determine exact value.</p> <p>The net assets from the preserved and forfeited was at Kshs 197,394,208.00 during the Financial Year.</p>

CONFIDENTIAL

8. Corporate Governance Statement

In Financial Year 2020/2021, the Agency proposed and initiated amendments to the Proceeds of Crime and Anti-Money Laundering Act with Section 55A to establish the Assets Recovery Advisory Board.

By the end of the Financial Year the amendments had not been passed.

CONFIDENTIAL

9. Management Discussion and Analysis And important disclosures

In the Preparation of the Financial Statements for the Criminal Assets Recovery Fund ending 30th June 2021, the Agency wishes to make the following important disclosures;

- I. The preparation of the 2018/2019 Financial Statements for the Criminal Assets Recovery Fund was done by the Agency Management team that is currently in office as at 30th June 2022/2023.
- II. During the financial period 2020/2021 the Agency had instituted court proceedings for recovery of proceeds of crime acquired through money laundering and other economic crimes and illicit financial flows. Due to the lengthy court processes the cases instituted during those financial Years had not been determined by the 30th June 2018. However, there were preservation orders in place preserving assets in the financial year 2018/2019.
- III. The Criminal Assets Recovery Fund had not been in place since the enactment of The Proceeds of Crime and Anti Money Laundering Act 2009.
- IV. POCAMLA provides establishment of Criminal Assets Recovery Fund under section 109 which shall consist of moneys derived from the fulfilment and forfeiture order under Section 110 of POCAMLA. Section 113 provides that the Minister in charge of the National Treasury to develop Regulations for the Fund. The Cabinet Secretary for the National Treasury developed the said regulations and were enacted on 6th October 2023.
- V. Due to the Non-Establishment of the Criminal Assets Recovery Fund and the attendant Regulations, the Agency sought approval from the National Treasury to open a Preservation Bank account *vide* letter Ref AG.3/88/1 Vol.17 (28) dated 17th May 2018 for purposes of managing assets and depositing funds from seized, preserved and confiscated/forfeited assets.

The Agency is empowered under section 86 of POCAMLA to apply and obtain preservation orders; to assume control over the property, take care of the property and administer the property subject of the preservation order and to collect rental income from income generating assets.

The Agency started depositing funds in the said account that include amounts from preservation orders, forfeiture orders, and deposits from rental income of

**ASSETS RECOVERY AGENCY
CRIMINAL ASSETS RECOVERY FUND
Annual Report and Financial Statements for the year ended June 30, 2021.**

properties. The said funds and assets are subject of court processes and appeals and some still pending court determination.

- VI. The Agency started keeping an updated register of all the seized, preserved confiscated/forfeited assets. All the assets under the management of the Agency have the time evidence on preservation. This is well captured on the Assets Register and can equally be confirmed by the dates when such court orders were issued.
- VII. Arising from need to account and prudently manage the preserved and forfeited assets, the Agency deployed staff to the Asset Management.
- VIII. The Agency does not have an operationalized Assets Recovery Agency Advisory Board as the Amendments to the Proceeds of Crime and Anti Money Laundering Act 2023 were effected in September of 2023.

CONFIDENTIAL

10. Report of the Management

The management of the Agency submits this report together with the financial statements for the year ended June 30, 2021, which show the state of the Assets Recovery Agency's Criminal Asset Recovery Fund affairs.

i) Principal activities

The principal activities of the Agency are highlighted in 2(a) above.

ii) Results

The results of the Entity for the year ended June 30, 2021, are set out on page 1 to page 4.

iii) Directors

There was no Board of Directors during the financial year ended June 30, 2021.

iv) Auditors

The Office of the Auditor General is responsible for the statutory audit of the Asset Recovery Agency's Criminal Asset Recovery Fund in accordance with Article 229 of the Constitution of Kenya and the Public Audit Act 2015 which empowers Auditor General to carry out the audit of the Agency.

By Order of the Board.

By Order of the Board



.....
CS. Jennifer Gitiri
Corporation Secretary

11. Statement of Management's Responsibilities

Section 81 of the Public Finance Management Act, 2012 and Section 54D (2) of the Proceeds of Crime and Anti Money Laundering Act, require the Director to prepare financial statements in respect of the Fund, which give a true and fair view of the state of affairs of the Agency at the end of the financial year and the operating results of the Agency for that year. The Director is also required to ensure that the Agency keeps proper accounting records which disclose with reasonable accuracy the financial position of the Agency. The Director is also responsible for safeguarding the Fund.

The Director is also responsible for the preparation and presentation of the Fund statements, which give a true and fair view of the Fund for and as at the end of the financial year ended on June 30, 2021. These responsibilities include:

- i. Maintaining adequate financial management arrangements and ensuring that these continue to be effective throughout the reporting period
- ii. Maintaining proper accounting records, which disclose with reasonable accuracy at any time the financial position of the Fund
- iii. Designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements, and ensuring that they are free from material misstatements, whether due to error or fraud
- iv. Safeguarding the assets of the Fund
- v. Selecting and applying appropriate accounting policies and
- vi. Making accounting estimates that are reasonable in the circumstances.

The Director accepts responsibility for the Fund financial statements, which have been prepared using appropriate accounting policies supported by reasonable and prudent judgements and estimates, in conformity with International Public Sector Accounting Standards (IPSAS), and in the manner required by the PFM Act, 2012 and the State Corporations Act. The Director is of the opinion that the Fund's financial statements give a true and fair view of the state of Fund's transactions during the twelve (12) months period ended June 30, 2021, and of the Fund's financial position as at that date. The Director further confirms the completeness of the accounting records maintained for the Fund,

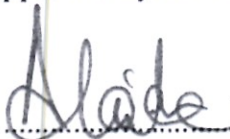
**ASSETS RECOVERY AGENCY
CRIMINAL ASSETS RECOVERY FUND
Annual Report and Financial Statements for the year ended June 30, 2021.**

which have been relied upon in the preparation of the Agency's Fund as well as the adequacy of the systems of internal financial control.

Nothing has come to the attention of the Director to indicate that the Fund will not remain a going concern for at least the next twelve months from the date of this statement.

Approval of the financial statements

The Assets Recovery Agency's Criminal Assets Recovery Fund financial statements were approved by the Director on 24/6 / 2024 and signed on its behalf by:


.....

Brig. (Rtd.) Alice M Mate
Director Assets Recovery Agency

CONFIDENTIAL

REPUBLIC OF KENYA

Telephone: +254-(20) 3214000
E-mail: info@oagkenya.go.ke
Website: www.oagkenya.go.ke



HEADQUARTERS
Anniversary Towers
Monrovia Street
P.O. Box 30084-00100
NAIROBI

REPORT OF THE AUDITOR-GENERAL ON CRIMINAL ASSETS RECOVERY FUND FOR THE YEAR ENDED 30 JUNE, 2021 - ASSETS RECOVERY AGENCY

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

- A. Report on the Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.
- B. Report on Lawfulness and Effectiveness in Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure government achieves value for money and that such funds are applied for the intended purpose.
- C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, the risk management environment and the internal controls, developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations and that its internal controls, risk management and governance systems are properly designed and were working effectively in the financial year under review.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided by Article 229 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015. The three parts of the report, when read together constitute the report of the Auditor-General.

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of Criminal Assets Recovery Fund set out on pages 1 to 12, which comprise the statement of financial position as at

Report of the Auditor-General on Criminal Assets Recovery Fund for the year ended 30 June, 2021 - Assets Recovery Agency

30 June, 2021 and the statement of financial performance, statement of changes in net assets, statement of cash flows for the year ended 30 June, 2021 and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015.

In my opinion, except for the effect of the matter described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of the Criminal Assets Recovery Fund as at 30 June, 2021, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Accrual Basis) and comply with the Proceeds of Crime and Anti-Money Laundering Act, 2009 and Public Finance Management Act, 2012.

Basis for Qualified Opinion

Unsupported Cash and Cash Equivalents

The statement of financial position and as disclosed in Note 9 to the financial statements reflects cash and cash equivalents balance of Kshs.197,394,208. However, Management did not provide the cash book, corresponding bank confirmation certificate and bank reconciliation statements in support of the balance.

In the circumstances, the accuracy of the reported cash and cash equivalents balance of Kshs.197,394,208 as at 30 June, 2021 could not be confirmed.

The audit was conducted in accordance with the International Standards for Supreme Audit Institutions (ISSAIs). I am independent of the Criminal Assets Recovery Fund Management in accordance with ISSAI 130 on the Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. There were no key audit matters to report in the year under review.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, I confirm that, nothing

else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1. Late Submission of Financial Statements

The financial statements for the year ended 30 June 2021 were submitted to the Auditor-General on 22 December, 2023 contrary to Section 24(10)(a) and (b) of the Public Finance Management Act, 2012 and Section 47(1) of the Public Audit Act, 2015. These Sections require that the Administrator of a National Public Fund shall prepare financial statements for the fund for each financial year in a form specified by the Accounting Standards Board. Further, not later than three months after the end of each financial year, submit those statements to the Auditor-General and deliver a copy of the statements to the National Treasury, Commission on Revenue Allocation and the Controller of Budget.

In the circumstances, Management was in breach of the law.

2. Non-Submission of Bank Reconciliation Statement to the National Treasury

During the year under review, the Fund Management did not submit bank reconciliation statements for accounts held at Kenya Commercial Bank for each month contrary to Regulation 90(1) of the Public Finance Management (National Government) Regulations, 2015. This Regulation provides that Accounting Officers shall ensure bank accounts reconciliations are completed for each bank account held by that Accounting Officer, every month and submit a bank reconciliation statement not later than the 10th of the subsequent month to the National Treasury with a copy to the Auditor-General.

In the circumstances, Management was in breach of law.

3. Failure to Maintain Fund Records

The Fund Management did not maintain Fund records during the year under review contrary to Regulation 100 of Public Finance Management (National Government) Regulations, 2015. This Regulation stipulates that Accounting Officers shall keep in all offices concerned with receiving cash or making payments a cash book showing the receipts and payments and shall maintain such other books and registers as may be necessary for the proper maintenance and production of the accounts of the Vote for which he or she is responsible.

In the circumstances, Management was in breach of law.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON THE EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, except for the matter described in the basis for Conclusion on the Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

Failure to Maintain Register of Forfeited and Preserved Assets

The annual report under the statement of performance against predetermined objectives for the financial year 2020 /2021 indicates achievements of the fund which comprise of 100% of the seized, preserved and confiscated / forfeited assets being managed and cumulative preserved deposits of Kshs.197,394,208. However, Management did not maintain forfeited and preserved asset register for property, plant and equipment indicating asset details such as values, unique asset identifier, chassis numbers for motor-vehicles and land details including the location. This is contrary to Regulation 143(1) of the Public Finance Management (National Government) Regulations, 2015 which requires the Accounting Officer to be responsible for maintaining a register of assets under his or her control. In addition, there was no evidence that forfeited assets management system was in place to provide timely and accurate recording of the originally assigned value.

In absence of an asset register for forfeited and preserved asset for property, plant and equipment, tracking of their status may not be possible and the risk of pilferage is high.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal control, risk management and overall governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and those Charged with Governance

The Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Accrual Basis) and for maintaining effective internal control as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal controls, risk management and governance.

In preparing the financial statements, the Management is responsible for assessing the Fund's ability to sustain services, disclosing, as applicable, matters related to

sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to terminate the Fund or cease its operations.

The Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

Those charged with governance are responsible for overseeing the Fund's financial reporting process, reviewing the effectiveness of how Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution.

Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal control would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in

which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.


Because of its inherent limitations, internal control may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.
- Conclude on the appropriateness of the Management's use of the applicable basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Fund's ability to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Fund to cease to sustain its services.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Fund to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that are identified during the audit.

I also provide the Management with a statement that I have complied with relevant ethical requirements regarding independence and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence and where applicable, related safeguards.


FCPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

15 February, 2024

**ASSETS RECOVERY AGENCY
CRIMINAL ASSETS RECOVERY FUND**

Annual Report and Financial Statements for the year ended June 30, 2021.

13. Statement of Financial Performance for the year ended 30 June 2021

	Notes	2020-2021	2019-2020
Revenue		Kshs	Kshs
Revenue from Exchange Transactions			
Rental Revenue from Facilities and Equipment	5	-	-
Finance Income	6	-	-
Total Revenue		-	-
Expenses			
Use of Goods and Services	7	315	16,620
Total Expenses		315	16,620
Surplus Before Tax		(315)	(16,620)
Taxation	8	63	42
Surplus for the Year		(378)	(16,662)

The notes set out on pages 5 to 13 form an integral part of these Financial Statements. The Financial Statements set out on pages 1 to 4 were signed on behalf of the Board of Directors by:

Alice M Mate

Brig (Rtd.) Alice M Mate

Director

Date: 24/01/24

Titus Kemboi

Titus Kemboi
ICPAK M/No:16088
Principal Accountant

Date: 24/01/2024

**ASSETS RECOVERY AGENCY
CRIMINALASSETS RECOVERY FUND
Annual Report and Financial Statements for the year ended June 30, 2021.**

14. Statement of Financial Position as at 30 June 2021

	Notes	2020-2021	2019-2020
		Kshs	Kshs
Assets			
Current Assets			
Cash and Cash Equivalents	9	197,394,208	57,565,027
Total Current Assets		197,394,208	57,565,027
Non-Current Assets			
Property, Plant and Equipment	10	-	-
Total Assets		197,394,208	57,565,027
Liabilities			
Current Liabilities			
Preserved Assets	11	197,411,500	57,581,941
Total Liabilities		197,411,500	57,581,941
Net Assets			
Accumulated Deficit		(17,292)	(16,914)
Total Net Assets and Liabilities		197,394,208	57,565,027

The financial statements set out on pages 1 to 4 were signed on behalf of the Board of Directors by:



Brig (Rtd.) Alice M Mate

Director

Date: 24/01/24



Titus Kemboi

ICPAK M/No:16088

Principal Accountant

Date: 24/01/2024

**ASSETS RECOVERY AGENCY
 CRIMINAL ASSETS RECOVERY FUND
 Annual Report and Financial Statements for the year ended June 30, 2021.**

15. Statement of Changes in Net Assets for the year ended 30 June 2021

	Capital Fund Preserved and Forfeited Assets	Accumulated surplus	Total
As at July 1, 2019	-	(252)	(252)
Surplus/(deficit) for the year	-	(16,662)	(16,662)
As at June 30, 2020	-	(16,914)	(16,914)
As at July 1, 2020	-	(16,914)	(16,914)
Surplus/(deficit) for the Year	-	(378)	(378)
As at June 30, 2021	-	(17,292)	(17,292)

CONFIDENTIAL

**ASSETS RECOVERY AGENCY
CRIMINALASSETS RECOVERY FUND
Annual Report and Financial Statements for the year ended June 30, 2021**

16. Statement of Cash Flows for the year ended 30 June 2021

Description	Notes	2020-2021	2019-2020
		Kshs	Kshs
Cash Flows from Operating Activities			
Receipts			
Rental Revenue from Facilities and Equipment	5	-	-
Finance Income	6	-	-
Total Receipts		-	-
Payments			
Use of Goods and Services	7	315	16,620
Tax Paid	8	63	42
Total Payments		378	16,662
Net Cash Flows from Operating Activities		(378)	(16,662)
Cash Flows from Financing Activities			
Proceeds from Preserved Assets		139,829,559	55,971,941
Net Cash Flows from Financing Activities		139,829,559	55,971,941
Net Increase/(Decrease) in Cash and Cash Equivalents		139,829,181	55,955,279
Cash and Cash Equivalents as at 1 July		57,565,027	1,609,748
Cash and Cash Equivalents as at 30 June		197,394,208	57,565,027

17. Notes to the Financial Statements

1. General Information

The Assets Recovery Agency is established under the Proceeds of Crime and Anti-Money Laundering Act No.9 of 2009 (POCAMLA) with the mandate of identification, tracing, freezing, seizing, and recovery of proceeds of crime.

2. Statement of Compliance and Basis of Preparation

The Financial Statements have been prepared on a historical cost basis except for the measurement at re-valued amounts of certain items of property, plant and equipment, marketable securities and financial instruments at fair value, impaired assets at their estimated recoverable amounts and actuarially determined liabilities at their present value. The preparation of financial statements in conformity with International Public Sector Accounting Standards (IPSAS) allows the use of estimates and assumptions. It also requires management to exercise judgement in the process of applying the Agency's accounting policies. The areas involving a higher degree of judgement or complexity, or where assumptions and estimates are significant to the financial statements, are disclosed in Note 5 of these financial statements.

The financial statements have been prepared and presented in Kenya Shillings, which is the functional and reporting currency of the Agency. The financial statements have been prepared in accordance with the PFM Act, the State Corporations Act, and International Public Sector Accounting Standards (IPSAS). The accounting policies adopted have been consistently applied to all the years presented.

Notes to the financial statements (continued)

3. Summary of Significant Accounting Policies

a) Revenue recognition

i) Revenue from exchange transactions

Interest income

The income the Agency receives from preservation bank accounts

Rental Income

Rental income arising from preserved and forfeited assets is accounted for on a straight-line basis and is included in the revenue

b) Budget information

The original budget for the Current Financial Year was approved by the National Assembly on July 2018. Subsequent revisions or additional appropriations were made to the approved budget in accordance with specific approvals from the appropriate authorities. The additional appropriations are added to the original budget by the Entity upon receiving the respective approvals in order to conclude the final budget.

c) Taxes

Tax on interest income

The tax levied on the income the agency receives from preservation bank accounts. the tax rates and tax laws used to compute the amount are those that are enacted or substantively enacted, at the reporting date in the area where the agency operates and generates taxable income.

d) **Property, plant and equipment**

All property, plant and equipment are stated at cost and are not depreciation. Cost includes expenditure that is directly attributable to the acquisition of the items. When a major inspection is performed, its cost is recognized in the carrying amount of the plant and equipment.

Notes to the Financial Statements (Continued)

Summary of Significant Accounting Policies (Continued)

e) Contingent Liabilities

The Entity recognizes a contingent liability and discloses details of any contingencies in the notes to the financial statements.

f) Cash and cash equivalents

Cash and cash equivalents comprise cash on hand and cash at bank, short-term deposits on call and highly liquid investments with an original maturity of three months or less, which are readily convertible to known amounts of cash and are subject to insignificant risk of changes in value. Bank account balances include amounts held at the Central Bank of Kenya and at various commercial banks at the end of the financial year. For the purposes of these financial statements, cash and cash equivalents also include short term cash imprests and advances to authorised public officers and/or institutions which were not surrendered or accounted for at the end of the financial year.

g) Comparative figures

Where necessary comparative figures for the previous financial year have been amended or reconfigured to conform to the required changes in presentation.

h) Subsequent events

There have been no events subsequent to the financial year end with a significant impact on the financial statements for the year ended June 30, 2021.

4. Significant Judgments and Sources of Estimation Uncertainty

The preparation of the Tribunal financial statements in conformity with IPSAS requires management to make judgments, estimates and assumptions that affect the reported amounts of revenues, expenses, assets and liabilities, and the disclosure of contingent liabilities, at the end of the reporting period. However, uncertainty about these assumptions and estimates could result in outcomes that require a material adjustment to the carrying amount of the asset or liability affected in future periods. State all judgements, estimates and assumptions made.

ASSETS RECOVERY AGENCY
 CRIMINALASSETS RECOVERY FUND
 Annual Report and Financial Statements for the year ended June 30, 2021

Notes to the Financial Statements (Continued)

5. Rental Revenue from Facilities and Equipment

Description	2020-2021	2019-2020
	Kshs	Kshs
Rental Revenue from facilities and Equipment	-	-
Total	-	-

6. Finance Income

Description	2020-2021	2019-2020
	Kshs	Kshs
Interest from Preservation Accounts	-	-
Total	-	-

7. Use of Goods and Services

Description	2020-2021	2019-2020
	Kshs	KShs
Bank Charges	315	16,620
TOTAL	315	16,620

8. Taxation

Description	2020-2021	2019-2020
	Kshs	KShs
Tax on interest Income	63	42
TOTAL	63	42

**ASSETS RECOVERY AGENCY
CRIMINALASSETS RECOVERY FUND
Annual Report and Financial Statements for the year ended June 30, 2021**

9. Cash and Cash Equivalent

Description	2020-2021 Kshs.	2019-2020 Ksh.
Preserved Deposits	197,394,208	57,565,027
Total	197,394,208	57,565,027

Detailed Analysis of Cash and Cash Equivalent

Description		2020-2021 Kshs.	2019-2020 Ksh.
Financial institution	Account number		
Preservation and Deposits Accounts			
Kenya Commercial Bank Preservation Deposit Account-Ksh	1240221339	196,194,334	56,365,027
Kenya Commercial Bank Preservation Deposit Account- Escrow Account - Ezekiel Ouwor & Assets Recovery Agency	1236765893	1,199,874	1,200,000
Total		197,394,208	57,565,027

ASSETS RECOVERY AGENCY
 CRIMINALASSETS RECOVERY FUND
 Annual Report and Financial Statements for the year ended June 30, 2021

10 . Property, Plant and Equipment

COST	Land and buildings	Motor vehicles	TOTAL
	KShs		
As at 1 July (2019)	-	-	-
Additions	-	-	-
As at 30th June (2020)	-	-	-
As at 1 July (2020)	-	-	-
Additions	-	-	-
As at 30th June (2021)	-	-	-
Depreciation and Impairment			
As at 1 July (2019)	-	-	-
Depreciation	-	-	-
As at 30th June (2020)	-	-	-
As at 1 July (2020)	-	-	-
Depreciation	-	-	-
As at 30th June (2021)	-	-	-
Net Book Values			
As at 30th June (2020)	-	-	-
As at 30th June (2021)	-	-	-

**ASSETS RECOVERY AGENCY
CRIMINALASSETS RECOVERY FUND
Annual Report and Financial Statements for the year ended June 30, 2021**

11. Preserved Assets

Description	2020-2021 Kshs.	2019-2020 Ksh.
Preserved and Forfeited Assets	197,411,500	57,581,941
Total	197,411,500	57,581,941

12. Events after the Reporting Period

There were no material adjusting and non- adjusting events after the reporting period.

13. Ultimate and Holding Entity

The Entity is a State Corporation/ or a Semi- Autonomous Government Agency under the Office of the Attorney General and State Department for Justice. Its ultimate parent is the Government of Kenya.

14. Currency

The financial statements are presented in Kenya Shillings (Kshs) rounded to the nearest Kshs.

**ASSETS RECOVERY AGENCY
 CRIMINAL ASSETS RECOVERY FUND
 Annual Report and Financial Statements for the year ended June 30, 2021**

22. Appendices

Appendix 1: Implementation Status of Auditor-General's Recommendations

The following is the summary of issues raised by the external auditor, and management comments that were provided to the auditor.

Reference No. on the external audit Report	Issue / Observations from Auditor	Management comments	Status: <i>(Resolved / Not Resolved)</i>	Timeframe: <i>(Put a date when you expect the issue to be resolved)</i>

Alice Mate

Brig (Rtd.) Alice Mate
 Director Assets Recovery Agency

Date: *24/01/24*