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REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – SECOND SESSION

THE NATIONAL ASSEMBLY

SPECIAL FUNDS ACCOUNTS COMMITTEE

FIFTH REPORT
ON THE EXAMINATION OF THE REPORT OF THE AUDITOR - GENERAL ON
THE FINANCIAL STATEMENTS FOR THE COMMODITIES FUND FOR THE
FINANCIAL YEARS 2018/2019 TO 2021/2022

 THE NATIONAL ASSEMBLY	
DATE: 07 DEC 2023	
DAY: Thursday	
TABLED BY:	Hon. Rahim Dawood, MP Vice Chairman
CLERK-AT-THE-TABLE:	A. Shibuko

Directorate of Audit, Appropriations, and Other Select Committees
National Assembly
Parliament Buildings
NAIROBI

December, 2023

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LIST OF ABBREVIATIONS AND ACRONYMS

CoK	-	Constitution of Kenya, 2010
CRA	-	Commission on Revenue Allocation
FY	-	Financial Year
MDAs	-	Ministries, Departments and Agencies
PFM	-	Public Finance Management
OAG	-	Office of the Auditor-General
LPO	-	Local Purchase Order
CRB	-	Credit Reference Bureau
PSASB	-	Public Sector Accounting Standards Board
EACC	-	Ethics and Anti-Corruption Commission

CHAIRPERSON'S FOREWORD

Hon. Speaker, on behalf of the Special Funds Accounts Committee and under Standing Order 199, it is my pleasant duty and honor to present to the House the report of the Committee on the audited financial statements for the Commodities Fund for the financial years 2018/2019 to 2021/2022.

Oversight over national revenue and expenditure is amongst the roles of the National Assembly as stipulated under Article 95 (4) (c) of the Constitution of Kenya, 2010. Further, Article 226 of the CoK provides that an Act of Parliament shall provide for the designation of an Accounting Officer in every public entity at the national level who is accountable to the National Assembly for its financial management. In addition, Article 229(8) mandates this House to debate and take appropriate action on audit reports from the Auditor-General.

In fulfilment of these constitutional provisions, the National Assembly established various Committees to examine reports of the Auditor-General to ascertain whether public funds are utilized in a lawful, authorized, effective, efficient, economical, and transparent manner. The Special Funds Accounts Committee, which was established in the Fifth Session of the Eleventh Parliament following the review of the National Assembly's Standing Orders, is one of these Committees.

The Committee received oral and written submissions from Ms. Nancy Cheruiyot, Managing Trustee, Commodities Fund which formed the basis of its observations, findings, and recommendations. These are also contained in the minutes and Hansard reports of Committee proceedings. The Committee also met Dr. Paul K. Ronoh the Principal Secretary State Department for Crop Development and Mr. George Kubai, the Managing Director Agricultural Finance Corporation on 28th November 2023 regarding the audit query of unrecovered funds transferred to the Ministry of Agriculture and Livestock Development from the Commodities Fund and the audit query raised in the financial year 2019/2020 regarding unreconciled inter- Fund transaction.

Hon. Speaker, I wish to express appreciation to the Honourable Members of the Committee, the Office of the Speaker, and the Clerk of the National Assembly, the Parliamentary Liaison Offices of the Auditor-General and the National Treasury and the Committee Secretariat for facilitating the Committee in the production of this report.



HON. DAWOOD ABDUL RAHIM, HSC, M.P.
VICE CHAIRPERSON, SPECIAL FUNDS ACCOUNTS COMMITTEE

1.0 PREFACE

1.1 Establishment and Mandate of Special Funds Accounts Committee

1. The Special Funds Accounts Committee is one of the six Watchdog Committees of the National Assembly established under Standing Order 205. It is mandated to examine the reports of the Auditor General on the following:

- i) *Funds established by statute or by subsidiary legislation, except Funds under Standing Order 205B (Decentralized Funds Accounts Committee)*
- ii) *The Equalization Fund;*
- iii) *The Equalization Fund Advisory Board;*
- iv) *The Political Parties Fund; and*
- v) *Other funds as may be communicated by the Honorable Speaker*

1.2 Committee Membership

2. The Committee comprises the following members:

S/N	Name	Constituency	Party
1	Hon. Fatuma Zainab Mohammed, MP (Chairperson)	Migori (CWR)	Independent
2	Hon. Dawood Abdul Rahim, HSC, MP (Vice Chairperson)	North Imenti	Independent
3	Hon. Faith Wairimu Gitau, MP	Nyandarua (CWR)	UDA
4	Hon. Charles Ngusya Nguna	Mwingi West	Wiper
5	Hon. Dr. Christine Ombaka Oduor, MP	Siaya (CWR)	ODM
6	Hon. Erastus Kivasu Nzioka, MP	Mbooni	Wiper
7	Hon. Eve Akinyi Obara, MP	Kabondo Kasipul	ODM
8	Hon. Joseph Majimbo Kalasinga, MP	Kabuchai	FORD-K
9	Hon. Tom Mboya Odege, MP	Nyatike	ODM
10	Hon. Catherine Nakhabi Omanyoo, MP	Busia (CWR)	ODM
11	Hon. Cecilia Asinyen Ngigit, MP	Turkana (CWR)	UDA
12	Hon. Erick Kahugu Wamumbi, MP	Mathira	UDA
13	Hon. Joseph Kimutai Cherorot, MP	Kipkelion East	UDA
14	Hon. Joshua Odongo Oron, MP	Kisumu Central	ODM
15	Hon. Paul Kibichi Biego, MP	Chesumei	UDA

1.3 Committee Secretariat

3. The Secretariat facilitating the Committee comprises the following staff:

S/N	NAME	DESIGNATION
1	Mr. Leonard Machira	Principal Clerk Assistant II
2	Ms. Comfort Achieng	Clerk Assistant III
3	Mr. Silvanus Makau	Clerk Assistant III
4	Mr. Robert Ngetich	Fiscal Analyst II
5	Ms. Judith Kanyoko	Legal Counsel II
6	Ms. Bevaline Mosoti	Research Officer III
8	Ms. Pauline Sifuma	Hansard Officer III
9	Ms. Maryam Gabow	Public Communications Officer III
10	Mr. Peter Mutethia	Hansard Audio Officer III
11	Mr. Benard Omondi	Serjeant At Arms

2.0 General Observations and Recommendations

4. During the examination of the audited reports, the Committee made the following general observations and recommendations:

a. Non-Performing Long-Outstanding Loans

5. The Committee observed that the Fund has non-performing loans that were inherited from Agriculture and Food Authority, the defunct Sugar Board and Coffee Development Fund totalling Kshs.19,287,452,848. 57 including principal and interest arrears. The Management sought to authority in accordance with Section 69 of the PFM Act, 2012 to write-off the non-performing debts inherited from Agriculture and Food Authority, the defunct Coffee and Sugar Development Funds and interest due .
6. The Committee noted the Accounting Officer's submissions that the the National Assembly had approved the Action Plan to revive and commercialize State Owned Sugar Companies as communicated vide *Certificate No. 039/13th/2023*. The said letter authorized the Fund to write off debts owed by five State Owned Sugar Companies to Government, Kenya Sugar Board/Commodities Fund. The figures in the letter that are applicable to Commodities Fund debts are Kshs. 12,336,003,133.
7. The Committee noted the Accounting Officer's submissions non performing unsecured loan book inherited from the former Coffee Development Fund was Kshs. 757,591,523.05 out of which **Kshs. 620,765,933.83** is outstanding as at 28th November 2023
8. The Committee recommends that within three (3) months upon adoption of this report, the Accounting Officer to provide a progress report to the Auditor General on the status of the write-off process for verification.

b. Corporate Status of the Commodities Fund

9. The Committee observed that the Fund is not established as a body corporate having perpetual succession and a common seal and may not, in its corporate name, sue and be sued, which hinders its operations. The Crops Act, No.13 of 2013, which created the Fund did not adequately expound the mandate of the Fund's Board of Trustees as well as its powers and responsibilities. The Crops Act, No.13 of 2013, which created the Fund did not adequately expound the mandate of the Fund's Board of Trustees as well as its powers and responsibilities. Consequently, the Fund's Board of Trustees' ability to work independently and effectively in the absence of clear laws on its mandate, powers and responsibilities is doubtful.
10. The Committee recommends that within six months of the adoption of this report, the Accounting Officer through the relevant Cabinet Secretary for Agriculture and Livestock Development to prepare and submit Statutory Instruments to the National Assembly, to

address the gaps in the legal status of the Fund for consideration and approval.

c. Unreconciled Inter-Fund Transaction

11. Agriculture Finance Corporation (AFC) had been recruited as an intermediary to administer loans to farmers by both the defunct Coffee and Sugar Development Funds. With the creation of the Commodities Fund the loan portfolio had to be transferred to the Fund, and therefore in the Fund's financial statements included a gross balance of Kshs.1,153,280,952 relating to receivables from AFC comprising of Kshs.1,101,581,612 and Kshs.51,699,340 for sugar and coffee loans respectively. However, confirmation of records from AFC reflects that the entity owes the Fund Kshs.9,515,756 resulting to an un-reconciled balance of Kshs.1,143,765,196.
12. The Committee observed that the State Department for Crop Development, the Commodities Fund, Agriculture Finance Corporation (AFC) and Agriculture and Food Authority (AFA) have since reconciled the amount owed to the Fund with the current outstanding Principal being Kshs. 666,542,508 and the Interest Kshs. 134,129,351.27. The parties are working on the modalities for the payment of funds.
13. The Committee recommends that within six months of the adoption of this report, the accounting officer to provide a progress report on the engagement and the recovery of the outstanding Principal being Kshs. 666,542,508 and the Interest Kshs. 134,129,351.27 to the Auditor General for audit verification.

d. Unrecovered Funds Transferred to the Ministry of Agriculture, Livestock and Fisheries

14. The Committee observed that the Fund's receivables included Kshs.40,000,000 transferred to the parent Ministry during the financial year 2016/2017 and was to reimburse these funds once the National Treasury released its budgeted funds for the year. However, the Ministry failed to reimburse the disbursements to the Fund to date.
15. The Committee recommends that within the 2023/2024 financial year, the Principal Secretary, State Department of Crop Development refunds the Commodities Fund Kshs. 40,000,000 transferred to the Parent Ministry during the financial year 2016/2017.

e. Failure to prepare separate financial statements for the Staff Mortgage and Car Loan Scheme Fund

16. The Committee observed that the management did not prepare separate financial statements for the staff mortgage and car loan scheme Fund but instead, the financial statements were combined with that of the commodities Fund. Therefore the Fund did not comply with Section 84 of the PFM Act, 2012 and the SRC circular ref.No.SRC/ADM/CIR/1/13 Vol.III (128)

17. The Committee recommends that the Accounting Officer ensures that all applicable accounting and financial controls, systems, standards, laws, and procedures are followed in the preparation of the financial statements in compliance with Public Finance Management Act, 2012 and in accordance with the standards prescribed by the Public Sector Accounting Standards Board as per Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2012.
18. The Committee also recommends that Accounting Officer prepares a separate set of financial statements for the staff mortgage and car loan and submit them to the auditor General for audit in compliance with Section 84 of the PFM Act,2012 and the SRC circular ref. No. SRC/ADM/CIR/1/13 Vol. III (128) in financial year 2022/23.

3.0 BACKGROUND OF THE COMMODITIES FUND

19. The Commodities Fund (ComFund) is established under the Crops Act 2013 (amended May 2016), Section 9 (1). The Fund is the successor of Coffee Development Fund and Sugar Development Fund (which was part of Kenya Sugar Board). The crops are regulated by the Agriculture Fisheries and Food Authority (AFFA), under which former crop regulatory boards and authorities were merged into directorates.
20. The mandate of the Fund is to provide sustainable and affordable credit and advances to agricultural sector for farm improvement, farm inputs, farming operations, agricultural infrastructure development, and support for agricultural value addition initiatives, price stabilization, capacity building and other lawful purpose as approved by the Cabinet Secretary.
21. The fund has a Board while the Managing Trustee is the Accounting Officer of the Fund. Section 9 of the Crops Act establishes the Commodities Fund as follows-
 - (1) *There is established a Fund to be known as the Commodities Fund.*
 - (2) *The Fund shall consist of-*
 - (a) *monies paid as license fees, commission, export or import agency fees and fees that may accrue to or vest in the Authority in the course of exercise of its functions under the Act;*
 - (b) *funds from any other lawful source approved by the Trustees; and*
 - (c) *funds appropriated by Parliament for this purpose.*
 - (3) *The Fund shall be managed by a Board of Trustees to be appointed by the Cabinet Secretary*
22. Section 10 sets out the application of the Fund as follows-
 - (1) *The Fund shall be used to provide sustainable affordable credit and advances to farmers for all or any of the following purposes-*
 - (a) *farm improvement;*
 - (b) *farm inputs;*
 - (c) *farming operations;*
 - (d) *price stabilization; and*
 - (e) *any other lawful purpose approved by the Authority.*
 - (2) *The Authority shall, from time to time, make rules for the better management of the Fund in the best interest of farmers.*

4.0 EXAMINATION OF REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS FOR THE COMMODITIES FUND FOR THE 2018/2019 TO 2021/2022 FINANCIAL YEARS

23. Ms. Nancy Cheruyiot, Managing Trustee, Commodities Fund appeared before the Committee on 27th June, 2023, 4th August 2023 and 28th November 2023 to adduce evidence on the audited financial statements for the **Commodities Fund** for the Financial Year 2018/2019 to 2021/2022. The minutes of the Committee sitting, and submissions tabled by the Accounting Officer are annexed to this report. She was accompanied by:

- | | |
|------------------------|-------------------|
| 1. Ms. Roseline Wambua | - Credit manager |
| 2. Mr. Silas Nyaga | - Finance Officer |
| 3. Mr. Godfrey Kinyua | - Accountant |
| 4. Ms. Julie Ronguei | - Accountant |

24. The Committee also met Dr. Paul K. Ronoh the Principal Secretary State Department for Crop Development and Mr. George Kubai, the Managing Director Agricultural Finance Corporation on 28th November 2023 regarding the audit query on unrecovered funds transferred to the Ministry of Agriculture and Livestock Development from the Commodities Fund and the audit query raised in the financial year 2019/2020 regarding unreconciled inter-Fund transaction.

4.1 Examination of the report of the Auditor-General for the Financial Year 2018/2019

1. Variance between Loans Repaid and Loans Received

25. The statement of financial position reflects current receivables from exchange transactions-loans and advances of Kshs. 343,020,000 (2018: 829,483,000) and long-term receivables from exchange transactions-Loans and advances of Kshs. 423,113,000 (2018: Kshs.7,854,811,000) as disclosed under Note 16(iii) and 16 (iv) respectively.
26. An analysis of extracts of loan repaid schedules reflects total loan repayments Kshs.3,410,147,915 while the total bank receipts of loan repayments by the farmers amounted to Kshs.2,003,326,275 resulting to a difference of Kshs.1,406,821,640. The loan movement which is largely attributable to provision for loans and advances during the year amounted to Kshs.9,113,571,000 against total opening loan balance of Kshs.8,684,294,000.
27. Further, the bank statements did not include unique loan numbers or identifier against repayment receipts. It was not possible to corroborate loan repayments in the system with the with bank deposits by the loanees making it difficult for reconciliation to be done.
28. In the circumstances, it was not possible to determine the loan and advances issued and repaid based on the provisions made during the year.

Submissions by the Accounting Officer

29. The Accounting Officer submitted that the management reviewed the matter to establish the Kshs. 1,406,821,636.38 difference between the repaid and received loans and noted the following:

- a) The repaid loans of Kshs. 3,410,147,914.29 was made up of the following:
 - i. Coffee loan figure of Kshs. 2,509,467,598.65 comprised repayments made from inception of Coffee Development Fund in 2007 to 2019 (13 Years); and
 - ii. Sugar loan figure of Kshs. 900,680,315.64
- b) The received amount of Kshs. 2,003,326,274.91 comprised of repayments for both sugar and coffee for the period 2017 to 2019 (2 years). Secondly, the figures were derived from a historic list named "Posted Receipts" instead of the cash book which is the primary record of receipts and payments.
- c) Data for the repaid sugar loans for the year under audit 2018/2019 and received for the same period tallied without any difference. Similarly, the received and repaid for coffee loans is Kshs150,788,159.61 for the financial year 2018/2019 tallied.
- d) **Loan provision during the year:** The loan movement during the year was analyzed as follows:

Loan Movement Schedule				
	Sugar Loans	Coffee Loans	Total	
	Kshs'000	Kshs'000	Kshs'000	
Gross Loans and Advances as at 1.7.2018	15,712,416	919,352	16,631,768	
Total loan provisions As At 1.7.2018	<u>7,651,698</u>	<u>295,776</u>	<u>7,947,474</u>	
Net loans and Advances as at 1.7.2018	<u>8,060,718</u>	<u>623,576</u>	<u>8,684,294</u>	
Movement During the Year				

Gross Loans and Advances as at 1.7.2018	15,712,416	919,352	16,631,768
Add: Loans Disbursed during the Year (Annex 1J)	262,855	122,515	385,370
Less: Repayment During the Year	<u>655,306</u>	<u>122,533</u>	<u>777,839</u>
Gross Loans and Advances as at 30.6.2019	<u>15,319,965</u>	<u>919,334</u>	<u>16,239,299</u>
Loan Provision Beginning of the year	7,651,698	295,776	7,947,474
less: Provision for the year	<u>7,106,629</u>	<u>419,063</u>	<u>7,525,692</u>
Total Provision as at 30.6.2019	<u>14,758,327</u>	<u>714,839</u>	<u>15,473,166</u>
Net Loans and Advances as at 30.6.2019	<u>561,638</u>	<u>204,495</u>	<u>766,133</u>

30. From the above analysis the loan loss provision charged on principal loan was Kshs. 7,525,692,000 and not Kshs. 9,113,571,000 as reported by the auditor. This was disclosed under note 16 (iv) to the financial statements.

31. The difference between the above two figures Kshs. 1,587,879,000 was due to a provision charged on interest receivables which is analyzed as follows:

Interest movement schedule			
	Sugar	Coffee	Total
	Kshs'000	Kshs'000	Kshs'000
Gross Interest as at 1.7.2018	3,574,326	303,918	3,878,244

Total loan provisions As At 1.7.2018	<u>2,408,687</u>	<u>16,399</u>	<u>2,572,678</u>
Net Interest as at 1.7.2018	<u>1,165,639</u>	<u>139,928</u>	<u>1,305,566</u>
Movement During the Year			
Interest Loans and Advances as at 1.7.2018	3,574,326	303,918	3,878,244
Add: Earned during the Year	380,864	49,261	430,125
Less: Received During the Year	<u>99,270</u>	<u>27,493</u>	<u>126,763</u>
Gross Interest as at 30.6.2019	<u>3,855,920</u>	<u>325,686</u>	<u>4,181,606</u>
Interest Provision Beginning of the year	2,408,687	163,990	2,572,678
Add: Provision for the year	<u>1,444,414</u>	<u>143,465</u>	<u>1,587,879</u>
Net Interest as at 30.6.2019	<u>2,819</u>	<u>18,231</u>	<u>21,049</u>

32. The portion of the provision charged on interest receivables was disclosed under Note 16 (ii) to the statements of financial position.
33. The Accounting Officer acknowledged that the Fund had a challenge in identifying all repayments receipts due to lack of a unique identifier. However, she reported that the bank had since agreed to include the customer's mobile number in the bank statement to reduce the unidentified amount. The bank was also in the process of making it compulsory to include loan number when a customer is banking loan repayment.
34. She further submitted that the Fund appealed the audit report on the basis that it made an erroneous conclusion on the variance between loans repaid and loans receipted.

Observations and findings of the Committee

35. The Committee observed that:

- i. There was a variance of Kshs.1,406,821,640 between the loan repayments of Kshs.3,410,147,915 and the total bank receipts of loan repayments by the farmers of Kshs.2,003,326,275;
- ii. The bank deposits by the loanees and the bank statements did not include unique loan numbers or identifier against repayment receipts making it difficult for identification of payees;
- iii. The Fund is developing a unique loan identifier to be able to capture the details of the loan payments. In addition, the Fund has agreed with the bank to develop a deposit slip specifically for the Fund which captures farmer's details; and
- iv. The matter remained unresolved.

Recommendations of the Committee

36. The Committee recommends that:

- i. **Within three months of adoption of this report, the Accounting Officer provides the reconciliations for the variance of Kshs.1,406,821,640 between the loan repayments of Kshs.3,410,147,915 and the total bank receipts of loan repayments by the farmers of Kshs.2,003,326,275 to the Office of the Auditor - General for audit verification; and**
- ii. **Within three months of adoption of this report, the accounting officer takes appropriate measures to ensure complete identification of bank receipts including capturing farmers details in deposit slips and to ensure monthly reconciliations to reduce unidentified receipts:**

2. Long Outstanding Reconciliation Loan Balances

37. The statement of financial position reflects current and long-term receivables from exchange transactions - Loans and advances of Kshs.343,020,000 and Kshs.423,113,000 respectively and as disclosed under Note 16(iii) and 16(iv).
38. An extract of amount received in the system and the bank receipts reflects unidentified receipts amounting to Kshs.13,463,098.91 which dates to 2017.
39. Management had not investigated what the balances relate to or made recommendations for clearance from the books.
40. No explanation was provided for the non-reconciliation and identification of farmers' loan repayment.

Submissions by the Accounting Officer

41. The Accounting Officer acknowledged that the Fund held unidentified receipts totaling to Kshs. 5,194,567 and not Kshs. 13,463,098.91 as stated in the audit report. She stated that the schedule of unidentified receipts for Kshs. 5,194,567 were submitted to the auditor during the audit and could be traced inside "Payments received in advance" figure of Kshs. 12,276,000 reported under note 21 to their financial statements.
42. She also explained that the unidentified repayments declined significantly due to steps taken to resolve the problem. In addition, she noted that the bank agreed to include phone numbers of loanees in the bank statement which eased identification of funds. She also noted that the Fund was in the process of identifying the Kshs. 5,194,567 outstanding as at 30th June .2019.

Observations and findings of the Committee

43. The Committee observed that:

- i. The Fund held unidentified receipts amounting to Kshs. 13,463,098.91 outstanding as at 30th June 2019;
- ii. The Fund is developing a unique loan identifier to be able to capture the details of the loan payments. In addition, the Fund has agreed with the bank to develop a deposit slip specifically for the Fund which captures farmer's details;
- iii. The matter remained unresolved.

Recommendations of the Committee

44. The Committee recommends that:

- i. **Within three months of adoption of this report, the Accounting Officer provides the reconciliations of the unidentified balances to the Auditor - General for audit verification; and**
- ii. **Within three months of adoption of this report, the accounting officer takes appropriate measures to ensure complete identification of bank receipts including capturing farmers details in deposit slips and to ensure monthly reconciliations to reduce unidentified receipts.**

3. Freezing of Interest on Loans

45. The statement of financial position reflects current and long-term receivables from exchange transactions-Loans and advances of Kshs.343,020,000 and Kshs.423,113,000 respectively and as disclosed under Note 16(iii) and 16(iv).
46. A review of extracted loans data revealed that the Fund had frozen interest on 62,731 loans with outstanding principal balance of Kshs.261,053,043 and interest balance of Kshs.141,997,009.
47. The Fund does not have proper guidelines or policy to regulate the freezing of interests.

48. The loans included 63 loans on coffee portfolio with a total balance of Kshs.91,451,530 issued during the year, out of which 34 loans with a loan balance of Kshs.59,593,738 had the interests frozen.

Submissions by the Accounting Officer

49. The Managing Trustee responded that the Fund had a clear policy on the freeze of interest on loans. She noted that the policy was approved in a meeting held on 16th October 2016 by the Management and later ratified by the Board of Trustees. In accordance with the policy, interest accrual is stopped /suspended five years after the due date.
50. She further explained that the outstanding balance of Kshs. 261,053,042.69 and interest balance of Kshs. 141,997,009.27 all totaling Kshs. 403,050,051.96 were issued between the year 2007 to 2014 and there was no single loan that was issued in FY 2018/2019.
51. She indicated that during the year under review, the Fund issued seventy-seven Coffee loans amounting to Kshs.122, 514,950.00 and the outstanding loan balance stood at Kshs. 68,487,862.57. The earliest freeze date for those loans would be 3rd December 2023 and the latest freeze date would be 26th June2029.
52. The Managing Trustee further clarified that none of the interest on loans issued in 2018/2019 was frozen.

Observations and findings of the Committee

53. The Committee observed that:

- i. The Fund has a policy on freezing of interest on loans. The policy was approved in October 2016 by the management and ratified by the Board of Trustees;
- ii. The period of freezing of loans is 5 years after due date whether repayments are continuing or not. The earliest loan issue date was August 2018 with a freeze date of April 2024 and last loan issue date was June 2019 with a freeze date of June 2029;
- iii. None of the interest on loans issued in 2018/2019 was frozen; and
- iv. The matter is resolved.

4. Loans with Outstanding Balances Reflected as Cleared in the System

54. The statement of financial position reflects current and long-term receivables from exchange transactions - Loans and advances of Kshs.343,020,000 and Kshs.423,113,000 respectively and as disclosed under Note 16(iii) and 16(iv).
55. The above balances exclude the principal loan balance amounting to Kshs.595,062,000 which has been cleared. The above loan balance had accumulated interest of Kshs.2,203,538,506 out of which only Kshs.7,417,810 had been repaid resulting to Kshs.2,196,120,696.52 cleared without supporting documents.
56. No explanation was provided on how the accumulated interest was cleared up and the corresponding repayments.

Submissions by the Accounting Officer

57. The Managing Trustee clarified that the loans in question were not cleared and were still outstanding. The management enclosed loan statements and a schedule for the said loans from the credit management system for audit verification as proof that they were not cleared.

Observations and findings of the Committee

58. The Committee observed that:
- i. Accumulated interest of Kshs. 2,196,120,696.52 out of the total amount of Kshs. 2,203,538,506 were erroneously reflected as cleared without supporting documents;
 - ii. The loans have not been cleared and are still outstanding; and
 - iii. The matter is resolved.

5. Amortization of Loans

59. The statement of financial position reflects current and long-term receivables from exchange transactions-Loans and advances of Kshs.343,020,000 and Kshs.423,113,000 respectively and as disclosed under Note 16(iii) and 16(iv).
60. The Fund's credit policy manual provides that for all loans disbursed, repayment was on a reducing balance method. However, approved loans totalling Kshs.1,769,626,283 with balances totalling to Kshs.967,028,087 were amortized using straight line method during the loan period contrary to the credit policy manual.
61. Under the circumstances, the accuracy and completeness of the account balances of Kshs.343,020,000 reflected in the statement of financial position could not be confirmed.

Submissions by the Accounting Officer

62. The Managing Trustee responded that the interest computation on Commodities Fund loans was based on a reducing balance method. She noted that loan repayment (instalment) took two forms:

- a) Reducing monthly instalments i.e monthly amount not equal.
- b) Constant instalment i.e equal monthly instalments.

63. She also stated that the repayment method adopted for any borrower was determined by the borrower's cash flows. Further, she indicated that the computation of interest was an automated process. Management enclosed copies of the amortization schedules in the response to demonstrate same.

Observations and findings of the Committee

64. The Committee observed that:

- i. The Fund's interest computation is based on a reducing balance method as is provided by the Fund's manual credit policy; and
- ii. The matter is resolved.

6. Write-off of Receivables from Non-Exchange Transactions

65. The statement of financial position reflects a balance of Kshs.45,455,000 under receivables from non-exchange transactions which includes an amount of Kshs.34,753,000 indicated as funds held by intermediaries. No details were provided on the specific farmers given the loans by the intermediaries. It was not clear how the provision was made and how the loans would be collected. Management made provision on receivables from non-exchange contracts of Kshs.34,753,000 without any justifiable reason. The validity of the provision could not therefore be confirmed.

Submissions by the Accounting Officer

66. The Managing Trustee submitted that prior to 2013, the Coffee Development Fund operated a business model where loans were issued to farmers through intermediaries. In the said model the farmer's cooperative societies would forward loan requirements by their members to intermediaries who would then request for the funds from Coffee Development Fund (Codf) for loaning to the indicated farmers.

67. She also indicated that seven intermediaries listed below were unable to account for funds they received from the Fund to a tune of Kshs. 34,753,099.03:

Name of Intermediary	Amount
Meru Central Farmers Sacco	736,614.00

Meru North Farmers Sacco	9,859.00
Michimikuru Rural Sacco	8,094,756.00
Mugama Farmers Co-op. Union	22,382,967.17
Nandi Farmers Sacco	1,528,400.00
Universal Traders Sacco	1,455,812.86
Cheskaki Sacco	544,690.00
TOTAL	34,753,099.03

68. She also informed the Committee that the intermediary lending model was terminated in 2013. She noted that where a schedule of specific farmers who benefited from the above funds had been provided, the loans were to be charged in their individual accounts and where it was not proved, the entity was charged with the amount as a loan to the entity.

69. She further clarified that the provision of the receivable was done in accordance with Commodities Fund loan provisioning policy given the intent of receivable was loans.

Observations and findings of the Committee

70. The Committee observed that:

- i. The Fund has non-exchange receivables of Kshs.34,753,000 which are being held by intermediaries;
- ii. Prior to 2013, the Coffee Development Fund operated a business model where loans were issued to farmers through intermediaries;
- iii. Seven intermediaries were unable to account for funds they received from the Fund to a tune of Kshs. 34,753,099.03; and
- iv. The matter remained unresolved.

Recommendations of the Committee

71. **The Committee recommends that within three months of adoption of this report, the Accounting Officer to submit to the Auditor-General, the status of the write-off of the non-performing loans and the recovery of the outstanding loan.**

7. Classification of Expenditure

72. As disclosed under Note 9 to the financial statements, the statement of financial performance reflects an amount of Kshs.114,432,000 in respect to employee costs. A review of the account revealed that the above balance, which includes travel, accommodation, subsistence, and other allowances amounting to Kshs.25,135,049.

73. The above expenses are operational expenses and do not relate to employee costs. In the circumstances, the employee costs have been overstated by Kshs.25,135,049 while the general expenditure has been reduced by a similar margin.

Submissions by the Accounting Officer

74. The Managing Trustee acknowledged that the financial statements submitted during the audit reflected an expenditure on employees amounting to Kshs. 114,470,000 which included travel, subsistence, and other allowances of Kshs. 25,135,049 as disclosed under Note 9 to the financial statements.

75. She also stated that the financial statements enclosed were amended to re-classify the expenditure from employee cost Note 9 to Operational Expenditure Note 13 to financial statements.

Observations and findings of the Committee

76. The Committee observed that:

- i. The Fund misclassified the expenditure of Kshs.25,135,049 relating to travel, accommodation, subsistence, and other allowances as employee costs instead of operational expenses, thereby overstating the employee costs and understating the general expenditure costs;
- ii. The Fund has since amended the financial statements to re-classify the expenditure from employee cost to Operational Expenditure;
- iii. The matter remained unresolved.

Recommendations of the Committee

77. The Committee recommends that:

- i. **The Accounting Officer submits a report on the reclassification of the expenditure of Kshs.25,135,049 relating to travel, accommodation, subsistence, and other allowances to the Auditor- General within three months.**
- ii. **The Accounting Officer ensures that all applicable accounting and financial controls, systems, standards, laws, and procedures are followed in the preparation of the financial statements in compliance with Public Finance Management Act, 2012 and in accordance with the standards prescribed by the Public Sector Accounting Standards Board as per Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2012.**

8. Revenue Shortfall and Unauthorized Expenditure

78. The statement of comparison of budget and actual amounts reflects approved receipts budget and actual on comparable basis amount of Kshs.853,753,000 and Kshs.549,870,000, respectively, resulting to shortfall in receipts of Kshs.303,883,000 or 36%.
79. Further, the Fund's approved expenditure budget was Kshs.757,577,000 while the actual expenditure was Kshs.9,372,289,000, resulting in an over-expenditure of Kshs.8,614,712,000 or 1137%. There is no evidence that the Management sought any authorization to overspend excessively over and above the approved budget.
80. The underfunding and underperformance affected the planned activities and has impacted negatively on service delivery to the public.

Submissions by the Accounting Officer

a. Revenue Short Fall

81. The Managing Trustee responded that the Fund had an approved operating budget of Kshs. 853,753,000. The Actual revenue realized was Kshs. 549,870,000 resulting in a shortfall of Kshs. 303,883,000 (36%).
82. She explained that the shortfall was because of Kshs. 126,600,000 expected from the Government for Integrated Coffee Productivity Project (ICPP) was not received. Secondly, the coffee and sugar loan repayment performed poorly leading to suspension of interest which led to shortfall of Kshs.243,833,000.

b. Unauthorized Expenditure

83. The Managing Trustee submitted that the overall over expenditure of Kshs 8,614,712,000 was as result of a provision for bad loans amounting to Kshs 9,134,837,000 made during the year against a budget of Kshs 363,394,000 resulting to over expenditure of Kshs 8,771,443
84. She noted that Adoption of the new policy was necessary as all inherited loans from former institutions were long overdue and risk of loss was real. Further although the Fund had made the above provision, loan recovery efforts continued.
85. She further stated that the Fund sought approval of over expenditure from the National Treasury through the parent Ministry on 4th of May 2021. The Ministry then requested for the same on 25th May, 2021 but the approval was yet to be received.

Observations and findings of the Committee

86. The Committee observed that:

- i. The Fund had a shortfall in revenue receipts of Kshs.303,883,000 and an over-expenditure of Kshs.8,614,712,000;
- ii. The revenue shortfall resulted from non-receipt of Kshs. 126,600,000 expected from the Government for Integrated Coffee Productivity Project (ICPP) and poor loan repayment performance of the coffee and sugar loans which led to shortfall of Kshs.243,833,000;
- iii. The over-expenditure of Kshs 8,614,712,000 was as a result of a provision for bad loans;
- iv. The matter remained unresolved.

Recommendations of the Committee

87. The Committee recommends that **within three months of adoption of this report, the Accounting Officer to submit to the National Assembly and the Auditor-General, the status of the write-off of the non-performing loans and the recovery of the outstanding loan.**

9. Unresolved Prior Year Matters

88. In the audit report of the previous year, several issues were raised under the Report on Financial Statements. However, Management has not resolved the issues or disclosed all the prior year matters as provided by the Public Sector Accounting Standards Board templates and firmed by The National Treasury's Circular Ref: PSASB/1/12 Vol.1(44) of 25th June, 2019.

Submissions by the Accounting Officer

89. There was no response from the Managing Trustee concerning unresolved prior year matters.

Observations and findings of the Committee

90. The Committee observed that;

- i. Prior-year audit issues remained unresolved as at 30 June 2020 against the requirement of Section 68(2)(i) of the Public Finance Management Act, 2012; and
- ii. The matter remained unresolved.

Recommendations of the Committee

91. **The Committee recommends that the Accounting Officer ensures that all applicable accounting and financial controls, systems, standards, laws, and procedures are followed in the preparation of the financial statements in compliance with Public Finance Management Act, 2012 and in accordance with the standards prescribed by the Public Sector Accounting Standards Board as per Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2012.**

10. Legal case by Kibos Sugar & Allied Industries

92. The receivables from exchange transactions - loans, advances and interests balances totaling Kshs.787,183,000 as at 30 June, 2019 includes loan advances amounting to Kshs.133,972,375 advanced to Kibos Sugar & Allied Industries.
93. It was noted that the Company has never repaid any of the stated loans. Further the Company sued the Commodities Fund and the Agriculture and Food Authority in the High Court of Kisumu vide Petition No. 19 of 2019, in which it denied receiving any money by the Fund.
94. However, the petitioner acknowledged that the loans were instead advanced by the Kenya Sugar Board and not Commodities Fund. It is not clear how the loan will be paid and why the Company resorted to legal action.
95. Further no accrued interest has been made in the amount advanced. In these circumstances, the Fund may not realize the amount classified as loans.

Submissions by the Accounting Officer

96. The Managing Trustee submitted that Kibos Sugar & Allied Industries were advanced Kshs. 133,972,375 on 16th June 2014 for cane development by the defunct Kenya Sugar Board. When the loan book was transferred to Commodities Fund, demand letters were issued to Kibos Sugar and Allied Industries for repayment of the outstanding amounts.
97. The company instituted legal action to block the demand to repay these amounts. The court has since dismissed the petition with costs.
98. The Fund issued the company with the 1st demand notice on 28th April 2023 and received instructions from their lawyers to stop harassing their client. The Fund proceeded and issued the 2nd demand notice on 6th June 2023.
99. She clarified that the loan balance as of 20th June 2023 was Kshs. 201,916,125.51 and it continued to accrue interest which would be frozen five years after the due date of 16th June 2019 which would be on 16th June 2024.

Observations and findings of the Committee

100. The Committee observed that:

- i. As at 30 June, 2019 the Fund had a loan balance of Kshs.133,972,375 advanced to Kibos Sugar & Allied Industries in June 2014 for cane development by the defunct Kenya Sugar Board;

- ii. The company instituted legal action to block the demand for payment by the Fund. The petition was however dismissed;
- iii. The Fund has issued demand notices for the payment of the loan balances;
- iv. The loan balance as of 20th June 2023 was Kshs. 201,916,125.51; and
- v. The matter remained unresolved.

Recommendations of the Committee

101. The Committee recommends that:

- i. **The Accounting Officer to take appropriate measures to ensure the recovery of the outstanding loans and interest; and**
- ii. **Within three months of the adoption of this report, the Accounting Officer to submit to the Auditor-General, the status of the recovery of the outstanding loan.**

11. Irregular Procurement of General Insurance Services

102. The provision of general insurance services was procured vide Tender No. COMFUND/T/02/2018/19 dated 12th March, 2019 and thirteen (13) bidders responded. The evaluation was based only on premium and excess on the quoted amount. The lowest bidder as per the evaluation was awarded the contract for a sum of Kshs.861,323.
103. The criteria set by the procurement unit was that the evaluation and final ranking of the bid would consider the scope of the cover in relation to the premium which was to have a weight of 70% and excess which was to have a weight of 30%. The cost of items not priced would be assumed to be included in other costing in the proposal. The award was to be made to the lowest evaluated bidder.
104. The Procurement Act provides for both technical and financial evaluation regarding such services. It was noted that only financial evaluation was done. It was therefore not possible to ascertain the capability of the winning firm without assessing its technical capability.
105. In the circumstances, the Management contravened Section 46(4)(a) of the Public Procurement and Asset Disposal Act, 2015.

Submissions by the Accounting Officer

106. The Managing Trustee submitted that the tender was evaluated based on the firms meeting the mandatory (eligibility) requirements as set out in the tender document before being considered for technical evaluation on their excess and premiums quoted by each bidder which were assigned 30% and 70% weights respectively.

107. She stated that that this was a regulated industry where firms were required to maintain certain minimum thresholds before their licenses are renewed and allowed to operate.

Observations and findings of the Committee

108. The Committee observed that:

- i. The Fund used only financial evaluation and not technical evaluation in procuring general insurance services contrary to Section 46(4)(a) of the Public Procurement and Asset Disposal Act, 2015.
- ii. The matter remained unresolved.

Recommendations of the Committee

109. **The Committee recommends that the Accounting Officer should always ensure that, the Public Procurement and Asset Disposal Act, 2015 and Regulations are complied with when procuring goods and services.**

12. Employee Costs - Staff Establishment Shortfall

110. The Fund had forty-four (44) employees against staff establishment of one hundred and fifty-four (154) during the year under review, resulting in a shortfall of staff totaling to one hundred and ten (110) or 71%. The Management had serious challenges with staffing, especially in the procurement, transport and credit control units.

Submissions by the Accounting Officer

111. The Managing Trustee acknowledged that the staff shortage especially in the credit department and that authority to employ thirteen (13) additional staff was sought from the National Treasury in 2017. She indicated that the authority was granted in May 2020 and recruitment, selection and placement was completed in November 2020.
112. Further, she stated that the Fund also sought approval of Human Resource instruments. The same was not granted due to gaps in the legal status of the Fund.

Observations and findings of the Committee

113. The Committee observed that:

- i. The Fund had a shortfall in staff establishment, the Fund however has recruited 13 additional staff in 2020;
- ii. The Fund sought approval of Human Resource instruments but was not granted due to gaps in the legal status of the Fund; and
- iii. The matter remained unresolved.

Recommendations of the Committee

114. The Committee recommends that within three months of the adoption of this report, the Accounting Officer, through the Cabinet Secretary for Agriculture and Livestock Development to submit Statutory Instruments to the National Assembly to address the gaps in the legal status of the Fund for consideration.

13. Functionality of the Board of Trustees

115. The Crops Act, No.13 of 2013, which created the Fund did not adequately expound the mandate of the Fund's Board of Trustees as well as its powers and responsibilities. The Fund is not established as a body corporate having perpetual succession and a common seal and may not, in its corporate name, sue and be sued, which hinders its operations.

116. Consequently, the Fund's Board of Trustees ability to work independently and effectively in the absence of clear laws on its mandate, powers and responsibilities is doubtful.

Submissions by the Accounting Officer

117. The Managing Trustee submitted that the Fund identified the gaps in the current Act and drafted a Bill which was expected to fill the gaps. She noted that the Bill was expected to be resubmitted to the National Assembly for consideration .

Observations and findings of the Committee

118. The Committee observed that:

- i. The Fund identified the gaps in the current Act and drafted a Bill which is to be submitted to the National Assembly for legislation;
- ii. The matter remained unresolved.

Recommendations of the Committee

119. The Committee recommends that within three months of the adoption of this report, the Accounting Officer through the relevant Cabinet Secretary for Agriculture and Livestock Development to submit Statutory Instruments to the National Assembly, to address the gaps in the legal status of the Fund for consideration and approval.

14. Missing Numbers in Loans Issued

120. The Fund operated through a Microsoft Navision System in the daily operations. However, examination of records on the loans issued revealed a series of Loan Number (LN)_00000001 to LN_00159265. However, it was noted that there were 17,676 gaps in the issuance of the loans which could not be accounted for.

121. The gaps in the loan series were neither invalidated nor cancelled in the system. No documentary evidence was provided to show how the missing gaps in loans issuance arose.

The gaps in the system could have led to issuance of some loans and deleting of the same loan amounts without a trail of repayments.

Submissions by the Accounting Officer

122. The Managing Trustee submitted that all loans were accounted for regardless of gaps in numbering. She indicated the loan listing and general ledger agreed which was an indication that all the loans were successfully uploaded.

Observations and findings of the Committee

123. The Committee observed that:

- i. An analysis of the Navision System (Loan Management System) revealed missing loan records totaling to 17,676 which might have been deleted from system;
- ii. The management did not provide the supporting documents to confirm that all loans were accounted for regardless of gaps in numbering; and
- iii. The matter remained unresolved.

Recommendations of the Committee

124. **The Committee recommends that within three months of the adoption of this report, to the Accounting Officer to provide supporting documents for the 17,676 gaps to the Auditor General for verification.**

15. Issuance of Multiple Account Numbers to Loan Account Holders

125. Examination of the farmers' loans accounts and identification numbers revealed that the Commodities Fund was issuing different account numbers to the same farmer. A sample of forty-seven (47) loans accounts had the same identification number but different accounts. No explanation was provided for the issuance of different account numbers to the same farmer.

Submissions by the Accounting Officer

126. The Managing Trustee responded that the intermediary lending model was used for the period 2007 to 2012). In the model, loan issued jointly through an intermediary or Sacco and were managed separately (within the system) without mixing with direct lending accounts since they had their own joint collateral. She also stated that a farmer loan statement showed unique identifier for the farmer (CODF/49969) with three different loan product (Infrastructure Loan, Coffee Farm Establishment Loan and Water Development Loan) identified by unique loan numbers (LN79223, LN799226, LN79235). The loan statement summary showed the overall liability of the farmer to Fund.

Observations and findings of the Committee

127. The Committee observed that:
- i. The management did not provide the supporting documents to identify the loans through the unique loan numbers; and
 - ii. The matter is unresolved

Recommendations of the Committee

128. **The Committee recommends that within three (3) months upon the adoption of this report the accounting officer submits the supporting documents to identify the loans through the unique loan numbers to the Auditor-General for verification**

17. Ineffective Debt Recovery

129. The statement of financial performance reflects general expenses totalling Kshs.9,197,022,000 and which includes provision for bad debts of Kshs.9,113,574,000 as disclosed under Note 13 to the financial statements. Although the loan balances have been outstanding for a long time, and the provision was made as per the Fund's policy, no meaningful effort appears to have been made towards full recovery of the loan balances.

Submissions by the Accounting Officer

130. The Managing Trustee agreed that the Fund made provisions for bad and doubtful debts amounting to Kshs. 9,113,574,000 in the year ended 30th June 2019. While it was true that the provision was high, the same was informed by many long overdue loans. The provisions were done as per Fund's policy. She stated that the Fund issued demand letters and entered into loan repayment plan agreement with several loanees in effort to increase loan repayment of the defaulted loans. Further the Fund listed the defaulters to enhance loans collection capacity. The Fund employed additional staff in November 2020 which has increased loan collection capacity.
131. She further stated that the Fund's corporate status limited its powers to collect loans and realize loan securities. The management was reviewing the Act to give the Fund legal powers to sue loan defaulters and dispose securities. The Fund was also pursuing the full hand over of assets and Liabilities of the former Sugar Development Fund which will enable it collect debts with authority. The Fund also established a Debt Recovery Unit to ease loan collections.

Observations and findings of the Committee

132. The Committee observed that:
- i. The Fund's provision for bad debts of Kshs. 9,113,574,000 was informed by the Fund's policy;

- ii. No meaningful effort appears to have been made by management to recover fully the loan balances of Kshs. 9,113,574,000 before making a provision on the balance for bad and doubtful debts; and
- iii. The matter remained unresolved.

Recommendations of the Committee

133. The Committee recommends that:

- i. **The Accounting Officer to pursue the write-off of the non-performing loans as per the provision of Section 69 of the Public Finance. Management Act 2012 and Regulation 145 of the PFM Regulations; and**
- ii. **Within six months of adoption of this report, the Accounting Officer to submit to the Auditor-General, the status of the write-off of the non-performing loans and the recovery of the outstanding loan.**

4.2. Examination of the report of the Auditor-General for the Financial Year 2019/2020.

1. Long term receivables from exchange transactions- Loans and advances

1.1 High Rate of Provisioning on Loans and Advances

134. As disclosed under Note 16(iv) to the financial statements, the gross loans and advances reflected in the financial statements amounted to Kshs.16,503,648,000 with a total provision of Kshs.15,574,004,000 which translate to 94% of the loans and advances to farmers. Management has not given the basis for the huge provision for the loans. Consequently, the validity, accuracy, and full recoverability of the long-term receivables from exchange transactions - loans and advances totalling to Kshs.217,264,000 could not be confirmed.

Submissions by the Accounting Officer

135. The Accounting Officer submitted that upon operationalization of Crops. Act, 2013 on 1st August, 2014 all assets and liabilities of the defunct Coffee Development Fund were automatically taken over by the new Commodities Fund. She stated that Included in the assets was book loan amounting to Kshs.757,591,523.05. On the other hand, assets and liabilities of the defunct Sugar Development Fund were shared between Commodities Fund and Agriculture and Food Authority (AFA) with Commodities Fund being allocated the book loan amounting toKshs.14,982,616,069 comprising of Principal loanKshs.12,862,899,003, and accrued interest of Kshs.2,119,717,066.
136. She explained that the book provisions on those loans amounted to Kshs. 4,172,474,525. She Further stated that the Commodities Fund was handed over additional book loan amounting to Kshs. 2,811,344,927.99 being loans disbursed by the AFA to Sugar sub-sector from August 2014 to July 2016.The principal loan Components inherited from the former institution and AFA was as follows:

Principal Loan Balance Coffee Portfolio	Kshs 757,591,523.05
Principal Loan Balance Sugar Portfolio	Kshs 12,862,899,003.00
Additional Disbursement By AFA,	Kshs 2,811,344.927.99

Total Principal Loan Component from AFA Kshs.16,431,835,454.06

137. She stated that the above loans represented 99% of the total outstanding principal loan balance of Kshs. 16,503,648,000 reported on 30th June 2020. She noted that the loans were not secured by any tangible security and the Commodities Fund risks to lose this core asset in event it becomes uncollectable.

138. observed that:

- i. The provision for bad and doubtful debts of 94% is based on the non-performing debts inherited from the defunct Coffee and Sugar Development Funds;
- ii. The Management did not provide the original signed board minutes on the approval of the new provisioning policy for audit verification.
- iii. The matter remained unresolved.

Recommendations of the Committee

139. **The Committee recommends that within three (3) months upon the adoption of this report, The Accounting Officer to provide the new provisioning policy on loans and the original signed minutes of the board's approval of the policy to the Auditor-General for audit verification.**

1.2 Non-Performing Loans

140. Note 16(iv) to the financial statements reflects gross loans and advances amounting to Kshs.16,503,648,000. However, site visits to sampled regional offices and review of documents and records revealed a gross portfolio of Kshs.19,191,900,314 resulting in an unreconciled difference of Kshs.2,688,252,314. In addition, 96% of loans disbursed to the clients were overdue and non-performing as tabulated below:

	Amount Advanced	Total standing	Out- Total Overdue
Nakuru	64,865,878	48,720,932	47,215,768
Kisumu	16,825,539,534	18,901,620,139	18,197,684,206
Kericho	489,226,981	108,360,681	94,500,746
Eldoret	246,410,379	133,198,562	97,360,358
Total	17,626,042,772	19,191,900,315	18,436,761,077
Portfolio at Risk (PAR)			96%

141. Further, no concrete efforts appear to have been made towards the recovery of the long outstanding balances and no documented criteria of appraising the borrowers and monitoring loan utilizations was provided. Consequently, the validity, accuracy and completeness of the long-term receivables from exchange transactions - loans and advances totaling Kshs.217,264,000 could not be confirmed.

Submissions by the Accounting Officer

142. The Accounting Officer submitted that the gross loans and advances of Kshs. 16,503,648,000 in the financial statements refers to the principal loan outstanding only while the gross portfolio of Kshs. 19,191,900,314 for the sampled regional offices is inclusive of interest

outstanding. The long outstanding balances include those inherited from the defunct Sugar and Coffee Development Funds which had no tangible securities at the time of transfer to the Fund. The inherited Coffee loans were secured by social guarantees while the sugar loans the bulk were secured by floating debentures.

143. On the efforts made towards recovery of the loan outstanding loans, the Accounting Officer submitted that the Board approved the set-up of a debt recovery unit in the month of December 2020 to assist in the recovery of the loans in arrears.
144. She further submitted that to address the issue of non-performing loans the bulk of which were inherited from the previous Funds the Full Board at a meeting held on 15th April 2021 resolved to seek debt write-off of the loans as at 31st March 2021 made up of intermediary coffee loans, sugar loans to public mills, out grower institutions, Government of Kenya loans under the Nzoia Arkel Project and companies with part Government shareholding. A letter was written to the Parent Ministry on 19th April 2021 seeking concurrence for debt write-off and subsequent request of the same to the Cabinet Secretary National Treasury to have the debt write-off approved by Parliament. A follow-up letter was written on 8th March 2023 and feedback is awaited. She submitted that this initiative would result in over 70% of the Fund's debts being written off.
145. She also submitted that following the request for the write – off, the Cabinet Secretary to the National Treasury informed the Fund that the National Assembly had approved the Action Plan to revive and commercialize State Owned Sugar Companies as communicated vide *Certificate No. 039/13th/2023*. The said letter authorized the Fund to write off debts owed by five State Owned Sugar Companies to Government, Kenya Sugar Board/Commodities Fund. The figures in the letter that are applicable to Commodities Fund debts are Kshs. 12,336,003,133
146. She further submitted that the Fund had sort conclusion of the handover of sugar assets and liabilities between Agriculture and Food Authority through the Parent Ministry vide letters dated 8th Manon-performing loans issued in March 2023 and 27th April 2023, the Fund is in the process of engaging Auctioneers to auction targeted securities have been forwarded to the Legal Department and that recovery in the four sampled regional offices totalling to Kshs, 1,194,653,502 have been made.

Observations and Findings of the Committee

147. The Committee observed that:
 - i. The difference of Kshs.2,688,252,314 is the interest outstanding from the non-performing loans inherited from the defunct Sugar and Coffee Development Funds

- ii. The non-performing loans are debts which the Fund inherited from the defunct Coffee and Sugar Development Funds;
- iii. The Accounting Officer has requested for the non-performing debts inherited from the defunct Coffee and Sugar Development Funds and interest thereon to be written-off; and
- iv. The matter remained unresolved.

Recommendations of the Committee

148. **The Committee recommends that within three (3) months upon adoption of this report, the Accounting Officer to provide a progress report on the status of the write-off of the debts.**

2. Unsecured Loans to Intermediaries/Expired Loan Agency Agreements

149. A review of loans data disbursed through intermediaries indicated that the Fund held a total of Kshs.18,875,168,260 in arrears. These loans were issued to farmers by intermediaries on behalf of the Fund. The loan agency agreements were signed between the Fund and the intermediaries without any other security or collateral attached to the Fund.
150. However, it was observed that the agreements held by the Fund were not valid as the timespan had lapsed. In addition, there was no existing collateral to cushion the Fund against default and thus there was a risk of losing the outstanding amounts secured by the lapsed agency and tripartite agreements.
151. Consequently, the recoverability of the current and long-term receivables from exchange transactions - loans and advances totaling to Kshs.712,379,000 and Kshs.217,264,000 respectively could not be confirmed.

Submissions by the Accounting Officer

152. The Accounting Officer submitted that the bulk of the loans referred to were inherited from the previous Funds. The non-performing coffee intermediary loans were inherited from the former Coffee Development Fund. As at the point of inheriting the loan the portfolio was non-performing and the tripartite and agency agreements had already lapsed. The Agency agreements were not renewed because the Intermediaries were underperforming and were unwilling to provide collateral to back up the new agency agreements. In the case of sugar, the bulk of the loans were secured with floating debentures.
153. She further submitted that going forward the Fund has continued to serve farmers through intermediaries but have ensured that all those loans are secured by bank guarantees. With respect to coffee, the loans to SACCO's from the Commodities Fund are currently being

secured by bank guarantees to safeguard against loss while in the case of Sugar bank guarantees are being taken as securities for the loans advanced to Sugar Mills.

154. She further submitted that the Fund has engaged the coffee marketers to facilitate follow-up and remittance of loans to societies secured by tripartite agreements. The non-performing unsecured loan book inherited from the former Coffee Development Fund was Kshs. 757,591,523.05 out of which Kshs. 620,765,933.83.

Committee Observations and Findings

155. The Committee observed that:
- i. The non-performing loans are debts which the Fund inherited from the defunct Coffee and Sugar Development Funds;
 - ii. The Accounting Officer has requested for the non-performing debts inherited from the defunct Coffee and Sugar Development Funds and interest thereon to be written-off; and
 - iii. The matter remained unresolved.

Recommendations of the Committee

156. **The Committee recommends that within three (3) months upon adoption of this report, the Accounting Officer to provide a status report on the progress of the write-off process.**

3. Unreconciled Inter-Fund Transaction

157. As disclosed under Notes 16(iii) and 16(iv) to the financial statements, the statement of financial position's total loan balance of Kshs.929,643,000 which comprises both current and non-current balances include a gross balance of Kshs.1,153,280,952 relating to receivables from Agricultural Finance Corporation comprising of Kshs.1,101,581,612 and Kshs.51,699,340 for sugar and coffee loans respectively. However, confirmation of records from AFC reflects that the entity owes the Fund Kshs.9,515,756 resulting to an un-reconciled balance of Kshs.1,143,765,196.

158. Consequently, the validity, accuracy and completeness of the current and long-term receivables from exchange transactions-loans and advances totalling to Kshs.712,379,000 and Kshs.217,264,000 respectively could not be confirmed.

Submissions by the Accounting Officer

159. The Accounting Officer submitted that the Agriculture Finance Corporation (AFC) had been recruited as an intermediary to administer loans to farmers by both the defunct Coffee and Sugar Development Funds. In the case of Coffee, the Corporation had a partnership with

the then Coffee Development Fund that was implemented between 2007 and 2013. In March 2013 the Corporation transferred the loan book back to Coffee Development Fund. In the case of Sugar, the Corporation entered into three Agency Agreements with the defunct Kenya Sugar Board on 2nd November 2006, 6th February 2009 and 24th January 2012.

160. She submitted that the Fund wrote to Agriculture Finance Corporation (AFC) on 19th April 2021 requesting for the breakdown of the Kshs. 9,515,756.12. A reconciliation was undertaken on the AFC Coffee loans and the amount due from AFC that had not been remitted was established to be Kshs. 2,929,674.63. The amount was remitted to the Fund on 19th October 2021.
161. She submitted that with respect to Sugar, the AFC loan book was handed over to the Fund without supporting documentation. The Fund sought intervention of the Parent Ministry after requests by AFA to AFC to provide the documents failed. . The Parent Ministry appointed a Committee on Handing Over of Sugar Assets and Liabilities whose terms of reference were specific to the Sugar Development Fund/AFC Agency Agreement.
162. She further submitted that the State Department for Crop Development, the Commodities Fund, Agriculture Finance Corporation (AFC) and Agriculture and Food have since carried out reconciliations on the disbursed and repaid amounts owed to the Commodities Fund. Arising from the reconciliations, the current outstanding Principal was **Kshs. 666,542,508** and the interest was **Kshs. 134,129,351.27**.

Submissions by the Principal Secretary State Department for Crop Development

163. The Principal Secretary State Department for Crop Development in a follow – up meeting held on 28th November, 2023 submitted that the State Department for Crop Development, the Commodities Fund, Agriculture Finance Corporation (AFC) and Agriculture and Food carried out reconciliations on the disbursed and repaid amounts owed to the Commodities Fund. Arising from the reconciliations, the current outstanding Principal was **Kshs. 666,542,508** and the interest was **Kshs. 134,129,351.27** as highlighted here below:

Funds Movement AFC – KSB (Commodities Fund)		
Seed Allocation	-	Kshs. 1,000,000,000.00
Revolved Funds to AFC	-	Kshs. 230,976,154.70
Total Funds to AFC	-	Kshs. 1,230,976,154.70
Total Repayments by AFC to KSB	-	Kshs. 513,200,330.30
Revolving Funds Available	-	Kshs. 717,775,824.40
Less: Agency Fees		

Dec 2006 Kshs. 200 million	-	Kshs. 1,500,000
June 2007 Kshs. 100 million	-	Kshs. 750,000
Sept 2007 Kshs. 200 million	-	Kshs. 1,500,000
March 2011 Kshs. 180.97 million	-	Kshs. 1,357,321.16
Sept 2011 Kshs. 50 million	-	Kshs. 375,000
January 2012	-	Kshs. 12,500,000
Sub Total	-	Kshs. 17,982,321.2
Less Administration Fees		
Kshs. 500 million @ 1.5%	-	Kshs. 7,500,000
Less: Kapsabet Fraud Cases		
	-	Kshs. 25,750,995
Principal Outstanding		
	-	Kshs. 666,542,508

164. Subsequently, the interest outstanding to the Fund was reconciled to Kshs. 134,129,351.27.
165. The process of handing over has commenced with the setting up of Committee on Handing over of Assets and Liabilities between AFA and the Commodities Fund. The Committee was formed in 14th December 2021. The Committee has developed the following schedules to support the reconciliation of the funds outstanding.
- i. Detailed list of beneficiaries
 - ii. Amount recovered per loanee and amount remitted
 - iii. The amount recovered per loanee and not remitted
 - iv. Details of the arrears
 - v. Details of foreclosed cases
 - vi. Details of fraud cases
166. The parties have concluded the reconciliation and submitted the report to the handing over committee. The Committee is working on the repayment schedule from AFC to the Commodities Fund.

Committee Observations and Findings

167. The Committee observed that:
- i. The State Department for Crop Development, the Commodities Fund, Agriculture Finance Corporation (AFC) and Agriculture and Food Authority (AFA) have since reconciled the amount owed to the Fund with the current outstanding Principal being **Kshs. 666,542,508** and the Interest **Kshs. 134,129,351.27** but the documentary was not provided for verification;

- ii. The four parties were working on modalities to facilitate the disbursement of the owed amounts of **Kshs. 666,542,508** and the Interest **Kshs. 134,129,351.27** from AFC to Commodities Fund; and
- iii. The matter remained unresolved.

Recommendations of the Committee

168. **The Committee recommends that within three months of the adoption of this report, the accounting officer to provide the documentary evidence on the reconciliation of the outstanding principal of Kshs. 666,542,508 and the Interest Kshs. 134,129,351.27 to the Auditor - General for verification**

4. Unrecovered Funds Transferred to the Ministry of Agriculture, Livestock and Fisheries

169. As disclosed under Note 17 to the financial statements, the statement of financial position reflects receivables from non-exchange transactions of Kshs.46,055,000 which includes Kshs.40,000,000 transferred to the parent Ministry during the financial year 2016/2017. According to memos Ref: MOA/SDA/SC/40A dated 18 January, 2017 and Ref: MOALF/CORP/11/23/2 of 9 May, 2017, the Ministry was to reimburse these funds once the National Treasury released its budgeted funds for the year. However, the Ministry failed to reimburse the disbursements to the Fund.
170. In the circumstances, the accuracy and full recoverability of receivables from nonexchange transactions of Kshs.46,055,000 could not be confirmed.

Submissions by the Accounting Officer

171. The Accounting Officer submitted that the Parent Ministry of Agriculture and livestock Development requested the transfer of the said Funds through Memo Ref: MOA/SDA/SC/40A dated 18th January, 2017 and Ref: MOALF/CORP/11/23/2 of 9 May, 2017. The Ministry through the two memos had promised to refund the funds once the National Treasury released its budgeted funds. Unfortunately, the Ministry has not refunded the funds to date despite receiving demand letters from Commodities Fund.

Submissions by the Principal Secretary State Department for Crop Development

172. The Principal Secretary State Department for Crop Development in a follow – up meeting held on 28th November 2023 submitted that the Commodities Fund transferred Kshs 40,000,000 to the Ministry of Agriculture and Livestock in the financial year 2016/17. The State Department had requested the funds as follows:
- i. Kshs 20,000,000 to be used by the Coffee sub sector task force.

ii. Kshs 20,000,000 to be transferred to Chemelil Sugar Company.

173. He further submitted that the Coffee sub sector Implementation committee was appointed by his Excellency the President on March 2016 by Kenya Gazette Notice dated 4th March 2016 to address and give recommendations to revive the coffee industry as one of the major cash crops in the country.
174. The State Department for Agriculture requested for Ksh 20 million from the Commodity Fund to facilitate the committee which was to be later reimbursed once the funds were availed by the National Treasury.
175. The State Department received KES 20,000,000 from Commodity Fund on 6th February 2017. The funds were utilized to pay for the task force allowances in accordance with the approved Salaries and Remuneration Committee rates. The breakdown of the expenditure is as follows:

Payee	Voucher no.	Description	Amount
P/S State Department of Agriculture	1241	Payment of taskforce allowance for the national coffee sub sector Reforms team for 7 months	2,380,000
P/S State Department of Agriculture	907	Payment of taskforce allowance for the national coffee sub sector Reforms meetings	517,900
P/S State Department of Agriculture	004122	Payment of taskforce allowance for the national coffee sub sector Reforms implementing committee for 7 months.	17,480,000

176. The funds borrowed to cater for the expenses of the Coffee Task Force has not been reimbursed to the Commodity fund due to lack of budget provision.
177. The State Department also requested Kshs 20,000,000 for financial assistance to Chemelil Sugar Company to enable the company to enhance its sugar production with a view of forestalling sugar shortages in the country. Commodity fund transferred KES 20,000,000 to the State Department on 15 May 2017, which was later transferred to Chemelil Sugar on 19 May 2017 as per our Bank Statement.

178. Chemelil Sugar Company had committed to repay the loan at a rate of Kshs 6 million per month with effect from October 2018 and to clear by April 2019, as per their letter dated 28 August 2018. Chemelil Sugar Company has not reimbursed the funds due to cash flow problems. However, the amount owed by the company have since been written – off.

Committee Observations and Findings

179. The Committee observed that:
- i. The Fund transferred Kshs.40,000,000 to the state department for crop development in the financial year 2016/2017 and has remained outstanding to date.
 - ii. The matter remained unresolved.

Recommendations of the Committee

180. **The Committee recommends that within the current financial year, the Principal Secretary, State Department of Crop Development refunds Kshs. 40,000,000 Commodities Fund.**

5. Loan Repayments - Payment Received in Advance

181. As disclosed under Note 21 to the Financial Statements, the statement of financial position reflects trade and other payables from exchange transactions (creditors and accruals) totalling to Kshs.24,391,000. The amount includes payments received in advance of Kshs.10,643,000 which constitutes an amount of Kshs.5,527,735, being unidentified loan repayments, which were received by the fund but could not be linked to specific borrower/farmer accounts. The supporting schedules indicated that the amount was a cumulative figure from the year 2011 to 2020.
182. Further, the amount of Kshs.10,643,000 includes overpayment on loans and advances amounting to Kshs.5,115,510, which could not be traced to individual farmers. No satisfactory explanation was provided on why the amounts had not been reconciled to their respective debtors.
183. Consequently, the completeness and accuracy of the trade and other payables from exchange transactions (creditors and accruals) totalling to Kshs.24,391,000 could not be confirmed.

Submissions by the Accounting Officer

184. The Accounting Officer submitted that the Fund held a total of Kshs. 5,527,725 on account of unidentified deposits. To address the problem of unidentified deposits, the bank was engaged and agreed to capture in the bank statement the following details: Depositors name, telephone number and Commodities Fund loan number. Following the agreement,

the bank was able to capture the depositor's name and telephone number which has eased the identification of deposits.

185. Following this development, the Fund has been able to identify all deposits for year 2021 and 2022 except four deposits totaling Kshs.206,572. She submitted that the unidentified deposits of Kshs. 5,527,725 then, has reduced to Kshs. 1,724,586 which the management is still trying to identify.

Committee Observations and Findings

186. The Committee observed that:

- i. As at 30th June 2020, the Fund had Kshs.10,643,000 being payments received in advance of which Kshs.5,527,735 could not be identified;
- ii. The Accounting Officer did not provide a schedule or reconciliation to support the deduction of unidentified deposits from Kshs. Kshs.5,527,735 to Kshs. 1,724,586;
- iii. The Accounting Officer did not provide debtors' aging analysis for the Kshs.5,115,510;
- iv. The bank deposits by the loanees and the bank statements did not include unique loan numbers or identifier against repayment receipts making it difficult for identification of payees;
- v. The Fund is developing a unique loan identifier to be able to capture the details of the loan payments. In addition, the Fund has agreed with the bank to develop a deposit slip specifically for the Fund which captures farmer's details;
- vi. Following this development, the Fund has been able to identify all deposits for year 2021 and 2022 except four deposits totalling Kshs.206,572; and
- vii. The matter remains unresolved.

Recommendations of the Committee

187. The Committee recommends that:

- i. **Within three months of the adoption of this report, the Accounting Officer to provide supporting documents on the reconciliation of unidentified deposits from Kshs.5,527,735 to Kshs. 1,724,586 to the Auditor- General for audit verification;**
- ii. **Within three months of adoption of this report, the Accounting Officer takes appropriate measures to ensure complete identification of bank receipts including capturing farmers details in deposit slips and to ensure monthly reconciliations to reduce unidentified receipts: and**
- iii. **The Accounting Officer provide debtors' aging analysis for the Kshs.5,115,510 to the Auditor General within three months of the adoption of this report.**

6. Unconfirmed Expenditure on Maintenance of an ERP

188. As disclosed under Note 12 to the financial statements, the statement of financial performance reflects expenditure of Kshs.10,685,000 under repairs and maintenance. The amount includes Kshs.4,535,734 described as office and communication equipment but which related to payment for an annual software renewal and support fee paid to a vendor.
189. However, the entity had not upgraded its Enterprise Resource Planning (ERP) to the latest available version and was using a previous version of the ERP which was less suited for the Fund's current needs and is prone to internet vulnerabilities. This is despite contractual obligations of Kshs.2,000,000 annual mandatory payments to the service provider for Business Ready Enhancement Plan subscriptions as outlined in the contract. The corresponding receipts from the vendor for the payment of the annual subscriptions were not provided for audit.
190. Under the circumstances, the accuracy and validity and value for money on the expenditure of Kshs.4,535,734 could not be confirmed.

Submissions by the Accounting Officer

191. The Accounting Officer submitted that the vendor, Sure step, was paid Kshs. 4,535,734 for annual licenses and support as observed by the auditor. The contract entailed support services and system licenses. She further submitted that the system had not been upgraded at the time of audit, but the vendor was engaged and upgraded the system to the current version.
192. The Fund was currently operating on Microsoft Navision Dynamics 365 Business Central and not Microsoft Navision Dynamics Version 2017 that was there at the time of audit. She further confirmed the receipt for the above amount which has been retrieved and given to the auditor and attached copies of receipts.

Observations and Finding of the Committee

193. The Committee observed that:
- i. The Fund paid Kshs.4,535,734 for an annual software renewal but the system had not been upgraded at the time of audit;
 - ii. the Accounting Officer submitted that the system has since been updated to the current version; and
 - iii. The matter remains unresolved.

Recommendations of the Committee

194. **The Committee recommends that the Auditor General to verify whether the system has been upgraded to the current version during the audit for the financial year 2022/23.**

7. Irregular Appointment of Board Members

195. As disclosed under Note 10 to the financial statements, the statement of financial performance reflects remuneration to trustees amounting to Kshs.17,738,000 which includes an amount of Kshs.4,280,000 paid to six members of the Board of Trustees and Ministry representatives whose letters of appointment were not provided for audit review.
196. Consequently, the appointment of the four Board Members and the validity of the expenditure amounting to Kshs.4,280,000 could not be confirmed.

Submissions by the Accounting Officer

197. The Accounting Officer submitted that the Fund paid Kshs.4,280,000 to four board members who were gazetted but the appointment letters were not issued by the appointing authority. The Fund requested the Parent Ministry to avail the Appointment letters for the chairman and three board members via a letter referenced Com/Fund /F.1/BoT/Vol.2 dated 16th December 2019 in vain. The term of office of the four directors expired and new directors appointed to replace them. All new directors were gazetted and issued with appointment letters.

Observations and Finding of the Committee

198. The Committee observed that:
- i. The term of office of the four directors lapsed and new directors were appointed to replace them; and
 - ii. The matter is resolved.

Other matters

8. Budgetary Control and Performance

199. The statement of comparative budget and actual amounts reflects a final revenue budget and actual on comparable basis of Kshs.598,622,000 and Kshs.481,165,000 respectively resulting to an under-funding of Kshs.117,457,000 or 20% of the budget. Similarly, the Fund expended Kshs.562,846,000 against an approved budget of Kshs.584,704,000 resulting to an under-expenditure of Kshs.21,858,000 or 20% of the budget.
200. The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

Submissions by the Accounting Officer

201. The Accounting Officer submitted that the Fund had an approved budget revenue budget of Kshs 598,622,000. Revenue realized during the year amounted to Kshs. 481,165,000 resulting to under collection of Kshs. 117,457,000 equivalent to 20%. The shortfall is attributed to poor loan performance more so from the sugar sector that was projected generate 82% of the targeted revenue but the actual result was 66% resulting to a shortfall of 16%.
202. She further submitted that the Fund had approved expenditure budget of Kshs 584,704,000 and utilized Kshs. 562,858,000 resulting to underutilization of Kshs 21,858,000 or 4%. Included in the total expenditure of Kshs 562,846,000 is the personnel expenditure of Kshs 86,608,000 against a budget of Kshs 124,713,000 resulting to savings of Kshs 38,105,000.
203. She further submitted that the Fund had budgeted to recruit 13 new staff from July 2020 but the authority to employ was received in May 2020 and employment process completed in November 2020. Further, the Fund had planned to adjust staff salaries in the year subject to the approval of organization structure, Salary scale and Career progression. The approval was not granted, and funds meant for salary adjustments were not utilized.

Observations and Findings of the Committee

204. The Committee observed that:
 - i. the Fund expended Kshs.562,846,000 against an approved budget of Kshs.584,704,000 resulting to an under-expenditure of Kshs.21,858,000 or 20% of the budget;
 - ii. The Fund had budgeted to recruit 13 new staff from July 2020 but the authority to employ was received in May 2020 and the employment process was completed in November 2020;
 - iii. The Fund had planned to adjust staff salaries in the year subject to approval of organization structure, Salary scale and Career progression. The approval was not granted and funds meant for salary adjustments were not utilized.
 - iv. The matter is resolved

9. Unresolved Prior Year issues

205. In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, although the Management has indicated that the issues have been

responded to, the matters have remained unresolved as the Public Accounts Committee has not deliberated on the issues.

Submissions by the Accounting Officers

206. Management did not provide a response.

Observations and Findings of the Committee

207. The Committee observed that:

- i. Prior-year audit issues remained unresolved as at 30 June 2020 against the requirement of Section 68(2)(I) of the Public Finance Management Act, 2012;
- ii. The matter remains unresolved.

Recommendations of the Committee

208. **The Committee recommends that within three (3) months upon the adoption of this report, the Accounting Officer takes appropriate actions to address unresolved prior year matters as provided in section 53 of the Public Audit Act, 2015; Section 68(2)(I) of the Public Finance Management Act, 2012 and submit the status report to the Auditor General for audit verification.**

Lawfulness and effectiveness in use of public resources

10. Un-Approved Remuneration Structure

209. As disclosed under Note 9 to the financial statements, the statement of financial performance reflects employees' costs amounting to Kshs.96,085,000 which includes salaries and wages, housing benefits and allowances, pensions contributions and medical aids. However, the salary structure and scale on payment of employees' salaries and allowances used by the Fund was not approved by the Salaries and Remuneration Commission contrary to Article 230(4) (b) of the Constitution which provides that the powers and functions of the Salaries and Remuneration Commission shall be to advise the National and County Governments on the remuneration and benefits of all other public officers. Consequently, the management is in breach of the law.

Submissions by the Accounting Officer

210. The Accounting Officer submitted that the salary structure and scale on payment of employees' salaries and allowances used by the Fund was not approved by Salaries and Remuneration Commission. The Fund submitted the HR instruments to the Parent Ministry, SRC, SCAC for guidance and approval but the same could not be acted due to legal gaps that exist in the establishment Act. The Fund has therefore continued to use the salary structure of the former Coffee Development Fund awaiting resolution of the above matter.

Observations and Finding of the Committee

211. The Committee observed that:

- i. The Fund's staff establishment and the salary structure and scale used by the Fund for payment of employees' salaries and allowances has not been approved by the Salaries and Remuneration Commission because of the corporate status of the Fund;
- ii. The staff instruments in use were approved by the Commodities Fund Board of Trustees; and
- iii. The matter remained unresolved.

Recommendations of the Committee

212. **The Committee recommends that within three months of adoption of this report, the Accounting Officer to engage the Salaries and Remuneration Commission (SRC) to come up with an approved rates for compensation of employees which the Fund can utilize.**

11. Non-Compliance with the National Cohesion and Integration Commission Act, 2008

213. As reflected under Note 9 to the financial statements, the statement of financial performance reflects employee costs amounting to Kshs.96,085,000. The amount comprises of salaries and wages, housing benefits and allowances, pensions 467 contributions and medical aids. However, out of the fifty-six (56) regular employees of the Fund, twenty (20) representing 36% of the total employees were from one ethnic community contrary to the provision of Section 7(2) of the National Cohesion and Integration Commission Act, 2008 which provides that no public establishment shall have more than one third of its staff from the same ethnic community. Consequently, the management is in breach of the law.

Submissions by the Accounting Officer

214. The Accounting Officer submitted that the Fund had fifty-six (56) regular employees and twenty (20) representing 36% of the total employees were from one ethnic community. She however submitted that the Fund promotes equal employment opportunities and management is committed to progressively ensure ethnic representation and balance on recruitment of new employee and replacement of existing ones.

215. She further submitted that the Fund has a representation of 11 communities despite the few staff numbers. The last recruitment of 13 employees saw a representation of 9 communities. The current position has also been disclosed annually as the Fund reports to the Public Service Commission on Compliance with the Values and Principles in Articles 10 and 232 of the Constitutions with an undertaking to progressively ensure that as many of the 48 communities are represented as per the PSC evaluations. This, management undertook to through open and fair advertisement, shortlisting, interviewing and placement for new and replacement positions as well as applying affirmative action to comply with the various

statutory requirements including compliance with the provision of section 7 of the National Cohesion and Integration Commission Act 2008.

Observations and Finding of the Committee

216. The Committee observed that:

- i. 36% of the total employees were from one ethnic community contrary to the provision of Section 7(2) of the National Cohesion and Integration Commission Act, 2008; and
- ii. The matter remained unresolved.

Recommendations of the Committee

217. **The Committee recommends that the Accounting Officer to ensure that there is ethnic balance in recruitment of staff in the Fund in compliance with Section 7(2) of the National Cohesion and Integration Commission Act, 2008.**

Report on effective of internal controls, risk management and governance

12. Laxity in Implementation of Off-site Back-up

218. A site visit to the offsite back-up on 22 March, 2021 revealed the following:

- (i) The offsite back-up server was placed in an open area wherein the stipulated requirements for physical access and environmental conditions for server installations including manufacturers design temperature and humidity conditions cannot be implemented;
- (ii) Security Parameters governing access to the server were not defined and did not meet the minimum standards implemented at the head office;
- (iii) The server was placed in an open area with no controlled access;
- (iv) The building in which the server is located does not belong to the entity; and
- (v) Access to the server is not monitored and physical access logs were not maintained. In the circumstances, the entity risks loss of valuable sensitive data, and the offsite servers are prone to theft and unwarranted destruction

219. In the circumstances, the entity risks loss of valuable data, and the offsite servers are prone to theft and unwarranted destruction.

Submissions by the Accounting Officer

220. The Accounting Officer submitted that the Fund has in place the IT Strategic Committee/IT Steering Committee from 19th Jan 2021 and members are as follows: Solomon Kirwa, Godfrey Kinyus, Beatrice Koskei and Nesline Okiko

221. She submitted that the committee was not trained in the year due to budget constraints, but two members were subsequently trained on 22nd to 26th February 2021. The she

acknowledged the Nakuru and Eldoret regional offices did not have fire extinguishers and relied on those installed by the landlord. The anomaly was rectified later in the year by installing own fire extinguishers in those offices.

222. She further submitted that that all regional offices have LAN and that they took measure to sensitize on use of the facilities. All staff are currently using the facility without any problem.
223. She confirmed that at the time of the audit, some of the desktops did not have functional power backups. This has since been rectified by procuring and distributing power backups to affected offices/staff.
224. Further, she confirmed sensitization of staff on matters ICT functionality has been taken more seriously and staff are always sensitized whenever there is any new development / ICT functionality.

Observations and Finding of the Committee

225. The Committee observed that:
- i. The Fund's offsite back-up server was placed in an open area at the time of audit. Management have since rectified this anomaly by partitioning the room and installing a biometric access control to the server room and the server room now meets the minimum standards required of such a room; and
 - ii. The matter remained unresolved.

Recommendations of the Committee

226. **The Committee recommends that the Accounting Officer submits documentary evidence on the corrections of the anomalies to the Auditor – General for verification.**

13. IT Internal Control and IT Governance Weaknesses

227. During the year, the Fund had the following IT internal control weaknesses:
- i. The Fund had not established an IT Strategic Committee, an IT Steering Committee and has not undertaken any trainings of ICT Staff during the audit period.;
 - ii. Further, no fire extinguishers have been installed in the Eldoret and Nakuru Branches; the entity was relying on extinguishers installed by the building owners to which they have no control of maintenance.
 - iii. The Fund has a local area network (LAN) installed in their regional offices. However, a visit to the sampled regions revealed that some of the offices were not using the LAN for internet connectivity since officers were not aware about the functionality. In case of downtime with WIFI, officers had to wait for resumption of WIFI so as to be able to access and use the system.;

- iv. The audit observed 5 computers (Coded 000474, 000005, 000022 and 000024) with no UPS Back-ups. All desktop computers at the Nakuru and Eldoret Branches have no power backups installed;
- v. Management did not undertake proper training and sensitization on ICT functionality. Lack of continuous training in ICT hinders the ability of the entity to benefit from ICT solutions in achieving its mandate. Consequently, IT governance and IT internal controls were not adequate or effective.

Submissions by the Accounting Officer

228. The Accounting Officer submitted as follows:

- i. The Fund has in place the IT Strategic Committee/IT Steering Committee from 19th Jan 2021 and members are as follows: Solomon Kirwa, Godfrey Kinyus, Beatrice Koskei, Nesline Okiko;
- ii. It is true the committee was not trained in the year due to budget constraint, but two members were subsequently trained on 22nd to 26th February 2021;
- iii. Further, the Fund acknowledges the Nakuru and Eldoret regional offices did not have fire extinguishers and relied on those installed by the landlord. The anomaly was rectified later in the year by installing own fire extinguishers in those offices.
- iv. All regional offices have LAN and they took measure to sensitize on use of the facilities. All staff are currently using the facility without any problem; and
- v. During the audit, some of the desktops did not have functional power backups. This has since been rectified by procuring and distributing power backups to affected offices/staff.

Observations and Finding of the Committee

229. The Committee observed that:

- i. The members of the ICT Strategic Committee were not trained; and
- ii. The matter remained unresolved.

Recommendations of the Committee

230. **The Committee recommends that within three months of the adoption of this report, the Accounting Officer to provide a status report on the training of members of the ICT Strategic Committee.**

14. Functionality of the Board of Trustee

231. As previously reported, the Crops Act, No.13 of 2013, which created the Fund did not spell out clearly the mandate of the Fund's Board of Trustees as well as its powers and responsibilities. The Fund is not established as a body corporate having perpetual succession and a common seal and may not, in its corporate name, sue and be sued, which hinders its operations.

232. Consequently, the Fund's Board of Trustees ability to work independently and effectively in the absence of clear laws on its mandate, powers and responsibilities is doubtful.

Submissions by the Accounting Officer

233. The Accounting Officer submitted that the Crops Act No. 13 of 2013, which created the Fund did not spell out clearly the mandate of the Fund's Board of Trustees as well as its powers and responsibilities. It is also true that the Fund is not established as a body Corporate having perpetual succession and a common seal and may not, in its corporate name, sue and be sued, which hinders its operations.

234. Further, efforts to amend the Crops Act 2016 has proved futile since the amendment would be substantive and would affect many other agencies that rely on it.

235. Consequently, the Fund has initiated a process to develop its own Act which if enacted will cure all the above said legal gaps. The Commodities Fund Bill 2023 is currently in draft form and will be submitted to the National Assembly before end of June 2023.

Observations and Finding of the Committee

236. The Committee observed that:

- i. The provisions of the Crops Act, 2013 establishing the Commodities Fund do not set out the functions of the Board of Trustees;
- ii. There exist no rules for the management of the Fund as required by Section 10(2) of the Crops Act, 2013; and
- iii. The matter remains unresolved.

Recommendations of the Committee

237. **The Committee recommends that within three months of adoption of this report, Accounting Officer through the relevant Cabinet Secretary for Agriculture, and Livestock Development to submit to the National Assembly, a Bill /Statutory instruments to address the gaps in the Crops Act, 2013 for consideration.**

4.3 Examination of the report of the Auditor-General for the Financial Year 2020/2021

1. Unsupported Prior Year Adjustment

238. The statement of changes in net assets reflects a Revenue Reserve net balance of Kshs.12,039,180,000 that includes prior year adjustments to the revenue reserves of Kshs.74,939,000 dating back to financial year 2016/2017 that could not be traced in the prior year operations. Although the Management explained that the prior year adjustments arose after a reconciliation of the loans and perfection of the Credit Management System, the reconciliation figures were not supported by the loan statements.
239. Consequently, the accuracy, completeness and presentation and disclosure of the revenue reserves balance of Kshs.15,264,852,000 as at 30 June, 2021 could not be confirmed.

Submissions by the Accounting Officer

240. The Accounting Officer submitted that the Fund reported a revenue reserve balance of Kshs. (12,039,180,000) that included prior year adjustments of Kshs. 74,939,000. The adjustments resulted from perfection of the Credit Management System that was under development from 2017. Following its completion, it was noted that the formula that was in place to compute the interest on coffee loans was not accurate and was resulting to under cast. Similar errors were also noted on Sugar portfolio that were managed manually. Overall, the interest was understated by Kshs, 74,939,000 which was adjusted in the revenue reserve.
241. She further submitted that Management had attached loan balance for period prior to reconciliation and after to show the adjustments made. Further, the Fund used to maintain its loan book per intermediary based on agency agreements which mandated them to disburse and collect loans on behalf of the Fund. However, this arrangement changed when the agreements lapsed, and the Fund started lending and collecting its own loans. Consequently, the new Credit Management system, the Fund has captured all customers including those who were under intermediaries.
242. The Accounting Officer attached the loan master to support the interest balances as at 30th June 2021 and similar schedule in support of balances prior to adjustments. The difference between two supports is the additional interest of Kshs. 74,939,000 charged in the revenue reserve. Customer statements can be verified directly from the system.

Observations and Finding of the Committee

243. The Committee observed that:
- i. The Fund included prior year adjustments of Kshs. 74,939,000 in the Revenue Reserve relating an understatement for interest on coffee loans and Sugar loans;

- ii. The Accounting Officer did not provide journals to support the adjustment of Kshs.74,939,000
- iii. The matter remained unresolved

Recommendations of the Committee

244. **The Committee recommends that:**

- i. **Within three months of the adoption of this report the Accounting Officer to provide journals to support the adjustment of Kshs.74,939,000 to the Auditor General for audit verification; and**
- ii. **The Accounting Officer to submit the prior year adjustments to the Auditor- General for verification within three months of adoption of this report**

2. High Rate of Provisioning on Loans and Advances

245. As disclosed under Note 17(iv) to the financial statements, the gross loans and advances reflected in the financial statements amounted to Kshs.16,103,966,000 with a total provision of Kshs.14,732,422,000 which translate to 91% of the loans and advances to farmers. Management has not given the basis for the huge provision for the loans.
246. Further, the Fund disbursed approximately Kshs.321,168,000 for sugar and coffee portfolios during the year under review, despite the high percentage of the portfolio risk.
247. Consequently, the validity, accuracy, and full recoverability of the long-term receivables from exchange transactions - loans and advances totalling to Kshs.754,905,000 could not be confirmed.

Submissions by the Accounting Officer

248. The Accounting Officer submitted that the financial statements of the Fund reflected gross loans and advances amounting to Kshs. 16,103,966,000 and corresponding loan loss provision amounting to Kshs. 14,732,422,000 which was equivalent to 91% of all loans. The basis of provision was the Commodities Fund Provisioning policy Chapter 7.0. Section 7.1. She submitted further that loans are classified into Normal, Watch, Sub-standard, doubtful and loss. The applicable provision rate for each of the five categories are: Normal (Grade 1) - 1%, Watch (Grade Two) - 3%, Substandard (Grade 3) - 20%, doubtful (Grade 4) - 100%, Loss (Grade 5) - 100%.
249. A schedule of gross loans, classifications, applicable provisioning rate and the resultant provision was attached. The Accounting Officer further submitted that provisions of 1%

made for new loans that are advanced and the loans that are continuing to accrue interest prior to the freeze date which contribute to the increase in loan provisions.

Observations and Findings of the Committee

250. The Committee observed that:

- i. The provision for bad and doubtful debts of 94% is based on the non-performing debts inherited from the defunct Coffee and Sugar Development Funds;
- ii. The Management did not provide the original signed board minutes on the approval of the new provisioning policy for audit verification.
- iii. The matter remained unresolved.

Recommendations of the Committee

251. **The Committee recommends that within three (3) months upon the adoption of this report, the Accounting Officer to provide the new provisioning policy on loans & advances and the original signed minutes of the board's approval of the policy to the Auditor-General for audit verification.**

3. Unsupported Loans and Advances Balance

252. The statement of financial position reflects a balance of Kshs.754,905,000 under long-term receivables from exchange transactions - loans and advances as disclosed in Note 17(iv) to the financial statements. However, the amount was not supported by any verifiable document or records.

253. In the circumstances, the accuracy and completeness of the long-term receivables from exchange transactions - loans and advances of Kshs.754,905,000 as at 30 June, 2021 could not be confirmed.

Submissions by the Accounting Officer

254. The Accounting Officer submitted that the statements of financial position reflect a balance of Kshs. 754,905,000 under long-term receivables, loans, and advances. The amount is a portion of the entire loan portfolio that is receivable beyond a period of twelve months from the balance sheet date. The Accounting Officer gave a list of the entire loan portfolio and a similar schedule of long-term loans of Kshs. 754,905,000.

Observations and Findings of the Committee

255. The Committee observed that:

- i. The Accounting Officer did not provide a schedule to support the Kshs. 754,905,000 under long term receivables from exchange transactions; and

- ii. The issue remained unresolved.

Recommendations by the Committee

256. **The Committee recommends that within three months of the adoption of this report, the Accounting Officer to provide a schedule to support the Kshs. 754,905,000 under long-term receivables from exchange transactions to the Auditor General for verification.**

4. Unrecovered Fund Transferred to the Parent Ministry

257. The statement of financial position reflects receivables from non-exchange transactions of Kshs.46,410,000 and as disclosed in Note 18 to the financial statements. Included in the balance is an amount of Kshs.40,000,000 advanced to the parent Ministry to offer financial assistance to Chemilil Sugar Company to enhance its sugar production that has 73 remained outstanding since 2017. The Ministry was to reimburse these funds once the National Treasury released its budgeted funds for the year.
258. However, the Ministry failed to reimburse the funds to the Fund. It was not clear if the disbursement was approved by the National Treasury. Further, a scrutiny of the corresponding letter to the Managing Trustee revealed that the Principal Secretary did not sign the advance request. Consequently, the accuracy and validity of Kshs.40,000,000 advanced to the Parent Ministry to offer financial assistance to Chemilil Sugar Company could not be confirmed.

Submissions by the Accounting Officer

259. The Accounting Officer submitted that the Parent Ministry of Agriculture and livestock Development requested the transfer of the said Funds through Memo Ref: MOA/SDA/SC/40A dated 18 January, 2017 and Ref: MOALF/CORP/11/23/2 of 9 May, 2017. The Ministry through the two memos had promised to refund the funds once the National Treasury releases its budgeted funds. Unfortunately, the Ministry has not refunded the funds to date despite the many demand letters from Commodities Fund.

Submissions by the Principal Secretary State Department for Crop Development

260. The Principal Secretary State Department for Crop Development in a follow – up meeting held on 28th November 2023 submitted that the Commodities Fund transferred Kshs 40,000,000 to the Ministry of Agriculture and Livestock in the financial year 2016/17. The State Department had requested the funds as follows:
- i. Kshs 20,000,000 to be used by the Coffee sub sector task force.

ii. Kshs 20,000,000 to be transferred to Chemelil Sugar Company.

261. He further submitted that the Coffee sub sector Implementation committee was appointed by his Excellency the President on March 2016 by Kenya Gazette Notice dated 4th March 2016 to address and give recommendations to revive the coffee industry as one of the major cash crops in the Country.
262. The State Department for Agriculture requested for Ksh 20 million from the Commodity Fund to facilitate the committee which was to be later reimbursed once the funds were availed by the National Treasury.
263. The State Department received KES 20,000,000 from Commodity Fund on 6th February 2017. The funds were utilized to pay for the task force allowances in accordance with the approved Salaries and Remuneration Committee rates. The breakdown of the expenditure is as follows:

Payee	Voucher no.	Description	Amount
P/S State Department of Agriculture	1241	Payment of taskforce allowance for the national coffee sub sector Reforms team for 7 months	2,380,000
P/S State Department of Agriculture	907	Payment of taskforce allowance for the national coffee sub sector Reforms meetings	517,900
P/S State Department of Agriculture	004122	Payment of taskforce allowance for the national coffee sub sector Reforms implementing committee for 7 months.	17,480,000

264. The funds borrowed to cater for the expenses of the Coffee Task Force have not been reimbursed to the Commodity fund due to lack of budget provision.
265. The State Department also requested Kshs 20,000,000 from the Fund for financial assistance to Chemelil Sugar Company to enable the company to enhance its sugar production with a view of forestalling sugar shortages in the country. Commodity fund transferred KES 20,000,000 to the State Department on 15 May 2017, which was later transferred to Chemelil Sugar on 19 May 2017 as per our Bank Statement.

266. Chemelil Sugar Company had committed to repay the loan at a rate of Kshs 6 million per month with effect from October 2018 and to clear by April 2019, as per their letter dated 28 August 2018. Chemelil Sugar Company has not reimbursed the funds due to cash flow problems. However, the amount owed by the company has since been written off.

Committee Observations and Findings

267. The Committee observed that:
- i. The Fund transferred Kshs.40,000,000 to the state department for crop development in the financial year 2016/2017 and has remained outstanding to date.
 - ii. The matter remained unresolved.

Recommendations of the Committee

268. **The Committee recommends that within the current financial year, the Principal Secretary, State Department of Crop Development refunds Kshs. 40,000,000 Commodities Fund.**

5. Unsupported Trade and Other Payables

269. As disclosed in Note 23 to the financial statements, the statement of financial position reflects trade and other payables from exchange transactions (creditors and accruals) of Kshs.63,825,000 which includes trade payables balance of Kshs.9,608,000. However, the trade payables includes unsupported balance amounting to Kshs.5,765,258.
270. Further, the general ledger of trade and other payables include a journal voucher entry for Kshs.2,997,214 dated 1st July, 2020 which was not explained nor supported.
271. Consequently, the accuracy, completeness, and validity of the trade and other payables from exchange transactions balance of Kshs.63,825,000 could not be confirmed.

Submissions by the Accounting Officer

272. The Accounting Officer submitted that the Fund held creditors and accrual balance of Kshs. 63,825,000 which includes trade payables balance of Kshs. 9,608,000. The trade payables included Kshs. 5,765,258 of which Kshs. 4,113,360 was provisions for audit fee while the balance of Kshs. 1,651,898 was made up of balances for ongoing works. Further reconciliation of trade payables was done and the correction journal provided.
273. Further, the management provided the supporting document for the journal of Kshs. 2,997,214.

Observations and Findings of the Committee

274. The Committee observed that:

- i. The payment vouchers, invoices and contracts have since been provided to the Auditor General;
- ii. The Accounting officer did not provide details supporting the journal vouchers for Kshs2,997,214; and
- iii. The issue remained unresolved.

Recommendations of the Committee

275. **The Committee recommends that within three months of the adoption of this report, the Accounting Officer to provide details supporting the journal vouchers for Kshs2,997,214 to the Auditor - General for audit verification.**

6. Unconfirmed Expenditure on Remuneration of Trustees

276. As disclosed in Note 11 to the financial statements, the statement of financial performance reflects an expenditure on remuneration of trustees of Kshs.18,949,000. The expenditure includes an amount of Kshs.9,756,563 that was paid to three (3) members of the Board of Trustees. However, their letters of appointment were not provided for audit review. Consequently, the validity of the expenditure amounting to Kshs.9,756,563 could not be confirmed.

Submissions by the Accounting Officer

277. The Accounting Officer submitted that the Fund paid Kshs. 9,756,563 to three (3) board members who were gazetted but the appointment letters were not issued by the appointing authority. The Fund requested the Parent Ministry to avail the appointment letters for the chairman and two board members via a letter referenced ComFund/F.1/BoT/Vol.2?104 Dated 16th December 2019 which has been in vain.

278. The term of office of the four directors expired and new directors appointed to replace them. All new directors were gazetted and issued with the appointment letters.

Observations and Findings of the Committee

279. The Committee observed that:

- i. The term of office of the board members lapsed and the appointment of current members regularized; and
- ii. The matter is resolved.

Other matters

7. Budgetary Control and Performance

280. The statement of comparison of budget and actual amounts reflects final revenue budget and actual on comparable basis of Kshs.815,370,000 and Kshs.498,517,000 respectively, resulting to an under-funding of Kshs.316,853,000 or 38% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.293,892,000 and Kshs.255,152,000 respectively, resulting to an under-expenditure of Kshs.38,740,000 or 13% of the budget.
281. Further, the statement of financial performance reflects remuneration of trustees of Kshs.18,949,000 and as disclosed in Note 11 to the financial statements which includes sitting allowance totalling Kshs.7,860,000. However, the approved budget for sitting allowance was Kshs.4,800,000 resulting in an overpayment of Kshs.3,060,000 or 63%. Although the Management explained that the board members were required to attend forums organized by the Ministry on all coffee growing regions to sensitize coffee 74 stakeholders on Coffee Bill, 2020 leading to the more meetings than had been anticipated, there was no evidence to show that the over expenditure was authorized.
282. Based on the approved estimates, under-funding and under-expenditure affected the planned activities and may have impacted negatively on service delivery to the public while the validity of the expenditure on remuneration of trustees of Kshs.18,949,000 could not be confirmed.

Submissions by the Accounting Officer

283. The Accounting Officer submitted that the revenue budget was missed by Kshs. 316,853,000. The shortfall was attributed to impact of Covid- 19 and restrictions imposed by the parent ministry to have all loans granted seek concurrence by the Cabinet Secretary before disbursement. As a result of this requirement, the Fund disbursed a mere Kshs. 321 million against budget of Kshs. 700million. Consequently, interest income projected from loans was not achieved. Additionally, market interest rates on investments were lower than projected leading to low income on investment.
284. The Accounting Officer submitted further that expenditure were below the budget by Kshs. 38,740,000. Much of the savings were derived from staff salaries as a result of employing 13 new staff in December of 2020 instead of the budgeted period of July 2020. Further, management acknowledges the sitting allowance sub-vote of the directors' vote exceeded its allocation by Kshs. 3,060,000 that was drawn from director's accommodation sub-vote. Overall, the director's vote exceeded the budget by 4% which is within the acceptable 10% level. Management has taken steps ensure any over expenditures within sub-votes is authorized in advance.

Observations and Findings of the Committee

285. The Committee observed that:

- i. Management has taken steps to regularise the over-expenditure; and
- ii. The issue is resolved.

Lawfulness and effectiveness in use of public resources

8. Single Sourcing of Security Services and Fuel Products

286. The statement of financial performance reflects expenditure on use of goods and services of Kshs.98,805,000 as disclosed in Note 9 to the financial statements. The balance includes security and vehicle running expenses of Kshs.1,130,000 and Kshs.7,207,000 respectively. Analysis of the supporting documents for these expenses revealed that during the year under review, a security firm was awarded a contract effective from 1st September, 2020 with an expiry date of 31 August, 2021. The security firm was single sourced without justification contrary to the requirements of Section 103 of the Public Procurement and Asset Disposal Act, 2015 on direct procurement.
287. It was also noted that, for the first two months of the financial year under audit, the procuring entity paid the security firm an amount of Kshs.157,516 against a lapsed contract.
288. Further, the Fund single sourced oil, fuel and lubricants from a fuel company contrary to the requirements of Section 103 of the Public Procurement and Asset Disposal Act, 2015 on direct procurement. In addition, no documentary evidence was provided for audit to confirm that a contract agreement was signed between the procuring entity and the fuel company.
289. Under the circumstances, the regularity and value for money for the above expenditure totalling Kshs.8,337,000 on security and vehicle running expenses could not be confirmed.

Submissions by the Accounting Officer

290. The Accounting Officer acknowledged the auditor's observation and clarified that what happened was extension of contracts for the two suppliers. The two had been procured procedurally but their contracts were extended severally.
291. On the supply of fuel, she submitted that the Fund retained the services of Total Energies as it has a widespread network of pump stations to cope with its mandate of carrying out field activities through use of fuel cards. The pricing of fuel in Kenya is also controlled by the Energy and Petroleum Regulatory Authority which has made it difficult for marketers to compete on pricing. She further submitted that management has since procured new

service providers for fuel Ms. National Oil corporation and are in process of procuring security services.

292. She submitted that the security services for the Wells Fargo Ltd were procured through the request for quotation method of procurement in line with Section 105-106 of the Public Procurement and Disposal Act 2015 and thereafter the contract was extended.

Observations and Findings of the Committee

293. The Committee observed that:
- i. The Accounting Officer irregularly procured security and vehicle running expenses for Kshs.1,130,000 and Kshs.7,207,000 respectively contrary to the provisions of section 103 of the Public Procurement and Asset Disposal Act, 2015
 - ii. Management did not provide evidence to indicate that contracts between the Fund and the service provider were signed.
 - iii. The issue remains unresolved.

Recommendations of the Committee

294. The Committee recommends that:
- i. **Within three months of the adoption of this report, the Accounting Officer to provide contracts signed between the Fund and the service providers for security and vehicle running expenses for Kshs.1,130,000 and Kshs.7,207,000 respectively to the Auditor General for verification; and**
 - ii. **The Accounting Officer to ensure compliance with the Public Procurement and Asset Disposal Act when procuring goods and services for the Fund.**

9. Non-Compliance with the One-Third of Basic Salary Rule

295. During the year ended 30th June, 2021, some employees earned a net salary of less than a third (1/3) of the basic salary for all the twelve months of the financial year contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016. The Management has not explained failure to comply with the policy. In the circumstance, the Fund Management contravened Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016 as this may expose the staff to pecuniary embarrassment.

Submissions by the Accounting Officer

296. The Accounting Officer submitted that of its employees' net salary as at 30th June 2021 were receiving less than one third of their salary. This was an oversight and has since been regularized.

Observations and Findings of the Committee

297. The Committee observed that:

- i. Some employees of the Fund earned a net salary of less than a third (1/3) of the basic salary for all the twelve months of the financial year contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016;
- ii. The matter remains unresolved.

Recommendations of the Committee

298. **The Committee recommends that the Accounting Officer to ensure compliance with Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016.**

10. Un-Approved Remuneration Structure

299. As disclosed under Note 10 to the financial statements, the statement of financial performance reflects employees' costs amounting to Kshs.111,010,000 which includes salaries and wages, housing benefits and allowances, pensions contributions and medical aids. However, as previously reported, the salary structure and scale on payment of employees' salaries and allowances used by the Fund was not approved by the Salaries and Remuneration Commission contrary to Article 230(4) (b) of the Constitution which provides that the powers and functions of the Salaries and Remuneration Commission shall be to advise the National and County Governments on the remuneration and benefits of all other public officers. Consequently, the Management is in breach of the law.

Submissions by the Accounting Officer

300. The Accounting Officer submitted that the salary structure and scale on payment of employees' salaries and allowances used by the Fund was not approved by Salaries and Remuneration Commission. She submitted that Fund had submitted the HR instruments to the Parent Ministry, SRC, SCAC for guidance and approval but the same could not be acted due to legal gaps that exist in the establishment Act.

301. The Fund has therefore continued to use the salary structure of the former Coffee Development Fund awaiting resolution of the above matter.

Observations and Finding of the Committee

302. The Committee observed that:

- i. The Fund's staff establishment and the salary structure and scale used by the Fund for payment of employees' salaries and allowances has not been

approved by the Salaries and Remuneration Commission because of the corporate status of the Fund;

- ii. The Fund has developed its HR instruments including salary structures and is awaiting SRC guidance and approval for implementation;
- iii. The staff instruments in use were approved by the Commodities Fund Board of Trustees; and
- iv. The matter remained unresolved.

Recommendations of the Committee

303. **The Committee recommends that within three months of adoption of this report, the accounting officer to engage the Salaries and Remuneration Commission (SRC) through the parent ministry to come up with an approved rates for compensation of employees.**

11. Non-Compliance with Law on Ethnic Composition

304. As reflected under Note 10 to the financial statements, the statement of financial performance reflects employee costs amounting to Kshs.111,010,000. The amount comprises of salaries and wages, housing benefits and allowances, pensions contributions and medical aids. However, during the year under review, 34% of the employees were from the same ethnic community. This is contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that all public offices shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community. Consequently, the Management is in breach of the law.

Submissions by the Accounting Officer

305. The Accounting Officer submitted that 34% of the employees as at 30th June 2021 were from same ethnic community. She submitted further that the Fund promotes equal employment opportunities and management is committed to progressively ensure ethnic representation and balance on recruitment of new employee and replacement of existing ones. The Fund has a representation of 11 communities despite the few staff numbers. The last recruitment of 13 employees in year 2020 saw a representation of 9 communities.

Observations and Finding of the Committee

306. The Committee observed that:
- i. 34% of the total employees were from one ethnic community contrary to the provision of Section 7(2) of the National Cohesion and Integration Commission Act, 2008; and
 - ii. The matter remains unresolved.

Recommendations of the Committee

307. **The Committee recommends that the Accounting Officer to ensure that there is ethnic balance in recruitment in compliance with Section 7(2) of the National Cohesion and Integration Commission Act, 2008.**

4.4 Examination of the report of the Auditor-General for the Financial Year 2021/2022

1. Unsupported Prior Year Adjustments

308. The statement of financial position and as disclosed in Note 26 to the financial statements reflects revenue reserves of (Kshs.11,981,926,000) which includes a prior year adjustment figure of (Kshs.1,006,000) dating back to 2016/20217 financial year. Although Management explained that the prior year adjustments arose after a reconciliation of loans, the reconciliation amounts were not supported by the loan statements. In the circumstances, the validity, accuracy, and completeness of the prior year adjustments of (Kshs.1,006,000) could not be confirmed.

Submissions by the Accounting Officer

309. The Accounting Officer submitted that the statement of financial position and as disclosed in Note 26 to the financial statements reflects revenue reserves of (Kshs. 11,981,926) which includes a prior year adjustment figure of (Kshs. 1,006,000) dating back to 2016/2027-year operations. The prior- year adjustments arose after a reconciliation of some loans which resulted in recognition of additional interest affecting prior periods. Management has given statements regarding the loans in question for your review.

Observations and Finding of the Committee

310. The Committee observed that:
- i. The revenue reserves included a prior year adjustment figure of (Kshs.1,006,000) dating back to 2016/20217 arising after a reconciliation of loans, the reconciliation amounts were not supported by the loan statements; and
 - ii. The matter remained unresolved

Recommendations of the Committee

311. **The Committee recommends that within three months of adoption of this report, the Accounting Officer provides the Auditor-General with supporting documents including the loan statements to support the prior year adjustments.**

2. Lack of Logbooks for Motor Vehicles

312. The statement of financial position reflects property, plant and equipment balance of Kshs.17,364,000 whose original cost as disclosed in Note 21 to the financial statements was Kshs.170,172,000. The balance of Kshs.170,172,000 includes motor vehicles with a cost of Kshs.65,208,000. However, the Fund did not have logbooks for one motor vehicle and one motorcycle costing Kshs.8,859,358 and Kshs.111,071 respectively, both totalling Kshs.8,970,429.

313. In the circumstances, ownership status of the motor vehicle and the motorcycle valued at Kshs.8,970,429 could not be confirmed.

Submissions by the Accounting Officer

314. The Accounting Officer acknowledged that the logbooks for motor car registration No. KDA 561P and motorcycle registration No. KDG 243C that cost Kshs. 8,859,358 and Kshs. 111,071 respectively had not been issued by NTSA at the time of audit.

315. She however confirmed that the two vehicles are registered under the Commodities Fund as reflected in the virtual logbooks on the Fund's NTSA portal. The Fund was actively following up with NTSA to secure the physical logbooks for the two. The Fund has since secured the logbook for the car registration No. KDA 561P.

Observations and Finding of the Committee

316. The Committee observed that:

- i. The Fund did not have logbooks for one motorcycle costing Kshs. 111,071 respectively;
- ii. The motorcycle and the vehicle are registered under Commodities Fund name as reflected in the virtual logbooks on the Fund's NTSA portal.
- iii. The Fund has since secured the Log book for the Car KDA 561P and is following up with NTSA to secure the physical logbook for the motorcycle; and
- iv. The matter remained unresolved.

Recommendations of the Committee

317. **The Committee recommends that the Accounting Officer to provide the logbooks to the Auditor General for verification within three months of the adoption of this report.**

3. Long Outstanding Loans

318. The statement of financial position reflects long term receivables of Kshs.657,067,000 which as disclosed in Note 18 (iv) to the financial statements is a net of gross loans and advances of Kshs.15,805,522,000 and of a total provision of Kshs.14,686,786,000 or 93% of the gross amounts. Review of loans disbursement records revealed that the balance includes a loan number LN0377 of Kshs.31,100,000 for coffee establishment that had

been disbursed to a farmer in Nyeri on 2 March, 2016 and was to be repaid within 18 months. However, the farmer had not finished servicing the loan by the renegotiated repayment date of 30th June 2021 and the outstanding balance as at 30 June, 2022 was Kshs.46,289,452.

319. Further, the balance includes loans that were inherited from Agriculture and Food Authority, Sugar Board and Coffee Development Fund that are non-performing and have outstanding overdue total principal and interest arrears balances totalling Kshs.19,287,452,848. 57. In the circumstances, the accuracy and recoverability of the receivables from exchange transactions - gross loans and advances of Kshs.15,805,522,000 could not be confirmed

Submissions by the Accounting Officer

320. The Accounting Officer submitted that management held meetings with the client after the lapse of the negotiated repayment date to enable regularization of the loan account. The client had targeted to dispose one of their properties. The failure to receive repayments led to three demand notices being issued and the client notified us that the file had been forwarded to the Debt Recovery Unit (DRU) for execution of the requisite debt recovery measures.
321. The Special Fund Accounts Committee in its sixth report dated October 2019 recommended that the Board in consultation with the Parent Ministry and approval by the Cabinet Secretary National Treasury consider writing off loans to Public Mills and Out grower Institutions that were inherited by Commodities Fund based on their low recoverability in accordance with Section 69 (2) of the Public Finance Management Act 2012.
322. The Fund held a meeting with the National Treasury which culminated in the Board holding a meeting to seek debt write off due to doubtfulness in ability to recover. This is in line with Section 69 of the Public Finance Management Act 2012.
323. In line with the Board resolution the Fund sort debt write-off from the Parent Ministry of non-performing loans vide letters dated 19th April 2021 and 8th March 2023.
324. The Cabinet Secretary to the National Treasury informed the Fund that the National Assembly has since approved the Action Plan to revive and commercialize State Owned Sugar Companies as communicated vide *Certificate No. 039/13th/2023*. The said letter authorized the Fund to write off debts owed by the five State Owned Sugar Companies to Government, Kenya Sugar Board/Commodities Fund. The figures in the letter that are applicable to Commodities Fund debts are **Kshs. 12,336,003,133**

325. The non-performing unsecured loan book inherited from the former Coffee Development Fund was Kshs 757,591,523.05 out of which Kshs 620,765,933.83 is outstanding as at 28th November 2023
326. The rate of provisioning will increase with every new loan taken because provisions of 1% are made for loans advanced that are performing and non-performing loans that were inherited and are continuing to accrue interest until they are frozen 5 years after the due date.

Observations and Finding of the Committee

327. The Committee observed that:
- i. The Fund has a loan of Kshs. 31,100,000 issued to a farmer on 2 March, 2016 for coffee establishment but the farmer has defaulted payment and the outstanding balance as at 30 June, 2022 was Kshs.46,289,452;
 - ii. The loan is secured and the Fund is in the process of liquidating property to recover the outstanding loan balances;
 - iii. The Fund has loans that were inherited from the defunct Sugar Board and Coffee Development Fund that are non-performing and have outstanding principal and interest arrears balances totaling Kshs.19,287,452,848;
 - iv. The Fund sought to write-off the non-performing loans through the Parent Ministry in line with the Board resolution and as per the provision of Section 69 of the Public Finance Management Act 2012 and Regulation 145 of the PFM regulations.
 - v. The matter is not resolved.

Recommendations of the Committee

328. The Committee recommends that:
- i. The Accounting Officer to recover outstanding loan of Kshs.46,289,452 as at 30 June, 2022; and
 - ii. Within three months of adoption of this report, the Accounting Officer to submit to the Auditor-General, the status of the write-off of the non-performing loans and the recovery of the outstanding loan.

4. Failure to Revalue Fully Depreciated Assets

329. The statement of financial position reflects property, plant, and equipment balance of Kshs.17,364,000. However, Note 21 to the financial statements reflects fully depreciated property, plant and equipment with a historical cost value of Kshs.140,128,248 whose residual values over the remaining useful life of assets was not estimated and disclosed in the financial statements. This indicates a possible material variance between the fair value

and the carrying value of the assets necessitating a revaluation as required under paragraph 49 of IPSAS 17 - property, plant and equipment.

330. Further, the Fund has no assets and liabilities management policy contrary to Paragraph 4(4.5) of The National Treasury Policy on Assets and Liabilities Management in the public sector. In the circumstances, it has not been possible to confirm the fair statement of the property, plant and equipment net book value of Kshs.17,364,000 reflected in the financial statement.

Submissions by the Accounting Officer

331. The Accounting Officer acknowledged that some of the items reflected under Note 21 on property, plant and equipment were fully depreciated. Having recognized this, management budgeted to value the assets in FY 2022/2023 and procurement for the same is ongoing. The Fund has the assets and liabilities management policy which complies with the National Treasury Policy on Assets and Liabilities Management in the Public Sector.

Observations and Finding of the Committee

332. The Committee observed that:
- i. The Fund did not revalue fully depreciated assets therefore not giving a fair value of the property, plant and equipment;
 - ii. The Fund has budgeted for the revaluing of its assets in FY 2023/2024 and is in the procurement stage;
 - iii. The Fund did not have assets and liabilities management policy contrary to the National Treasury Policy on Assets and Liabilities Management in the public sector;
 - iv. The matter remained unresolved.

Recommendations of the Committee

333. The Committee recommends that:
- i. **Within three months of the adoption of this report, the Accounting Officer to submit the status report on revaluation of assets to the Auditor-General;**
 - ii. **Within three months of the adoption of this report, the Accounting Officer to submit the assets and liabilities management policy to the office of the Auditor-General for audit verification.**

5. Irregular Payment of House Allowances

334. The statement of financial performance reflects Kshs.115,697,000 in respect of employee costs. However, review of the payroll records for the year under review revealed that there were employees whose house allowances exceeded the approved rate by the Salaries and Remuneration Commission (SRC) as per their respective grades resulting in an over-

expenditure of Kshs.3,270,250. No evidence was provided to confirm if approval for the payments of the allowances was granted by SRC. In the circumstances, the regularity of the house allowance payment of Kshs.3,270,250 could not be confirmed.

Submissions by the Accounting Officer

335. The Accounting Officer admitted that since its inception, the Fund has continued to use the remuneration policy of its predecessor; Coffee Development Fund since its Human Resource Instruments are yet to be approved. The Fund engaged the consultancy arm of the Public Service Commission in the Development of its HR instruments including salary structures and the same were submitted to various bodies including SRC for guidance and approval for implementation. The instruments are yet to be approved.
336. She also stated that the staff grading as per the remuneration policy are on a numerical basis from grade I to grade VI. Grade I being the highest. The grading is mapped to the public service grading system. The Commodities Fund house allowances are therefore within the SRC guidelines with most of the employees getting below the set upper limit.

Observations and Finding of the Committee

337. The Committee observed that:
- i. The Fund incurred an over-expenditure of Kshs.3,270,250 by paying its employees house allowances above the approved rate by the Salaries and Remuneration Commission (SRC);
 - ii. The Fund has developed its HR instruments including salary structures and is awaiting SRC guidance and approval for implementation;
 - iii. The matter remained unresolved

Recommendations of the Committee

338. **The Committee recommends that within three months of the adoption of this report, the Accounting Officer, through the Ministry of Agriculture and Livestock Development to engage the Salaries and Remuneration Commission (SRC) to come up with approved rates for compensation of employees which the Fund can utilize.**

7. Lack of an Approved Staff Establishment and Remuneration Structure

339. During the year under audit, the Fund did not have an updated approved staff establishment hence it was not possible to establish the optimal levels or number of employees per post. In addition, the salary structure and scale used by the Fund for payment of employees' salaries and allowances was not approved by the Salaries and Remuneration Commission

contrary to Article 230(4) (a & b) of the Constitution. In the circumstances, the regularity of the payments of salaries and allowances could not be confirmed.

Submissions by the Accounting Officer

340. The Accounting Officer admitted that the Fund does not have an approved HR instruments as the same awaits resolution on the legal status of the Fund. Resolution of the legal status/corporate status will enable the relevant government agencies to categorize the Fund and approve HR instruments including staff establishment. The said staff instruments fully approved by the Commodities Fund Board of Trustees are being held by various government agencies but cannot approve until corporate status issue is resolved.

Observations and Finding of the Committee

341. The Committee observed that:
- i. The Fund's staff establishment and the salary structure and scale used by the Fund for payment of employees' salaries and allowances has not been approved by the Salaries and Remuneration Commission because of the corporate status of the Fund;
 - ii. The staff instruments in use were approved by the Commodities Fund Board of Trustees;
 - iii. The matter remained unresolved.

Recommendations of the Committee

342. **The Committee recommends that within three months of adoption of this report, the Accounting Officer to engage through the Ministry of Agriculture and Livestock Development to develop the Human Resource Instruments for compensation of employees.**

8. Irregular Procurement of Security Expenses

343. The statement of financial performance reflects an amount of Kshs.100,402,000 in respect of use of goods and services which includes a payment of Kshs.1,174,000 that was made to a security firm. This was because of a contract extension to provide security service at Kshs.40,000 plus VAT per guard per month. The contract was an extension of an earlier contract dated 1 January, 2017 whose charges for security services was Kshs.27,543 plus VAT per guard per month.
344. In the circumstances, it was not possible to confirm if value for money was realized for Kshs.1,174,000 expenditure on security services.

Submissions by the Accounting Officer

345. The Accounting Officer submitted that the Fund first contracted Wells Fargo Ltd for the provision of security services in 2017 at a fee of Kshs. 27,543.10 per guard per month.

Through a series of price revisions with reasons thereof as per the attached price revision letters it necessitated the change in prices from the initial plan. One of the reasons was the presidential declaration of an increment in minimum wage brought about by inflation and an increase in the cost-of-living index in Kenya as elaborated in the price revision letters. Therefore, the Fund revised the contract fee in 2018 to a monthly fee of Kshs. 34,543.00 and in 2021 at a fee of Kshs. 40,000.00.

346. Consequently, in 2022, the Fund contracted/ Procured a new security service provider, Mocam Security Ltd, through the request for quotation procurement method and thus terminated the services of Wells Fargo Ltd. on 27th July 2022. The monthly fee for the new firm is Kshs. 38,280.

Observations and Finding of the Committee

347. The Committee observed that:
- i) The fund has since regularized the procurement of security services in the current financial year.
 - ii) The variance in the contract price was the cater for the minimum wage increment
 - iii) The matter is resolved.

9. Board of Trustees Matters

348. The statement of financial performance reflects remuneration of trustees of Kshs.17,160,000 and as disclosed under Note 11 to the financial statements. However, the appointment letters for two (2) Board Members were not provided for audit review. The Fund Management vide a letter dated 16th December, 2019 requested the Principal Secretary, State Department for Crops Development and Agricultural Research for the appointment letters but no evidence was provided to indicate that they were received. In addition, the Fund did not have a substantive holder for the position of Corporate Secretary. Minutes of the Board meetings were taken by the Legal Manager on behalf of the Managing Trustee but no evidence inform of delegation of authority or appointment letter was provided for audit. In the circumstances, Management was in breach of the law.

Submissions by the Accounting Officer

349. The Accounting Officer submitted that two (2) of the Fund's trustees board members did not have appointment letters from the appointing authority. The Fund requested the Parent Ministry to avail the Appointment letters for the two board members via a letter referenced ComFund/F.1/BoT/Vol.2?104 Dated 16th December 2019 but the ministry did not issue the requested letters. The two directors left the Fund within the year 2021/2022. All new directors appointed to replace them were gazetted and issued with appointment letters.
350. She also acknowledged the Legal Manager was taking Board minutes on behalf of the Managing Trustee who is the Substantive Secretary to the Board of Trustees. The new

organization structure awaiting approval has created a position for Corporation Secretary. The anomaly will be resolved once the new structure is approved and implemented.

Observations and Finding of the Committee

351. The Committee observed that:

- i. The Fund had not provided the appointment letters for two (2) Board Members for audit review. The two directors left the Fund within the year 2021/2022. All new directors appointed to replace them were gazetted and issued with appointment letters; and
- ii. The matter is resolved

10. Failure to Prepare Financial Statements for the Staff Car Loan and Mortgage Scheme

352. Note 23 to the financial statements reflects investment in staff mortgage loan and car loan of Kshs.115,011,000 and Kshs.11,326,000 respectively. However, the Fund did not prepare financial statements for the schemes and submit them for audit as required by a Circular of 17th December, 2014 on Car Loan and Mortgage Schemes for State Officers and other Public Officers of the Government of Kenya. The National Treasury through a memo dated 20 June, 2022 gave Management the authority to open and operate a Commodities Staff Mortgage Account. Management opened an account with a local bank and deposited Kshs.30,000,000 to the account without entering into a contractual agreement with the bank on the management of the scheme. In addition, the status report on the transition from the Housing Finance Company (HFC) Scheme to the Cooperative Scheme was not provided for audit review. In the circumstances, Management contravened the requirements of the Salary and Remuneration Commission circular on car loan and mortgage schemes.

Submissions by the Accounting Officer

353. The Accounting Officer confirmed that the Fund did not prepare separate financial statements for the scheme instead the scheme's financial statements were combined with that of the Fund. Failure to prepare the separate statements was an oversight as the National Treasury advised that the same was meant for larger schemes.

354. The Accounting Officer stated that the management, was ready to prepare separate financial statements beginning FY2022/2023. Further, the Fund was granted authority to open and operate Commodities Staff Mortgage Account with Co-operative bank on 20th June, 2022. Approved budgeted amount for the scheme Kshs. 30 million was deposited in the account on 30th June 2022. The operationalization of the scheme was done on 10th of February 2023 with the signing of the agreements on criteria and rules for offering mortgages to members.

355. She also reported that the transfer of mortgage facilities issued by HF to Co-operative bank was on-going. The process took a long time since all staff holding the facilities had to be involved in every step as they are the ones to meet the cost of transfer. The exercise is expected to be completed by the end of July 2023.

Observations and Finding of the Committee

356. The Committee observed that:
- i. Management did not prepare separate financial statements for the staff mortgage and car loan scheme Fund but instead, the financial statements were combined with that of the commodities Fund.
 - ii. The Fund should prepare a separate set of financial statements for the staff mortgage and car loan and submit them to the auditor General for audit in compliance with Section 84 of the PFM Act,2012 and the SRC circular ref.No.SRC/ADM/CIR/1/13 Vol.III (128); and
 - iii. The matter remained unresolved.

Recommendations of the Committee

- i. **The Committee recommends that the Accounting Officer ensures that all applicable accounting and financial controls, systems, standards, laws, and procedures are followed in the preparation of the financial statements in compliance with Public Finance Management Act, 2012 and in accordance with the standards prescribed by the Public Sector Accounting Standards Board as per Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2012; and**
- ii. **The Accounting Officer should prepare a separate set of financial statements for the staff mortgage and car loan and submit them to the auditor General for audit in compliance with Section 84 of the PFM Act,2012 and the SRC circular ref. No. SRC/ADM/CIR/1/13 Vol. III (128) in financial year 2022/23**

11. Irregular Investment of Surplus Funds in Fixed Deposits at Commercial Banks

357. The reported cash and cash equivalents balance of Kshs.1,880,202,000 includes Kshs.1,794,659,000 being fixed deposits held in commercial banks, as disclosed under Note 17 (C) to the financial statements. This was contrary to The National Treasury Circular of 26 March, 2018 which directed all State Corporations and Semi-Autonomous Government Agencies (SAGAs) to invest surplus funds in Treasury Bills and/or Treasury Bonds directly through Central Bank of Kenya without intermediaries. All funds previously held in fixed deposits in commercial banks/financial institutions were not to be rolled over but retired and invested in Treasury bills/bonds. Although Management provided authority from National Treasury dated 13 November, 2017 in

support of the fixed deposits, the letter only authorizes the Fund to invest in on call deposits.

358. In the circumstances, the regularity of the investment of Kshs.1,794,659,000 in fixed deposits accounts could not be confirmed.

Submissions by the Accounting Officer

359. The Accounting Officer submitted that management was aware of the National Treasury Circular Ref: DMD 4/02 'H'63) of 26 March,2018 which directed all state Corporations and Semi-Autonomous Government Agencies (SAGAs) to invest surplus funds in Treasury Bills and/or Treasury Bonds. Considering the mandate of the Fund of providing accessible and affordable credit to farmers, the Fund sought and got exemption from the said circular. The authority to invest in short term deposit/call deposit was granted through vide letter Ref: CONF/MOF/63/01 'TY' date 13th November 2017.

360. Following this authority, the Fund has since invested its surplus liquid funds in call and short-term deposits which do not go beyond six months. The arrangement has helped the Fund to invest its funds and lift the same any time they are required to disburse to farmers without losing the already earned interest.

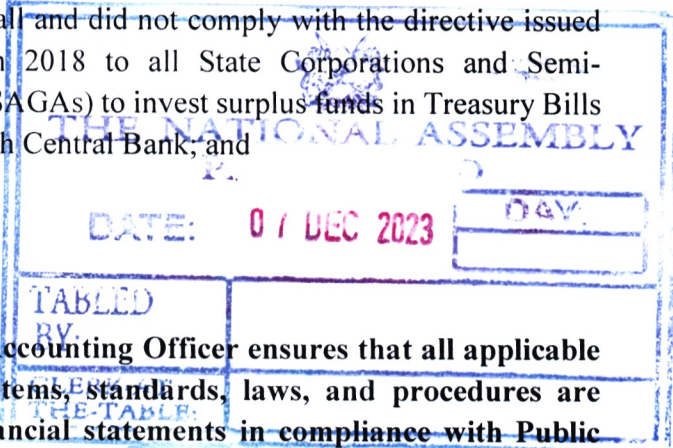
Observations and Finding of the Committee

361. The Committee observed that:

- i. The Accounting Officer relied on an exemption given to the Fund on 13th November 2017 to invest in short term deposit call and did not comply with the directive issued by the National Treasury in March 2018 to all State Corporations and Semi-Autonomous Government Agencies (SAGAs) to invest surplus funds in Treasury Bills and/or Treasury Bonds directly through Central Bank; and
- ii. The matter remained unresolved.

Recommendations of the Committee

362. The Committee recommends that the Accounting Officer ensures that all applicable accounting and financial controls, systems, standards, laws, and procedures are followed in the preparation of the financial statements in compliance with Public Finance Management Act, 2012 and in accordance with the standards prescribed by the Public Sector Accounting Standards Board as per Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2012.



SIGNED.....*[Signature]*.....DATE.....

HON. DAWOOD ABDUL RAHIM, HSC, M.P.
(VICE CHAIRPERSON)

SPECIAL FUNDS ACCOUNTS COMMITTEE

THIRTEENTH PARLIAMENT – SECOND SESSION

THE NATIONAL ASSEMBLY





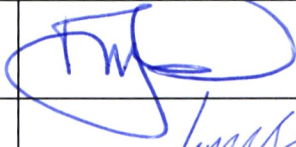





SPECIAL FUNDS ACCOUNTS COMMITTEE.

ADOPTION LIST FOR THE

AUDITED FINANCIAL STATEMENTS FOR

THE:

COMMODITIES FUND - 2018/2019 TO 2021/2022

NO.	NAME	SIGNATURE
1.	Hon. Fatuma Zainab Mohammed, MP - Chairperson	
2.	Hon. Dawood Abdul Rahim, HSC, MP - Vice-Chairperson	
3.	Hon. Charles Ngusya Nguna, MP	
4.	Hon. Dr. Christine Ombaka Oduor, MP	
5.	Hon. Erastus Kivasu Nzioka, MP	
6.	Hon. Eve Akinyi Obara, MP	
7.	Hon. Faith Wairimu Gitau, MP	
8.	Hon. Joseph Majimbo Kalasinga, MP	
9.	Hon. Tom Mboya Odege, MP	
10.	Hon. Catherine Nakhabi Omanyu, MP	
11.	Hon. Cecilia Asinyen Ngitit, MP	
12.	Hon. Erick Kahugu Mwangi MP	
13.	Hon. Joseph Kimutai Chererot, MP	
14.	Hon. Joshua Odongo Oron, MP	
15.	Hon. Paul Biego Kibichy, MP	

**MINUTES OF THE 41ST SITTING OF THE SPECIAL FUND ACCOUNTS COMMITTEE
HELD ON FRIDAY, 4TH AUGUST 2023, IN HILTON GARDEN INN, MACHAKOS
COUNTY, AT 09.30 AM.**

PRESENT

1. Hon. Fatuma Zainab Mohammed, MP - Chairperson
2. Hon. Dawood Abdul Rahim, HSC, MP - Vice Chairperson
3. Hon. Erastus Kivasu Nzioka, MP
4. Hon. Joseph Kimutai Chererot, MP
5. Hon. Eve Akinyi Obara, MP
6. Hon. Catherine Nakhabi Omanyoo, MP
7. Hon. Paul Kibichi Biego, MP
8. Hon. Cecilia Asinyen Ngitit, MP
9. Hon. Tom Mboya Odege, MP
10. Hon. Charles Ngusya Nguna, MP
11. Hon. Dr. Christine Ombaka Oduor, MP

APOLOGIES

1. Hon. Faith Wairimu Gitau, MP
2. Hon. Kahugu Erick Mwangi, MP
3. Hon. Joshua Odongo Oron, MP
4. Hon. Joseph Majimbo Kalasinga

IN ATTENDANCE

OFFICE OF THE AUDITOR GENERAL

1. Mr. David Osiemo - Auditor/Parliamentary Liaison Officer
2. Ms. Khadija Alugongo - Deputy Director OAG
3. Mr. Tom J. Gaya - Principal Auditor OAG

NATIONAL TREASURY

Mr. Simon K. Kiriiba - Parliamentary Liaison Officer

COMMODITIES FUND.

1. Ms. Nancy Cheruiyot - Managing Trustee
2. Mr. Silas Nyongesa - Commodities Fund Staff
3. Ms. Roseline Wambua - Credit Manager
4. Ms. Julie Ronguei - Accountant
5. Mr. Geoffrey Kinyua - Accountant
6. Mr. Duke Mainga Ondiba - Chairperson

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|--------------------------|---|-----------------------------------|
| 1. Mr. Leonard Machira | - | Senior Clerk Assistant 1 |
| 2. Mr. Silvanus Makau | - | Clerk Assistant III |
| 3. Mr. Robert Ngetich | - | Fiscal Analyst II |
| 4. Ms. Bevaline Mosoti | - | Research Officer III |
| 5. Mr. Peter Mutethia | - | Audio Officer III |
| 6. Mr. Benard Omondi | - | Sargent at arms |
| 7. Ms. Judith Kanyoko | - | Legal Counsel II |
| 8. Ms. Maryan Gabow | - | Public Communications Officer III |
| 9. Mr. Geoffrey Kwatamba | - | Media Relations Officer III |

MIN. NA/AA&SC-SFAC/2023/069:

PRELIMINARIES

The Chairperson called the meeting to order at 09.45am, followed by a word of prayer and introductions.

The following agenda was adopted as circulated:

1. Prayers
2. Preliminaries/Introductions
3. **Examination of Audited Financial Statements of the Commodities Fund for the Financial Years 2019/2020 to 2021/2022**
4. Any Other Business
5. Adjournment Date of the next meeting.

After that, Ms. Nancy Cheruiyot, the Managing Trustee, Commodities Fund, undertook the witness oath and tabled the management responses and supporting documents on the audited accounts of the Commodities Fund for the Financial Years 2019/2020 to 2021/2022.

MIN. NA/AA&SC-SFAC/2023/070:

EXAMINATION OF AUDITED ACCOUNTS OF THE COMMODITIES FUND FOR THE FINANCIAL YEARS 2019/2020 TO 2021/2022

Examination of Audited Accounts of the Commodities Fund for the Financial Years 2019/2020.

Long term receivables from exchange transactions- Loans and advances

1. High Rate of Provisioning on Loans and Advances

The gross loans and advances reflected in the financial statements amounted to Kshs.16,503,648,000 with a total provision of Kshs.15,574,004,000 which translate to 94% of the loans and advances to farmers. Management has not given the basis for the huge provision for the

loans. Consequently, the validity, accuracy and full recoverability of the long-term receivables from exchange transactions - loans and advances totaling to Kshs.217,264,000 could not be confirmed.

Committee Observations

- (a) The provision of 94% for doubtful debts was high and there was no evidence of approval by the Board for the policy on provisioning for bad debts.
- (b) The issue remained unresolved.

Committee recommendations

Within three months of the adoption of this report by the National Assembly, the Accounting Officer to provide evidence of approval by the Board of the bad and doubtful debts policy to the Auditor General for verification.

2. Non-Performing Loans

- i. Note 16(iv) to the financial statements reflects gross loans and advances amounting to Kshs.16,503,648,000. However, site visits to sampled regional offices and review of documents and records revealed a gross portfolio of Kshs.19,191,900,314 resulting into an unreconciled difference of Kshs.2,688,252,314.
- ii. The validity, accuracy and completeness of the long-term receivables from exchange transactions - loans and advances totalling to Kshs.217,264,000 could not be confirmed.

Committee Observations

- (a) The Accounting Officer did not provide supporting documents for the difference of Kshs.2,688,252,314 interest
- (b) The Accounting Officer did not provide Minutes of the Board for the meeting held on 15th April 2021 to approve initiating a write-off of the outstanding loans.
- (c) The matter remained unresolved.

Committee recommendation

The Accounting Officer to resume the process of write-off of the bad and doubtful debts in strict compliance with the procedure laid out under Section 69 of the Public Finance Management Act, 2012.

3. Unsecured Loans to Intermediaries/Expired Loan Agency Agreements

A review of loans data disbursed through intermediaries indicated that the Fund held a total of Kshs.18,875,168,260 in arrears. These loans were issued to farmers by intermediaries on behalf of the Fund. The loan agency agreements were signed between the Fund and the intermediaries without any other security or collateral attached to the Fund. However, it was observed that the agreements held by the Fund were not valid as the timespan had lapsed. In addition, there was no existing collateral to cushion the Fund against default and thus there was risk of losing the

outstanding amounts secured by the lapsed agency and tripartite agreements. Consequently, the recoverability of the current and long-term receivables from exchange transactions - loans and advances totalling to Kshs.712,379,000 and Kshs.217,264,000 respectively could not be confirmed.

Committee Observations

- (a) The fund had issued loans totaling Kshs.18, 875,168,260 without security or collateral for loans inherited from the former Coffee Development fund and from the sugar fund whose loans were secured by floating debentures.
- (b) The matter remained unresolved.

Committee Recommendations

The Accounting Officer to resume the process of write-off of the bad and doubtful debts in strict compliance with the procedure laid out under Section 69 of the Public Finance Management Act, 2012.

4. Unreconciled Inter-Fund Transaction

As disclosed under Notes 16(iii) and 16(iv) to the financial statements, the statement of financial position's total loan balance of Kshs.929,643,000 which comprises both current and non-current balances includes a gross balance of Kshs.1,153,280,952 relating to receivables from Agricultural Finance Corporation comprising of Kshs.1,101,581,612 and Kshs.51,699,340 for sugar and coffee loans respectively. However, confirmation of records from AFC reflects that the entity owes the Fund Kshs.9,515,756 resulting to an un-reconciled balance of Kshs.1,143,765,196.

Consequently, the validity, accuracy and completeness of the current and long-term receivables from exchange transactions-loans and advances totalling to Kshs.712,379,000 and Kshs.217,264,000 respectively could not be confirmed.

Committee Observations

- (a) There were unreconciled balances of Kshs.1, 143,765,196 between AFC and commodities fund.
- (b) There was an amount of Kshs.1, 143,765,196 owed to the Commodities Fund by AFC which had not been recovered.
- (c) The matter remained unresolved

Committee Recommendations

- (a) Within three months of the adoption of this report, the Accounting Officer to provide a progress report on the recovery of Kshs.1,143,765,196 to the Auditor General for verification.

5. Unrecovered Funds Transferred to the Ministry of Agriculture, Livestock and Fisheries

As disclosed under Note 17 to the financial statements, the statement of financial position reflects receivables from non-exchange transactions of Kshs.46,055,000 which includes Kshs.40,000,000 transferred to the parent Ministry during the financial year 2016/2017. According to memos Ref: MOA/SDA/SC/40A dated 18 January, 2017 and Ref: MOALF/CORP/11/23/2 of 9 May, 2017, the Ministry was to reimburse these funds once the National Treasury released its budgeted funds for the year. However, the Ministry failed to reimburse the disbursements to the Fund.

In the circumstances, the accuracy and full recoverability of receivables from nonexchange transactions of Kshs.46,055,000 could not be confirmed.

Committee Observations

- (a) The transfer of Kshs.40, 000,000 to the parent Ministry of Agriculture and livestock was irregularly and not supported by evidence and was outside the objectives of the Fund.
- (b) The matter remains unresolved.

Committee Recommendations

- (a) Within three months of the adoption of this report, the Accounting Officer to provide evidence of the transfer of Kshs.40,000,000 to the state department of Agriculture;
- (b) The Accounting Officer to recover Kshs.40,000,000 transferred to the State Department of Agriculture: and
- (c) The Accounting Officer to stick to the objectives of the Fund.

6. Loan Repayments - Payment Received in Advance

As disclosed under Note 21 to the financial statements, the statement of financial position reflects trade and other payables from exchange transactions (creditors and accruals) totalling to Kshs.24,391,000. The amount includes payments received in advance of Kshs.10,643,000 which constitutes an amount of Kshs.5,527,735, being unidentified loan repayments, which were received by the fund but could not be linked to specific borrower/farmer accounts. The supporting schedules indicated that the amount was a cumulative figure from the year 2011 to 2020.

Further, the amount of Kshs.10,643,000 includes overpayment on loans and advances amounting to Kshs.5,115,510, which could not be traced to individual farmers. No satisfactory explanation was provided on why the amounts had not been reconciled to their respective debtors.

Consequently, the completeness and accuracy of the trade and other payables from exchange transactions (creditors and accruals) totalling to Kshs.24,391,000 could not be confirmed.

Committee Observations

- (a) The Accounting Officer did not provide a schedule or reconciliation to support the deduction of unidentified deposits from Kshs.5, 115,510 to Kshs.1, 724,586.
- (b) The Accounting Officer did not provide debtors' aging analysis for the Kshs.5,115,510
- (c) The matter remained unresolved.

Committee Recommendation.

- (a) The Accounting Officer to provide evidence of the reconciliation of unidentified deposits from Kshs.5,527,735 to Kshs.1,724,586 to the Auditor General within three months of the adoption of this report.
- (b) The Accounting Officer provide debtors' aging analysis for the Kshs.5, 115,510 to the Auditor General within three months of the adoption of this report.

7. Unconfirmed Expenditure on Maintenance of an ERP

As disclosed under Note 12 to the financial statements, the statement of financial performance reflects expenditure of Kshs.10,685,000 under repairs and maintenance. The amount includes Kshs.4,535,734 described as office and communication equipment but which related to payment for an annual software renewal and support fee paid to a vendor.

However, the entity had not upgraded its Enterprise Resource Planning (ERP) to the latest available version and was using a previous version of the ERP which was less suited for the Fund's current needs and is prone to internet vulnerabilities. This is in spite of contractual obligations of Kshs.2,000,000 annual mandatory payments to the service provider for Business Ready Enhancement Plan subscriptions as outlined in the contract. The corresponding receipts from the vendor for the payment of the annual subscriptions were not provided for audit.

Under the circumstances, the accuracy and validity and value for money on the expenditure of Kshs.4,535,734 could not be confirmed.

Committee Observations

- (a) The system had not been upgraded as at the time of the audit
- (b) The matter remained unresolved.

Committee Recommendations

- (a) The Accounting Officer to ensure and enforce strict compliance with contractual obligations by Vendors
- (b) The Accounting Officer to provide evidence of the upgrade of the system to the Auditor General within three months of the adoption of this report.

8. Irregular Appointment of Board Members

As disclosed under Note 10 to the financial statements, the statement of financial performance reflects remuneration to trustees amounting to Kshs.17,738,000 which includes an amount of Kshs.4,280,000 paid to six members of the Board of Trustees and Ministry representatives whose letters of appointment were not provided for audit review.

Consequently, the appointment of the four Board Members and the validity of the expenditure amounting to Kshs.4,280,000 could not be confirmed.

Committee Observations

- (a) The tenure of the four directors lapsed and new directors were appointed to replace them
- (b) The matter was resolved.

Other matters

9. Budgetary Control and Performance

The statement of comparative budget and actual amounts reflects a final revenue budget and actual on comparable basis of Kshs.598,622,000 and Kshs.481,165,000 respectively resulting to an under-funding of Kshs.117,457,000 or 20% of the budget. Similarly, the Fund expended Kshs.562,846,000 against an approved budget of Kshs.584,704,000 resulting to an under-expenditure of Kshs.21,858,000 or 20% of the budget.

The underfunding and underperformance affected the planned activities and may have impacted negatively on service delivery to the public.

Committee Observations

- (a) The Fund had revenue budget and actual of Kshs.598,622,000 and Kshs.481,165,000 respectively
- (b) The Fund had an under-funding of Kshs.117,457,000 or 20% of the budget
- (c) The Fund had an under-expenditure of Kshs.21, 858,000 or 20% of the budget.
- (d) The under-expenditure was pegged on the personnel expenditure of Kshs86,608,000 against a budget of Ksh124, 713,000 resulting to savings of Kshs38, 105,000.
- (e) The matter was partially resolved

10. Unresolved Prior Year issues

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources, and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, although the Management has indicated that the issues have been responded to, the matters have remained unresolved as the Public Accounts Committee has not deliberated on the issues.

Committee Observations

- (a) The Fund did not provide a response for issues raised in the prior year matters.
- (b) The matter remains unresolved.

Committee Recommendations

- (a) Within three months of the adoption of this report, the Accounting Officer to provide a status report on the resolution of prior year matters to the Auditor General for audit verification.

Report on Lawfulness and effectiveness in the use of public resources

11. Un-Approved Remuneration Structure

As disclosed under Note 9 to the financial statements, the statement of financial performance reflects employees' costs amounting to Kshs.96,085,000 which includes salaries and wages, housing benefits and allowances, pensions contributions and medical aids. However, the salary structure and scale on payment of employees' salaries and allowances used by the Fund was not approved by the Salaries and Remuneration Commission contrary to Article 230(4) (b) of the Constitution which provides that the powers and functions of the Salaries and Remuneration Commission shall be to advise the National and County Governments on the remuneration and benefits of all other public officers.

Consequently, the management is in breach of the law.

Committee Observations

- (a) The salary structure and scale on payment of employees' salaries and allowances used by the Fund was not approved by the Salaries and Remuneration Commission contrary to Article 230(4) (b) of the Constitution.
- (b) There existed no rules for the management of the Fund as required by Section 10(2) of the Crops Act, 2013.
- (c) There existed no regulations to facilitate the approval of the remuneration structure of the Fund.
- (d) The matter remains unresolved.

Committee Recommendations

- (a) The Agriculture and Food Authority to make rules for the better management of the Fund in accordance with Section 10(2) of the Crops Act, 2013 to facilitate the approval of the remuneration structure of the Fund.

12. Non-Compliance with the National Cohesion and Integration Commission Act, 2008

As reflected under Note 9 to the financial statements, the statement of financial performance reflects employee costs amounting to Kshs.96,085,000. The amount comprises of salaries and wages, housing benefits and allowances, pensions 467 contributions and medical aids. However, out of the fifty-six (56) regular employees of the Fund, twenty (20) representing 36% of the total

employees were from one ethnic community contrary to the provision of Section 7(2) of the National Cohesion and Integration Commission Act, 2008 which provides that no public establishment shall have more than one third of its staff from the same ethnic community.

Consequently, the management is in breach of the law

Committee Observations

- (a) 36% of the total employees were from one ethnic community contrary to the provision of Section 7(2) of the National Cohesion and Integration Commission Act, 2008
- (b) The matter remains unresolved.

Committee Recommendations

- (a) The accounting Officer to ensure that there is ethnic balance in recruitment in compliance with Section 7(2) of the National Cohesion and Integration Commission Act, 2008.

13. Laxity in Implementation of Off-site Back-up

Site visit to the offsite back-up on 22 March, 2021 revealed the following:

- i) The offsite back-up server was placed in an open area wherein the stipulated requirements for physical access and environmental conditions for server installations including manufacturers design temperature and humidity conditions cannot be implemented,
- ii) Security Parameters governing access to the server were not defined and did not meet the minimum standards implemented at the head office,
- iii) The server was placed in an open area with no controlled access,
- iv) The building in which the server is located does not belong to the entity,
- v) Access to the server is not monitored and physical access logs were not maintained. In the circumstances, the entity risks loss of valuable sensitive data and the offsite servers are prone to theft and unwarranted destruction

In the circumstances, the entity risks loss of valuable sensitive data and the offsite servers are prone to theft and unwarranted destruction.

Committee Observations

- (a) The photos provided by management to support the rectification of the anomaly by partitioning was not legible.

Committee Recommendations

- (a) The Auditor General to conduct a physical verification of the site to ensure the setting up of the off-site backup was done.

14. IT Internal Control and IT Governance Weaknesses

During the year, the Fund had the following IT internal control weaknesses: -

- i) The Fund had not established an IT Strategic Committee, an IT Steering Committee and has not undertaken any trainings of ICT Staff during the audit period.
- ii) Further, no fire extinguishers have been installed in the Eldoret and Nakuru Branches; the entity was relying on extinguishers installed by the building owners to which they have no control of maintenance. 468
- iii) The Fund has a local area network (LAN) installed in their regional offices. However, a visit to the sampled regions revealed that some of the offices were not using the LAN for internet connectivity since officers were not aware about the functionality. In case of downtime with WIFI, officers had to wait for resumption of WIFI so as to be able to access and use the system.
- iv) The audit observed 5 computers (Coded 000474, 000005, 000022 and 000024) with no UPS Back-ups. All desktop computers at the Nakuru and Eldoret Branches have no power backups installed.
- v) Management did not undertake proper training and sensitization on ICT functionality. Lack of continuous training in ICT hinders the ability of the entity to benefit from ICT solutions in achieving its mandate.

Consequently, IT governance and IT internal controls were not adequate or effective

Committee Observations

- (a) The members of the ICT Strategic Committee were not trained
- (b) The issue is not resolved.

Committee Recommendations

- (a) Within three months of the adoption of this report, the Accounting Officer to provide a status report on the training of members of the ICT Strategic Committee.

15. Functionality of the Board of Trustees

As previously reported, the Crops Act, No.13 of 2013, which created the Fund did not spell out clearly the mandate of the Fund's Board of Trustees as well as its powers and responsibilities. The Fund is not established as a body corporate having perpetual succession and a common seal and may not, in its corporate name, sue and be sued, which hinders its operations. Consequently, the Fund's Board of Trustees ability to work independently and effectively in the absence of clear laws on its mandate, powers and responsibilities is doubtful.

Committee Observations

- (a) The provisions of the Crops Act, 2013 establishing the Commodities Fund does not set out the functions of the Board of Trustees.
- (b) There exist no rules for the management of the Fund as required by Section 10(2) of the Crops Act, 2013.
- (c) The matter remains unresolved.

Committee Recommendations

- (a) The Agriculture and Food Authority to make rules for the better management of the Fund in the best interest of farmers in accordance with Section 10(2) of the Crops Act, 2013.

Examination of Audited Accounts of the Commodities Fund for the Financial Years 2020/2021.

1. Unsupported Prior Year Adjustment

The statement of changes in net assets reflects a Revenue Reserve net balance of Kshs.12,039,180,000 that includes prior year adjustments to the revenue reserves of Kshs.74,939,000 dating back to financial year 2016/2017 that could not be traced in the prior year operations. Although the Management explained that the prior year adjustments arose after a reconciliation of the loans and perfection of the Credit Management System, the reconciliation figures were not supported by the loan statements.

Committee Observations

- (a) The Accounting Officer did not provide journals to support the adjustment of Kshs.74,939,000
- (b) The Accounting Officer did not demonstrate the link between the schedule of adjustments and individual loan statements could not be demonstrated
- (c) The issue remains unresolved.

Committee Recommendations

- (a) Within three months of the adoption of this report Accounting Officer to provide journals to support the adjustment of Kshs.74,939,000 to the Auditor General for audit verification/
- (b) Within three months of the adoption of this report The Accounting Officer to provide evidence to demonstrate the link between the schedule of adjustments and individual loan statements.

2. High Rate of Provisioning on Loans and Advances

As disclosed under Note 17(iv) to the financial statements, the gross loans and advances reflected in the financial statements amounted to Kshs.16,103,966,000 with a total provision of Kshs.14,732,422,000 which translate to 91% of the loans and advances to farmers. Management has not given the basis for the huge provision for the loans.

Further, the Fund disbursed approximately Kshs.321,168,000 for sugar and coffee portfolios during the year under review, despite the high percentage of the portfolio risk

Committee Observations

- (a) The provision of 91% for doubtful debts amounting to Kshs.14,732,422,000 was too high with no evidence of approval by the Board for the provisioning policy.
- (b) The issue remains unresolved.

Committee recommendations

- (a) Management to provide evidence of approval by the Board of the bad and doubtful debts policy to the Auditor General for verification.

3. Unsupported Loans and Advances Balance

The statement of financial position reflects a balance of Kshs.754,905,000 under long-term receivables from exchange transactions - loans and advances as disclosed in Note 17(iv) to the financial statements. However, the amount was not supported by any verifiable document or records.

Committee Observations

- (a) The Accounting Officer did not provide a schedule to support the Kshs.754,905,000 under long-term receivables from exchange transaction
- (b) The issue remains unresolved.

Committee Recommendations

- (a) Within three months of the adoption of this report, the Accounting Officer to provide a schedule to support the Kshs.754,905,000 under long-term receivables from exchange transactions to the Auditor General for verification.

4. Unrecovered Fund Transferred to the Parent Ministry

The statement of financial position reflects receivables from non-exchange transactions of Kshs.46,410,000 and as disclosed in Note 18 to the financial statements. Included in the balance is an amount of Kshs.40,000,000 advanced to the Parent Ministry to offer financial assistance to Chemilil Sugar Company to enhance its sugar production that has 73 remained outstanding since 2017. The Ministry was to reimburse these funds once The National Treasury released its budgeted funds for the year. However, the Ministry failed to reimburse the funds to the Fund. It was not clear if the disbursement was approved by The National Treasury. Further, a scrutiny of the corresponding letter to the Managing Trustee revealed that the Principal Secretary did not sign the advance request.

Committee Observations

- (a) The transfer of Kshs.40, 000,000 to the State Department of Agriculture under the parent ministry was irregular and not supported by evidence and was outside the objectives of the Fund.
- (b) The matter remains unresolved.

Committee Recommendations

- (a) The Accounting Officer to recover Kshs.40, 000,000 transferred to the State Department of Agriculture.
- (b) The Accounting Officer to stick to the objectives of the Fund.

5. Unsupported Trade and Other Payables

As disclosed in Note 23 to the financial statements, the statement of financial position reflects trade and other payables from exchange transactions (creditors and accruals) of Kshs.63,825,000 which includes trade payables balance of Kshs.9,608,000. However, the trade payables includes unsupported balance amounting to Kshs.5,765,258.

Further, the general ledger of trade and other payables include a journal voucher entry for Kshs.2,997,214 dated 1 July, 2020 which was not explained nor supported.

Committee Observations

- (a) The payment vouchers, invoices and contracts have since been provided to the Auditor General.
- (b) The Accounting officer did not provide details supporting the journal vouchers for Kshs2,997,214
- (c) The issue remains unresolved.

Committee Recommendations

- (a) Within three months of the adoption of this report, the Accounting Officer to provide details supporting the journal vouchers for Kshs2,997,214 to the Auditor General for verification

6. Unconfirmed Expenditure on Remuneration of Trustees

As disclosed in Note 11 to the financial statements, the statement of financial performance reflects an expenditure on remuneration of trustees of Kshs.18,949,000. The expenditure includes an amount of Kshs.9,756,563 that was paid to three (3) members of the Board of Trustees.

However, their letters of appointment were not provided for audit review.

Committee Observations

- (a) The term of office of the four directors' lapsed and new directors appointed to replace them.
- (b) The matter is resolved

7. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final revenue budget and actual on comparable basis of Kshs.815,370,000 and Kshs.498,517,000 respectively, resulting to an under-funding of Kshs.316,853,000 or 38% of the budget. Similarly, the statement reflects final expenditure budget and actual on comparable basis of Kshs.293,892,000 and Kshs.255,152,000 respectively, resulting to an under-expenditure of Kshs.38,740,000 or 13% of the budget.

Further, the statement of financial performance reflects remuneration of trustees of Kshs.18,949,000 and as disclosed in Note 11 to the financial statements which includes sitting allowance totalling Kshs.7,860,000. However, the approved budget for sitting allowance was

Kshs.4,800,000 resulting in an overpayment of Kshs.3,060,000 or 63%. Although the Management explained that the board members were required to attend forums organized by the Ministry on all coffee growing regions to sensitize coffee 74 stakeholders on Coffee Bill, 2020 leading to the more meetings than had been anticipated, there was no evidence to show that the over expenditure was authorized.

Committee Observations

- (a) Management has taken steps to regularize over-expenditure.
- (b) The issue is resolved

8. Single Sourcing of Security Services and Fuel Products

The statement of financial performance reflects expenditure on use of goods and services of Kshs.98,805,000 as disclosed in Note 9 to the financial statements. The balance includes security and vehicle running expenses of Kshs.1,130,000 and Kshs.7,207,000 respectively. Analysis of the supporting documents for these expenses revealed that during the year under review, a security firm was awarded a contract effective from 1 September, 2020 with an expiry date of 31 August, 2021. The security firm was single sourced without justification contrary to the requirements of Section 103 of the Public Procurement and Asset Disposal Act, 2015 on direct procurement.

It was also noted that, for the first two months of the financial year under audit, the procuring entity paid the security firm an amount of Kshs.157,516 against a lapsed contract.

Further, the Fund single sourced oil, fuel and lubricants from a fuel company contrary to the requirements of Section 103 of the Public Procurement and Asset Disposal Act, 2015 on direct procurement. In addition, no documentary evidence was provided for audit to confirm that a contract agreement was signed between the procuring entity and the fuel company.

Committee Observations

- (a) The Accounting Officer irregularly procured security and vehicle running expenses for Kshs.1,130,000 and Kshs.7,207,000 respectively contrary to the provisions of section 103 of the Public Procurement and Asset Disposal Act, 2015
- (b) No evidence was provided that contracts were signed between the Fund and the service provider.
- (c) The issue remains unresolved.

Committee Recommendations

- (a) Within three months of the adoption of this report, the Accounting Officer to provide contracts signed between the Fund and the service providers for security and vehicle running expenses for Kshs.1, 130,000 and Kshs.7, 207,000 respectively to the Auditor General for verification.
- (b) The Accounting Officer to ensure compliance with the Public Procurement and Asset Disposal Act when procuring goods and services for the Fund.

9. Non-Compliance with the One-Third of Basic Salary Rule

During the year ended 30 June, 2021, some employees earned a net salary of less than a third (1/3) of the basic salary for all the twelve months of the financial year contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016. The Management has not given an explanation for failure to comply with the policy.

Committee Observations

- (a) A net salary of less than a third (1/3) of the basic salary for all the twelve months of the financial year contrary to Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016
- (b) The matter remains unresolved.

Committee Recommendations

- (a) The Accounting Officer to ensure compliance with Section C.1(3) of the Public Service Commission (PSC) Human Resource Policies, 2016.

10. Un-Approved Remuneration Structure

As disclosed under Note 10 to the financial statements, the statement of financial performance reflects employees' costs amounting to Kshs.111,010,000 which includes salaries and wages, housing benefits and allowances, pensions contributions and medical aids. However, as previously reported, the salary structure and scale on payment of employees' salaries and allowances used by the Fund was not approved by the Salaries and Remuneration Commission contrary to Article 230(4) (b) of the Constitution which provides that the powers and functions of the Salaries and Remuneration Commission shall be to advise the National and County Governments on the remuneration and benefits of all other public officers.

Committee Observations

- (a) The salary structure and scale on payment of employees' salaries and allowances used by the Fund was not approved by the Salaries and Remuneration Commission contrary to Article 230(4) (b) of the Constitution.
- (b) There exist no rules for the management of the Fund as required by Section 10(2) of the Crops Act, 2013.
- (c) There exist no regulations to facilitate the approval of the remuneration structure of the Fund.
- (d) The matter remains unresolved.

Committee Recommendations

- (a) The Agriculture and Food Authority to make rules for the better management of the Fund in accordance with Section 10(2) of the Crops Act, 2013 to facilitate the approval of the remuneration structure of the Fund.

11. Non-Compliance with Law on Ethnic Composition

As reflected under Note 10 to the financial statements, the statement of financial performance reflects employee costs amounting to Kshs.111,010,000. The amount comprises of salaries and wages, housing benefits and allowances, pensions contributions and medical aids. However, during the year under review, 34% of the employees were from the same ethnic community. This is contrary to Section 7(1) and (2) of the National Cohesion and Integration Act, 2008 which states that all public offices shall seek to represent the diversity of the people of Kenya in employment of staff and that no public institution shall have more than one third of its staff establishment from the same ethnic community.

Committee Observations

- (a) 34% of the total employees were from one ethnic community contrary to the provision of Section 7(2) of the National Cohesion and Integration Commission Act, 2008
- (b) The matter remains unresolved.

Committee Recommendations

- (a) The accounting Officer to ensure that there is ethnic balance in recruitment in compliance with Section 7(2) of the National Cohesion and Integration Commission Act, 2008.

Examination of Audited Accounts of the Commodities Fund for the Financial Years 2021/2022.

1. Unsupported Prior Year Adjustments

The statement of financial position and as disclosed in Note 26 to the financial statements reflects revenue reserves of (Kshs.11,981,926,000) which includes a prior year adjustment figure of (Kshs.1,006,000) dating back to 2016/20217 financial year. Although Management explained that the prior year adjustments arose after a reconciliation of loans, the reconciliation amounts were not supported by the loan statements.

Committee Observations

- (a) The financial statements reflected revenue reserves of (Kshs.11,981,926,000) which included a prior year adjustment figure of Kshs.1,006,000
- (b) The adjustments arose after a reconciliation of loans, the reconciliation amounts were not supported by the loan statements.
- (c) The Journal to support the adjustment was not provided
- (d) The issue has not been addressed

Committee Recommendations

- (a) Within three months of the adoption of this report, Accounting Officer to provide journals to support the adjustment of Kshs.1,006,000 to the Auditor General for audit verification.

2. Lack of Logbooks for Motor Vehicles

The statement of financial position reflects property, plant and equipment balance of Kshs.17,364,000 whose original cost as disclosed in Note 21 to the financial statements was Kshs.170,172,000. The balance of Kshs.170,172,000 includes motor vehicles with a cost of Kshs.65,208,000. However, the Fund did not have logbooks for one motor vehicle and one motorcycle costing Kshs.8,859,358 and Kshs.111,071 respectively, both totaling Kshs.8,970,429.

Committee Observations

- (a) The Fund did not have logbooks for one motor vehicle and one motorcycle costing Kshs.8,859,358 and Kshs.111,071 respectively, both totaling Kshs.8,970,429.
- (b) The issue has not been addressed

Committee Recommendations

- (a) Within three months of the adoption of this report, Accounting Officer to avail the two logbooks to the Auditor General for audit verification.
- (b) The Accounting Officer to ensure adherence to National Treasury Policy on Assets and Liabilities Management in the Public Sector June 2020 and PFM act 2012 (72).

3. Long Outstanding Loans

The statement of financial position reflects long term receivables of Kshs.657,067,000 which as disclosed in Note 18 (iv) to the financial statements is a net of gross loans and advances of Kshs.15,805,522,000 and of a total provision of Kshs.14,686,786,000 or 93% of the gross amounts.

Review of loans disbursement records revealed that the balance includes a loan number LN0377 of Kshs.31,100,000 for coffee establishment that had been disbursed to a farmer in Nyeri on 2 March, 2016 and was to be repaid within 18 months. However, the farmer had not finished servicing the loan by the renegotiated repayment date of 30 June, 2021 and the outstanding balance as at 30 June, 2022 was Kshs.46,289,452.

Further, the balance includes loans that were inherited from Agriculture and Food Authority, Sugar Board and Coffee Development Fund that are non-performing and have outstanding overdue total principal and interest arrears balances totalling Kshs.19,287,452,848. 57

Committee Observations

- (a) A loan of Kshs.31,100,000 advanced to a Nyeri farmer on 2 March, 2016 was still outstanding with a balance of Kshs.46,289,452 as at 30 June, 2022.
- (b) The balance also included loans that were inherited from Agriculture and Food Authority, Sugar Board and Coffee Development Fund that are non-performing and have outstanding overdue total principal and interest arrears balances totaling Kshs.19,287,452,848. 57
- (c) The issue has not been addressed

Committee Recommendations

The Accounting Officer to resume the process of write-off of the bad and doubtful debts in strict compliance with the procedure laid out under Section 69 of the Public Finance Management Act, 2012.

4. Failure to Revalue Fully Depreciated Assets

The statement of financial position reflects property, plant and equipment balance of Kshs.17,364,000. However, Note 21 to the financial statements reflects fully depreciated property, plant and equipment with a historical cost value of Kshs.140,128,248 whose residual values over the remaining useful life of assets was not estimated and disclosed in the financial statements. This indicates a possible material variance between the fair value and the carrying value of the assets necessitating a revaluation as required under paragraph 49 of IPSAS 17 - property, plant and equipment.

Further, the Fund has no assets and liabilities management policy contrary to Paragraph 4(4.5) of The National Treasury Policy on Assets and Liabilities Management in the public sector.

Committee Observations

- (a) A fully depreciated property, plant and equipment with a historical cost value of Kshs.140,128,248 useful life of assets was not estimated and disclosed in the financial statements.
- (b) The Fund has no assets and liabilities management policy contrary to Paragraph 4(4.5) of The National Treasury Policy on Assets and Liabilities Management in the public sector.
- (c) The issues have not been addressed

Committee Recommendations

- (a) Within three months of the adoption of this report, the Accounting Officer to provide a progress report on the valuation of the property, plant and equipment in accordance with the National Treasury Policy on Assets and Liabilities Management in the public sector.
- (b) The Accounting Officer to ensure compliance with IPSAS 17.
- (c) The matter is still pending

5. Irregular Payment of House Allowances

The statement of financial performance reflects Kshs.115,697,000 in respect of employee costs. However, review of the payroll records for the year under review revealed that there were employees whose house allowances exceeded the approved rate by the Salaries and Remuneration Commission (SRC) as per their respective grades resulting in an over-expenditure of Kshs.3,270,250. No evidence was provided to confirm if approval for the payments of the allowances was granted by SRC.

Committee Observations

- (a) The payment of employees' House allowances used by the Fund was not approved by the Salaries and Remuneration Commission contrary to Article 230(4) (b) of the Constitution leading to over-expenditure of Kshs.3,270,250
- (b) The issue has not been addressed.

Committee Recommendations

- (a) The Agriculture and Food Authority to make rules for the better management of the Fund in accordance with Section 10(2) of the Crops Act, 2013 to facilitate the approval of the remuneration structure of the Fund.

6. Lack of an Approved Staff Establishment and Remuneration Structure

During the year under audit, the Fund did not have an updated approved staff establishment hence it was not possible to establish the optimal levels or number of employees per post. In addition, the salary structure and scale used by the Fund for payment of employees' salaries and allowances was not approved by the Salaries and Remuneration Commission contrary to Article 230(4) (a & b) of the Constitution.

Committee Observations

- (a) The salary structure and scale on payment of employees' salaries and allowances used by the Fund was not approved by the Salaries and Remuneration Commission contrary to Article 230(4) (b) of the Constitution.
- (b) There existed no rules for the management of the Fund as required by Section 10(2) of the Crops Act, 2013.
- (c) There existed no regulations to facilitate the approval of the remuneration structure of the Fund.
- (d) The matter remains unresolved.

Committee Recommendations

- (b) The Agriculture and Food Authority to make rules for the better management of the Fund in accordance with Section 10(2) of the Crops Act, 2013 to facilitate the approval of the remuneration structure of the Fund.

7. Irregular Procurement of Security Expenses

The statement of financial performance reflects an amount of Kshs.100,402,000 in respect of use of goods and services which includes a payment of Kshs.1,174,000 that was made to a security firm. This was as a result of a contract extension to provide security service at Kshs.40,000 plus VAT per guard per month. The contract was an extension of an earlier contract dated 1 January, 2017 whose charges for security services was Kshs.27,543 plus VAT per guard per month.

Committee Observations

- (a) An amount of Kshs.1,174,000 was paid to a security firm in respect to services offered

- (b) This was as a result of a contract extension to provide security service at Kshs.40,000 plus VAT per guard per month.
- (c) The contract was an extension of an earlier contract dated 1 January, 2017 whose charges for security services was Kshs.27,543 plus VAT per guard per month.
- (d) The Fund has regularized procurement for security services in the current financial year – 2020/2023
- (e) The issue has been addressed

Committee Recommendations

- (a) The Accounting Officer to always ensure compliance with the Public Procurement and Asset Disposal Act, 2015.

8. Board of Trustees Matters

The statement of financial performance reflects remuneration of trustees of Kshs.17,160,000 and as disclosed under Note 11 to the financial statements. However, the appointment letters for two (2) Board Members were not provided for audit review. The Fund Management vide a letter dated 16 December, 2019 requested the Principal Secretary, State Department for Crops Development and Agricultural Research for the appointment letters but no evidence was provided to indicate that they were received.

In addition, the Fund did not have a substantive holder for the position of Corporate Secretary. Minutes of the Board meetings were taken by the Legal Manager on behalf of the Managing Trustee but no evidence inform of delegation of authority or appointment letter was provided for audit.

Committee Observations

- (a) There was a remuneration of trustees of Kshs.17,160,000 as disclosed under the financial statements.
- (b) Appointment letters for two (2) Board Members were not provided for audit review
- (c) The two directors left the Fund within the year 2021/2022. All new directors appointed to replace them were gazetted and issued with appointment letters
- (d) The Board members term lapsed and the appointment of current members regularized
- (e) The issue has been addressed

9. Failure to Prepare Financial Statements for the Staff Car Loan and Mortgage Scheme

Note 23 to the financial statements reflects investment in staff mortgage loan and car loan of Kshs.115,011,000 and Kshs.11,326,000 respectively. However, the Fund did not prepare financial statements for the schemes and submit them for audit as required by a Circular of 17th December, 2014 on Car Loan and Mortgage Schemes for State Officers and other Public Officers of the Government of Kenya.

The National Treasury through a memo dated 20 June, 2022 gave Management the authority to open and operate a Commodities Staff Mortgage Account. Management opened an account with

a local bank and deposited Kshs.30,000,000 to the account without entering into a contractual agreement with the bank on the management of the scheme.

In addition, the status report on the transition from the Housing Finance Company (HFC) Scheme to the Cooperative Scheme was not provided for audit review.

Committee Observations

- (a) The Fund did not prepare financial statements for staff mortgage loan and car loan of Kshs.115,011,000 and Kshs.11,326,000 respectively as required by a Circular of 17th December, 2014 on Car Loan and Mortgage Schemes.
- (b) The Fund deposited Kshs.30,000,000 to a local bank without entering into a contractual agreement with the bank on the management of the scheme.
- (c) Status report on the transition from the Housing Finance Company (HFC) Scheme to the Cooperative Scheme was not provided for audit review
- (d) The issue has not been addressed

Committee Recommendations

- (a) Within three months of adoption of this report, the Accounting Officer to provide financial statements for the staff car loan and Mortgage scheme to the Auditors for verification in accordance with section 83 of the PFM act 2012.
- (b) The Accounting Officer to ensure compliance with Salaries and Remuneration Commission Circular Ref. SRC/ADM/CIR/1/13 Vol. III (128) dated 17 December 2014 on Car Loan and Mortgage Schemes

10. Irregular Investment of Surplus Funds in Fixed Deposits at Commercial Banks

The reported cash and cash equivalents balance of Kshs.1,880,202,000 includes Kshs.1,794,659,000 being fixed deposits held in commercial banks, as disclosed under Note 17 (C) to the financial statements. This was contrary to The National Treasury Circular of 26 March, 2018 which directed all State Corporations and Semi-Autonomous Government Agencies (SAGAs) to invest surplus funds in Treasury Bills and/or Treasury Bonds directly through Central Bank of Kenya without intermediaries. All funds previously held in fixed deposits in commercial banks/financial institutions were not to be rolled over but retired and invested in Treasury bills/bonds. Although Management provided authority from National Treasury dated 13 November, 2017 in support of the fixed deposits, the letter only authorizes the Fund to invest in on call deposits.

Committee Observations

- (a) An amount of Kshs.1,794,659,000 was a fixed deposit held in commercial banks contrary to The National Treasury Circular of 26 March, 2018 which directed all State Corporations and Semi-Autonomous Government Agencies (SAGAs) to invest surplus funds in Treasury Bills and/or Treasury Bonds directly through Central Bank of Kenya without intermediaries
- (b) The Fund got Treasury authority to invest only on call deposits

- (c) The Fund did not obtain concurrence from TNT to continue investing in short term deposit/ call deposits after the directive that was issued vide Circular of 26 March, 2018.
- (d) The issue has not been addressed

Committee Recommendations

- (a) The Accounting Officer to ensure strict compliance with the National Treasury Circular of 26 March, 2018.

MIN. NA/AA&SC-SFAC/2023/071:

ADJOURNMENT/DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at 12.50 p.m. The next meeting will be held on notice.

SIGNED.....



DATE.....

28/9/2023

HON. FATUMA ZAINAB MOHAMMED, MP

(CHAIRPERSON)

SPECIAL FUNDS ACCOUNTS COMMITTEE

MINUTES OF THE 49TH SITTING OF THE SPECIAL FUND ACCOUNTS COMMITTEE HELD ON WEDNESDAY 6TH SEPTEMBER 2023 IN ENGLISHPOINT MARINA HOTEL MOMBASA, AT 09.30 AM.

PRESENT

1. Hon. Fatuma Zainab Mohammed, MP - Chairperson
2. Hon. Dawood Abdul Rahim, HSC, MP - Vice Chairperson
3. Hon. Catherine Nakhabi Omanyoo, MP
4. Hon. Paul Kibichi Biego, MP
5. Hon. Cecilia Asinyen Ngitit, MP
6. Hon. Tom Mboya Odege, MP
7. Hon. Charles Ngusya Nguna, MP
8. Hon. Dr. Christine Ombaka Oduor, MP
9. Hon. Joseph Majimbo Kalasinga
10. Hon. Kahugu Erick Mwangi, MP

APOLOGIES

1. Hon. Faith Wairimu Gitau, MP
2. Hon. Joshua Odongo Oron, MP
3. Hon. Erastus Kivasu Nzioka, MP
4. Hon. Eve Akinyi Obara, MP
5. Hon. Joseph Kimutai Cherorot, MP

IN ATTENDANCE

OFFICE OF THE AUDITOR GENERAL

Mr. David Osiero - Auditor/Parliamentary Liaison Officer

NATIONAL TREASURY

Mr. Simon K. Kiriiba - Parliamentary Liaison Officer

NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Leonard Machira - Senior Clerk Assistant
2. Mr. Silvanus Makau - Clerk Assistant III
3. Mr. Robert Ngetich - Fiscal Analyst II
4. Ms. Judith Kanyoko - Legal Counsel II
5. Ms. Bevaline Mosoti - Research Officer III
6. Mr. Peter Mutethia - Audio Officer III
7. Mr. Benard Omondi - Serjeant At Arms

MIN. NA/AA&SC-SFAC/2023/152:

PRELIMINARIES

The Chairperson called the meeting to order at 09.42am, followed by a word of prayer and introductions.

**MIN. NA/AA&SC-SFAC/2023/153: CONSIDERATION OF A DRAFT
REPORT ON THE EXAMINATION OF THE REPORTS OF THE AUDITOR
GENERAL ON THE AUDITED ACCOUNTS OF THE COMMODITIES FUND FOR
THE FINANCIAL YEARS 2018/2019 TO 2021/2022**

FINANCIAL YEAR 2018/2019

1. Variance between Loans Repaid and Loans Received

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee added a recommendation that Fund should use unique identifiers to identify the depositors.

2. Long Outstanding Reconciliation Loan Balances

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

3. Freezing of Interest on Loans

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

4. Loans with Outstanding Balances Reflected as Cleared in the System

Observations and findings of the Committee

The Committee agreed to the draft observations.

5. Amortization of Loans

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

Status after verification

The representative of the Auditor General confirmed that sampled loan repayment confirmed that loan No. LN121193, is on a reducing balance method.

6. Write-off of Receivables from Non-Exchange Transactions

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

7. Classification of Expenditure

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee amended draft recommendation (i) to specify the audit cycle as the 2022/23 Financial Year.

8. Revenue Shortfall and Unauthorized Expenditure

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee amended draft recommendation (i) to specific that the Accounting Officer to continue pursuing the write off of non-performing loans amounting to Kshs. 8,514,712,000

9. Unresolved Prior Year Matters

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

10. Legal case by Kibos Sugar & Allied Industries

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee amended draft recommendation (i) to specify the amount to be recovered by the Accounting Officer as being Kshs. 201,916,125.

11. Irregular Procurement of General Insurance Services

Observations and findings of the Committee

The Committee amended draft observation (i) to specify the section of the procurement law that were violated by the Accounting Officer regarding the failure to conduct technical evaluation of the bids for the procurement of General Insurance Services .

Recommendations of the Committee

The Committee amended the draft recommendations by adding a recommendation that the relevant Cabinet Secretary to reprimand the Accounting Officer for violating the relevant procurement laws.

12. Employee Costs - Staff Establishment Shortfall

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee amended the draft recommendation to specify that the Accounting Officer to submit draft Statutory Instrument to the National Assembly through the Cabinet Secretary for Agriculture and Livestock

13. Functionality of the Board of Trustees

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee amended the draft recommendation to specify that the Accounting Officer to submit draft Statutory Instrument to the National Assembly through the Cabinet Secretary for Agriculture and Livestock.

14. Missing Numbers in Loans Issued

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendation.

Status after verification

The representative of the Auditor General informed the Committee that the missing records were not verified because the auditee did not provide the supporting documents.

15. Issuance of Multiple Account Numbers to Loan Account Holders

Observations and findings of the Committee

The Committee observed that the multiple account numbers were not verified because the auditee did not provide the supporting documents.

Recommendations of the Committee

The Committee recommended that the Auditor General to conduct a special audit on the issue of account numbers issued to loan account holders to establish the magnitude of the multiple issues of account numbers and its effects on the repayments of the loans.

16. Ineffective Debt Recovery

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

FINANCIAL YEAR 2019/2020.

1. Long term receivables from exchange transactions- Loans and advances

1.1 High Rate of Provisioning on Loans and Advances

The Committee resolved to invite the Managing Trustee to a follow – up meeting to provide a justification for the high provisioning on loans /advances and the evidence to confirm that same was approved by the Board.

1.2 Non-Performing Loans

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

2. Unsecured Loans to Intermediaries/Expired Loan Agency Agreements

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

3. Unreconciled Inter-Fund Transaction

The Committee resolved to invite the Principal Secretary, State Department for Crop Development and the Managing Trust, Commodities Fund, the Managing Director Agricultural Finance Corporation and Director General, Agriculture and Food Authority to follow up on the status of the:

- i. The Kshs. 9,515,756,12 which the Corporation owes the Fund and the relevant supporting documents; and
- ii. The report of the agency agreement on the handing over of sugar assets and liabilities to the Commodities Fund.

4. Unrecovered Funds Transferred to the Ministry of Agriculture, Livestock and Fisheries

The Committee resolved to invite the Principal Secretary, State Department for Crop Development and the Managing Trustee, Commodities Fund to follow up on the status the unrecovered Kshs. 40,000,000 transferred to the Ministry of Agriculture and Livestock by the Commodities Fund.

5. Loan Repayments - Payment Received in Advance

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

6. Unconfirmed Expenditure on Maintenance of an ERP

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

7. Irregular Appointment of Board Members

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee amended the draft report to include a recommendation that the Accounting Officer to always ensure that until a board member is appointed, he/ she should not be serve in the board.

Other matters

8. Budgetary Control and Performance

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

9. Unresolved Prior Year issues

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

10. Un-Approved Remuneration Structure

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee amended the recommendation to provide that the Accounting Officer to engage the Salaries and Renumeration Commission through the Cabinet Secretary Agriculture and for Livestock.

11. Non-Compliance with the National Cohesion and Integration Commission Act, 2008

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

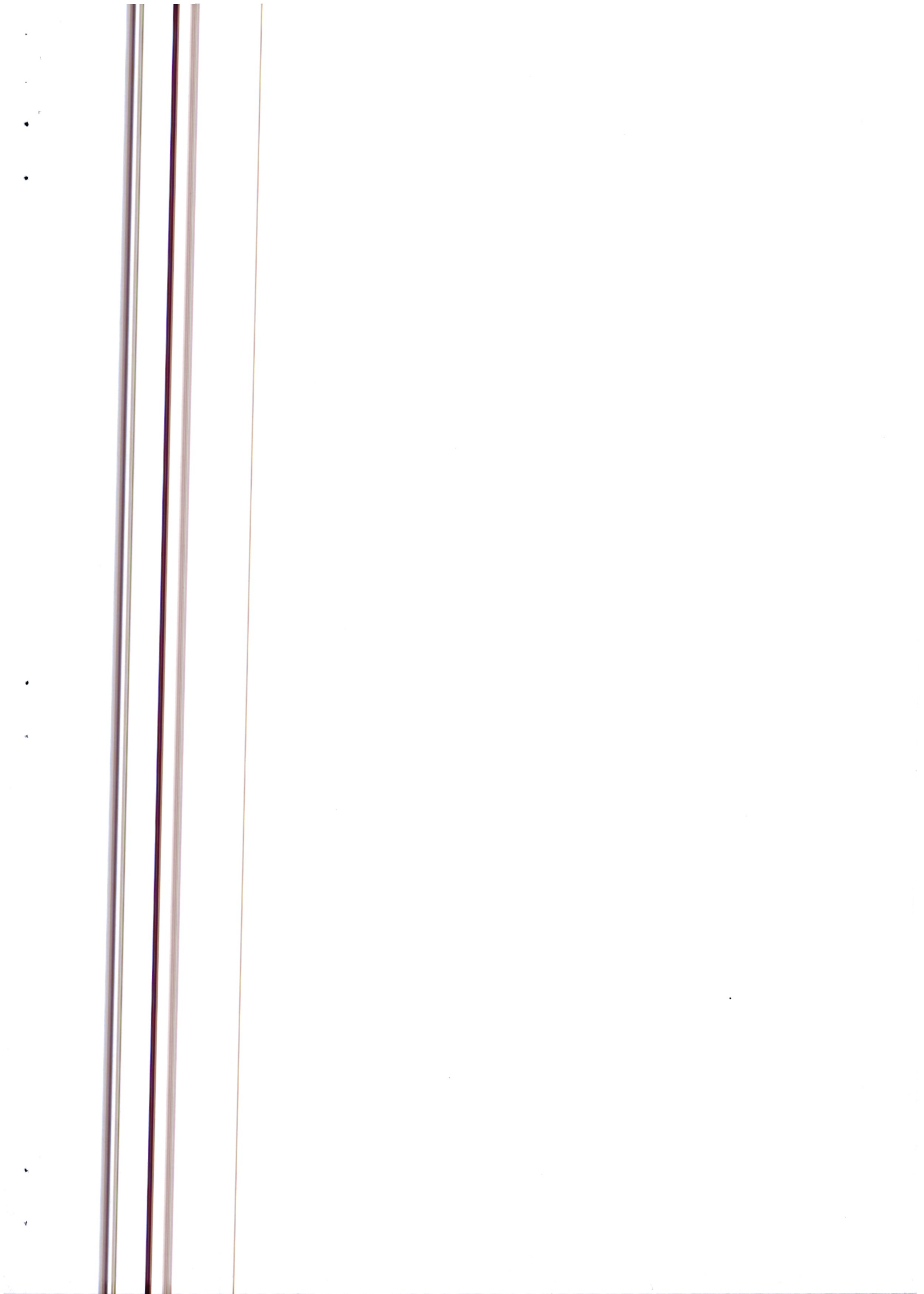
Report on effective of internal controls, risk management and governance

12. Laxity in Implementation of Off-site Back-up

Observations and findings of the Committee

The Committee agreed to the draft observations.





Recommendations of the Committee

The Committee agreed to the draft recommendations.

13. IT Internal Control and IT Governance Weaknesses

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

14. Functionality of the Board of Trustee

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

FINANCIAL YEAR 2020/2021

1. Unsupported Prior Year Adjustment

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee added a recommendation that the Auditor General to verify the prior year adjustments during the audit for the 2022/23 financial statements.

2. High Rate of Provisioning on Loans and Advances

The Committee resolved to invite the Managing Trustee to a follow – up meeting to provide a justification for the high provisioning on loans and advances and evidence that that same was approved by the board.

3. Unsupported Loans and Advances Balance

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

4. Unrecovered Fund Transferred to the Parent Ministry

The Committee resolved to invite the Principal Secretary, State Department for Crop Development and the Managing Trustee, Commodities Fund to follow up on the status the unrecovered Kshs. 40,000,000 transferred to the Ministry of Agriculture and Livestock by the Commodities Fund

5. Unsupported Trade and Other Payables

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

6. Unconfirmed Expenditure on Remuneration of Trustees

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee recommended that the Accounting Officer ensures that the members of the Board in subsequent appointments should not commence work unless they are gazetted.

Other matters

7. Budgetary Control and Performance

Observations and findings of the Committee

The Committee agreed to the draft observations.

The Committee agreed to the draft recommendations.

8. Single Sourcing of Security Services and Fuel Products

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

9. Non-Compliance with the One-Third of Basic Salary Rule

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

10. Un-Approved Remuneration Structure

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

11. Non-Compliance with Law on Ethnic Composition

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

FINANCIAL YEAR 2021/2022

1. Unsupported Prior Year Adjustments

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

2. Lack of Logbooks for Motor Vehicles

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

Status after verification

The representative of the Auditor General informed the Committee that the logbook for motor vehicle was verified (physically existing) and the office was still pursuing the verification of the motorcycle logbook.

3 Long Outstanding Loans

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

4 Failure to Revalue Fully Depreciated Assets

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

5 Irregular Payment of House Allowances

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

6 Lack of an Approved Staff Establishment and Remuneration Structure

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

7 Irregular Procurement of Security Expenses

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

8 Board of Trustees Matters

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee added a recommendation that the subsequent Board of Directors should not commence work until the members are gazetted.

9. Failure to Prepare Financial Statements for the Staff Car Loan and Mortgage Scheme

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

Status after verification

The representative of the Auditor General informed the Committee that the fund is subject to the provisions of Section 84 of the PFM Act,2012 and the SRC circular ref.No.SRC/ADM/CIR/1/13 Vol.III (128) dated 17th December,2014 on the preparation and submission of Financial Statements to the Auditor General for audit.

10. Irregular Investment of Surplus Funds in Fixed Deposits at Commercial Banks

Observations and findings of the Committee

The Committee agreed to the draft observations.

Recommendations of the Committee

The Committee agreed to the draft recommendations.

Adoption of report

The Committee deferred the adoption of the report until the meeting with Principal Secretary, State Department for Crop Development and the Managing Trust, Commodities Fund, the Managing Director Agricultural Finance Corporation and Director General, Agriculture and Food Authority was held to address the pending issues.

MIN. NA/AA&SC-SFAC/2023/154:

ADJOURNMENT/DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at 12.10 p.m. The next meeting will be held at 2:30 pm the same day.

SIGNED..... *Fatuma* DATE 12/Oct/2023
.....

HON. FATUMA ZAINAB MOHAMMED, MP

(CHAIRPERSON)

SPECIAL FUNDS ACCOUNTS COMMITTEE

**MINUTES OF THE 35TH SITTING OF THE SPECIAL FUND ACCOUNTS COMMITTEE
HELD ON TUESDAY, 27TH JUNE 2023, IN MAIN PARLIAMENT BUILDINGS IN
COMMITTEE ROOM 9 AT 2.00 PM**

PRESENT

1. Hon. Dawood Abdul Rahim, HSC, MP - Vice Chairperson - *chairing*
2. Hon. Faith Wairimu Gitau, MP
3. Hon. Erastus Kivasu Nzioka, MP
4. Hon. Charles Ngusya Ngunu, MP
5. Hon. Eve Akinyi Obara, MP
6. Hon. Joseph Kimutai Chererot, MP
7. Hon. Paul Kibichi Biego, MP

APOLOGIES

1. Hon. Fatuma Zainab Mohammed, MP - Chairperson
2. Hon. Joseph Majimbo Kalasinga
3. Hon. Dr. Christine Ombaka Oduor, MP
4. Hon. Tom Mboya Odege, MP
5. Hon. Catherine Nakhabi Omanyoo, MP
6. Hon. Cecilia Asinyen Ngitit, MP
7. Hon. Joshua Odongo Oron, MP
8. Hon. Kahugu Erick Mwangi, MP

IN ATTENDANCE

COMMODITIES FUND

1. Ms. Nancy Cheruyiot - Managing Trustee
2. Ms. Raqeline Wambura - Credit manager
3. Mr. Silas Nyaga - Finance Officer
4. Mr. Godfrey Kinyua - Accountant

OFFICE OF THE AUDITOR-GENERAL

1. Mr. David Osiemo - Auditor/ Parliamentary Liaison Officer
2. Ms. Ruth Kuria - Director Audit
3. Mr. Anne Maina - Auditor
4. Mr. Ann Obudho - Auditor General

NATIONAL TREASURY

- Mr. Simon Kiriiba - Parliamentary Liaison Officer

NATIONAL ASSEMBLY SECRETARIAT

- | | |
|------------------------------|--------------------------|
| 1. Mr. Leonard Machira | - Senior Clerk Assistant |
| 2. Ms. Comfort Susan Achieng | - Clerk Assistant III |
| 3. Mr. Silvanus Makau | - Clerk Assistant III |
| 4. Ms. Bevaline Mosoti | - Research Assistant III |
| 5. Mr. Robert Ngetich | - Fiscal Analyst II |
| 6. Ms. Judy Kanyoko | - Legal Counsel II |
| 7. Ms. Pauline Sifuma | - Hansard Reporter |
| 8. Mr. Peter Mutethia | - Audio officer III |

MIN. NA/AA&SC-SFAC/2023/047:

PRELIMINARIES

The Chairperson called the meeting to order at 11.57 am, followed by a word of prayer and introductions.

The following agenda was adopted as circulated:

1. Prayers
2. Preliminaries/Introductions
3. **Examination of the Auditor General Reports on audited accounts of the Commodities Fund for the financial years 2018/2019 to 2021/2022.**
4. Any Other Business
5. Adjournment Date of the next meeting.

After that, Ms. Nancy Cheruiyot, the Managing Trustee, Commodities Fund, took the oath of Witness. She tabled the management responses and supporting documents on the audited accounts of the Fund for the Financial Years 2018/2019 to 2021/2022.

MIN. NA/AA&SC-SFAC/2023/048: CONSIDERATION OF THE AUDIT REPORTS OF THE COMMODITIES FUND FOR 2018/19 TO 2021/22

Brief on the mandate and scope of the Fund

The Chief Executive Officer briefed the Committee on the Fund's mandate.

Examination of the Auditor General reports for the Financial Year 2018/2019

The Committee examined the Auditor - General report for the Commodities Fund for the Financial Year 2018/2019 as follows:

1. Variance between Loans Repaid and Loans Received

The statement of financial position reflects current receivables from exchange transactions-loans and advances of Kshs.343,020,000 (2018: 829,483,000) and long-term receivables from exchange transactions-Loans and advances of Kshs.423,113,000 (2018: Kshs.7,854,811,000) as disclosed under Note 16(iii) and 16 (iv) respectively.

An analysis of extracts of loan repaid schedules reflects total loan repayments Kshs.3,410,147,915 while the total bank receipts of loan repayments by the farmers amounted to Kshs.2,003,326,275 resulting to a difference of Kshs.1,406,821,640. The loan movement which is largely attributable to provision for loans and advances during the year amounted to Kshs.9,113,571,000 against total opening loan balance of Kshs.8,684,294,000.

Further, the bank statements did not include unique loan numbers or identifier against repayment receipts. It was not possible to corroborate loan repayments in the system with the with bank deposits by the loanees making it difficult for reconciliation to be done.

In the circumstances, it was not possible to determine the loan and advances issued and repaid based on the provisions made during the year.

Management response

The Managing Trustee informed the Committee that the Fund reviewed the report to establish the Kshs. 1,406,821,636.38 difference between the repaid and receipted loans and noted the following:

- a) The repaid loans of Kshs. 3,410,147,914.29 was made up of the following:
 - i. Coffee loan figure of Kshs. 2,509,467,598.65 comprised repayments made from inception of Coffee Development Fund in 2007 to 2019 (13 Years); and
 - ii. Sugar loan figure of Kshs. 900,680,315.64
- b) The receipted amount of Kshs. 2,003,326,274.91 comprised of repayments for both sugar and coffee for the period 2017 to 2019 (2 years). Secondly, the figures were derived from a historic list named "Posted Receipts" instead of the cash book which is the primary record of receipts and payments.
- c) Data for the repaid sugar loans for the year under audit 2018/2019 and receipted for the same period tallied without any difference. Similarly, the receipted and repaid for coffee loans is Kshs150,788,159.61 for the financial year 2018/2019 tallied.
- d) The loan loss provision charged on principal loan was Kshs. 7,525, 692,000 and not Kshs. 9,113, 571,000 as reported by the auditor. This was disclosed under note 16 (iv) to the financial statements. The difference between the above two figures Kshs. 1,587,879,000 was due to a provision charged on Interest receivables. The portion of the provision charged with interest on receivables was disclosed under Note 16 (ii) to the statements of financial position.

e) Unique loan number or identifier against repayment receipts

The Accounting Officer acknowledged that the Fund encountered a challenge in identifying all repayments receipts due to lack of a unique identifier. However, she informed the Committee that the banks agreed to include the customer's mobile number in the bank statement of the Fund to reduce the unidentified amount. The bank was also in the process of making it compulsory to include loan number when a customer is banking loan repayment.

- f. **Appeal to the Auditor – General:** The Managing Trustee informed the Committee that the Fund appealed the audit report on the basis that it made erroneous conclusions on the variance between loans repaid and loans received, possibly because the auditors did not understand the new system instituted by the Fund in 2021. However, the Auditor – General did not respond to the said appeal.

Committee observations

- i. The Committee observed that the Auditor General had not verified the submissions by management;
- ii. The Committee observed that management petitioned the Office of the Auditor -General regarding the matter. However, the Auditor -General received it when the audit report had already been certified; and
- iii. The matter remained unresolved.

2. Long Outstanding Reconciliation Loan Balances

The statement of financial position reflects current and long-term receivables from exchange transactions - Loans and advances of Kshs.343,020,000 and Kshs.423,113,000 respectively and as disclosed under Note 16(iii) and 16(iv).

An extract of amount received in the system and the bank receipts reflects unidentified receipts amounting to Kshs.13,463,098.91 which dates to 2017.

- Management had not investigated what the balances relate to or made recommendations for clearance from the books.
- No explanation was provided for the non-reconciliation and identification of farmers' loan repayment.

Management response

The Managing Trustee responded that the Fund held unidentified receipts totaling to Kshs. 5,194,567 and not Kshs. 13,463,098.91 as stated in the audit report. She noted that the schedule of unidentified receipts given to the auditor during the audit totaled to Kshs. 5,194,567 which could be traced inside "Payments received in advance" figure of Kshs. 12,276,000 reported under note 21 to their financial statements.

She also explained that the unidentified repayments declined significantly due to steps taken to resolve the problem. In addition, she noted that the banks agreed to include phone numbers of loanees in the bank statements which eased identification of repayments . She also noted that the Fund was in the process of identifying the Kshs. 5,194,567 outstanding as at 30th June .2019.

Committee observation

The Committee noted that the matter remained unresolved.

3. Freezing of Interest on Loans

The statement of financial position reflects current and long-term receivables from exchange transactions-Loans and advances of Kshs.343,020,000 and Kshs.423,113,000 respectively and as disclosed under Note 16(iii) and 16(iv).

A review of extracted loans data revealed that the Fund had frozen interest on 62,731 loans with outstanding principal balance of Kshs.261,053,043 and interest balance of Kshs.141,997,009.

- The Fund does not have proper guidelines or policy to regulate the freezing of interests.

-The loans included 63 loans on coffee portfolio with a total balance of Kshs.91,451,530 issued during the year, out of which 34 loans with a loan balance of Kshs.59,593,738 had the interests frozen.

Management response

The Managing Trustee responded that the Fund had a clear policy on the freezing of interest on loans. She noted that the policy was approved in a meeting held on 16th October 2016 by the Management and later ratified by the Board of Trustees. In accordance with the policy, interest accrual is stopped /suspended five years after the due date.

She further explained that the outstanding balance of Kshs. 261,053,042.69 and interest balance of Kshs. 141,997,009.27 all totaling Kshs. 403,050,051.96 were issued between the year 2007 to 2014 and there was no single loan that was issued in FY 2018/2019.

She indicated that during the year under review, the Fund issued seventy-seven coffee loans amounting to Kshs.122, 514,950.00 and the outstanding loan balance stood at Kshs. 68,487,862.57. The earliest freeze date for the loans would be 3-Dec-23 and the latest freeze date will be 26-Jun-29.

The Managing Trustee clarified that none of the interest on loans issued in 2018/2019 was frozen.

Committee observation

The Committee noted that the matter remained unresolved.

4. Loans with Outstanding Balances Reflected as Cleared in the System

The statement of financial position reflects current and long-term receivables from exchange transactions - Loans and advances of Kshs.343,020,000 and Kshs.423,113,000 respectively and as disclosed under Note 16(iii) and 16(iv).

The above balances exclude the principal loan balance amounting to Kshs.595,062,000 which has been cleared. The above loan balance had accumulated interest of Kshs.2,203,538,506 out of which only Kshs.7,417,810 had been repaid resulting to Kshs.2,196,120,696.52 cleared without supporting documents.

No explanation was provided on how the accumulated interest was cleared up and the corresponding repayments.

Management response

The Managing Trustee clarified that the loans in question were not cleared and were still outstanding. She added that the management enclosed loan statements and a summary schedule for the said loans from the credit management system in the response to the matter as proof that they were not cleared.

Committee observation

The Committee noted that the matter remained unresolved.

5. Amortization of Loans

The statement of financial position reflects current and long-term receivables from exchange transactions-Loans and advances of Kshs.343,020,000 and Kshs.423,113,000 respectively and as disclosed under Note 16(iii) and 16(iv).

The Fund's credit policy manual provides that for all loans disbursed, repayment was on a reducing balance method. However, approved loans totalling Kshs.1,769,626,283 with balances totalling to Kshs.967,028,087 were amortized using straight line method during the loan period contrary to the credit policy manual.

Under the circumstances, the accuracy and completeness of the account balances of Kshs.343,020,000 reflected in the statement of financial position could not be confirmed.

Management response

The Managing Trustee responded that the interest computation on Commodities Fund loans was based on a reducing balance method. She noted that loan repayment (instalment) took two forms:

- a. Reducing monthly instalments i.e monthly amount not equal.
- b. Constant instalment i.e equal monthly instalments.

She also stated that the repayment method adopted for any borrower was determined by the borrower's cash flows. Further, she indicated that the computation of interest was an automated process. She indicated that the Fund enclosed copies of the amortization schedules in their response to demonstrate same.

Committee observation

The Committee noted that the matter remained resolved.

6. Write-off of Receivables from Non-Exchange Transactions

The statement of financial position reflects a balance of Kshs.45,455,000 under receivables from non-exchange transactions which includes an amount of Kshs.34,753,000 indicated as funds held by intermediaries.

- No details were provided on the specific farmers given the loans by the intermediaries.
- It was not clear how the provision was made and how the loans will be collected.
- Management made provision on receivables from non-exchange contracts of Kshs.34,753,000 without any justifiable reason. The validity of the provision could not therefore be confirmed.

Management response

The Managing Trustee responded that prior to 2013, the Coffee Development Fund operated a business model where loans were issued to farmers through intermediaries. In the said model the farmer's cooperative societies would forward loan requirements by their members to intermediaries who would then request for the funds from Coffee Development Fund (Codf) for loaning to the indicated farmers.

She also indicated that seven intermediaries that were working with Codf listed below were unable to account for funds to a tune of Kshs. 34,753,099.03.

NAME OF INTERMEDIARY	AMOUNT
Meru Central Farmers Sacco (Annex 1310A)	736,614.00
Meru North Farmers Sacco (Annex 1310 B)	9,859.00
Michimikuru Rural Sacco (Annex 1310 C)	8,094,756.00
Mugama Farmers Co-op. Union (Annex 1310 D)	22,382,967.17
Nandi Farmers Sacco (Annex 1310E)	1,528,400.00
Universal Traders Sacco (Annex 1310 F)	1,455,812.86
Cheskaki Sacco (Annex 1310 G)	544,690.00
TOTAL	34,753,099.03

She informed the Committee that the intermediary lending model was terminated in 2013. She noted that where a schedule of specific farmers who benefited from the above funds had been provided, the loans were to be charged in their individual accounts and where it was not proved, the entity was charged with the amount as a loan to the entity.

She further clarified that the provision of the receivable was done in accordance with Commodities Fund loan provisioning policy given the intent of receivable was loans.

Committee observation

The Committee noted that the matter is unresolved.

7. Classification of Expenditure

As disclosed under Note 9 to the financial statements, the statement of financial performance reflects an amount of Kshs.114,432,000 in respect to employee costs. A review of the account revealed that the above balance which includes travel, accommodation, subsistence, and other allowances amounting to Kshs.25,135,049. The above expenses are operational expenses and do not relate to employee costs.

In the circumstances, the employee costs have been overstated by Kshs.25,135,049 while the general expenditure has been reduced by a similar margin.

Management Response

The Managing Trustee acknowledged that the financial statements submitted during the audit reflected expenditure on employees amounting to Kshs. 114,470,000 which included travel, subsistence, and other allowances of Kshs. 25,135,049 as disclosed under Note 9 to the financial statements.

She also stated that the financial statements enclosed were amended to re-classify the expenditure from employee cost Note 9 to Operational Expenditure Note 13 to financial statements.

Committee observation

The Committee noted that the matter was resolved.

8. Revenue Shortfall and Unauthorized Expenditure

The statement of comparison of budget and actual amounts reflects approved receipts budget and actual on comparable basis amount of Kshs.853,753,000 and Kshs.549,870,000, respectively, resulting to shortfall in receipts of Kshs.303,883,000 or 36%.

Further, the Fund's approved expenditure budget was Kshs.757,577,000 while the actual expenditure was Kshs.9,372,289,000, resulting in an over-expenditure of Kshs.8,614,712,000 or 1137%. There is no evidence that the Management sought any authorization to overspend excessively over and above the approved budget.

The underfunding and underperformance affected the planned activities and has impacted negatively on service delivery to the public.

Management Response

a. Revenue Short Fall

The Managing Trustee responded that the Fund had an approved operating budget of Kshs. 853,753,000. The Actual revenue realized was Kshs. 549,870,000 resulting in a shortfall of Kshs. 303,883,000 (36%).

She explained that the shortfall was because of Kshs. 126,600,000 expected from the Government for Integrated Coffee Productivity Project (ICPP) was not received. Secondly, the coffee and sugar loan repayment performed poorly leading to suspension of interest which led to shortfall of Kshs.243,333,000.

1a. Unauthorized Expenditure

The Managing Trustee submitted that the overall over expenditure of Kshs 8,614,712,000 was as result of a provision for bad loans amounting to Kshs 9,134,837,000 made during the year against a budget of Kshs 363,394,000 resulting to over expenditure of Kshs 8,771,443

She noted that Adoption of the new policy was necessary as all inherited loans from former institutions were long overdue and risk of loss was real. Further although the Fund had made the above provision, loan recovery efforts continued.

She further stated that the Fund sought approval of over expenditure from the National Treasury through the parent Ministry on 4th of May 2021. The Ministry then requested for the same on 25th May, 2021 but the approval was yet to be received.

Committee observation

The Committee noted that the matter remained unresolved.

9. Unresolved Prior Year Matters

In the audit report of the previous year, several issues were raised under the Report on Financial Statements. However, Management has not resolved the issues or disclosed all the prior year matters as provided by the Public Sector Accounting Standards Board templates and firmed by The National Treasury's Circular Ref: PSASB/1/12 Vol.1(44) of 25th June, 2019.

Management Response

There was no response from the Managing Trustee concerning unresolved prior year matters.

Committee observation

The Committee noted that the matter remained unresolved.

10. Legal Case by Kibos Sugar & Allied Industries

The receivables from exchange transactions - loans, advances and interests' balances totaling Kshs.787,183,000 as at 30 June, 2019 includes loan advances amounting to Kshs.133,972,375 advanced to Kibos Sugar & Allied Industries.

It was noted that the Company has never repaid any of the stated loans. Further the Company sued the Commodities Fund and the Agriculture and Food Authority in the High Court of Kisumu vide Petition No. 19 of 2019, in which it denied receiving any money by the Fund.

However, the petitioner acknowledged that the loans were instead advanced by the Kenya Sugar Board and not Commodities Fund. It is not clear how the loan will be paid and why the Company resorted to legal action.

Further no accrued interest has been made in the amount advanced. In these circumstances, the Fund may not realize the amount classified as loans.

Management response

The Managing Trustee responded that Kibos Sugar & Allied Industries were advanced Kshs. 133,972,375 on 16th June 2014 for cane development by the defunct Kenya Sugar Board. When the loan book was transferred to Commodities Fund, demand letters were issued to Kibos Sugar and Allied Industries for repayment of the outstanding amounts.

The company instituted legal action to block the demand to repay these amounts. The court has since dismissed the petition with costs.

The Fund issued the company with the 1st demand notice on 28th April 2023 and received instructions from their lawyers to stop harassing their client. The Fund proceeded and issued the 2nd demand notice on 6th June 2023.

She clarified that the loan balance as of 20th June 2023 was Kshs. 201,916,125.51 and it continued to accrue interest which would be frozen five years after the due date of 16th June 2019 which would be on 16th June 2024.

The Committee directed the Managing Trustee to submit a copy of the Court Ruling for its perusal.

Committee observation

The Committee noted that the matter remained unresolved.

11. Irregular Procurement of General Insurance Services

The provision of general insurance services was procured vide Tender No. COMFUND/T/02/2018/19 dated 12th March, 2019 and thirteen (13) bidders responded. The

evaluation was based only on premium and excess on the quoted amount. The lowest bidder as per the evaluation was awarded the contract for a sum of Kshs.861,323.

The criteria set by the procurement unit was that the evaluation and final ranking of the bid would consider the scope of the cover in relation to the premium which was to have a weight of 70% and excess which was to have a weight of 30%. The cost of items not priced would be assumed to be included in other costing in the proposal. The award was to be made to the lowest evaluated bidder.

The Procurement Act provides for both technical and financial evaluation regarding such services. It was noted that only financial evaluation was done. It was therefore not possible to ascertain the capability of the winning firm without assessing its technical capability.

In the circumstances, the Management contravened Section 46(4)(a) of the Public Procurement and Asset Disposal Act, 2015.

Management response

The Managing Trustee responded that the tender was evaluated based on the firms meeting the mandatory (eligibility) requirements as set out in the tender document before being considered for technical evaluation on their excess and premiums quoted by each bidder which were assigned 30% and 70% weights respectively. She stated that that this was a regulated industry where firms were required to maintain certain minimum thresholds before their licenses are renewed and allowed to operate.

Committee observation

The Committee noted that the matter remained unresolved.

12. Employee Costs - Staff Establishment Shortfall

The Fund had forty-four (44) employees against staff establishment of one hundred and fifty-four (154) during the year under review, resulting in a shortfall of staff totalling to one hundred and ten (110) or 71%. The Management had serious challenges with staffing especially in the procurement, transport and credit control units.

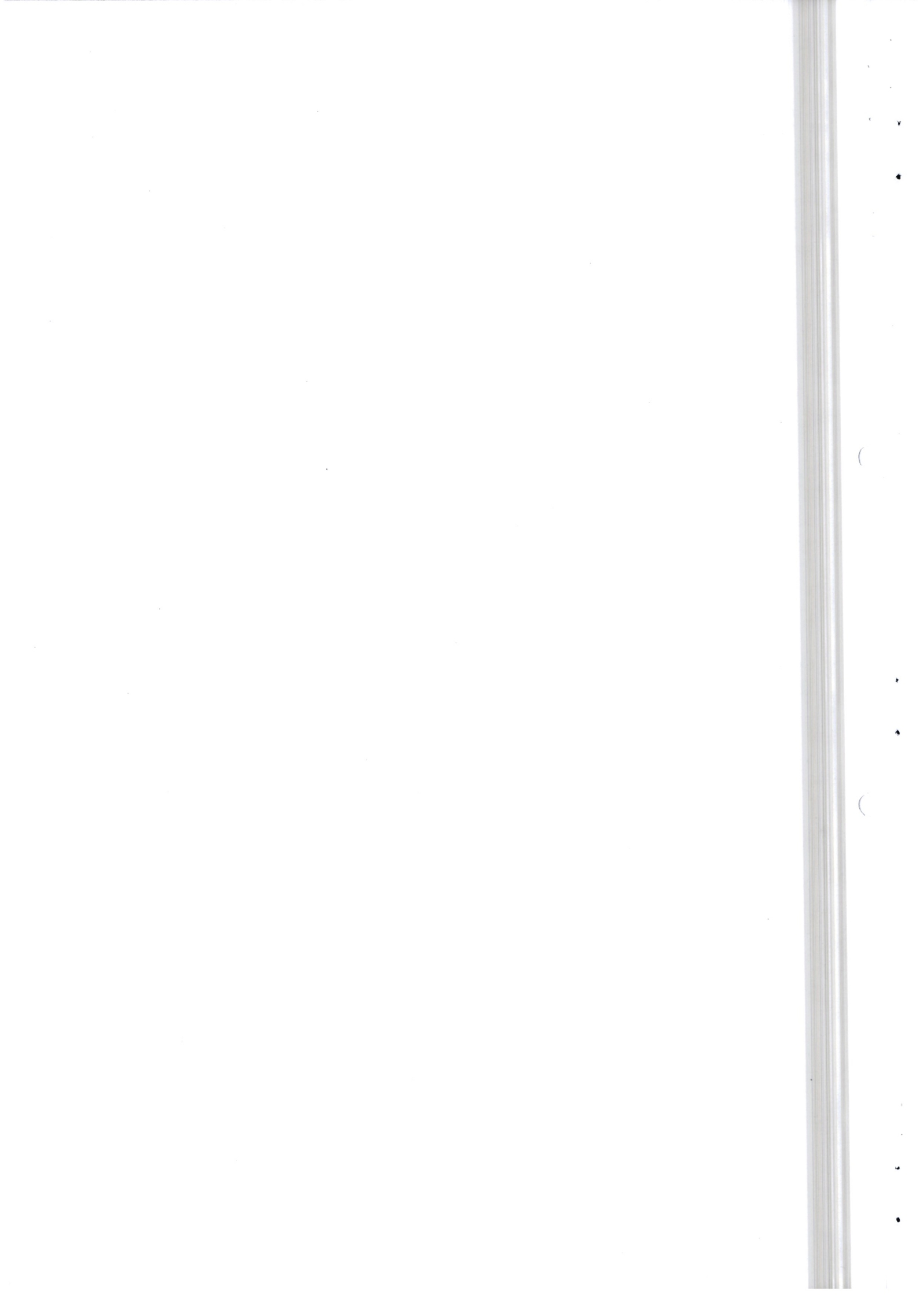
Management response

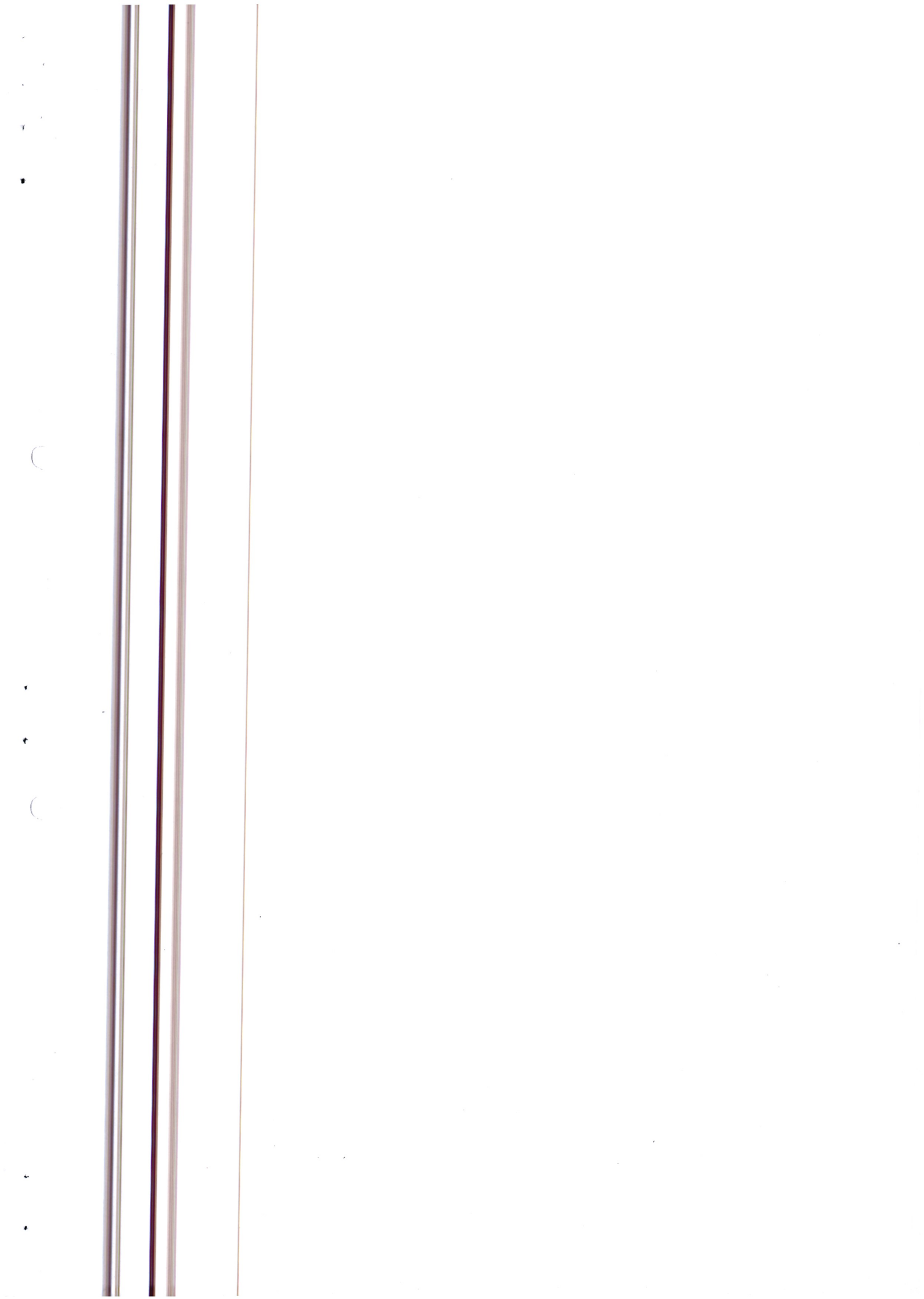
The Managing Trustee acknowledged that the staff shortage especially in the credit department and that authority to employ thirteen (13) additional staff was sought from the National Treasury in 2017. She indicated that the authority was granted in May 2020 and recruitment, selection and placement was completed in November 2020.

Further, she stated that the Fund also sought approval of Human Resource instruments. The same was not granted due to gaps in the legal status of the Fund.

Committee observation

The Committee noted that the matter remained unresolved.





13. Functionality of the Board of Trustee

The Crops Act, No.13 of 2013, which created the Fund did not adequately expound the mandate of the Fund's Board of Trustees as well as its powers and responsibilities. The Fund is not established as a body corporate having perpetual succession and a common seal and may not, in its corporate name, sue and be sued, which hinders its operations.

Consequently, the Fund's Board of Trustees ability to work independently and effectively in the absence of clear laws on its mandate, powers and responsibilities is doubtful.

Management response

The Managing Trustee responded that the Fund identified the gaps in the current Act and drafted a Bill which was expected to fill the gaps. She noted that the Bill was expected to be resubmitted to the National Assembly for legislation.

Committee observation

The Committee noted that the matter remained unresolved.

14. Missing Numbers in Loans Issued

The Fund operated through a Microsoft Navision System in the daily operations. However, examination of records on the loans issued revealed a series of Loan Number (LN)_00000001 to LN_00159265. However, it was noted that there were 17,676 gaps in the issuance of the loans which could not be accounted for.

The gaps in the loan series were neither invalidated nor cancelled in the system. No documentary evidence was provided to show how the missing gaps in loans issuance arose. The gaps in the system could have led to issuance of some loans and deleting of the same loan amounts without a trail of repayments.

Management response

The Managing Trustee responded that all loans were accounted for regardless of gaps in numbering. She indicated the loan listing and general ledger agreed which was an indication that all the loans were successfully uploaded.

Committee observation

The Committee noted that the matter remained unresolved.

15. Issuance of Multiple Account Numbers to Loan Account Holders

Examination of the farmers' loans accounts and identification numbers revealed that the Commodities Fund was issuing different account numbers to the same farmer. A sample of forty-seven (47) loans accounts had the same identification number but different accounts. No explanation was provided for the issuance of different account numbers to the same farmer.

Management response

The Managing Trustee responded that the intermediary lending model was used for the period 2007 to 2012) In the model, loan issued jointly through an intermediary or Sacco and were managed separately (within the system) without mixing with direct lending accounts since they had their own joint collateral.

She also stated that a farmer loan statement showed unique identifier for the farmer (CODF/49969) with three different loan product (Infrastructure Loan, Coffee Farm Establishment Loan and Water Development Loan) identified by unique loan numbers (LN79223, LN799226, LN79235). The loan statement summary showed the overall liability of the farmer to Fund.

Committee observation

The Committee noted that the matter was resolved.

16. Missing numbers in Loans issued

An analysis of the Navision System (Loan Management System) revealed missing loan numbers. (LN) 00000001 to LN 00159265 It was noted that there were 17676 gaps in the issuance of the loans which might have been deleted from system the without explanation. These series were system generated and unique for each loan issued. The analysis of these numbers revealed gaps in numbering.

In addition, no record was provided to show how much those loan records represented since they were deleted completely from the system. No explanation was provided for the missing loan records which could translate into loss of funds. In the circumstances there was no audit trail of the number of loans issued to the farmers.

Management response

The Managing Trustee responded that all loans were accounted for regardless of gaps in numbering. The loan listing and general ledger were in the agreement which was an indication that all the loans were successfully uploaded.

Committee observation

The Committee noted that the matter remained unresolved.

Ineffective Debt Recovery

The statement of financial performance reflects general expenses totalling Kshs.9,197,022,000 and which includes provision for bad debts of Kshs.9,113,574,000 as disclosed under Note 13 to the financial statements. Although the loan balances have been outstanding for a long time, and the provision was made as per the Fund's policy, no meaningful effort appears to have been made towards full recovery of the loan balances.

Management response

The Managing Trustee agreed that the Fund made provisions for bad and doubtful debts amounting to Kshs. 9,113,574,000 in the year ended 30th June 2019. While it was true that the provision was high, the same was informed by many long overdue loans. The provisions were done as per Fund's policy.

She stated that the Fund issued demand letters and entered into loan repayment plan agreement with several loanees in effort to increase loan repayment of the defaulted loans. Further the Fund listed the defaulters to enhance loans collection capacity.

The Fund employed additional staff in November 2020 which has increased loan collection capacity.

She further stated that the Fund's corporate status limited its powers to collect loans and realize loan securities. The Fund was reviewing the Act to give it legal powers to sue loan defaulters and dispose securities.

The Fund was also pursuing the full hand over of assets and Liabilities of the former Sugar Development Fund which will enable it collect debts with authority.

The Fund also established a Debt Recovery Unit to ease loan collections.

Committee observation

The Committee noted that the matter remained unresolved.

MIN. NA/AA&SC-SFAC/2023/049:

ADJOURNMENT

There being no other business, the meeting was adjourned at 1.38 p.m. The next meeting will be held on notice.

SIGNED..........DATE 01/08/2022.....

HON. FATUMA ZAINAB MOHAMMED, MP

(CHAIRPERSON)

SPECIAL FUNDS ACCOUNTS COMMITTEE

**MINUTES OF THE 59TH SITTING OF THE SPECIAL FUND ACCOUNTS COMMITTEE
HELD ON TUESDAY, 19TH OCTOBER 2023, IN BOMA INN AT 12.00 NOON.**

PRESENT

1. Hon. Fatuma Zainab Mohammed, MP - Chairperson
2. Hon. Dawood Abdul Rahim, HSC, MP - Vice Chairperson
3. Hon. Erastus Kivasu Nzioka, MP
4. Hon. Charles Ngusya Nguna, MP
5. Hon. Joseph Majimbo Kalasinga, MP
6. Hon. Catherine Nakhabi Omanyoo, MP
7. Hon. Cecilia Asinyen Ngitit, MP
8. Hon. Paul Kibichi Biego, MP
9. Hon. Kahugu Erick Mwangi, MP

APOLOGIES

1. Hon. Faith Wairimu Gitau, MP
2. Hon. Dr. Christine Ombaka Oduor, MP
3. Hon. Eve Akinyi Obara, MP
4. Hon. Tom Mboya Odege, MP
5. Hon. Joseph Kimutai Chererot, MP
6. Hon. Joshua Odongo Oron, MP

IN ATTENDANCE

AGRICULTURAL FOOD COOPERATION

1. Mr. George Kubai - Managing Director
2. Mr. Bonano Badia - Chief Credit Officer
3. Mr. Tom O. Akeno, CPA (K) - Chief Finance Officer
4. Mr. Boaz Korir - Senior Accounts officer

OFFICE OF THE AUDITOR-GENERAL

Mr. David Osiemo - Auditor/Parliamentary Liaison Officer

NATIONAL TREASURY

Mr. Simon K. Kiriiba - Parliamentary Liaison Officer

NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Leonard Machira - Principal Clerk Assistant II
2. Mr. Silvanus Makau - Clerk Assistant III
3. Ms. Comfort Achieng - Clerk Assistant III
4. Ms. Bevaline Mosoti - Research Officer III

- | | |
|--------------------------|-------------------------------|
| 5. Ms. Pauline Sifuma | - Hansard Reporter III |
| 6. Mr. Geoffrey Kwatamba | - Media Relations Officer III |
| 7. Mr. Peter Mutethia | - Audio Officer III |
| 8. Mr. Benard Omondi | - Serjeant at arms |

MIN. NA/AA&SC-SFAC/2023/004:

PRELIMINARIES

The Chairperson called the meeting to order at 12.01 am, followed by a word of prayer and introductions.

The following agenda was adopted as circulated:

1. Prayers
2. Preliminaries/Introductions
3. **Consideration of Commodities fund Pending issues for the financial years 2020/2021 and 2021/2022.**
4. Any Other Business
5. Adjournment Date of the next meeting.

After that, the Managing Director, Agricultural Food Cooperation undertook the witness oath. He tabled the management submissions and supporting documents.

MIN. NA/AA&SC-SFAC/2023/005:

CONSIDERATION OF COMMODITIES FUND

PENDING ISSUES FOR THE FINANCIAL YEARS 2020/2021 AND 2021/2022

Brief on the mandate and scope of the Fund

The Accounting officer briefed the Committee on the operations and scope of the Agricultural Food Cooperation

Examination of the Auditor General reports on the financial statements of the Commodities Fund for the financial year 2019/2020

1. Unreconciled Inter-Fund Transaction

As disclosed under Notes 16(iii) and 16(iv) to the financial statements, the statement of financial position's total loan balance of Kshs.929,643,000 comprises current and non-current balances, including a gross balance of Kshs.1,153,280,952 relating to receivables from Agricultural Finance Corporation comprising Kshs.1,101,581,612 and Kshs.51,699,340 for sugar and coffee loans, respectively.

However, confirmation of records from AFC reflects that the entity owes the Fund Kshs.9,515,756, resulting in an un-reconciled balance of Kshs.1,143,765,196.

Consequently, the validity, accuracy, and completeness of the current and long-term receivables from exchange transactions-loans and advances totalling Kshs.712,379,000 and Kshs.217,264,000, respectively, could not be confirmed.

Management Response Agricultural Food Cooperation

The Accounting Officer submitted that as the 30th June 2016, the Corporation had disbursed the entire allocation of Kshs. 1.23 billion to 1959 accounts in 9 branches. He highlighted the status of the funds as follows:.

1. Funds Movement AFC -KSB (Commodities Fund)

Seed Allocation	-1,000,000,000.00
Revolved Funds by AFC	- 230, 976,154.70
Total Funds to AFC	- 1, 230, 976, 154.70
Total Repayments by AFC	- 483,200 330. 30
Revolving Funds Available	- 747,775,824. 40

2. Cumulative Collections

Active Book

Collections by AFC- Principal	- Kshs. 711, 356, 612.49
Collection by AFC – Interest	- Kshs. 134,129,351.27
Collection by AFC – late Fees	- Kshs. 92,794, 290. 49
Collection by AFC – Other fees	- Kshs. 26, 013, 437. 80
Total Collections by AFC to date	- Kshs. 964,303,692. 05
Recoveries from the Default Book	- Kshs. 55, 171, 654. 50
Total Recoveries	- Kshs. 1,019,475, 356

3. Current Portfolio status

Current Active Loans Approved	- Kshs. 561, 940, 277. 00
Arrears from Active book	- Kshs, 38, 750, 875. 14
Default Rate	- 6.89%

4. Loan Pipeline

Active Loan pipeline small scale	- Kshs. 34, 754,000.00
Active Loan pipeline large scale	- Kshs. 133,000, 000.00
Total Commitment	- Kshs. 167, 754,000.00

5. Current Status of Revolving Funds

Funds Available for Deployment	- Kshs. 747,775,824.40
Less; Current Active Loans Approved	- Kshs. 561,940,277.00
Balance	- Kshs. 185,835,545.40
Loan pipeline commitment	- Kshs. 167,754,000.00
Revolving Funds Balance	- Kshs. 18,081,547.00

Committee observation

- a) The Committee noted that the matter was not addressed.
- b) The Committee noted with concern that the Commodities Fund and AFA were not in attendance.
- c) The Committee noted that the Commodities Fund wrote a letter to AFC on the matter on **18th October 2023**, a day before the meeting.
- d) The Committee directed that a meeting be scheduled for another day, and all three entities be invited to appear simultaneously to finalize the matter.

MIN. NA/AA&OSC-SFAC/2023/006:

ADJOURNMENT/DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at 12.30 p.m. The next meeting will be held on notice.

SIGNED..........DATE.....

 **HON. FATUMA ZAINAB MOHAMMED, MP**
(CHAIRPERSON)

SPECIAL FUNDS ACCOUNTS COMMITTEE

MINUTES OF THE 71ST SITTING OF THE SPECIAL FUND ACCOUNTS COMMITTEE HELD ON SATURDAY, 2ND DECEMBER 2023, IN HILTON GARDEN INN, MACHAKOS COUNTY AT 09.00 A.M.

PRESENT

1. Hon. Fatuma Zainab Mohammed, MP - Chairperson
2. Hon. Dawood Abdul Rahim, HSC, MP - Vice Chairperson
3. Hon. Charles Ngusya Nguna, MP
4. Hon. Catherine Nakhabi Omanyoo, MP
5. Hon. Erastus Kivasu Nzioka, MP
6. Hon. Tom Mboya Odege, MP
7. Hon. Joseph Kimutai Cherorot, MP
8. Hon. Cecilia Asinyen Ngitit, MP
9. Hon. Kahugu Erick Mwangi, MP
10. Hon. Paul Kibichi Biego, MP
11. Hon. Eve Akinyi Obara, MP
12. Hon. Joseph Majimbo Kalasinga, MP

APOLOGIES

1. Hon. Joshua Odongo Oron, MP
2. Hon. Faith Wairimu Gitau, MP
3. Hon. Dr. Christine Ombaka Oduor, MP

IN ATTENDANCE

OFFICE OF THE AUDITOR GENERAL

1. Mr. David Osiemo - Auditor/Parliamentary Liaison Officer

THE NATIONAL TREASURY

1. Mr. Simon K. Kiriiba - DAG National Treasury

NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Leonard Machira - Principal Clerk Assistant I
2. Mr. Silvanus Makau - Clerk Assistant III
3. Ms. Comfort Achieng - Clerk Assistant III
4. Mr. Benard Omondi - Sargent at arms
5. Mr. Peter Mutethia - Audio Officer III
6. Mr. Robert Ng'etich - Fiscal Analyst
7. Ms. Bevaline Mosoti - Research Officer III
8. Ms. Maryam Gabow - Public Communications Officer III
9. Ms. Judith Kanyoko - Legal Council II

MIN. NA/AA&SC-SFAC/2023/008:

PRELIMINARIES

The Chairperson called the meeting to order at 09.35 a.m., followed by a word of prayer and introductions.

The following agenda was adopted as circulated:

1. Prayers
2. Preliminaries/Introductions
3. **Report writing on the following Funds;**
 - i. Agriculture Information Resource Centre Revolving Fund for the Financial years 2019/2020 to 2021/2022
 - ii. Commodities Fund for the Financial years 2018/2019 to 2021/2022
 - iii. Land Settlement Fund for the Financial years 2020/2021 and 2021 2022
4. Any Other Business
5. Adjournment Date of the next meeting.

MIN. NA/AA&SC-SFAC/2023/009:

**ADOPTION OF THE AUDITED
REPORTS OF THE COMMODITIES FUND FOR THE FINANCIAL YEARS
2018/2019 TO 2021/2022**

The committee unanimously adopted the report on the Commodities Fund for the financial years 2018/2019 to 2021/2022, incorporating the amendments made by members having been proposed by Hon. Charles Ngusya Nguna, MP and seconded by Hon. Joseph Kimutai Chererot, MP

FINANCIAL YEAR 2019/2020.

1. **Long term receivables from exchange transactions- Loans and advances**

High Rate of Provisioning on Loans and Advances

Observations and Findings of the Committee

The Committee observed that:

- i. The provision for bad and doubtful debts of 94% is based on the non-performing debts inherited from the defunct Coffee and Sugar Development Funds;
- ii. The Management did not provide the original signed board minutes on the approval of the new provisioning policy for audit verification.
- iii. The matter remained unresolved.

Recommendations of the Committee

The Committee recommended that within three (3) months upon the adoption of this report, The Accounting Officer to provide the new provisioning policy on loans and the original signed minutes of the board's approval of the policy to the Auditor-General for audit verification.

2. Unreconciled Inter-Fund Transaction

Committee Observations and Findings

The Committee observed that:

- i. The State Department for Crop Development, the Commodities Fund, Agriculture Finance Corporation (AFC) and Agriculture and Food Authority (AFA) have since reconciled the amount owed to the Fund with the current outstanding Principal being **Kshs. 666,542,508** and the Interest **Kshs. 134,129,351.27** but the documentary was not provided for verification;
- ii. The four parties were working on modalities to facilitate the disbursement of the owed amounts of **Kshs. 666,542,508** and the Interest **Kshs. 134,129,351.27** from AFC to Commodities Fund; and
- iii. The matter remained unresolved.

Recommendations of the Committee

The Committee recommended that within three months of the adoption of this report, the accounting officer to provide the documentary evidence on the reconciliation of the outstanding principal of Kshs. 666,542,508 and the Interest Kshs. 134,129,351.27 to the Auditor - General for verification

3. Unrecovered Funds Transferred to the Ministry of Agriculture, Livestock and Fisheries

Committee Observations and Findings

The Committee observed that:

- i. The Fund transferred Kshs.40,000,000 to the state department for crop development in the financial year 2016/2017 and has remained outstanding to date.
- ii. The matter remained unresolved.

Recommendations of the Committee

The Committee recommended that within the current financial year, the Principal Secretary, State Department of Crop Development refunds Kshs. 40,000,000 to the Commodities Fund.

FINANCIAL YEAR 2020/2021.

1. High Rate of Provisioning on Loans and Advances

Observations and Findings of the Committee

The Committee observed that:

- i. The provision for bad and doubtful debts of 94% is based on the non-performing debts inherited from the defunct Coffee and Sugar Development Funds;
- ii. The Management did not provide the original signed board minutes on the approval of the new provisioning policy for audit verification.
- iii. The matter remained unresolved.

Recommendations of the Committee

The Committee recommended that within three (3) months upon the adoption of this report, the Accounting Officer to provide the new provisioning policy on loans & advances and the original signed minutes of the board's approval of the policy to the Auditor-General for audit verification.

2. Unrecovered Funds Transferred to the Ministry of Agriculture, Livestock and Fisheries**Committee Observations and Findings**

The Committee observed that:

- i. The Fund transferred Kshs.40,000,000 to the state department for crop development in the financial year 2016/2017 and has remained outstanding to date.
- ii. The matter remained unresolved.

Recommendations of the Committee

The Committee recommended that within the current financial year, the Principal Secretary, State Department of Crop Development refunds Kshs. 40,000,000 to Commodities Fund.

**MIN. NA/AA&SC-SFAC/2023/010: ADOPTION OF THE AUDITED
REPORTS OF THE AGRICULTURAL INFORMATION RESOURCE CENTRE
REVOLVING FUND FOR THE 2020/2021 AND 2021/2022 FINANCIAL YEARS**

FINANCIAL YEAR 2021/2022

**Failure to Appoint Members to the Board of Directors
Observations and Findings of the Committee**

The Committee observed that:

- i. The Fund did not have a duly appointed and functional board during the financial year 2021/2022
- ii. The financial statements included a list of seven (7) directors whose term had expired;
- iii. An expenditure of Kshs.10,631,520 for board, seminars and conferences was classified under general expenses contrary with the PFM (National Government) Regulations 99 (1) and (2) on account codes and stand chart of accounts approved by National Treasury.
- iv. The matter remained unresolved.

Recommendations of the Committee

The Committee recommended that:

- i. The Accounting Officer to ensure that, s/he notifies the appointing authority to appoint the new board of directors and chair at least three (3) months before the expiry of the term of the existing board;
- ii. Within three months of the adoption of this report the Accounting Officer to provide a status update on the process of constituting a board to the Auditor - General for audit verification.
- iii. The Accounting Officer to ensure compliance with the Regulations 99 (1) and (2) of the PFM (National Government) Regulations, 2015 on account codes and stand chart of accounts approved by National Treasury when preparing financial statements; and

**MIN. NA/AA&SC-SFAC/2023/011: ADOPTION OF THE AUDITED
REPORTS OF THE LAND SETTLEMENT FUND FOR THE FINANCIAL YEARS
2020/2021 AND 2021/2022**

The committee unanimously adopted the report on the Land Settlement Fund for the financial years 2020/2021 and 2021/2022, incorporating the amendments made by members having been proposed by Hon. Joseph Majimbo Kalasinga, MP and seconded by Hon. Paul Kibichi Biego, MP

FINANCIAL YEAR 2020/2021

1 Long Outstanding Trade Receivables

Observations and findings of the Committee

The Committee observed that:

- (i) Land loans and Development loans of Kshs.6,896,185,412 and Kshs.69,819,548 respectively issued as far back as the year 1962 have remained outstanding to date;
- (ii) The loans are secured and recoverable because the Fund has title deeds; and
- (iii) The matter remained unresolved.

Recommendations of the Committee

The Committee recommended that within six (6) months upon the adoption of this report, the Accounting Officer to provide a progress report on the recovery of the principal loan and the outstanding interest receivable to the Auditor-General for audit verification.

2. Long Outstanding Interest Receivable

Observations and findings of the Committee

The Committee observed that:

- i. The Fund has outstanding accumulated interest on loans of Kshs.5,222,372,098 advanced to settlers since 1962;
- ii. The Fund continues to compound cumulative interest as long as the loans remain outstanding.
- iii. The issue remained unresolved.

Recommendations of the Committee

The Committee recommended that within three (3) months upon the adoption of this report, the Accounting Officer to provide a progress report on the recovery of the loans and the outstanding interest to the Auditor-General for audit verification.

FINANCIAL YEAR 2021/2022

1. Long Outstanding Receivables from Exchange Transactions

Observations and findings of the Committee

The Committee observed that:

- (i) The Fund has Land loans and Development loans of Kshs. Kshs 6,811,916,396 and Kshs. 68,966,377 respectively issued as far back as the year 1962 have remained outstanding to date;
- (ii) The loans are secured and recoverable because the Fund has title deeds; and
- (iii) The outstanding interest on loans at 30th June 2022 was Kshs. 5,163,007,149.00.
- (iv) The matter remained unresolved.

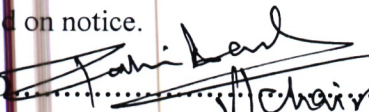
Recommendations of the Committee

The Committee recommended that within six (6) months upon the adoption of this report, the Accounting Officer to provide a progress report on the recovery of the principal loan and the outstanding interest receivable to the Auditor-General for audit verification.

**MIN. NA/AA&SC-SFAC/2023/012:
NEXT MEETING**

ADJOURNMENT / DATE OF

There being no other business, the Meeting was adjourned at 05:00 p.m. The next meeting is to be held on notice.

SIGNED  DATE.....

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HON. FATUMA ZAINAB MOHAMMED, MP

(CHAIRPERSON)

SPECIAL FUNDS ACCOUNTS COMMITTEE



**MINUTES OF THE 68TH SITTING OF THE SPECIAL FUND ACCOUNTS COMMITTEE
HELD ON TUESDAY, 28TH NOVEMBER 2023, IN WINDSOR HOTEL, KIAMBUU
ROAD AT 09.00 A.M.**

PRESENT

1. Hon. Fatuma Zainab Mohammed, MP - Chairperson
2. Hon. Charles Ngusya Nguna, MP
3. Hon. Catherine Nakhabi Omanyoo, MP
4. Hon. Erastus Kivasu Nzioka, MP
5. Hon. Tom Mboya Odege, MP
6. Hon. Joseph Kimutai Cherorot, MP
7. Hon. Cecilia Asinyen Ngigit, MP

APOLOGIES

1. Hon. Joshua Odongo Oron, MP
2. Hon. Kahugu Erick Mwangi, MP
3. Hon. Faith Wairimu Gitau, MP
4. Hon. Joseph Majimbo Kalasinga, MP
5. Hon. Dawood Abdul Rahim, HSC, MP - Vice Chairperson
6. Hon. Eve Akinyi Obara, MP
7. Hon. Dr. Christine Ombaka Oduor, MP
8. Hon. Paul Kibichi Biego, MP

IN ATTENDANCE

OFFICE OF THE AUDITOR GENERAL

1. Mr. David Osiemo - Auditor/Parliamentary Liaison Officer
2. Ms. Khadija Aligongo - Deputy Director OAG

THE NATIONAL TREASURY

1. Mr. Simon K. Kiriiba - DAG National Treasury

STATE DEPARTMENT FOR CROP DEVELOPMENT

1. Dr. Paul K. Ronoh - PS Crop Development
2. Mr. Douglas Mutemi - Accountant Crop Development

COMMODITIES FUND

1. Ms. Nancy Cheruiyot - Managing Trustee
2. Ms. Roseline Wambua - Credit Manager
3. Mr. Silas Nyaga - Finance Manager
4. Mr. Geoffrey Kinyua - Accountant

AGRICULTURE FINANCE CORPORATION (AFC)

1. Mr. George Kubai - Managing Director
2. Mr. Cornelius Onsongo - Finance Manager
3. Mr. Bonano Badia - Credit Officer
4. Mr. Boaz Korir - Planning Officer

AGRICULTURE AND FOOD AUTHORITY (AFA)

1. Mr. Johnson Agar - AFA
2. Ms. Jude Chesire - HOD
3. Mr. Daniel Onyango - Deputy Director
4. Mr. Azenath Makori - AD Finance

NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Leonard Machira - Principal Clerk Assistant 1
2. Mr. Silvanus Makau - Clerk Assistant III
3. Ms. Comfort Achieng - Clerk Assistant III
4. Mr. Benard Omondi - Sargent at arm
5. Mr. Peter Mutethia - Audio Officer III
6. Ms. Pauline sifuma - Hansard Reporter
7. Mr. Robert Ng'etich - Fiscal Analyst
8. Ms. Bevaline Mosoti - Research Officer III

MIN. NA/AA&SC-SFAC/2023/032:

PRELIMINARIES

The Chairperson called the meeting to order at 09.35 a.m., followed by a word of prayer and introductions.

The following agenda was adopted as circulated:

1. Prayers
2. Preliminaries/Introductions
3. **Examination of the unresolved matters in the Auditor General's reports on:**
 - i. **Commodities Fund for the FYs 2019/2020 and 2020/2021**
 - ii. **Agricultural Information Resource Centre Revolving Fund for the FY 2021/2022**
4. Any Other Business
5. Adjournment Date of the next meeting.

After that, Dr. Paul K. Ronoh, Principal Secretary State Department for Crop Development, took the witness oath and tabled the Management responses and supporting documents on the audited accounts of the:

- i. Commodities Fund for the FYs 2019/2020 and 2020/2021
- ii. Agricultural Information Resource Centre Revolving Fund for the FY 2021/2022

Commodities Fund for the 2019/2020 & 2020/2021 Financial Years

1. High Rate of Provisioning on Loans and Advances

The statement of financial position reflected long-term receivables from exchange transactions-loans and advances totalling Kshs.217, 264,000. The following observations were made regarding the balance

The gross loans and advances reflected in the financial statements amounted to Kshs.16,501,648,000 with a total provision of Kshs.15,574,004,000, which translates to 94% of the loans and advances to farmers. Management had not given the basis for the huge provision for the loans.

Submissions by the Accounting Officer

The Managing Trustee submitted that the bulk of the loan book comprises non-performing debts inherited from the defunct Coffee and Sugar Development Funds. These loans continue to accrue interest until they are frozen. In addition, a general provision of 1% is made for new loans that are performing.

The high rate of provisioning of loans and Advances stemmed from a prevalence of unsecured and nonperforming loans, primarily backed by floating debentures. The Accounting Officer also informed the Committee the Board approved the loan provisioning policy in 2016.

Committee Observations

- i. The Auditor notified the Committee that the issue remained unresolved due to the absence of documents regarding the meeting where approval for the loan provisioning policy was granted.
- ii. The committee asked the Auditors to review the submitted documents and guide the committee.

2. Unreconciled Inter-Fund Transaction

The statement of financial position's total loan balance of Kshs.929,643,000 comprised of both current and non-current balances, including a gross balance of Kshs.1,153,280,952 relating to receivables from Agricultural Finance Corporation comprising Kshs.1,101,581,612 and Kshs.51,699,340 for sugar and coffee loans, respectively. However, confirmation of records from AFC reflected that the entity owes the Fund Kshs.9, 515,756 resulting in an un-reconciled balance of Kshs.1, 143,765,196.

Submissions by the Principal Secretary for Crop Development

The Principal Secretary informed the Committee that the management of Commodities Fund Agriculture Finance Corporation (AFC) and the Agriculture and Food Authority and the leadership of the Principal Secretary have since reconciled the sugar and loans coffee loans. Consequently, the amount due from AFC that had not been remitted to the Commodities Fund was established to be Kshs.666, 542,508 as the principal and Kshs.134, 129,351 as the interest

Committee Observations

- i. The Accounting Officer was requested to submit a schedule of the loan payments to the Auditors and the Committee for verification in two weeks.
- ii. The auditor notified the committee that the issue remained unresolved due to the absence of documents related to the reconciliations that had been conducted.

3. Unrecovered Funds Transferred to the Ministry of Agriculture, Livestock and Fisheries

The statement of financial position reflected receivables from non-exchange transactions of Kshs.46, 055,000 which included Kshs.40, 000,000 transferred to the parent Ministry during the financial year 2016/2017. According to memos Ref: MOA/SDA/SC/40A dated 18 January 2017 and Ref: MOALF/CORP/11/23/2 of 9 May, 2017, the Ministry was to reimburse these funds once the National Treasury released its budgeted funds for the year. However, the Ministry failed to reimburse the disbursements to the Fund.

Submissions by the Principal Secretary State Department for Crop Development

The Principal Secretary promised to refund the funds once the National Treasury releases its budgeted funds.

Observations of the Committee

- i. The Committee requested the Principal Secretary to provide a written submission by Friday 1st December 2023, outlining the timeline and procedure for reimbursing the 20 million to commodities Fund.
- ii. The Auditor informed the Committee that the matter was unresolved since the owed amount had not been paid by the Ministry.

AGRICULTURAL INFORMATION RESOURCE CENTRE REVOLVING FUND FOR THE FINANCIAL YEAR 2021/2022.

Failure to Appoint Members to the Board of Directors

Section 2, page (V) of the financial statement listed seven (7) persons including the entity's director as being members of the Board of Directors.

However, a review of records revealed that the entity did not have a duly appointed and functional Board yet they spend Ksh.10,631,520 on Boards, Seminars & Conferences

The Fund therefore lacks the governance structure as prescribed in the Exchequer and Audit (Agricultural Information Resource Centre Revolving Fund) Regulations, 1993.

Submissions by the Principal Secretary State Department for Crop Development

The Principal Secretary submitted that an expenditure of Ksh. 10,631,520 was reported as Boards, Seminars & Conferences in the financial statement for financial year 2021/2022 under Note 8.

He further submitted that the expenditure under general expenses for Boards, Seminars & Conferences related to hire of conference facilities during seminars and conferences facilities for training, seminars, sensitizations, and outreach activities carried out within the year.

Therefore, the Ksh. 10,631,520 does not relate to payment of Board allowances or any other expense directly related to the Board. The statement of Financial Performance For the year ended 30th June 2022, Note.9 (pg. 16) of the Financial Statements separately discloses such Board expenses and clearly indicates that there was a zero expenditure on the same.

**MIN. NA/AA&SC-SFAC/2023/034:
NEXT MEETING**

ADJOURNMENT / DATE OF

There being no other business, the Meeting was adjourned at 12:52 p.m. The next meeting is to be held on notice

SIGNED.....DATE.....

Fatima Zainab Mohammed
HON. FATUMA ZAINAB MOHAMMED, MP

(CHAIRPERSON)

SPECIAL FUNDS ACCOUNTS COMMITTEE

