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THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FIFTH SESSION – 2026

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

REPORT ON:

THE CONSIDERATION OF SESSIONAL PAPER NO. 7 OF 2026 ON THE NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 27 AUG 2026
DAY. Thursday
TABLED BY: Leader of the Majority Party
CLERK-AT THE-TABLE: Moses Lomale

The Directorate of Departmental Committees
Clerk's Chambers
Parliament Buildings
NAIROBI

AUGUST 2026

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LIST OF ABBREVIATIONS AND ACRONYMS

CDH	-	Cliffe Dekker Hofmeyr
CMA	-	Capital Markets Authority
CoB	-	Controller of Budget
COFEK	-	Consumers Federation of Kenya
COK	-	Constitution of Kenya
CRA	-	Commission on Revenue Allocation
DFIs	-	Development Finance Institutions
DSCR/LLCR	-	Debt Service Coverage Ratio/ Loan Life Coverage Ratio
EMCA/EIA	-	Environmental Management and Compliance Act/ Environmental Impact Assessment
ESG	-	Environmental, Social, and Governance
FKE	-	Federation of Kenya Employers
ICPAK	-	Institute of Certified Public Accountants of Kenya
IPS	-	Investment Policy Statement
IRRs	-	Internal Rate of Returns
LSK	-	Law Society of Kenya
MP	-	Member of Parliament
NIF	-	National Infrastructure Fund
NIFCA	-	Nairobi International Financial Centre
NPV	-	Net Profit Value
OAG	-	Office of the Auditor General
OCOB	-	Office of the Controller of Budget
ODM	-	Orange Democratic Movement
PPADA	-	Public Procurement and Asset Disposal Act
PPP	-	Public-Private Partnership
SPVs	-	Special Purpose Vehicles
UDA	-	United Democratic Alliance

ANNEXURES

Annexure 1: Adoption Schedule
Annexure 2: Minutes of the Committee on consideration of the Sessional Paper
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CHAIRPERSON'S FOREWORD

This Report contains the proceedings of the Departmental Committee on Finance and National Planning on its consideration of Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy.

The Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy was tabled in the National Assembly on Wednesday, 12th August 2026 and was thereafter committed to the Committee for consideration and tabling of the report to the House. Pursuant to the provisions of Article 118 of the Constitution, the Committee was required to facilitate public participation and make appropriate recommendations to the House on the Sessional Paper.

Sessional Paper No. 7 of 2026 presents the Investment Policy Statement (IPS) for the National Infrastructure Fund (NIF). The National Infrastructure Fund was established under the National Infrastructure Fund Act, 2026 as a strategic national institution intended to mobilise long-term capital for commercially viable infrastructure of national significance. The Act establishes the Fund as a body corporate and sets out its purpose, governance and investment framework. The Investment Policy is intended to provide the policy framework within which the Fund will invest and manage its resources. The Policy seeks to establish an alternative mechanism for financing national infrastructure outside the traditional Exchequer and borrowing framework.

In compliance with Article 118 (1) (b) of the Constitution and Standing Order 127(3), the Clerk of the National Assembly placed an advertisement in the print media on 15th August 2026. In addition, the Clerk of the National Assembly vide letter Ref. No. NA/DDC/F&NP/2026/116 and NA/DDC/F&NP/2026/117 dated 14th August 2026 invited key stakeholders to submit views on the Sessional Paper and attend a public participation forum on Thursday, 20th and Friday, 21st August 2026. The memoranda were to be received on or before Monday, 24th August 2026 at 5.00 pm.

The Committee is grateful to the Offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to it during its consideration of the Sessional Paper. Similarly, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made invaluable contributions towards the preparation and production of this report.

On behalf of the Departmental Committee on Finance and National Planning and pursuant to the provisions of Standing Order 199(6), it is my pleasure to report that the Committee has considered the Sessional No. 7 of 2026 on the National Infrastructure Fund Investment Policy and wish to report to this august House with the recommendation that the House **approves** the Sessional Paper No. 7 of 2026 with amendments.

Hon. FCPA. Kuria Kimani, CBS, M.P
Chairperson, Departmental Committee on Finance and National Planning

CHAPTER ONE

1.0 PREFACE

1.1 ESTABLISHMENT AND MANDATE OF THE COMMITTEE

1. The Departmental Committee on Finance and National Planning is one of twenty departmental committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to **Standing Order 216 (5)** is as follows:

    a) *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
    b) *To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*
    c) *To, on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
    d) *To study and review all legislation referred to it;*
    e) *To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
    f) *To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;*
    g) *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
    h) *To examine treaties, agreements and conventions;*
    i) *To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation;*
    j) *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
    k) *To examine any questions raised by Members on a matter within its mandate.*

2. The Second Schedule to the National Assembly Standing Orders assigns the Committee the mandate to consider matters in relation to public finance, public audit policies, monetary policies, financial institutions, economy, investment policies, competition, banking, insurance, national statistics, population, revenue policies including taxation, national planning and development, digital finance, including digital currency.
3. In executing its mandate, the Committee oversees the following Ministries/Departments:

    a) The National Treasury.
    b) State Department for Economic Planning.
    c) State Department for Public Investments and Asset Management.
    d) The Commission on Revenue Allocation (CRA)
    e) Office of the Controller of Budget

1.2 COMMITTEE MEMBERSHIP

1. The Departmental Committee on Finance and National Planning was constituted by the House on 27th October 2022 and reconstituted on Wednesday, 5th March 2025 and further reconstituted on Thursday, 28th May, 2026. The Committee comprises the following Members:

Chairperson
Hon. FCPA Kuria Kimani, CBS, MP
Molo Constituency
UDA Party

Vice-Chairperson
Hon. (Amb.) FCPA Langat Benjamin Kipkirui, CBS, MP
Ainamoi Constituency
UDA Party

Members

Hon. Peter Kaluma, CBS, MP
Homa Bay Town Constituency
ODM Party

Hon. FCPA Oyula, Joseph H. Maero, MP
Butula Constituency
ODM Party

Hon. Mboni, David Mwalika, MP
Kitui Rural Constituency
WDM Party

Hon. Okuome Adipo Andrew, MP
Karachuonyo Constituency
ODM Party

Hon. Chiforomodo, Munga, MP
Lunga Lunga Constituency
UDM Party

Hon. CPA Rutto Julius Kipletting, MP
Kesses Constituency
UDA Party

Hon. Paul Biego, MP
Chesumei Constituency
UDA Party

Hon. Sunkuyia, R. George, MP
Kajiado West Constituency
UDA Party

Hon. Dr. Gathoni Wamuchomba, HSC, MP
Githunguri Constituency
UDA Party

Hon. Sheikh Umul Sheikh, MP
Mandera County
UDM Party

Hon. (Dr.) Shadrack Mwiti, MP
South Imenti Constituency
Jubilee Party

Hon. (Dr.) Ariko John Namoit, MP
Turkana South Constituency
ODM Party

Hon. Machele M. Soud, MP
Mvita Constituency
ODM Party

1.3 COMMITTEE SECRETARIAT

4. The Committee is facilitated by the following staff:

Ms. Tracy Chebet
Principal Clerk Assistant II

Ms. Jennifer Ndeto
Deputy Director, Legal Services

Mr. Benson Kamande
Clerk Assistant III

Ms. Winfred Kambua
Clerk Assistant III

Mr. Salem Lorot
Senior Legal Counsel

Mr. Eugene Luteshi
Audio Officer III

Ms. Nelly W. Ondieki
Research Officer III

Mr. George Ndenjeshe
Fiscal Analyst II

Mr. James Macharia
Media Relations Officer

Ms. Joyce Wachera
Hansard Reporter II

Mr. Benson Muthuri
Assistant Serjeant-At-Arms

Mr. Jared Onyancha
Protocol Officer

Mr. Allan Ngugi
Administrative Officer II

CHAPTER TWO

2.0 OVERVIEW OF SESSIONAL PAPER NO. 7 OF 2026 ON THE NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY

Background

5. The Sessional Paper No. 7 of 2026 was developed by the Governing Council of the National Infrastructure Fund pursuant to section 25 of the National Infrastructure Fund Act, No. 4 of 2026. The Cabinet Secretary for the National Treasury and Economic Planning, who is also the Chairperson of the Governing Council of the National Infrastructure Fund, transmitted it to the National Assembly. The Sessional Paper was tabled in the National Assembly on 12th August, 2026.

6. Section 25(1) and (2) of the National Infrastructure Fund Act provides for the development and matters to be specified in the Investment Policy in the following terms—

25. Investment Policy

(1) The Governing Council shall develop an Investment Policy for approval by Cabinet.

(2) The Investment Policy shall specify

(a) priority sectors proposed for development;

(b) proposed projects;

(c) any existing incomplete projects from the previous investment policy;

(d) expected rate of return on investment on specific projects;

(e) asset allocation, portfolio distribution and leverage ratios; and

(f) exposure limits per sector and project.

7. The Sessional Paper was thereafter committed to the Committee for consideration and tabling of its report pursuant to section 27 of the National Infrastructure Fund Act, No. 4 of 2026.

2.1. Intention of the Sessional Paper

8. Sessional Paper No. 7 of 2026 presents the Investment Policy Statement (IPS) for the National Infrastructure Fund (NIF). The National Infrastructure Fund was established under the National Infrastructure Fund Act, 2026 as a strategic national institution intended to mobilise long-term capital for commercially viable infrastructure of national significance. The Act establishes the Fund as a body corporate and sets out its purpose, governance and investment framework. The Investment Policy is intended to provide the policy framework within which the Fund will invest and manage its resources.

9. The Policy seeks to establish an alternative mechanism for financing national infrastructure outside the traditional Exchequer and borrowing framework. The Fund is therefore intended to provide a revolving financing mechanism through which initial capital is invested in infrastructure, and returns are subsequently recycled into future projects.

10. The principal objectives of the Investment Policy are to:
    i. provide a clear framework for investment and management of the Fund's resources;
    ii. finance commercially viable infrastructure of national significance;
    iii. mobilise domestic and international private capital;
    iv. reduce reliance on public borrowing for commercially viable infrastructure;
    v. promote commercially disciplined investment decisions;
    vi. strengthen Kenya's capacity to originate, structure and execute large infrastructure projects;
    vii. preserve and grow the Fund's capital base;
    viii. recycle investment proceeds into future infrastructure projects; and
    ix. promote transparency, accountability and responsible stewardship of public resources.

2.2. Role of Parliament

11. The Investment Policy was submitted to the National Assembly pursuant to the National Infrastructure Fund Act, 2026, which provides the statutory framework governing its development, content, submission and consideration. Sections 25–31 set out the key requirements for the Investment Policy, including the priority sectors and proposed projects, expected returns, asset allocation, portfolio distribution, leverage and exposure limits, risk management, submission and consideration by the National Assembly, approval with or without reservations or amendments, resubmission where declined, and the publication and review of the Policy.

12. The Sessional Paper therefore provides a compliance checklist showing how the proposed Investment Policy addresses these statutory requirements.

2.3. Establishment of the National Infrastructure Fund

13. The National Infrastructure Fund was established under the National Infrastructure Fund Act, 2026 to accelerate national infrastructure development, mobilise private and non-traditional sources of finance, reduce reliance on public debt for commercially viable infrastructure, and strengthen Kenya's capacity to structure and execute large projects. The Fund is intended to provide an alternative to Exchequer financing, with Government indicating that its seed capital will include privatisation proceeds and that it will mobilise additional capital from pension funds, banks, sovereign wealth funds and development finance institutions.

14. The Policy places commercial discipline and capital preservation at the centre of the Fund's investment approach. Projects are expected to demonstrate identifiable

demand, commercial viability, technical readiness and appropriate risk management, while ordinarily supporting at least 60 percent non-recourse project debt and generating a minimum expected equity return of 7 percent to the Fund. As a permanent national investment fund, its capital is intended to be preserved and strengthened over time, with investment income, realised gains and recycled proceeds used to finance successive generations of infrastructure.

2.4. Eligible Sectors and Infrastructure Priorities

2.5. Priority Sectors

15. The Policy identifies the principal infrastructure sectors as national highways, railway networks, airports, seaports, electricity generation, transmission and distribution, ICT infrastructure, water and irrigation, agriculture and livestock infrastructure, as well as other national-priority infrastructure approved by the Governing Council.

16. The Paper further expands these categories to encompass logistics infrastructure and key energy and petroleum infrastructure, including geothermal, hydro, wind and solar power generation, petroleum, oil and gas infrastructure, refineries, pipelines. In addition, the expanded scope covers telecommunications and fibre networks, cloud infrastructure and data centres, dams and desalination facilities, as well as agricultural value-addition infrastructure.

2.6. Investment Criteria and Project Appraisal

17. The Policy requires proposed projects to satisfy minimum investment criteria, including demonstrated demand, commercial viability, capacity to support at least 60 percent non-recourse project debt, a minimum expected equity return of 7 percent, technical readiness, environmental, legal and financial readiness, relevant regulatory approvals and compliance with the Board's Risk Management Framework.

18. It also provides for project preparation, technical appraisal and legal, technical, financial, environmental and social due diligence as part of the investment process. These requirements are consistent with the importance placed during parliamentary consideration of the enabling legislation on adequate feasibility studies and the use of the public-private partnership framework in preparing and structuring infrastructure projects.

2.7. Government Support Measures

19. The Policy provides that projects failing to meet the general investment criteria may only be considered where Government Support Measures are provided in accordance with the Act and where the Board is satisfied that the investment remains commercially and financially sustainable after taking those measures into account.

2.8. Treasury Management and Temporary Investment of Funds

20. Pending deployment into infrastructure investments, Fund resources are to be managed prudently to preserve capital, maintain liquidity and generate appropriate investment income. Surplus funds may be invested in Government securities in accordance with the statutory framework.

2.9. Governance and Accountability

21. The Policy establishes a two-tier governance structure, consistent with the Act, under which the Governing Council provides strategic oversight and establishes investment policy, while the Board is responsible for implementing the Policy through the Investment Strategy, Annual Business Plans, investment approvals and portfolio oversight. The Sessional Paper further provides that investment authority will be delegated through the Board Charter, thereby establishing the framework for allocating investment decision-making responsibilities within the Fund.

2.10. Fund Capitalisation and Source Of Resources

22. The Policy provides that the Fund will be capitalised principally through proceeds from privatisation and other strategic capital allocations by Government, to preserve and grow capital derived from public assets. The Government has subsequently indicated that privatisation proceeds, including proceeds associated with the Kenya Pipeline Company and other strategic asset transactions, are intended to form part of the Fund's seed capital.

2.11. Monitoring, Evaluation and Performance

23. The Sessional Paper provides that the Board will monitor both the financial and non-financial performance of the Fund, including financial performance, capital deployment, capital mobilisation, portfolio quality and national development outcomes. This indicates that the Fund is intended to be assessed not only on the financial returns generated from its investments, but also on its ability to mobilise additional capital, maintain a sound investment portfolio and contribute to broader national infrastructure and development objectives.

2.12. Five-Year Validity and Annual Review

24. The Sessional Paper provides that the Investment Policy will remain in force for five years, while the Board is required to undertake an annual review and recommend amendments to the Governing Council where necessary. This provides for periodic updating of the Policy while maintaining a longer-term investment framework.

2.13. Value for Money and Public Interest

25. The Sessional Paper states that the Fund is intended to reduce reliance on public borrowing for commercially viable infrastructure and preserve public resources by shifting from traditional Exchequer financing towards an investment-based model. The Policy therefore seeks to ensure that public capital is deployed commercially,

generates returns and is recycled into future infrastructure investments, rather than relying solely on additional Government borrowing.

2.14. Conclusion

26. The National Infrastructure Fund Investment Policy represents a significant shift towards investment-based infrastructure financing, with the potential to reduce reliance on public borrowing, mobilise private capital and recycle investment returns into future projects. The Policy contains important safeguards, including commercial viability requirements, minimum return and leverage thresholds, exposure limits, non-recourse financing and capital-preservation principles.

27. Finally, the IPS should provide the National Assembly with adequate and timely information on the Fund's capitalisation, investments, returns, losses, exposure, Government Support Measures, contingent liabilities, costs, private capital mobilisation and development outcomes.

CHAPTER THREE

3.0 PUBLIC PARTICIPATION AND STAKEHOLDER ENGAGEMENT ON THE BILL

28. Article 118 (1)(b) of the Constitution provides that Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.

29. To facilitate public participation, the Clerk of the National Assembly placed an advertisement in the print media on 15th August 2026 inviting the public to submit memoranda on the Sessional Paper. Further, the Clerk of the National Assembly, vide letters NA/DDC/F&NP/2026/116 and NA/DDC/F&NP/2026/117 dated 14th August 2026, invited key stakeholders to submit views on the Sessional Paper and attend a stakeholder engagement forum on 20th and 21st August 2026.

3.1 MEMORANDA RECEIVED ON THE SESSIONAL PAPER

30. The Committee received twelve (12) memoranda from the following stakeholders whose submissions are detailed below:

(1) The National Treasury;
(2) Institute of Certified Public Accountants of Kenya (ICPAK);
(3) Capital Markets Authority (CMA);
(4) Office of the Controller of Budget (OCOB);
(5) Nairobi International Financial Centre (NIFCA);
(6) Cliffe Dekker Hofmeyr (CDH);
(7) Office of the Auditor General (OAG);
(8) Bara Build Nexus;
(9) Olyvia M. Lavisa
(10) CPF Group;
(11) EMSI & Associates Advocates LLP; and
(12) Dhamana Guarantee Company Limited.

3.2 SUBMISSIONS FROM STAKEHOLDERS

General Submissions

3.2.1 The National Treasury

31. The Cabinet Secretary for the **National Treasury and Economic Planning, Hon. FCPA John Mbadi Ng'ongo, EGH,** appeared before the Committee on Thursday, 20th August 2026 and submitted that the Investment Policy Statement is a principles-based policy under section 25 of the NIF Act, 2026 that defines NIF's operating compact.

32.

33. The Policy performs four functions: it defines eligible sectors, screening standards and appraisal standards; it protects capital through stage-gated preparation, downside testing and exposure limits; it enables the Board to invest, manage exits and recycle capital; and it measures performance through Expected Equity IRRs, portfolio risk, capital mobilisation and national outcomes.
34. The **National Treasury** stated that NIF exists to shift commercially viable infrastructure investment beyond the national budget. The Fund is to accelerate nationally significant infrastructure, mobilise domestic, international and non-traditional capital, reduce reliance on public debt for commercially viable projects, and build national origination, structuring and execution capability. Public capital is intended to act catalytically, mobilising private investment while preserving fiscal space for public services.
35. They highlighted out a governance structure in which the Governing Council owns policy and the Board implements it. They noted that the Council establishes the investment policy through the IPS and defines objectives, principles, eligibility, thresholds and limits. The Board implements policy through strategy and plans, and takes decisions and exercises oversight through approvals, conflict management, portfolio management and reporting to Council.
36. They noted that the Implementation instruments include the Investment Strategy, Annual Business Plans, and Risk and Treasury frameworks. They proposed an annual feedback loop, in which monitoring informs annual policy review and periodic portfolio-level reporting to Council.
37. On the division of decision rights, the Council develops policy, considers amendments, oversees compliance and receives portfolio-level reporting. The Council does not oversee individual investments. The Board approves individual investments, implements strategy and plans, and applies appraisal, risk, conflict and portfolio controls.
38. The National Treasury proposed seven principles to guide every investment decision:

    (i)commercial viability;
    (ii)financial sustainability;
    (iii)commercial discipline;
    (iv)capital mobilisation;
    (v)technical integrity;
    (vi)responsible stewardship; and
    (vii)national development.

39. Before a project reaches detailed preparation, the National Treasury proposed a preparation mechanism under sections 32 and 33 of the Act.

    (i)Projects are screened first against statutory eligibility;
    (ii)priority-sector alignment;
    (iii)preliminary viability;

(iv)demand or off-take;
(v)development readiness; and
(vi)potential debt capacity.

40. Preparation then proceeds progressively, with further expenditure authorised only while a project retains a reasonable path to the Fund's investment criteria. The National Treasury proposed stopping or advancing projects at each stage if the prospect of investability no longer exists.

41. At the investment gate, the National Treasury proposed six tests: demand validation through identifiable users or off-take; bankability, requiring market-based cash flows able to support at least 60 percent non-recourse project debt; a project-specific Expected Equity IRR based on NIF cash flows from deployment to exit; a defined holding period and exit strategy set at appraisal; downside resilience under stress scenarios covering cost, delay, demand, operating, interest rate, foreign exchange and refinancing risk; and technical and risk readiness, under which risk is allocated to the party best placed to bear it.

42. Further, **National Treasury** noted that the Policy will include Government Support Measures provision, presented as an exception mechanism rather than an alternative investment standard. Where a project misses the general investment threshold, Government Support Measures may be applied under the Act. The Board must then re-underwrite the project and confirm it remains commercially and financially sustainable before it may proceed.

43. The National Treasury proposed six eligible infrastructure sectors: transport (highways, railways, airports, seaports and logistics); energy (generation, transmission, distribution and nationally significant systems); ICT (telecommunications, fibre, cloud and data centres); water and irrigation (supply, storage, dams, irrigation, desalination and bulk water); agriculture and livestock (production, storage, processing and value-add infrastructure); and other national priorities identified by the Governing Council and permitted by the Act.

44. Since this is the inaugural IPS, the National Treasury stated that there are no carried-over project commitments as there is no preceding policy. Project selection filters proposed include national development priority, commercial viability, catalytic economic impact, capital mobilisation potential, and alignment with the Fund's statutory purpose. Specific projects will be incorporated into the Annual Business Plan and pass through screening, preparation and feasibility under sections 32 and 33 before being brought to the Board for investment consideration.

45. The National Treasury proposes a range of investment structures grouped under three headings: direct capital (direct investments, equity and quasi-equity, and debt instruments); vehicles and partners (project finance, SPVs, infrastructure funds and co-investment platforms); and markets and development (capital market transactions, project development activities and strategic partner structures). They stated that the

structure of an investment may change, but the policy standards and portfolio guardrails apply regardless of structure.

46. On capital recycling, the National Treasury proposed a three-stage cycle. At entry, the target holding period, exit strategy and expected exit value are set as part of the Equity IRR appraisal. During the holding period, the Board reassesses the holding period and exit strategy against performance, market conditions and the Fund's long-term interests. At exit, capital is released through refinancing, institutional take-out, strategic or secondary sale, listing, securitisation, buy-back or another appropriate mechanism, and realised capital is redeployed into new investments where commercially appropriate.

47. The National Treasury proposed portfolio exposure limits measured against total Fund assets: a maximum of 40 percent in any one priority sector, and a maximum of 20 percent aggregate exposure to any single project entity, with all Fund instruments to that entity aggregated for the test. The Fund is not permitted to borrow on its own balance sheet, and project leverage is ordinarily to be non-recourse to the Fund. They highlighted that these limits are measured against Fund asset allocation, not against the capital structure or total asset value of an underlying project entity.

48. On treasury management, the National Treasury proposed three objectives applied before capital is deployed to projects: preserve capital, maintain liquidity for approved investment needs, and generate income solely through Government securities permitted under Section 43 of the Act. They stated that the Treasury Management Framework governs liquidity, maturity and deployment within this statutory investment universe and does not create broader asset classes.

49. The National Treasury proposed five performance lenses reviewed annually: returns against expected IRRs, capital deployment, capital mobilisation and recycling, portfolio and downside risk, and national development outcomes. The policy cycle runs on an annual rhythm, with the Board adopting an Annual Business Plan, setting project indicators and reviewing the IPS each year, and recommending amendments as required, subject to the statutory approval process. The National Treasury proposed a policy validity period of five years, at the end of which the Board reports all incomplete projects and a new policy cycle begins.

50. On Council oversight, the **National Treasury** proposed periodic reporting at portfolio level across eight items: portfolio composition and performance, capital deployed and private capital mobilised, performance against investment-specific Equity IRRs, sector and project-entity exposures, material portfolio and downside risks, the project-preparation pipeline and expenditure, underperformance, exits and capital recycled, and IPS compliance, breaches and remedial action. In their view this reporting supports policy oversight and does not transfer responsibility for individual investment decisions from the Board to the Council.

51. The National Treasury proposed six implementation instruments to make the policy executable. The Investment Strategy translates the IPS into portfolio priorities and investment approaches. The Annual Business Plan sets the project-preparation allocation, annual priorities and delivery commitments. Appraisal and stage-gate procedures screen projects early, reuse existing studies where appropriate, and govern progressive preparation spend. The Risk Management Framework defines stress testing, risk allocation, risk appetite and portfolio controls. The Treasury framework and procedures govern capital preservation, liquidity and approved surplus investment. The governance and reporting framework sets delegation, conflicts, performance measures and Council reporting. They stated that all six instruments are developed and approved in accordance with the Act and applicable governance arrangements.

3.2.2 Institute of Certified Public Accountants of Kenya (ICPAK)

52. **ICPAK** submitted that the National Infrastructure Fund Act, 2026 established the National Infrastructure Fund (NIF) as a vehicle for mobilizing resources for national infrastructure investment and advancing the Government's ambition to mobilize Ksh. 5 trillion over a ten-year period through domestic resource mobilization, monetization of public assets and the crowding in of private capital. They noted that NIF framework envisaged mobilization of Ksh. 5 trillion and crowding in private capital. However, the IPS does not clearly set out how this ambition will be progressively achieved, monitored and reported over the investment period. This will make it difficult to assess whether the Fund is attracting the expected level of private and development capital or whether its capital mobilization strategy requires adjustment.

53. **ICPAK** proposed that the Policy introduces a new Section 1.4 titled 'Policy Targets of the Fund' and to read as follows:

The Fund shall establish measurable targets to include

a) the targeted Fund capitalization over the policy period
b) annual and cumulative private-sector capital commitments
c) the targeted amount of development and concessional finance mobilized
d) the targeted ratio of private and institutional capital to Fund capital
e) annual and cumulative capital deployed to eligible infrastructure investments
f) the value of investment commitments and projects reaching financial close

The Board shall review performance against the approved targets at least annually and disclose the results in the Fund's annual performance report.

Appendix I

54. **ICPAK** submitted that the Appendix sets out key investment parameters but does not adequately address the foreign-exchange risks associated with mobilizing and investing capital from international investors or undertaking investments with foreign currency. The Institute recommended that Appendix I include a Foreign Exchange and Currency Risk Management Framework to ensure clarity in the following areas
    (a) the currencies in which the Fund may receive, hold and deploy capital
    (b) acceptable levels of unhedged foreign-currency exposure
    (c) circumstances requiring currency hedging

55. The Institute also recommended the addition of the following role to the Board for clarity

    The Board shall monitor the currency composition of the Fund's assets, liabilities and commitments and ensure that material currency mismatches are identified and managed.

56. This will enhance risk management and transparency in cross-border investment operations, ensuring that the Fund's capital mobilization strategy aligns with both national financial stability objectives.

57. **On Chapter 2, specifically 2.2-Commercial Viability, ICPAK** noted that a project may be capable of supporting debt but should not necessarily be financed to the maximum level of that capacity, given that it may expose the Fund to refinancing and default risks. They proposed amending the provision to read as follows;

    2.2.2. A project shall demonstrate financial capacity to support an appropriate level of non-recourse or limited-recourse debt, as determined through project-specific financial modelling and risk assessment.

    2.2.3. The appropriate debt-to-total-financing ratio shall be determined having regard to
        a) projected cash flows
        b) revenue certainty
        c) demand risk
        d) construction and operational risks
        e) project maturity
        f) contractual arrangements
        g) regulatory environment
        h) foreign exchange exposure
        i) interest-rate risk
        j) the overall risk profile of the project.

    2.2.4. Where a project is proposed for financing outside the standard financing parameters approved by the Board, the investment proposal shall document the basis for the deviation, the additional risks involved and the measures proposed to protect the Fund's capital.

58. They stated that this will provide flexibility and ensure that financing is aligned with the specific risk and cash-flow characteristics of each project.

59. **On 2.2 General Investment Criteria Financial Return, ICPAK** noted that the Policy requires projects to generate a minimum equity return of 7% to the Fund but does not explain the basis for this threshold or clarify whether it applies to individual investments or the Fund's overall portfolio. They proposed amending the provision to read as follows;

    2.2.5. The Fund shall seek to achieve positive risk-adjusted financial returns across its investment portfolio.

    2.2.6. The minimum required return for each investment shall be determined using an approved methodology that takes into account

    a) Fund's cost of capital
    b) prevailing market conditions
    c) inflation
    d) investment tenor
    e) liquidity
    f) project risks
    g) expected risk-adjusted return on comparable investments

    2.2.7. The Board shall approve and periodically review the methodology and applicable return benchmarks.

    2.2.8. Where an investment is expected to generate a return below the applicable benchmark, the investment proposal should provide

    a) a documented justification demonstrating its economic value
    b) the financial implications of accepting the lower return
    c) the associated risks and
    d) the measures proposed to protect the Fund's capital.

60. They observed that a risk-adjusted framework provides a more appropriate basis for evaluating infrastructure investments, it maintains that the Fund's overall performance should also be assessed on a portfolio basis. Additionally, it also provides a transparent basis for approving investments that may have lower financial returns but demonstrable strategic value.

61. **On Chapter 3 - Priority Sectors for Development, ICPAK** submitted that the sectors identified in the IPS are presented without a clear basis for determining how resources should be prioritized between sectors when available capital is limited. They proposed that the Policy introduces a sector prioritization framework under which allocations consider the following

    (a) national development priorities
    (b) project readiness
    (c) economic and social impact
    (d) commercial viability

(e) private capital mobilization potential
(f) implementation capacity
(g) historical budget absorption
(h) climate and environment
(i) equitable development

62. The Institute stated that this will provide an objective basis for portfolio construction.

63. **On 3.1 and 3.2 Priority Sectors and Proposed Projects, ICPAK** observed that the IPS does not currently use evidence of sector implementation performance to inform portfolio prioritization. They recommended that;

    (i) the Policy should include historical implementation performance as one of the portfolio-allocation criteria.

    (ii) The Board should assess sector and the projects' absorption performance, preferably using a rolling three-year trend where data is available.

    (iii) The FY2022/23 performance of sectors from the Controller of Budget should form part of the baseline assessment.

64. Additionally, **ICPAK** noted that proposed projects are identified at sector level rather than through a defined project selection framework. It fails to specify how these criteria will be applied or weighted. They proposed that the Policy establishes a project scoring and ranking framework. Where each project is assessed against defined criteria, including commercial viability, economic rate of return, financial return, project readiness, implementation capacity, fiscal risk, climate resilience, private capital mobilization, strategic importance and expected development outcomes. This will help in improving consistency and comparability in investment decisions.

65. Further, **ICPAK** proposed that the Policy allows the Governing Council to identify any other nationally significant infrastructure as a priority. They proposed that any additional sector or project category be supported by a documented investment case and needs assessment to meet the same investment criteria applicable to the identified priority sectors. This will prevent ad hoc expansion of the Fund's investment mandate.

66. **On 3.3 Portfolio Framework/Exposure Limits, ICPAK** noted that the IPS limits exposure to one sector to 40% of Fund assets and a single project to 20%. However, the policy does not demonstrate the basis for these thresholds or explain how concentration risk will be assessed across correlated sectors. They recommended that the Policy should require the Board to establish exposure limits based on

    (a) portfolio risk
    (b) sector correlation
    (c) project size
    (d) counterparty exposure financing structure
    (e) liquidity requirements.

67. **The** 40% sector and 20% project limits should be subject to periodic review based on portfolio risk analysis.

68. Finally, **ICPAK** submitted that the policy requires annual review by the Board but does not establish matters that should trigger a substantive amendment to the IPS. The Institute recommends the policy should indicate that review should consider
    (a) changes in the Fund's capital base
    (b) macroeconomic conditions such as interest rates, inflation, fiscal position
    (c) sector performance
    (d) regulatory changes
    (e) emerging infrastructure risks.

69. This will ensure that policy reviews are evidence-based and responsive to material changes.

3.2.3 Capital Markets Authority (CMA)

70. CMA appearing before the Committee submitted that on the list of Abbreviations, ABS is indicated as Annual Business Plan. They proposed replacing ABS with ABP.

71. On the Executive summary, they noted that the existing Capital Market Collective Investment Scheme regulations do not recognise Infrastructure Funds as an investment class/alternative. They recommended reviewing the Collective Investment Scheme regulations to recognise Infrastructure Fund as one of the asset classes.

72. **On the introduction part, CMA** noted that the NIF Act states that the NIF shall be a body corporate with perpetual succession, however, the IPS states that "*The Fund is a special purpose vehicle…*". They recommended clarifying the entity structure by reconciling the Policy as drafted and the NIF Act.

73. **On the general investment criteria, CMA** observed that the time horizon of the investment(s) as a key investment criterion is missing. They proposed introducing project-specific time horizon criterion as a key consideration in informing the NIF investment decisions.

74. **On Government Support Measures, CMA** noted that an element of supporting the 'public good' needs to be infused into the policy. They observed that infrastructure is an essential plank in setting the basis of all other growth by stunting systemic risks and availing accessible benefits to extensive areas and diverse communities. NIF should therefore have as one of its objectives, meeting public interest/good.

75. Additionally, the Authority stated projects that fail the general commercial criteria may still proceed where Government Support Measures apply, with no ceiling, approval threshold or disclosure requirement specified. CMA was of the view that non-disclosure of the reasons for Government support measure(s) may materially mis-state the projects' underlying risk profile. They proposed requiring quantified

ceilings on Government Support Measures and mandatory disclosure of any such support in the offering document(s).

76. **On the General Investment Criteria- Financial Return**, CMA highlighted that it is not clear whether:

    a) This is a KES or Hard Currency (e.g., USD) return
    b) This is a gross or net return
    c) This is a nominal or real return

77. They recommended that the Policy provide for the same minimum return of 7% irrespective of the sector and despite the differing risk-return profiles.

78. **On proposed projects, CMA noted that there is no reference to the aspect of the proposed projects leveraging capital markets as a key anchor,** as expressly mentioned in Par 5 of the foreword and Par. 4 of the Executive Summary. They submitted that countries that have registered impressive infrastructure development, including China, Malaysia, India, and Morocco, have actively leveraged capital markets as the pivot point for facilitating rapid capital raising while leveraging technology.

79. On **regularity of review of the IPS**, CMA stated that it is not clear what the Governing Council should do with the recommendations after the IPS review. They were of the opinion that there should be room to review the IPS (on an as-needed basis) within a shorter period to address new developments or market dynamics.

80. They proposed expressly indicating that the recommended amendments will then be adopted by the Governing Council and implemented in the subsequent period. Also, evaluate the IPS review period to account for new and/or unforeseen developments. By adding 'or as will be necessary in the view of the Governing Council.

81. **On treasury management, CMA** noted that MDAs are already overweight in Government securities. The investment room for investing surplus funds should be expanded. They proposed including all capital market securities as the potential universe of assets in which surplus funds may be invested.

3.2.4 Office of the Controller of Budget (OCOB)

Through a written submission the OCOB submitted as follows;

82. **On paragraph 2.3 of the IPS**, the CoB noted that the objective of reducing public debt could be undermined if the Government provides extensive guarantees and other support measures to Fund projects. The legislative framework allows government support measures, including binding undertakings, letters of support, letters of credit and credit guarantees. This creates an important fiscal- risk question: although the Fund may initially appear to be off- budget financing, government guarantees can ultimately expose taxpayers to contingent liabilities if projects fail.

83. **They** proposed amending the proposal to state;
    (i) when the Fund may borrow;
    (ii) who bears the repayment obligation;
    (iii) whether borrowing constitutes public debt;
    (iv) the circumstances under which the Government may provide guarantees;
    (v) maximum leverage ratios; and
    (vi) how contingent liabilities will be reported.

84. In their view, this introduces explicit leverage and guarantee ceilings to prevent the Fund **from** becoming an indirect source of public debt.

85. **On Paragraph 3.1**, the CoB noted that a sophisticated approach to examining whether national infrastructure projects are fairly distributed across Kenya is lacking. There is therefore the risk of concentrating investment in politically favoured regions or sectors. They stated that while investments should not be distributed to achieve political balance, the policy should ensure that national infrastructure investment does not systematically exclude economically productive but historically underserved regions. The CoB was of the view that the Investment Policy should establish transparent principles for geographical and sectoral allocation.

86. **On paragraph 2.2 on the minimum equity return**, the CoB observed that the minimum-return approach requires scrutiny. While a minimum return can impose useful commercial discipline, applying a uniform return threshold to fundamentally different infrastructure projects could be problematic. They proposed replacing the rigid uniform return threshold with risk- adjusted return benchmarks differentiated by sector, project maturity and risk.

87. **On paragraph 3.3 – the portfolio framework**, the CoB noted that the Act requires the Investment Policy to specify asset allocation, portfolio distribution and leverage ratios. However, these provisions need to be translated into robust quantitative risk limits that can be monitored in practice. They stated that there is need to require independent feasibility and value-for- money assessments before major investments are approved.

88. They proposed the Investment Policy to clearly define:
    (i) maximum exposure to a single project;
    (ii) maximum exposure to a particular sector;
    (iii) permissible levels of borrowing and leverage;
    (iv) foreign-exchange exposure limits;
    (v) counterparty limits;
    (vi) liquidity requirements;
    (vii) guarantees and contingent liabilities;
    (viii) acceptable credit-risk levels; and
    (ix) procedures for restructuring distressed investments.

89. The CoB stated that without these safeguards, the Fund could unintentionally recreate the high fiscal risks it is intended to cure.

90. **On 3.1- priority sectors**, the CoB stated that there is potential for duplication with existing institutions: The NIF operates within an already extensive infrastructure and public investment institutional framework. This is likely to create a risk of overlap with bodies such as the Kenya National Highways Authority, Kenya Airports Authority, KENGEN, KETRACO and the State Department for Public Investment and Assets Management, among others. This will increase the likelihood of duplicate project appraisals, competing mandates, additional administrative costs, and diluted accountability.

91. In the CoB's view the Investment Policy should clearly define the relationship among the Fund, National Treasury, the State Department for Public Investment and Assets Management, implementing agencies, and sector regulators, and specify where their responsibilities lie. The Policy should also make the Fund principally a financing and investment vehicle, rather than creating another project- implementation bureaucracy.

92. **On paragraph 2.2- general investment criteria**, the OCOB submitted that the commercial-return principle could disadvantage socially important projects. Some strategically important infrastructure projects may generate substantial social and economic benefits without producing sufficiently high direct financial returns. They stated that the policy should therefore distinguish between financial return and economic/ social return. Projects should be assessed using a broader development-adjusted investment framework rather than relying exclusively on financial profitability. They recommended creating a transparent project-ranking framework based on financial, economic, social, environmental and strategic criteria.

93. The Policy does not define the term 'National Infrastructure'. Instead, it relies on the definition provided in the NIF Act. The CoB stated that the absence of a sufficiently precise definition of national infrastructure may constitute a grey area that could create room for discretionary investment and allow resources to be directed towards projects of questionable economic value. They proposed the Investment Policy establish a clear taxonomy of eligible investments. It should distinguish between strategic national infrastructure, commercially viable infrastructure, social infrastructure and projects that should ordinarily be financed through the ordinary development budget.

94. **On the Stewardship of the Fund's Capital**, the CoB observed that the use of proceeds from privatisation and disposal of government assets as a source of funding is potentially innovative, but it also raises an important intergenerational issue. Public assets are finite. Selling an asset to finance infrastructure can be justified where the proceeds are invested productively. However, there is a risk that valuable public assets could be sold without adequate valuation or without demonstrating that the resulting investment will generate superior long-term public value. They proposed

establishing strong safeguards around valuation, disposal, investment and reporting. Additionally, ring-fencing and protecting proceeds from privatisation and asset disposal through transparent valuation, competitive disposal processes and clear investment rules.

95. The CoB noted that to ensure public trust, stronger conflict-of-interest provisions are needed in the Policy. Given the substantial financial resources involved, the policy should contain rigorous rules governing conflicts of interest involving Council members, directors, senior management, investment advisers, and related parties. They noted that declarations of interests should be mandatory, independently verified, and publicly disclosed where appropriate. Individuals with conflicts should be prohibited from participating in related decisions. This is essential for maintaining investor confidence and protecting public assets.

96. Additionally, they stated that Environmental, social and climate risks have not been incorporated in investment guardrails. They recommended integrating climate-risk and environmental sustainability assessments into every major investment decision.

3.2.5 Nairobi International Financial Centre (NIFCA)

NIFCA, through their written memoranda submitted as follows;

97. **NIFCA** submitted that while Section 25 correctly requires the Investment Policy to specify sectors, projects, returns, asset allocation, leverage and exposure limits, the Policy does not yet state how the Fund will crowd in private capital without compromising its statutory governance or creating uncontrolled contingent liabilities.

98. They proposed that this gap be addressed by expressly recognising six matters in the Policy: lawful investment and co-investment vehicles; institutional collaboration with NIFCA and other relevant agencies; domestic and international institutional capital mobilisation; investor-readiness standards; additionality, meaning that Fund participation should not needlessly displace private finance; and measurement of capital mobilised alongside capital invested.

99. NIFCA highlighted some gaps in the IPS as follows;

100. **On Investment and co-investment vehicles**, **NIFCA** stated that there is need to expressly permit lawful investment vehicles where they improve commercial viability, risk allocation or mobilisation. They iproposed inserting a new text to read as follows;

> *"The Fund may, subject to applicable law and its approved investment parameters, establish, invest through, participate in or co-invest alongside appropriate investment vehicles, including project companies, special purpose vehicles, funds, joint ventures and other legally recognised investment structures, where such structures enhance commercial viability, risk allocation, capital mobilisation or efficient management of an investment."*

101. Additionally, they noted that the policy needs to recognise NIFCA as one of several statutory institutions available to support investor participation and qualifying structures. They proposed text should read as follows;

> *"In mobilising domestic and international private capital, the Fund may collaborate with the Nairobi International Financial Centre Authority and other relevant public institutions to facilitate investor participation and, where appropriate, the establishment or utilisation of investment vehicles and financial structures within Kenya in accordance with applicable law."*

102. **On private capital mobilization**, NIFCA proposed the inclusion of the following text;

> *"For commercially viable projects, the Fund shall, where appropriate, seek to crowd in domestic and international institutional capital through co-investment, syndicated investment, funds, project companies and other appropriate financing mechanisms, while maintaining prudent risk allocation and protecting the financial interests of the Fund."*

103. They stated that this will make crowding-in a deliberate implementation objective.

104. Further, NIFCA noted that there is a domestic institutional capital gap. They proposed amending the IPS to include the following;

> *"The Fund shall, subject to applicable financial-sector laws and prudential requirements, promote opportunities for participation by domestic institutional investors in commercially viable national infrastructure investments."*

105. This will create opportunities, not mandates, for pensions, insurers and other eligible investors.

106. **On international institutional capital**, NIFCA proposed expressly permitting partnerships with SWFs, DFIs, infrastructure funds and other institutional investors. They recommended amending the Policy to read as follows;

> *"The Fund may seek investment partnerships and co-investment arrangements with sovereign wealth funds, development finance institutions, infrastructure funds, pension and insurance investors, private investment funds, climate-finance institutions and other eligible institutional investors."*

107. **On investor readiness/ bankability**, NIFCA was of the view that the Policy be amended to include; *"Projects intended to attract private capital shall be developed to an appropriate level of commercial and investor readiness, including clearly defined revenue models, risk allocation, governance arrangements, financing structures and, where applicable, investor entry and exit mechanisms."* They stated that this will require projects seeking private capital to reach a defined commercial-readiness threshold.

108. **On the Capital Mobilisation metric**, NIFCA stated that there will be need to report both NIF capital deployed and third-party capital mobilised. They proposed inserting the following;

"The Fund shall monitor and report the amount of domestic and international private capital mobilised alongside its investments and an appropriate capital-mobilisation ratio, without double counting."

109. NIFCA noted that in determining whether to invest, the Fund shall consider the additionality of its participation, including whether its investment accelerates the project, addresses an identifiable financing constraint, improves bankability or mobilises additional private capital. This will prevent NIF from unnecessarily displacing private finance.

110. **On the vehicle governance**, NIFCA highlighted that any investment vehicle through which the Fund invests shall be subject to governance, financial reporting, audit, valuation, beneficial-ownership, conflict-of-interest and transparency requirements proportionate to the Fund's investment and consistent with applicable law. This ensures transparency and governance safeguards to vehicles in which NIF invests.

111. To ensure non-duplication, NIFCA proposed requiring use of existing statutory capabilities where practicable and should read as follows;

"In implementing this Policy, the Fund shall collaborate with relevant public institutions and regulatory authorities and, to the extent practicable, utilise existing statutory frameworks and institutional capabilities rather than duplicate functions assigned under written law."

3.2.6 Cliffe Dekker Hofmeyr (CDH)

CDH, through their written memoranda submitted as follows;

112. **On 2.2: Commercial Viability / Minimum 60% Non-Recourse Project Debt**. CDH observed that the section provides the 60% threshold and presents it as a minimum criterion applicable to every project. This may exclude otherwise viable infrastructure projects which have longer development periods, significant public-interest characteristics or different financing structures. They stated that the 60% threshold operate as a general benchmark, with a controlled exception for projects which are commercially and financially viable but cannot reasonably achieve the threshold because of the characteristics of the infrastructure sector or project.

113. They proposed amending the section to read as follows;

"Approved projects shall ordinarily be expected to generate market-based cash flows ccapable of supporting at least sixty percent non-recourse project debt. The Board may approve a project that does not meet this threshold where, following an independent financial assessment, it is satisfied that the project is commercially and financially sustainable and that the deviation is justified by the characteristics of the project or sector. The reasons for such approval shall be documented."

114. On section 2.2: Financial Return, CDH was of the view that the provision of a uniform minimum return may not adequately account for differences in project risk,

tenor, sector, inflation and capital structure. They stated that the 7% return be retained as a benchmark but that the Policy define the basis for calculating the return and permit a departure where justified by a documented risk-adjusted assessment. They proposed amending the section to read as follows;

> *"Projects shall be expected to generate a minimum risk-adjusted equity return of seven percent to the Fund, measured in accordance with investment guidelines approved by the Board.*
> *The Board may approve a project with an expected return below the benchmark where it determines, on the basis of a documented risk-adjusted assessment, that the investment remains financially sustainable and advances the statutory objectives of the Fund."*

115. **On Section 2.3: Government Support measures**, they highlighted that the Policy does not state what assessment must be undertaken before Government Support Measures are relied upon, nor does it expressly require consideration of the potential fiscal or contingent liability arising from such support. They proposed amending the section to read as follows;

> *"Where a project is considered for investment on the basis of Government Support Measures, the Board shall, before approving the investment, undertake or procure an assessment of the financial, fiscal and contingent liability implications of the proposed support and satisfy itself that the support is necessary, proportionate and consistent with the Public Finance Management Act and the National Infrastructure Fund Act."*

116. **On Section 3.2: Proposed Projects**, CDH stated that the Act expressly requires proposed projects to be specified in the Policy. They recommended approving the Policy with a reservation under Section 28(b) of the Act requiring the Governing Council to incorporate an indicative pipeline of proposed projects into Section 3.2.

117. **On section 3.2: Other National priority infrastructure**, the stakeholder noted that the phrase "other nationally significant infrastructure" is broad and does not identify the criteria or process through which a project outside the listed sectors may be designated a national priority. They proposed amending the proposal to read as follows;

> *"Any project falling outside the priority sectors specified in this Policy may be designated as national priority infrastructure where the Governing Council, on the recommendation of the Board, is satisfied that the project demonstrates significant national economic or strategic impact, is consistent with the objects of the Fund and satisfies the applicable investment criteria. The reasons for the designation shall be recorded in writing."*

118. **On 3.3: Sector and project exposure limits**, CDH stated that the section does not explain how "exposure" or "Fund assets" are to be calculated, particularly where the Fund invests through special purpose vehicles, infrastructure funds, co-investment arrangements or other indirect investment structures. They proposed a new provision to read as follows;

> *"For purposes of the sector and project exposure limits, the Board shall establish a methodology for calculating direct and indirect exposure, including exposure arising through special purpose vehicles, infrastructure funds, co-investment arrangements and other investment structures.*
> *The methodology shall be approved by the Governing Council and reviewed annually."*

119. **On Section 2.1 and Preface: Authority for the preparation of the Policy**, CDH submitted that the Policy and the Compliance Checklist ought to be aligned with Sections 25(1) and 26 of the Act by confirming that the Policy is developed by the Governing Council, approved by Cabinet and submitted to the National Assembly by the Cabinet Secretary, and that the Board's role is limited to implementation.

120. **On Section** 3.3: Leverage and the prohibition on balance sheet borrowing, the stakeholder recommended that the Policy states expressly that leverage shall be non-recourse to the Fund and that no instrument may be granted which constitutes borrowing or the taking of credit against the Fund's balance sheet, and that it identify the credit support the Fund may provide at project level within that limit. They proposed amending the section to read as follows;

> *"Leverage shall be undertaken only at the project or investment vehicle level and shall be non-recourse to the Fund. The Fund shall not borrow or take credit against its balance sheet. The Board may approve equity commitment undertakings, contingent equity, subordinated shareholder funding and similar support at project level, provided that the aggregate contingent exposure of the Fund is capped at the amount of the Fund's approved capital commitment to the relevant project, is quantified at the time of approval and is reported in accordance with the risk management framework."*

121. On Chapter 3: Security, intercreditor arrangements and enforcement, CDH stated that the Policy does not address the taking or realisation of security, the Fund's position as against senior lenders, or the exercise of step-in and enforcement rights where a project fails. They proposed amending the provision to read as follows;

> *"The Fund shall, where appropriate, take security for its investments and shall determine its position in relation to senior and other creditors in each transaction. The Board shall approve guidelines addressing the taking, holding, sharing and release of security, intercreditor and subordination arrangements, and the circumstances in which the Fund may exercise step-in, enforcement or remedial rights in respect of an underperforming project. Any release or subordination of security shall be approved by the Board and the reasons recorded in writing."*

122. **On Chapter 3: Co-investment arrangements and shareholder protections**, the stakeholder noted that the Policy refers to co-investment platforms and capital mobilisation as a performance measure but does not address the terms on which the Fund will co-invest or the governance and minority protections it will require where it holds a non-controlling interest. They stated that the Policy should require the Board to satisfy itself, before approving an investment, that the Fund's governance and minority protections in the relevant vehicle are appropriate to the Fund's interest and to the nature of the project.

123. They proposed amending the provision to read as follows;

> *"Where the Fund invests alongside other investors or through a special purpose vehicle, pooled investment vehicle or infrastructure fund, the Board shall, before approving the investment, satisfy itself that the constitutive and shareholder documents confer governance, participation, information and exit rights appropriate to the Fund's interest in the vehicle and to the nature of the project, and shall record its assessment in writing."*

124. **On Chapter 2: Conflicts of interest, related party transactions and political independence**, CDH noted that the chapter contains no operative provision on conflicts of interest, related party transactions or independence of investment decision-making. They proposed amending to include an operative provision as follows;

> *"Investment decisions shall be taken by the Board on commercial and technical grounds in accordance with this Policy and the Act, and no investment shall be approved on the direction of any person other than in accordance with the Act. A member of the Governing Council or of the Board who has a direct or indirect interest in a proposed investment or in a counterparty shall disclose that interest and shall not participate in the deliberation or approval of the matter. The Board shall approve a related party transaction policy requiring the identification, independent review and disclosure of any investment or transaction involving a director, member of the Governing Council, senior officer or their related parties."*

125. On Section 3.4: Treasury management, CDH stated that the Policy does not identify the instruments in which undeployed capital may be held, or any counterparty, concentration or tenor limits. They proposed expanding the section to reflect the statutory constraints and to set treasury guardrails as follows;

> *"Treasury investments shall be limited to Government securities approved by the Cabinet Secretary in accordance with Section 43 of the Act and to deposits held with the Central Bank of Kenya or with commercial banks maintained under Section 40(4) of the Act. The Board shall approve treasury guidelines specifying eligible instruments, minimum counterparty credit criteria, single counterparty and concentration limits, maximum tenor and liquidity requirements aligned to projected capital deployment, and shall report treasury exposures to the Governing Council."*

126. **On Chapter 2: Financial risk management framework**, CDH noted that the Policy does not identify the categories of financial risk to which the Fund will be exposed. Infrastructure investments of the kind contemplated will typically involve foreign currency debt, long tenors and refinancing at the end of an initial debt term.

127. They proposed inserting the following provision;

> *"The Risk Management Framework shall address, at a minimum, credit and counterparty risk, currency and interest rate risk, refinancing and liquidity risk, construction and completion risk, concentration risk and the use of hedging or other risk mitigation instruments."*

128. **On Chapter 4: Monitoring and evaluation**, the stakeholder highlighted that the Policy identifies broad areas of performance but does not establish minimum reporting intervals, minimum indicators or a deadline for reporting performance. Additionally, the Policy also includes "national development outcomes" as a performance consideration but does not indicate how these outcomes are to be measured. They recommended amending as follows;

> *"The Board shall monitor the performance of each approved project on a quarterly basis against financial and non-financial performance indicators. The Board shall include in its annual report a consolidated assessment of the performance of the Fund and each approved project, including capital deployed, financial returns, capital mobilised, project implementation status, material risks and national development outcomes."*
>
> *Additionally, they recommended that the annual Business Plan contain measurable development indicators appropriate to the relevant sector and project.*

129. **On the Appendix 1: Key Policy Parameters,** CDH recommended that the Appendix expressly identify whether each parameter is statutory, policy-based or operational. They recommended amending as follows;

> *"The policy parameters set out in this Appendix shall be classified as either statutory requirements under the National Infrastructure Fund Act, 2026 or additional policy parameters adopted under this Policy. Any amendment to a statutory or substantive policy parameter shall be undertaken in accordance with the applicable provisions of the Act."*

3.2.7 Office of the Auditor General (OAG)

The OAG through a written memoranda submitted as follows;

130. The OAG submitted that the Office recognises Kenya's infrastructure financing gap, the pressure on public debt and the need to mobilise long-term private capital. A properly designed Fund can support commercially viable infrastructure, crowd in institutional capital and recycle proceeds while preserving public value.

131. The Auditor General stated that some of the issues the Office raised during the consideration of the NIF Bill stage have been addressed in the Policy. However, some remain partly addressed they include;

(i) Define maximum gearing, coverage ratios, stress tests and treatment of public support.

(ii) Annex the actual five-year pipeline and define decision evidence, approvals and exceptions.

(iii) Quantify, cap, approve and disclose every fiscal commitment and contingent liability.

(iv) Define measurement, connected exposure, continuous monitoring and breach remedies.

(v) Require independent valuation, transparent price discovery, capital preservation and reinvestment rules.

(vi) Prescribe consolidation, project-level disclosure, record retention and contractual audit access.

132. Additionally, the OAG stated that Section 25(2) of the National Infrastructure Fund Act, 2026 requires the Investment Policy to specify particular matters. They noted that the checklist leaves several statutory requirements blank while a separate technical table asserts compliance with frameworks that are not identifiable in the substantive Policy. They proposed replacing the competing tables with one reconciled checklist showing the statutory requirement, exact Policy clause, implementation instrument, responsible body and evidence of compliance.

133. **On chapter 3 – projected sectors and projects**, the OAG noted that the IPS names sectors but does not identify the proposed projects to which the five-year mandate will apply. They stated that Parliament cannot evaluate aggregate capital demand, readiness, geographic and sector concentration, expected returns, Government support, or consistency with national development priorities.

134. They proposed annexing the proposed pipeline, showing for each project the sponsor, sector and location; estimated total cost and Fund commitment; proposed instrument and financing structure; readiness stage; expected return; Government support; key risks; and indicative implementation period.

135. **On section 2.2 and Appendix 1 - minimum expected equity return of 7%.** The OAG observed that the Policy does not state whether 7% is nominal or real, gross or net of fees, pre- or post-tax, Kenya-shilling or foreign-currency, project or Fund level, or measured over what period. They stated that a uniform figure may underprice construction, demand, regulatory, currency and liquidity risk. If interpreted as a nominal Kenya-shilling net return, it is below the 8.77% 91-day Treasury-bill benchmark published by the Central Bank of Kenya in August 2026, despite infrastructure equity being long-term and illiquid.

136. The OAG proposed defining the return measure and require a risk-adjusted hurdle-rate methodology by sector, project stage and currency, benchmarked to the relevant risk-free yield plus explicit risk premiums. Also, disclose expected gross and net

returns, fees, taxes, inflation assumptions and downside cases in each appraisal and the Annual Business Plan.

137. **On Sections 2.2 and 3.3; Appendix I - projects should support at least 60% non-recourse debt**. The OAG highlighted that the Policy does not prescribe maximum debt-to-capital, minimum debt-service or loan-life coverage, covenant headroom, stress tests, connected exposure or breach action. They recommended setting sector- and stage-specific maximum gearing and minimum DSCR/LLCR thresholds under base and stressed cases. Measure exposure using equity, loans, undrawn commitments, guarantees and other risk-bearing obligations; aggregate connected projects and specify escalation, cure and divestment action for breaches.

138. **On Section 3.4 - Treasury Management; general risk provisions**. The OAG noted that there are no binding limits or disclosure rules addressing foreign-currency debt against Kenya-shilling revenues, floating-rate exposure, refinancing concentration or hedge-counterparty risk. They recommended requiring project-level disclosure of unhedged currency, interest-rate and refinancing exposure; Board-approved limits and hedging arrangements for material mismatches; hedge effectiveness and counterparty limits; debt-maturity profiles; and stress tests linked to tariff, demand and support scenarios.

139. **On Section 2.3 - Government Support Measures; section 34 of the NIF Act**. The OAG was of the view that a project that fails the general criteria may be reconsidered after Government support, but the Policy does not prescribe quantified ceilings, ex-ante fiscal-risk clearance, affordability tests or comprehensive disclosure of the resulting obligations. They proposed requiring National Treasury fiscal-risk clearance; value-for-money and affordability assessment; disclosure of returns before and after support; present value, maximum exposure and probability-weighted cost; budget provision where required; project and portfolio ceilings; and annual reconciliation to national fiscal-risk and debt reporting.

140. **On Sections 2.2 and 2.3 - Demand Validation, Commercial Viability and Government Support Measures**. The OAG observed that for toll roads, bulk water, ports, energy and other user-pays infrastructure, the Policy specifies commercial-return requirements but no explicit tariff-affordability or social-access test. The OAG proposed requiring an affordability and social-access assessment as part of demand validation, with household or user-incidence analysis, tariff path and indexation, service-quality obligations, vulnerable-user arrangements and sensitivity testing. Any tariff subsidy, revenue-shortfall undertaking or viability support should be explicit, budgeted and treated as a Government Support Measure.

141. **On Section 2.1 - Guiding Principles; future Governance and Investment Frameworks**. The Policy does not prescribe minimum rules for declarations of interest, recusals, related-party transactions, beneficial ownership, politically exposed persons, sanctions, debarment, source of funds or adviser independence. The OAG proposed requiring continuing and transaction-specific declarations; mandatory

recusal; beneficial-ownership and source-of-funds verification; PEP, sanctions and debarment screening; related-party approval and disclosure; voting records and dissent; adviser rotation and independence; and auditable conflicts register covering the Council, Board, committees, management, sponsors and service providers.

142. **On Investment Decision and Governance Frameworks**. The OAG highlighted that the Policy does not establish functional independence between those who originate and structure a transaction and those who review risk, legality, valuation and final approval. They proposed defining separate accountable functions for origination, technical and financial appraisal, risk review, legal review, valuation, investment-committee recommendation, Board approval, monitoring and internal audit. Requiring documented challenge, conditions precedent, delegated-authority limits and escalation of dissent.

143. The OAG noted that the Policy does not cap, benchmark or require disclosure of management, arrangement, advisory, valuation, monitoring, transaction, carried-interest or performance-linked fees, including fees paid through SPVs. The OAG proposed requiring transparent competitive appointment where applicable; fee benchmarking; disclosure of gross and net returns; total expense ratio by project and portfolio; performance-fee methodology and clawback; related-party prohibition or enhanced approval; and annual disclosure of all fees, transaction costs and counterparties in the Business Plan and audited statements.

144. **On Executive Summary - investment structures; sections 2.2 and 3.3**, the OAG noted the Policy lists equity, debt, SPVs, capital-market transactions and co-investment platforms but does not distinguish those investment transactions from procurement of goods, works, services, advisers or disposal of public assets.

145. **They** proposed inserting a transaction-classification framework identifying the applicable route: PPADA procurement; PPP procurement; privatisation or asset disposal; capital-market process; or documented negotiated investment. For non-competitive transactions, they recommended requiring an approved rationale, independent valuation, market testing where feasible, best-value analysis, conflicts clearance and complete decision records.

146. Further, the OAG stated that the Policy does not state valuation standards, independence requirements, valuation date, treatment of control premiums, liabilities and transaction costs, price-discovery method or approval of material deviations from valuation.

147. **They** recommended requiring independent professional valuation by qualified advisers; transparent appointment and conflict checks; documented valuation methods, assumptions and sensitivity ranges; market testing or competitive price discovery where feasible; disclosure of gross proceeds, costs and debt settled; and Board reasons for any material departure from the independent range.

148. **On sections 3.5 and 3.6 on investment period and review**, the OAG observed that the Policy does not establish holding-period rationale, permitted exit routes, reinvestment triggers, treatment of realised income and unrealised gains, withdrawal rules or a minimum real-capital floor. They proposed ring-fencing and tracing gross sale, refinancing, distribution and exit proceeds; separate capital, realised income and unrealised gains; protect the inflation-adjusted value of net public contributions; and requiring a Board-approved exit and reinvestment framework covering holding rationale, exit routes, valuation, price discovery, transaction costs, reinvestment timing and post-exit evaluation.

149. **On Section 2.2 - Technical Readiness and Responsible Stewardship**. The OAG noted that the Policy refers generally to environmental and legal compliance but does not establish project classification, due diligence, climate-resilience screening, land and resettlement requirements, grievance mechanisms, incident reporting or continuing monitoring. The OAG was of the view that before commitment, require compliance with EMCA/EIA, climate, land-acquisition and resettlement law; quantified safeguard costs; disclosed permits, claims and mitigation measures; stakeholder engagement and grievance procedures; contractual ESG obligations; major-incident reporting; and post-investment monitoring.

150. Further, the OAG noted that the Policy does not specify how control, joint control and significant influence will be assessed or how controlled SPVs, structured interests and public commitments will be consolidated or disclosed. They proposed applying standards prescribed by the Public Sector Accounting Standards Board to determine the reporting boundary; consolidating controlled vehicles; disclosing joint arrangements and other structured interests; and reporting project by project the Fund's equity, loans, commitments, guarantees, support, related parties, fees, impairments, sensitivities and maximum contingent exposure. Reconcile these disclosures to national budget, debt and fiscal-risk reports.

151. **On Chapter Four - Monitoring and Evaluation; sections 35-37 of the NIF Act**. The Auditor General noted that the Policy identifies broad monitoring themes but no mandatory indicators, baselines, targets, reporting frequency, publication standard or distinction between committed and deployed private capital. They recommended for each project, publish approved and forecast cost and completion date; cost/time variance; capital committed and drawn; expected and actual return; leverage; Government support; impairment; material contract changes; private capital mobilised per shilling of Fund capital; and service outcomes covering access, reliability, affordability, jobs, local content, climate resilience and maintenance. Explain unresolved breaches and corrective action.

152. The OAG observed the Policy does not expressly require investment agreements, SPV documents and service-provider contracts to preserve complete decision records and access to information relevant to public capital and commitments. They proposed requiring a records schedule covering origination, due diligence, models, valuation, approvals, conflicts, procurement, contracts, drawdowns, performance,

Government support and exits; securing digital retention for the statutory period; data ownership and handover clauses; and contractual recognition of the Auditor-General's access to relevant records held by SPVs, managers and service providers.

153. **On Sections 26-31 of the NIF Act; Policy review, amendment and publication provisions**. The OAG noted the Policy does not clearly state the information that should accompany material amendments, annual Business Plans and public reporting, or how public and Parliamentary input will be recorded and responded to over the five-year period.

154. They proposed recording and publishing how material stakeholder submissions were considered; publishing the approved consolidated Policy, annual Business Plans and project summaries subject only to lawful confidentiality; disclosing material Policy and pipeline changes with reasons and fiscal effects; and providing Parliament with periodic portfolio, Government-support and breach reports in a standard format. Commercial confidentiality should be narrowly defined and should not conceal public obligations or aggregate risk.

3.2.8 Bara Build Nexus

155. Through their written submission, Bara Build Nexus supported the IPS, particularly the Policy's emphasis on commercial discipline, technical integrity, project preparation, capital mobilization, responsible stewardship and national development. They stated that the Fund should be designed not only as a financing platform, but as an intelligent infrastructure investment platform. Capital can only be deployed effectively when the underlying infrastructure decisions are supported by reliable, connected and decision-ready information.

156. They submitted that the NIF should establish a structured infrastructure intelligence framework connecting the full investment lifecycle:

Pipeline → Project Preparation → Appraisal → Investment Decision → Financing → Delivery → Operations → Performance → Learning → Reinvestment

157. This should create a common evidence base for both individual investment decisions and portfolio management.

158. Additionally, they stated that the Fund's project-development role provides an opportunity to establish a structured pipeline of potential investments rather than relying principally on projects arriving at the Fund already packaged for financing.

159. Projects should progress through defined stages:

Concept → Screening → Preparation → Appraisal → Investment Ready → Financial Close → Delivery → Operational Performance

160. Each stage should have defined evidence requirements and decision gates. This would allow the Fund to distinguish between a good infrastructure idea, a technically prepared project, and a genuinely investment-ready project.

161. Bara Build stated that the NIF should establish minimum information standards for projects seeking investment. These should cover, as relevant: demand; technical

design; costs; financing; revenue; land; approvals; environmental and social considerations; risk; implementation; asset performance; and lifecycle requirements. Standardization would improve comparability across projects and reduce dependence on fragmented institutional information.

162. They emphasized that the Fund's proposed exposure limits concentration should be assessed not only by financial exposure but also by risk correlation and infrastructure interdependence.

163. Further, Monitoring should not end with reporting whether a project is on budget or on schedule. Project data should feed back into future investment decisions. The Fund should progressively develop a national infrastructure investment knowledge base containing:

(i) projected versus actual costs;
(ii) projected versus actual demand;
(iii) projected versus actual returns;
(iv) construction performance;
(v) operational performance;
(vi) maintenance requirements;
(vii) risk events; and
(viii) lessons from completed investments.

164. This would create a learning investment institution, rather than simply a portfolio manager.

165. Finally, BARA Build Nexus recommended that infrastructure intelligence be embedded within the operational architecture of the National Infrastructure Fund. This would strengthen the NIF's commercial discipline while simultaneously advancing its broader national development mandate.

3.2.9 Olyvia M. Lavisa

166. Through a written memorandum, Olyvia submitted that the establishment of the National Infrastructure Fund (NIF) is an important shift in how Kenya approaches infrastructure financing. The Fund has the potential to move the country beyond reliance on annual budgetary allocations and public borrowing towards a more sustainable model of infrastructure investment, capital mobilization and recycling.

167. The stakeholder noted that long-term success of the NIF will depend not only on its ability to mobilize capital, but on its ability to consistently identify, prepare, select and manage the right infrastructure investments.

168. The Investment Policy provides a strong commercial and governance foundation and the stakeholder recommended strengthening the policy further around the quality of infrastructure investment decisions and the long-term public value generated by those investments.

169. The stakeholder stated that Commercial viability should remain central to the Fund. However, commercial viability alone should not become a proxy for infrastructure value. Investment appraisal should explicitly consider:

(i) economic and social value;
(ii) strategic national importance;

(iii) service outcomes and accessibility;
(iv) resilience and climate vulnerability;
(v) whole-life cost and maintainability;
(vi) lifecycle asset performance; and
(vii) catalytic effects on regional and economic development.

170. They highlighted that the Fund should assess projects not only on whether they can attract financing, but whether they represent sound long-term infrastructure investments for Kenya. The Policy appropriately requires demand validation, commercial viability, financial returns, technical readiness and risk management.

171. Olyvia recommended that these be operationalised through a transparent multi-dimensional investment appraisal framework, with minimum technical, financial, economic, environmental, social and governance gates before capital commitment. This would reduce the risk of selecting projects primarily because they are financially attractive while overlooking infrastructure that may generate significant wider economic value.

172. The Fund should therefore maintain a dedicated project-preparation function covering,

(i) feasibility and demand studies;
(ii) engineering and technical studies;
(iii) land and site readiness;
(iv) environmental and social assessments;
(v) financial and commercial structuring;
(vi) risk allocation;
(vii) transaction preparation; and
(viii) procurement readiness.

173. The NIF should establish a central, continuously updated information system covering its project pipeline and portfolio. The stakeholder noted that at minimum, this should enable decision-makers to understand:

(i) project readiness;
(ii) estimated cost and financing requirements;
(iii) demand and revenue assumptions;
(iv) risks and mitigations;
(v) implementation progress;
(vi) asset condition and performance;
(vii) financial performance; and
(viii) development outcomes.

174. This would allow the Fund to move from project-by-project decision-making towards portfolio intelligence and evidence-based capital allocation.

175. Olyvia supported the Policy's emphasis on commercial discipline and political independence. This should be reinforced through clearly documented investment decisions, independent technical and financial assurance, conflict-of-interest controls and published performance reporting. The Fund should be sufficiently independent to reject projects that do not meet its investment standards, while retaining a structured

mechanism through which Government may support strategically important projects that require appropriate public intervention.

176. They proposed project and portfolio performance to also track:
    (i) service delivery;
    (ii) cost and schedule performance;
    (iii) asset reliability;
    (iv) lifecycle performance;
    (v) resilience;
    (vi) local economic impact;
    (vii) environmental and social outcomes; and
    (viii) realized versus projected investment assumptions.
177. This will allow the Fund to learn from completed investments and improve subsequent investment decisions.

3.2.10 CPF Group

Through a written memorandum, CPF submitted as follows;

178. **On Section 2.1 – Commercial viability**, CPF noted that the policy should provide for a more comprehensive assessment of commercial viability, including, as applicable, IRR, DSCR/debt capacity, positive NPV, project-specific bankable revenues/offtake, completed feasibility studies, technical readiness, creditworthiness of counterparties, affordability and value for money. These should be applied proportionately depending on the asset class and investment structure. They submitted that the current commercial viability test should be on how the Fund will genuinely determine whether a project is capable of supporting greater private-sector participation.
179. On **Section 2.2 – General investment criteria: financial return**, CPF observed that the proposed 7% minimum requires further clarification. They noted that if the proposed return of 7% is maintained, it becomes the actual expected equity return presented to the Fund and potentially influence the quality of projects Fund's ability to attract institutional capital. They recommended that the Policy adopts a risk-adjusted return framework for equity, senior debt, subordinated debt, quasi-equity and other investment structures, taking into account project-specific risk, construction/development risk, illiquidity, inflation and currency risk where relevant.

180. Additionally, they noted that the Fund is intended to mobilise private and institutional capital. A return framework materially below market, could create an expectation that the fund is willing to provide concessional capital and could ultimately affect the quality of its pipeline and ability to attract co-investors.
181. On the **General investment criteria – non-recourse project debt**, CPF proposed clarifying that project debt should, as a general principle, be non-recourse to the Fund and secured against the relevant project/SPV assets, rights and cash flows.

This should not prevent a private sponsor/promoter from providing completion support, guarantees or additional security where appropriate, subject to the Fund's risk-management and contingent-liability framework. This proposed non-recourse debt requirement is an important protection for the Fund and should be clearly ring-fenced at Fund level.

182. On **Proposed projects**, CPF observed that the Fund should not become a mechanism for transferring or historically poorly performing projects. They recommended requiring every existing or proposed project to undergo a fresh and independent technical, commercial, legal, and financial appraisal before NIF investment. This should include cost-to-complete, outstanding liabilities, contractual position, demand/offtake, revised project economics, implementation risks, land, regulatory and procurement issues.

183. On **Incomplete projects**, CPF stated that existing incomplete or stalled projects should not automatically qualify for NIF financing simply because they are already Government projects. They proposed introducing a clear re-entry test for incomplete/stalled projects. Only projects that demonstrate renewed technical, commercial and financial viability following independent appraisal should qualify. The assessment should also consider whether restructuring, refinancing, rebidding or alternative financing would provide a better outcome before NIF capital is committed.

184. On **Asset allocation and portfolio distribution, CPF** noted that the proposed exposure limits are useful, but concentration risk can arise beyond the sector and single-project limits through common sponsors, counterparties, revenue sources or correlated sectors. They proposed strengthening the concentration-risk framework to cover sector, project, sponsor/counterparty and correlated exposures, together with periodic stress testing and scenario analysis.

185. On **Section 25(2)(f) – Sector and project exposure limits,** CPF submitted that nationally significant projects may, in exceptional circumstances, require exposure above the prescribed limits. However, exceptions should not undermine the diversification framework. They recommended retaining the prescribed limits but introduce a clear exception mechanism requiring documented justification, assessment of the impact on the overall portfolio, enhanced due diligence, appropriate risk mitigation and approval at the appropriate governance level.

186. On Section 25(4) – Risk management framework, CPF stated that the Act requires a formal risk-management framework. Given the nature of infrastructure investments, the IPS should provide sufficient direction on the key risks to be addressed. The framework should expressly cover credit, market, liquidity, construction, operational, legal/regulatory, counterparty, concentration, currency, refinancing and contingent-liability risks, together with stress testing, monitoring, early-warning indicators and escalation thresholds.

187. On **Section 19 – Investment structures,** CPF stated that the Fund needs sufficient structuring flexibility to allocate risk appropriately and attract private capital rather than relying predominantly on direct equity investment. They recommended that the policy should expressly encourage appropriate use of SPVs, project finance,

co-investment structures, pooled vehicles, securitisation, project bonds and other capital-markets instruments, where appropriate, to improve risk allocation and crowd in private and institutional capital.

188. **On Section 19 – Credit enhancement, CPF** observed that catalytic role can be significantly strengthened through appropriate credit-enhancement structures that reduce risk for private investors.

189. **On Section 32(2) – Project structuring and preparation, the** stakeholder noted that the ability to mobilise private capital will depend significantly on whether projects are sufficiently prepared before being presented for investment. They proposed providing for appropriate resources for feasibility studies, technical, legal and financial structuring, transaction advisory and project-development costs, with the objective of creating an investment-ready pipeline capable of reaching financial close.

190. **On Section 33 – Feasibility studies,** CPF stated that a feasibility study should establish not only whether a project is technically and economically desirable, but whether it is capable of being financed and implemented. They proposed linking the feasibility assessment more directly to investment approval and require consideration of the financing plan, revenue model, debt capacity, proposed risk allocation, bankability and route to financial close, alongside the statutory technical, legal, social, economic and environmental considerations.

191. **On Section 34 – Government support measures,** CPF observed that Government support can materially improve project bankability but may also create contingent fiscal liabilities. Government guarantees, letters of support, letters of credit and other support measures should be quantified, risk-assessed, appropriately approved and monitored, with clear limits on the Fund's exposure and the resulting contingent liabilities.

192. **On Section 1.3 – Catalytic objective,** CPF highlighted that the catalytic mandate is important, but it should not become a basis for funding projects that are otherwise commercially unviable. They recommended allowing the Fund to accept a lower direct financial return where there is a demonstrable catalytic benefit, such as significant third-party capital mobilisation, project de-risking or market creation. Such investments should require explicit approval, defined financial and development metrics and a clear rationale for the return concession.

193. On **Section 1.3 / capital mobilisation objective,** CPF was of the view that the success of the Fund should be assessed not only by the amount of NIF capital deployed but also by the amount of additional private and institutional capital it mobilises. They proposed a capital mobilisation/crowding-in KPI, including the ratio of private/institutional capital mobilised to NIF capital committed, with a clear methodology distinguishing capital committed from capital actually invested.

194. On **Performance management/section 25(4),** CPF stated that given the national importance of the Fund, the key performance indicators should be sufficiently clear to assess whether the Fund is delivering on both its commercial and catalytic infrastructure objectives. They proposed including clear KPIs covering financial

returns, capital mobilised, projects reaching financial close, preservation, capital deployment, project completion, defaults/impairments and portfolio concentration, catalytic/development outcomes. Financial and performance indicators should be separately measured.

195. On **Section 24 – Business plan, CPF** stated that the annual business plan should translate the Investment Policy into a practical investment programme. They proposed requiring the business plan to set out the investment pipeline, project-readiness status, capital deployment targets, expected returns, capital mobilisation targets, and capital requirements, with performance monitored against these targets.
196. On **Investment horizon/capital recycling,** the stakeholder was of the view that Infrastructure investments are long-term and illiquid. The Fund's ability to recycle capital will be important to its long-term sustainability and ability to finance subsequent projects.
197. They proposed having an exit and capital-recycling strategy, particularly for equity and quasi-equity investments. Potential mechanisms could include refinancing, strategic/institutional investor exits, capital-markets transactions, asset sales or other appropriate exit assumptions should form part of the original investment case.
198. **On Section 19 / Institutional capital mobilization**, CPF proposed that the Fund should ideally operate as an anchor investor and catalyst for institutional capital rather than becoming the principal or sole source of financing for projects. CPF proposed encouraging co-investment platforms and capital-markets structures that enable pension funds, insurers, banks, DFIs and other institutional investors to invest alongside or through the Fund. The Fund should be able to take an anchor position where this materially improves the ability to achieve financial close.
199. On **Portfolio liquidity / treasury management,** CPF was of the view that the policy should provide principles for liquidity and treasury management, including appropriate temporary liquidity investments with the approved investment pipeline and expected funding requirements.
200. **On Investment governance,** CPF noted that a commercially driven Fund requires clear investment decision-making and appropriate protection against conflicts and deviations from the approved investment framework. They proposed clearly establishing investment approval thresholds, delegated authority, escalation requirements and conflict-of-interest controls, including a requirement for material deviations from approved investment criteria or exposure limits to receive appropriate approval and reporting.
201. On **Reporting and transparency,** CPF highlighted that reporting should enable the Government, Parliament and institutional investors to assess whether the Fund is delivering financial returns and its intended infrastructure impact. They recommended that in addition to statutory reporting, provide for transparent reporting of capital committed and deployed, financial performance, private capital mobilised, project status, portfolio concentration, impairments/defaults and material contingent liabilities, subject to legitimate commercial confidentiality.

3.2.11 EMSI & Associates Advocates LLP

Through a written memoranda EMSI submitted as follows;

202. EMSI submitted that the version of the Investment Policy tabled as Sessional Paper No. 7 of 2026 may be incomplete on its own terms. They noted that the Table of Contents lists only a Foreword, Preface, Abbreviations, Executive Summary, four chapters and one appendix, yet the appended Compliance Checklist and Key Board Policy Decisions annex refer to a Project Preparation section, an Infrastructure Investment Framework, a Technical Integrity Principle, an Investment Decision Framework, an Infrastructure Governance Framework, a political independence clause, and a five-dimensional performance framework, none of which appear in the 22-page document as tabled.

203. EMSI stated that this gap is particularly significant because the Compliance Checklist records an 'Aligned' self-assessment against sections 32 and 33 of the Act, concerning feasibility studies and project preparation, despite the supporting text not being before Parliament. EMSI recommended requiring the Governing Council and Treasury to confirm in writing that the tabled version is complete, submit the missing sections or correct the annex's cross-references, suspend the ninety-day consideration period under section 27 until completeness is verified, and provide a corrected, fully paginated version of the Policy.

204. EMSI observed that the Investment Policy does not satisfy section 25(2)(b) of the Act, which requires the Policy to specify proposed projects in addition to priority sectors. They stated that paragraph 3.2, titled *'Proposed Projects'*, restates sector categories rather than naming any project, pipeline or investment opportunity, and that the Policy's general investment criteria, a minimum 7 percent equity return and a 60 percent non-recourse debt capacity threshold, are investment screening criteria rather than the project-specific expected rates of return required by section 25(2)(d).

205. EMSI recommended that;

(i) the Governing Council append a defined project list or a documented project-identification methodology with a near-term pipeline,

(ii) provide indicative project-level or sector-level expected returns distinguishable from the general screening criteria, and

(iii) confirm that any future addition of named projects outside the approved policy will be treated as a substantive amendment under section 30 rather than being implemented through administrative action.

206. EMSI submitted that the Investment Policy expands the Fund's mandate beyond the statutory definition of 'national infrastructure' in section 2 of the Act. They noted that paragraph 3.2(b) extends the energy category to petroleum, oil, gas, refineries, pipelines and LNG infrastructure, none of which fall within the statutory definition, which is confined to electricity generation, transmission and distribution. Additionally, they stated that paragraph 3.2(f) creates an open-ended 'Other National Priority

Infrastructure' category that the Governing Council may expand without express parliamentary approval. Further, paragraph 1.1 uses the term 'catalytic national infrastructure', a phrase featured in the NIF Bill but was not carried into the enacted Act.

207. EMSI further submitted that the recently enacted Sovereign Wealth Fund Act, 2026 establishes a Strategic Infrastructure Investment Component with a broader, more open-ended mandate than the NIF Act's closed list, creating a material risk of overlap, competing project pipelines and duplicated public capital deployment between the two vehicles. They recommended that paragraph 3.2(b) be strictly aligned with the statutory definition, the term 'catalytic national infrastructure' be replaced with the statutory term, that any designation under paragraph 3.2(f) require National Assembly ratification or a formal amendment under section 30, and that Treasury table a coordination framework clarifying the division of responsibilities between the NIF and the Sovereign Wealth Fund's Strategic Infrastructure Investment Component.

208. EMSI observed that the Investment Policy does not address the reporting and disclosure obligations under section 35, the dual-account structure at the Central Bank **of** Kenya under section 40, the expenditure-control mechanism under section 41, or the withdrawal restrictions under section 42, which operate alongside Article 228(5) of the Constitution.

209. **EMSI** stated that these are not among the Policy's mandatory content requirements under section 25(2), but they are key safeguards over the custody and expenditure of Fund assets, and that omission could imply the existence of broader governance, treasury-management and control frameworks through which these statutory safeguards are intended to be operationalized.

210. EMSI recommended that the Governing Council confirm in writing that these statutory controls have been incorporated into the Fund's governance instruments, identify the specific instruments implementing them, provide the Committee with a summary of those arrangements, and ensure future Investment Policies describe the Fund's principal statutory financial controls on their face.

211. **EMSI** submitted that the Policy's 40% sector exposure cap and 20% single-project exposure cap permit substantial concentration relative to the Fund's narrow sectoral universe. They noted that an equally weighted allocation across the Act's eight sectors would be approximately 12.5% each, so a 40% cap allows concentration at more than three times that level, and that a 20% single-project limit means as few as five projects could account for the entire portfolio. Based on the approximately KES 310.3 billion of anticipated seed capital identified in the FY 2026/27 Budget Statement, EMSI calculated that a single project could absorb approximately KES 62 billion and a single sector approximately KES 124 billion.

212. The stakeholder highlighted that these thresholds are policy choices by the Governing Council rather than statutory requirements, since sections 25(2)(e) and (f) require the Policy to address diversification and risk management without prescribing

numerical limits. EMSI recommends that the Governing Council justify the thresholds with portfolio modelling and pipeline analysis, submit sensitivity analyses for early-stage concentration scenarios, consider a lower single-project limit of 10 to 15 percent during the Fund's formative years with graduated increases tied to asset growth, require exposure compliance to be measured at each reporting date rather than only at approval, and cross-reference the limits to the statutory Risk Management Framework.

213. EMSI submitted that the Investment Policy introduces an 'Investment Strategy' as a Board-level implementation instrument that has no basis anywhere in the Act. They stated that, as drafted, this instrument could become the primary document shaping investment selection and portfolio construction while sitting outside the governance framework established under sections 25 to 31, without a specified legal status, approval process, content requirement or reporting obligation.

214. EMSI recommended that-

(i) the Governing Council either remove reference to the Investment Strategy and rely solely on the Annual Business Plan and Risk Management Framework.

(ii) Or, if it is retained, require Governing Council approval in addition to Board approval, provide the Committee with a copy or framework description of it, and

(iii) if operationally necessary, pursue a future legislative amendment in the Act expressly establishing it.

215. EMSI submitted that the Policy's Treasury Management Framework, governing capital awaiting deployment, is undefined by the Act, which recognises only a Risk Management Framework requiring Governing Council approval under section 25(4). EMSI noted that paragraph 2.1 of the Policy omits the requirement that the Risk Management Framework receive Governing Council approval before taking effect, and that this matters because a substantial share of the Fund's approximately KES 310.3 billion in anticipated seed capital, from the Kenya Pipeline privatisation and the proposed partial divestiture of the Government's Safaricom stake to Vodacom, may sit uninvested for extended periods, exposed to cash-management, liquidity, custodial, counterparty and interest-rate risk under a framework lacking clear statutory footing.

216. EMSI recommended that paragraph 2.1 be amended to require Governing Council approval of the Risk Management Framework, that

(i) the Treasury Management Framework and Treasury Policies be integrated into the statutory Risk Management Framework rather than maintained as separate instruments,

(ii) both frameworks be tabled before the Committee given the scale of resources involved, and

(iii) the governance hierarchy between the Policy, the Risk Management Framework and Board-level procedures be clarified.

217. EMSI stated that the Policy appears to introduce a capitalization source not found in section 38 of the Act, which sets out an apparently exhaustive list of three sources: privatisation proceeds, proceeds from the sale of shares in a government-linked corporation under section 87A of the PFM Act, and the Fund's own investment income. EMSI noted that page 6 of the Policy nonetheless describes the Fund as capitalised from privatisation proceeds 'and other strategic capital allocations by the Government', an undefined phrase capable of being read as direct budgetary transfers, Exchequer injections or special appropriations not authorised by section 38.

218. EMSI recommended that;

(i) the phrase be deleted or replaced with an express cross-reference to section 38(a) to (c), or, if direct government capital support is intended,

(ii) Treasury provide the statutory authority for it, clarify whether any future government capital contributions are anticipated beyond section 38, and

(iii) confirm that any expansion of funding sources would require amendment of the Act rather than policy language alone.

219. EMSI submitted that the Policy's seven investment principles, commercial discipline, commercial viability, financial sustainability, capital mobilisation, technical integrity, responsible stewardship and national development, are not defined, not linked to measurable indicators, and are not connected to the five General Investment Criteria in paragraph 2.2 in any way. EMSI stated that, as drafted, the principles operate as statements of aspiration rather than enforceable standards capable of constraining the Board's investment discretion.

220. EMSI recommended that;

(i) each principle be given an operative definition or cross-referenced to the provisions implementing it,

(ii) measurable indicators be attached to each, such as a minimum private-sector co-investment ratio for capital mobilisation,

(iii) paragraph 2.2 state expressly that the General Investment Criteria are the minimum operational implementation of the principles,

(iv) additional criteria be considered, including sector alignment, local content, technology transfer and capacity building reflecting section 4(d) of the Act, and

(v) annual reporting under section 35 demonstrate how each approved investment satisfied both the principles and the criteria.

'221. EMSI also submitted that paragraph 2.3, which allows investments falling short of the General Investment Criteria to proceed where Government Support Measures are provided, does not restate the statutory limits in section 34(2), under which such measures are permitted only to reduce political-risk premiums or to underwrite approved commercial risks under a negotiated project agreement. They observed that omitting these limits risks Government Support Measures being used generally to compensate for weak commercial fundamentals, and that such measures do not eliminate public-sector risk but convert it into a contingent liability of the national government, which defeats the purpose stated in section 4 of the Act if left undisclosed.

222. The stakeholder recommended that;

(i) paragraph 2.3 expressly cross-reference section 34(2),

(ii) Government Support Measures be confirmed as not constituting a general exemption from the commercial-viability, financial-return or technical-readiness requirements,

(iii) annual disclosure under section 35 cover the aggregate value, form, beneficiary projects and corresponding contingent liabilities of such measures,

(iv) an explicit exposure limit or participation cap be introduced, and

(v) the Risk Management Framework monitor aggregate contingent-liability exposure across the whole portfolio rather than project by project.

223. EMSI further submitted that Chapter 4's five performance dimensions, financial performance, capital deployment, capital mobilisation, portfolio quality and national development outcomes, are appropriate categories but carry no quantitative measures, reporting thresholds or baselines in the Policy itself. They noted that performance indicators are instead left to the Annual Business Plan, an instrument not subject to the same Cabinet and parliamentary approval process as the Investment Policy, so that material performance expectations could shift from one Business Plan cycle to the next without corresponding review.

224. They recommended that at least one headline KPI be embedded in the Policy for each of the five categories, for example a minimum blended portfolio-return target for financial performance and a private-capital-mobilisation ratio for capital mobilisation, that Annual Business Plan KPIs be required to align with and report against these headline indicators, that independent verification by the Auditor-General or another authorised reviewer be required, and that annual reporting explain any material deviation from approved targets.

225. **EMSI** submitted that Appendix I of the Policy states that 'Investment Authority' is delegated through the Board Charter, an instrument not disclosed to Parliament, without specifying the extent of the delegation, to whom it is made, reporting obligations, or how the Board retains accountability. They noted that sections 18 and

19 of the Act vest governance and investment powers directly in the Board, and submits that deferring investment authority to an unpublished Charter creates uncertainty over who may ultimately authorise the commitment of Fund capital.

226. EMSI recommended that;

(i) any delegation be confined to Board committees under the framework contemplated by section 21, such as an investment committee, and remain subject to Board approval unless Parliament expressly authorises broader delegation by amending the Act;

(ii) delegation to management, external advisers or third parties be confirmed as impermissible except where expressly permitted by law; and

(iii) material delegation thresholds and reserved matters be disclosed within the Policy itself rather than left to an unpublished governance document.

227. On capitalisation, EMSI noted that the FY 2026/27 Budget Statement identifies approximately KES 310.3 billion in seed capital, KES 106.3 billion from the Kenya Pipeline Company IPO and approximately KES 204 billion from the proposed partial divestiture of the Government's Safaricom stake to Vodacom, which remains modest against Treasury's own stated infrastructure financing gap of approximately USD 5 billion, or roughly KES 647 billion, a year. EMSI submitted that the Fund's future capitalisation depends on the timing of further privatisation transactions, the Government-Owned Enterprises Act, 2025, and regulations under section 48 of the Act whose status remains unclear, and cautions that if Government Support Measures become routine rather than exceptional, the practical effect may be to transfer fiscal risk rather than eliminate it.

228. On institutional overlap, EMSI noted that the Fund will operate alongside the Public-Private Partnerships programme under the PPP Act and the Strategic Infrastructure Investment Component under the Sovereign Wealth Fund Act, and submitted that without a clear division of mandates there is a risk of duplicated project origination, fragmented governance, competition for scarce capital and inconsistent investment decisions. EMSI recommended that Treasury explain how the Fund will scale toward closing the financing gap, incorporate Government Support Measures into fiscal-risk and debt-sustainability reporting, table a coordination framework covering the NIF, the PPP programme and the Sovereign Wealth Fund's Strategic Infrastructure Investment Component, provide a timeline for regulations under section 48, and confirm the governance and reporting measures that will apply while capital is being accumulated.

3.2.12 Dhamana Guarantee Company Limited

Through a written memoranda Dhamana submitted as follows;

229. Dhamana stated that it supports the establishment of the Fund and its objectives. Dhamana recommended that the Policy should expressly recognise guarantees, credit enhancement, contingent capital facilities and other risk-sharing mechanisms as eligible instruments through which the Fund may leverage public capital to mobilise private investment.

230. They stated that the Policy authorise the Fund to allocate a portion of its capital to a National Infrastructure Guarantee and Risk-Sharing Window. This window would provide contingent backstop support to approved credit enhancement providers, such as Dhamana itself, enabling infrastructure bonds and project finance debt to be guaranteed and placed with domestic institutional investors, including pension funds, insurers and banks.

231. Dhamana highlighted that it had earlier proposed to the Government of Kenya a de-risking arrangement under which a portion of the Fund would be retained as a contingent capital facility or de-risking tranche, with Dhamana issuing guarantees to investors and the Fund's de-risking tranche operating as a contingent reimbursement or risk-sharing backstop in the event of defined claims.

232. They observed that this model is consistent with the Policy's stated objectives because it allows public capital to be leveraged multiple times rather than spent once, supports local currency financing, mobilises pension fund capital, and reduces the need for direct public borrowing.

233. Dhamana recommended amendments to the Investment Policy as follows:

(i) Recognise guarantees, credit enhancement, contingent capital and risk-sharing facilities as eligible deployment tools. They stated that the Fund can crowd in private capital rather than relying only on direct investments.

(ii) Create a National Infrastructure Guarantee and Risk-Sharing Window within or alongside the Fund. They noted that, Dhamana and other approved partners can de-risk infrastructure assets and mobilise domestic capital.

(iii) Permit supported projects to issue guaranteed infrastructure bonds, notes and asset-backed securities. The stakeholder observed that Pension funds, insurers and asset managers obtain investable infrastructure products.

(iv) Allow Treasury-supported payment support and reimbursement frameworks for public-sector obligations. They stated that this will reduce investor concern over government, county or SOE payment delays.

(v) Create a development risk and project preparation facility. A stronger pipeline of bankable, financeable and investment-ready projects.

(vi) Adopt mobilisation ratios and private capital participation as performance indicators. The Fund is assessed by capital catalysed, not only capital deployed.

(vii) Prioritise KES-denominated financing and credit enhancement. They stated that this will reduce foreign exchange risk and deeper domestic capital markets.

234. Dhamana submitted that, without express recognition of guarantee and risk-sharing instruments, the Policy carries several risks. They stated that the Fund may become simply a public investment vehicle rather than a platform that systematically crowds in banks, pension funds, insurers and other private investors, and that commercially important projects may fail to reach financial close where the Policy provides no structured tools to bridge credit, revenue or completion risk gaps.

235. Further, Dhamana observed that investors may remain cautious where projects depend on payments from government entities, counties, utilities or state-owned enterprises, that domestic banks may be unable or unwilling to provide financing tenors matched to project cash flows without credit enhancement or refinancing support, and that projects with construction exposure may remain unsuitable for pension funds unless backed by completion and performance support mechanisms. Additionally, project preparation may stay underfunded absent development risk capital, and that foreign currency borrowing may expose projects to depreciation risk while the absence of refinancing mechanisms could trap bank liquidity and limit project scale.

236. Dhamana proposed that contingent capital be expressly recognised as an eligible Fund deployment modality, permitting the Fund to allocate a portion of its resources to contingent capital facilities, risk reserves or guarantee support arrangements.

237. Additionally, they proposed that the Fund establish a dedicated Guarantee and Risk-Sharing Window supporting partial credit guarantees, bond guarantees, payment guarantees, refinancing guarantees, portfolio risk-sharing and project development guarantees, governed by clear eligibility, pricing, claims, monitoring and reporting rules. They stated that the Policy should create a category of approved capital mobilisation and risk-sharing partners, including financial guarantors, development finance institutions, credit enhancement providers and qualified infrastructure financing intermediaries.

238. Dhamana proposed that the Policy expressly permit Fund-supported projects to issue guaranteed infrastructure bonds, project bonds, green bonds, climate bonds, municipal bonds and asset-backed infrastructure securities, to create investable instruments for pension funds and insurers. They also proposed that, where the Fund supports a contingent facility, the Policy require pre-agreed Treasury reimbursement arrangements, reserve account mechanics, payment waterfalls and claim settlement procedures, that mobilisation performance be measured through indicators covering private capital mobilised, pension fund participation, guarantees issued, infrastructure bonds placed, refinancing volumes and leverage ratios achieved, and that the Fund

prioritise Kenya Shilling-denominated financing where commercially feasible to reduce foreign exchange exposure and deepen domestic capital markets.

239. Dhamana's included four supporting annexes. Annex I sets out a Risk-to-Guarantee Mechanism Matrix, mapping eight categories of project risk, including bankability, institutional investor participation, government or offtake payment risk, construction and completion risk, refinancing risk, bank portfolio capacity risk, project preparation risk and currency risk, to a corresponding Dhamana guarantee mechanism and the policy implication of recognising it.

240. Annex 2 sets out Dhamana's proposed NIF-Dhamana Contingent De-Risking Facility as an eight-step process: the Fund allocates a portion of its capital to a contingent de-risking tranche or risk reserve; Dhamana is appointed as a risk-sharing and credit enhancement partner under objective eligibility criteria; eligible projects, SPVs, state-owned enterprises, counties, PPPs or utilities issue KES-denominated debt instruments or obtain bank debt; Dhamana guarantees timely payment of principal and interest to bondholders, lenders or trustees; pension funds, insurers, banks and asset managers invest in the guaranteed instrument; Dhamana pays investors promptly if a defined payment default occurs; Dhamana is reimbursed, to the extent agreed, from the Fund's contingent de-risking tranche, reserve account or reimbursement facility; and the Fund reports capital mobilised, guarantee exposure, claims, recoveries, leverage ratios and development impact.

241. Annex 3 cites four international precedents Dhamana stated support recognising guarantee mechanisms in the Policy: InfraCredit in Nigeria, for local currency infrastructure bond guarantees; the African Development Bank's partial risk and partial credit guarantee facilities; Brazil's IDB-supported public-private partnership guarantee structures for government and public entity payment obligations; and Indian credit enhancement and refinancing models for long-tenor infrastructure financing.

242. Annex 4 sets out proposed conditions and safeguards for the Guarantee Window, namely objective eligibility criteria on commercial viability, public benefit, legal due diligence and environmental and social compliance; independent underwriting through credit, legal, technical and ESG review; risk-based guarantee pricing; exposure limits by project, sector, sponsor, county, offtake and guarantee provider; a defined claims process with triggers, cure periods, payment timelines and reserve account arrangements; annual transparency and reporting; and a safeguard that Dhamana remains an active risk underwriter, so that NIF support does not create automatic or unlimited government liability.

CHAPTER FOUR

4.0 COMMITTEE OBSERVATIONS

243. The Committee, having considered Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy and having engaged relevant stakeholders, makes the following observations:

4.1 Investment Policy Framework

(i) THAT, the Sessional Paper does not provide a comprehensive investment policy framework to guide the Fund in making investment decisions in a consistent, transparent and prudent manner. In particular, the Sessional Paper does not clearly set out the key investment guardrails relating to eligible and priority infrastructure sectors, project selection and ranking criteria, commercial viability, financial returns, capital mobilisation and additionality, portfolio allocation, sector and project exposure limits, leverage and borrowing, risk management, liquidity and treasury management, governance and conflict-of-interest safeguards, and monitoring, evaluation and reporting.

(ii) The Committee notes that the absence of these overarching parameters could result in inconsistent investment decisions and expose the Fund to unnecessary financial, operational and governance risks. The Committee therefore recommends that the Sessional Paper be amended to provide for a comprehensive investment policy framework establishing the principal investment guardrails applicable to the Fund and to enable the Board to operationalize detailed investment policies in line with the Fund's mandate and national infrastructure priorities.

4.2 Demand Validation

(iii) THAT, the Sessional Paper does not adequately address the need to establish whether the intended users or consumers of a proposed infrastructure project have both the ability and willingness to pay for the services to be provided. The Committee notes that infrastructure projects may have technically sound designs and strong projected demand but may nevertheless fail to generate sustainable revenues if the proposed users cannot afford the applicable charges or are unwilling to pay them. The Committee further notes that an assessment of ability to pay and willingness to pay is important in determining appropriate tariffs, user charges, revenue projections and ultimately the commercial viability of a project. The Committee therefore recommends that the Sessional Paper be amended to require demand validation to include an assessment of the ability to pay and willingness to pay of the target consumers or users of the project.

4.3 Commercial Viability and Project Leverage

(iv) THAT, the prescribed minimum non-recourse debt threshold could, if applied rigidly, exclude projects that are commercially and financially sustainable but whose financing structures are not suited to the prescribed leverage level. The Committee

notes that infrastructure projects differ considerably in revenue profiles, capital intensity, sector characteristics, risk allocation, project tenor, and financing requirements. The Committee was therefore of the view that the framework should allow the Board to consider exceptional circumstances while maintaining appropriate safeguards against excessive financial risk. The Committee therefore recommends that the Sessional Paper be amended to allow the Board to approve projects with a minimum non-recourse debt level below the prescribed threshold where an independent financial assessment confirms that the project is commercially and financially sustainable and the deviation is justified by the characteristics of the project or sector. The amendment should further require the reasons for the deviation and the associated risks and safeguards to be documented and reported.

4.4 Financing Structure Deviations

(v) THAT, the Sessional Paper does not provide a sufficiently detailed process for dealing with proposed financing structures that fall outside the standard financing parameters approved by the Board. The Committee noted that deviations from approved parameters may expose the Fund to additional financial, credit, liquidity, refinancing or project-specific risks and should therefore not be approved without a clear understanding of their implications. The Committee was of the view that any such deviation should be supported by documented analysis to enable the Board to make an informed decision and ensure accountability for the departure from the approved parameters. The Committee therefore recommends that the Sessional Paper be amended to require an investment proposal involving a deviation from the standard financing parameters to document the reason for the deviation, additional risks arising from it, its effect on expected financial returns, debt-service capacity and Fund exposure, and the measures proposed to protect the Fund's capital.

4.5 Financial Returns

(vi) THAT, the Sessional Paper does not provide a sufficiently comprehensive methodology for determining and assessing the financial returns expected by the Fund. The Committee noted that the determination of an appropriate return should consider the Fund's cost of capital, prevailing market conditions, the broader macroeconomic environment, investment tenor, project-specific financial and commercial risks, foreign-exchange and interest-rate risks, and returns available from comparable investments. The Committee further observed that circumstances may arise where a project with significant economic or development value may not achieve the prescribed minimum equity return, and that any such departure should be subject to a transparent and accountable approval process. The Committee therefore recommends that the Sessional Paper be amended to provide a comprehensive methodology for assessing financial returns and to allow the Board, where justified, to approve a lower minimum equity return subject to written justification addressing the reason for accepting the lower return, the

economic and development value of the investment, the financial implications to the Fund, additional risks assumed, capital protection measures, approval authority and the sector to which the deviation applies.

4.6 Technical Readiness and Capital Mobilisation

(vii) THAT, the Sessional Paper places emphasis on financial, commercial and regulatory considerations but does not adequately provide for a structured assessment of the technical readiness of proposed infrastructure projects. The Committee noted that a project may be financially viable but may still face significant implementation challenges where its design, technology, site readiness, procurement arrangements or other technical requirements are not sufficiently developed. The Committee further observed that some infrastructure projects may require government support measures before they can reach financial close or commence implementation. The Committee therefore recommends that the Sessional Paper be amended to provide that technical readiness shall be assessed against a technical readiness framework developed by the Board and that the assessment shall also establish whether the project will require government support measures.

4.7 Risk Management

(viii) THAT, the Sessional Paper does not provide sufficiently detailed requirements for the assessment of the major risks associated with individual infrastructure projects. The Committee noted that infrastructure investments are exposed to multiple and interconnected risks that can affect project costs, completion, revenues, operations, debt repayment and ultimately the Fund's expected returns. The Committee was of the view that a comprehensive risk assessment should form an integral part of project appraisal and approval.

(ix) The Committee further observed that Section 25(4) of the National Infrastructure Fund Act, 2026 contemplates a risk management framework for the Fund. The Committee noted that the risk management framework appears to be a distinct requirement from the matters specified under Section 25(2). However, the Committee was of the view that, to the extent that risk management forms part of the investment criteria and guardrails of the Investment Policy, it should be expressly incorporated into the Sessional Paper to provide a clear basis for assessing project risks and protecting the Fund's capital. The Committee therefore recommends that the Sessional Paper be amended to require projects to comply with the risk management framework and demonstrate adequate assessment of financial, construction and completion, operational, user demand, legal and regulatory, environmental and social, political, foreign-exchange and interest-rate risks, together with any other material project-specific risks.

4.8 Government Support Measures

(x) THAT, the Sessional Paper does not adequately provide for the assessment and disclosure of contingent liabilities that may arise where a project benefits from

government support measures. The Committee noted that government guarantees, commitments, undertakings or other forms of support may create financial obligations or exposures over the life of a project, even where such obligations do not arise immediately. The Committee was of the view that such potential liabilities should be identified and quantified at the project appraisal stage to facilitate proper assessment of fiscal and financial risks. The Committee therefore recommends that the Sessional Paper be amended to provide that a project which obtains government support measures shall include the estimated contingent liabilities for the duration of the project.

4.9 Proposed Projects and Investment Framework under section 25 of the Act

(xi) THAT, section 3.2 of the Sessional Paper does not comprehensively reflect the matters required under section 25 of the National Infrastructure Fund Act, 2026. The Committee noted that section 25(2) uses the mandatory wording that the Investment Policy "shall specify" the prescribed matters. The Committee was therefore of the view that these statutory requirements constitute the substantive yardstick against which the Committee should assess the Investment Policy in determining whether to approve it, decline it, or approve it with amendments.

(xii) The Committee further observed that the Sessional Paper does not comprehensively provide for the proposed projects, expected rates of return on specific projects, asset allocation, portfolio distribution, leverage ratios, the Investment Policy, and exposure limits per sector and project. The Committee therefore recommends that section 3.2 be amended to align the Sessional Paper with the requirements of section 25 of the National Infrastructure Fund Act, 2026 and to ensure that all matters required under the Act are expressly provided for.

4.10 Validity Period of the Investment Policy

(xiii) THAT, Section 25(3) of the National Infrastructure Fund Act, 2026 expressly provides for the validity of the Investment Policy for a period of five years. The Committee noted that the proposal by the National Treasury for an annual review of the Investment Policy may fall outside the scope of the five-year validity period prescribed by the Act. The Committee was of the view that the Sessional Paper should be aligned with the statutory requirement and that any review or adjustment of the Investment Policy should be undertaken in a manner consistent with the Act. The Committee therefore recommends that the Sessional Paper be amended to ensure that the validity and review of the Investment Policy are aligned with the five-year period prescribed under section 25(3) of the National Infrastructure Fund Act, 2026.

4.11 Portfolio Framework and Exposure Limits

(xiv) THAT, the Sessional Paper provided for maximum sector and single-project exposure limits but did not adequately provide for circumstances in which the Board may need to adjust those limits based on the characteristics and strategic

importance of particular investments. The Committee noted that rigid application of exposure limits may not adequately account for the correlation between sectors and projects, economies of scale, liquidity requirements or the wider economic impact of strategically important infrastructure investments. The Committee was therefore of the view that the Board should have limited discretion to adjust exposure limits based on objective and demonstrable considerations while maintaining prudent portfolio management. The Committee therefore recommends that the Sessional Paper be amended to provide that the Board may adjust the maximum sector and single-project exposure limits based on an assessment of correlation between sectors and projects, economies of scale, liquidity requirements, and the economic impact of the sector or project on economic growth and employment creation.

4.12 Conflicts of Interest

(xv) THAT, the Sessional Paper does not provide sufficiently explicit requirements for the identification and disclosure of actual, potential and perceived conflicts of interest in the appraisal and approval of investment projects. The Committee noted that conflicts of interest may undermine the objectivity and integrity of investment decisions and may expose the Fund to reputational, financial and governance risks. The Committee was therefore of the view that conflict-of-interest disclosure should form part of the project appraisal and approval process, particularly where public or State officers are involved. The Committee therefore recommends that the Sessional Paper be amended to require every project appraisal and approval to be accompanied by a statement disclosing any actual, potential or perceived conflict of interest involving a public or State officer, in accordance with the Conflict of Interest Act.

CHAPTER FIVE

5.0 COMMITTEE'S RECOMMENDATIONS

244. The Committee, having considered Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy and pursuant to the provisions of section 28 (b) of the National Infrastructure Fund Act, No. 4 of 2026, recommends that the House **approves the Sessional Paper with amendments as proposed in the Schedule in Chapter Six of this Report.**

CHAPTER SIX

6.0 SCHEDULE OF AMENDMENTS

The Committee proposes the following amendments to Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy:

1) CHAPTER TWO — POLICY GUIDELINES

Purpose and Scope of the Investment Policy

THAT, the Sessional Paper be amended under 2.1 to include the following paragraph-

"The board shall operationalize a comprehensive investment policy framework establishing the principal investment guardrails applicable to the fund, including the following requirements:

(a) eligible and priority infrastructure sectors;

(b) project-selection and ranking criteria;

(c) commercial viability;

(d) financial returns and the methodology for determining required returns;

(e) capital mobilization and additionality;

(f) portfolio allocation;

(g) sector and project exposure limits;

(h) leverage and borrowing;

(i) risk management;

(j) liquidity and treasury management;

(k) governance and conflict-of-interest safeguards; and

(m) monitoring, evaluation and reporting."

Justification: to establish clear investment guardrails for the Fund and ensure that investment decisions are made in a transparent, prudent and consistent manner. It provides a framework for project selection, financial returns, portfolio allocation, exposure limits, risk management, governance, and accountability, while enabling the Board to operationalize detailed investment policies in line with the Fund's mandate and national infrastructure priorities.

2) INVESTMENT CRITERIA

Demand Validation

THAT, the Sessional Paper be amended under paragraph 2.2 to include the following paragraph—

"In determining demand validation, the project shall provide an analysis of the ability to pay and willingness to pay of the target consumers or users of the project."

Justification: assessments of the ability to pay and willingness to pay of the target population of users or consumers is critical in determining the appropriate user charges which anchor the commercial viability of the projects.

3) COMMERCIAL VIABILITY AND PROJECT LEVERAGE

THAT, the Sessional Paper be amended under paragraph 2.2 immediately after the word *'commercial viability'* to specify—

"The Board may approve projects whose minimum non-recourse debt is below 60%, where, following an independent financial assessment, it is satisfied that the project is commercially and financially sustainable and that the deviation is justified by the characteristics of the project or sector. The reasons for such approval shall be documented and reported and may include: the reason for the proposed deviation; the additional risks arising from the deviation; the effect of the deviation on the expected financial return; the effect on debt-service capacity and Fund exposure; and the measures proposed to protect the Fund's capital.

In determining a lower threshold, the Board shall assess the following—

(a) projected cash flows and debt-service capacity;

(b) revenue certainty and predictability;

(c) user demand and utilization risk;

(g) the regulatory environment;

(h) foreign-exchange exposure and currency mismatch;

(i) interest-rate and refinancing risk; and

(j) the overall risk profile and financial resilience of the project."

Justification: having a lower threshold allows the identification of projects which are both commercially viable and affordable to the final consumer or user.

Where a proposed financing structure falls outside the standard financing parameters approved by the Board, the investment proposal shall, before approval, document—

(a) the reason for the proposed deviation;

(b) the additional risks arising from the deviation;

(c) the effect of the deviation on the expected financial return;

(d) the effect on debt-service capacity and Fund exposure; and

(e) the measures proposed to protect the Fund's capital.

Justification: to ensure that any deviation from the Board-approved financing parameters is properly justified, assessed and documented before approval. It will strengthen risk management and accountability by requiring the Fund to consider the impact of such deviations on financial returns, debt-service capacity, Fund exposure and capital protection, thereby supporting prudent investment decisions and safeguarding the Fund's financial interests.

4) FINANCIAL RETURN

THAT the Sessional Paper be amended under paragraph 2.2 immediately after the words '*of the 7% to the Fund*'—

The methodology for assessing financial returns shall include an assessment of the following—

(a) the Fund's cost of capital;

(b) prevailing market conditions;

(c) prevailing macroeconomic situation;

(d) investment tenor;

(f) project-specific financial and commercial risks;

(g) foreign-exchange and interest-rate risks; and

(h) expected risk-adjusted returns on comparable investments.

The Board may approve a lower minimum equity return to the Fund subject to a written justification setting out—

(a) the reason for accepting the lower return;

(b) the economic and development value of the investment;

(c) the financial implications to the Fund;

(d) the additional risks assumed;

(e) the measures proposed to protect the Fund's capital;

(f) the approval authority for the deviation;and

(g) Sector for which the approval applies.

Justification: to ensure that the Fund's required financial returns are determined using a comprehensive and risk-sensitive methodology that considers the cost of capital, market and macroeconomic conditions, investment tenor, project-specific risks, and comparable risk-adjusted returns. It also provides a clear and accountable framework for approving a lower minimum equity return where justified by the investment's economic and development value, while ensuring that the financial implications, additional risks, capital protection measures, approval authority and applicable sector are properly assessed and documented

5) INVESTOR READINESS AND CAPITAL MOBILISATION

THAT the Sessional Paper be amended under paragraph 2.2 by inserting the following new sub-paragraph immediately after the words *'regulatory approval'* -

"Technical readiness shall be assessed against a technical readiness framework developed by the Board. Further, technical readiness shall also contain whether the project will require government support measures"

Justification: to ensure that infrastructure projects are assessed not only on their financial and commercial viability but also on their technical readiness and implementation requirements. Requiring a Board-approved technical readiness framework, including an assessment of any government support measures required, will improve project preparedness, identify implementation risks early, and support more informed investment and capital mobilisation decisions.

6) RISK MANAGEMENT

THAT, the Sessional Paper be amended under paragraph 2.2 immediately after the words *Risk management framework'* by inserting the following new sub-paragraph—

"Projects shall comply with the framework and demonstrate adequate assessment of major risks, including —

(a) financial risk;

(b) construction and completion risk;

(d) operational risk;

(e) user demand risk;

(f) legal and regulatory risk;

(g) environmental and social risk;

(h) Political Risk;

(i) foreign-exchange risk and interest-rate risk;

(j) any other material project-specific risk."

Justification: to ensure that all projects are subject to a consistent and comprehensive risk assessment before investment decisions are made. Requiring projects to comply with the risk management framework and assess key financial, construction, operational, demand, legal, environmental, political, foreign-exchange, interest-rate and project-specific risks will strengthen due diligence, support informed decision-making, and safeguard the Fund against material risks and potential losses.

7) GOVERNMENT SUPPORT MEASURES

THAT, the Sessional Paper be amended under Paragraph 2.3 to provide that,

"The project which obtains government support measures shall also include the estimated contingency liabilities for the duration of the project."

Justification: to ensure that projects receiving government support measures properly identify and quantify the potential contingent liabilities arising from such support over the life of the project. This will promote transparency, enable the Fund and Government to assess potential financial exposures, and strengthen fiscal risk management and informed investment decision-making.

8) CHAPTER THREE — PROPOSED SECTORS AND PROJECTS FOR DEVELOPMENT

*Delete Section 3.2 and replace with the following paragraph: "**a list of proposed projects**; any existing incomplete projects from the previous Investment Policy; the expected rateof return on investment for specific projects; asset allocation, portfolio distribution and leverage ratios; and, exposure limits per sector and project, in accordance with the mandatory provisions of section 25 of the Act."*

Justification: the amendment is necessary to align Section 3.2 with the mandatory requirements of section 25 of the National Infrastructure Act, 2026, and to ensure that the Sessional Paper provides a comprehensive framework for investment planning and oversight. It will promote transparency and accountability by clearly identifying proposed and incomplete projects, expected returns, asset allocation, portfolio distribution, leverage ratios, investment policy and exposure limits, thereby supporting prudent management of the Fund and compliance with the Act.

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FIFTH SESSION – 2026

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

REPORT ON:

THE CONSIDERATION OF SESSIONAL PAPER NO. 7 OF 2026 ON THE NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY

The Directorate of Departmental Committees
Clerk's Chambers
Parliament Buildings
NAIROBI

AUGUST 2026

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LIST OF ABBREVIATIONS AND ACRONYMS

CDH	-	Cliffe Dekker Hofmeyr
CMA	-	Capital Markets Authority
CoB	-	Controller of Budget
COFEK	-	Consumers Federation of Kenya
COK	-	Constitution of Kenya
CRA	-	Commission on Revenue Allocation
DFIs	-	Development Finance Institutions
DSCR/LLCR	-	Debt Service Coverage Ratio/ Loan Life Coverage Ratio
EMCA/EIA	-	Environmental Management and Compliance Act/ Environmental Impact Assessment
ESG	-	Environmental, Social, and Governance
FKE	-	Federation of Kenya Employers
ICPAK	-	Institute of Certified Public Accountants of Kenya
IPS	-	Investment Policy Statement
IRRs	-	Internal Rate of Returns
LSK	-	Law Society of Kenya
MP	-	Member of Parliament
NIF	-	National Infrastructure Fund
NIFCA	-	Nairobi International Financial Centre
NPV	-	Net Profit Value
OAG	-	Office of the Auditor General
OCOB	-	Office of the Controller of Budget
ODM	-	Orange Democratic Movement
PPADA	-	Public Procurement and Asset Disposal Act
PPP	-	Public-Private Partnership
SPVs	-	Special Purpose Vehicles
UDA	-	United Democratic Alliance

ANNEXURES

Annexure 1: Adoption Schedule
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CHAIRPERSON'S FOREWORD

This Report contains the proceedings of the Departmental Committee on Finance and National Planning on its consideration of Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy.

The Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy was tabled in the National Assembly on Wednesday, 12th August 2026 and was thereafter committed to the Committee for consideration and tabling of the report to the House. Pursuant to the provisions of Article 118 of the Constitution, the Committee was required to facilitate public participation and make appropriate recommendations to the House on the Sessional Paper.

Sessional Paper No. 7 of 2026 presents the Investment Policy Statement (IPS) for the National Infrastructure Fund (NIF). The National Infrastructure Fund was established under the National Infrastructure Fund Act, 2026 as a strategic national institution intended to mobilise long-term capital for commercially viable infrastructure of national significance. The Act establishes the Fund as a body corporate and sets out its purpose, governance and investment framework. The Investment Policy is intended to provide the policy framework within which the Fund will invest and manage its resources. The Policy seeks to establish an alternative mechanism for financing national infrastructure outside the traditional Exchequer and borrowing framework.

In compliance with Article 118 (1) (b) of the Constitution and Standing Order 127(3), the Clerk of the National Assembly placed an advertisement in the print media on 15th August 2026. In addition, the Clerk of the National Assembly vide letter Ref. No. NA/DDC/F&NP/2026/116 and NA/DDC/F&NP/2026/117 dated 14th August 2026 invited key stakeholders to submit views on the Sessional Paper and attend a public participation forum on Thursday, 20th and Friday, 21st August 2026. The memoranda were to be received on or before Monday, 24th August 2026 at 5.00 pm.

The Committee is grateful to the Offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to it during its consideration of the Sessional Paper. Similarly, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made invaluable contributions towards the preparation and production of this report.

On behalf of the Departmental Committee on Finance and National Planning and pursuant to the provisions of Standing Order 199(6), it is my pleasure to report that the Committee has considered the Sessional No. 7 of 2026 on the National Infrastructure Fund Investment Policy and wish to report to this august House with the recommendation that the House **approves** the Sessional Paper No. 7 of 2026 with amendments.

Hon. FCPA. Kuria Kimani, CBS, M.P
Chairperson, Departmental Committee on Finance and National Planning

CHAPTER ONE

1.0 PREFACE

1.1 ESTABLISHMENT AND MANDATE OF THE COMMITTEE

1. The Departmental Committee on Finance and National Planning is one of twenty departmental committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to **Standing Order 216 (5)** is as follows:

    a) *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
    b) *To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*
    c) *To, on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
    d) *To study and review all legislation referred to it;*
    e) *To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
    f) *To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;*
    g) *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
    h) *To examine treaties, agreements and conventions;*
    i) *To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation;*
    j) *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
    k) *To examine any questions raised by Members on a matter within its mandate.*

2. The Second Schedule to the National Assembly Standing Orders assigns the Committee the mandate to consider matters in relation to public finance, public audit policies, monetary policies, financial institutions, economy, investment policies, competition, banking, insurance, national statistics, population, revenue policies including taxation, national planning and development, digital finance, including digital currency.
3. In executing its mandate, the Committee oversees the following Ministries/Departments:

    a) The National Treasury.
    b) State Department for Economic Planning.
    c) State Department for Public Investments and Asset Management.
    d) The Commission on Revenue Allocation (CRA)
    e) Office of the Controller of Budget

1.2 COMMITTEE MEMBERSHIP

1. The Departmental Committee on Finance and National Planning was constituted by the House on 27th October 2022 and reconstituted on Wednesday, 5th March 2025 and further reconstituted on Thursday, 28th May 2026. The Committee comprises the following Members:

Chairperson
Hon. FCPA Kuria Kimani, CBS, MP
Molo Constituency
UDA Party

Vice-Chairperson
Hon. (Amb.) FCPA Langat Benjamin Kipkirui, CBS, MP
Ainamoi Constituency
UDA Party

Members

Hon. Peter Kaluma, CBS, MP
Homa Bay Town Constituency
ODM Party

Hon. FCPA Oyula, Joseph H. Maero, MP
Butula Constituency
ODM Party

Hon. Mboni, David Mwalika, MP
Kitui Rural Constituency
WDM Party

Hon. Okuome Adipo Andrew, MP
Karachuonyo Constituency
ODM Party

Hon. Chiforomodo, Munga, MP
Lunga Lunga Constituency
UDM Party

Hon. CPA Rutto Julius Kipletting, MP
Kesses Constituency
UDA Party

Hon. Paul Biego, MP
Chesumei Constituency
UDA Party

Hon. Sunkuyia, R. George, MP
Kajiado West Constituency
UDA Party

Hon. Dr. Gathoni Wamuchomba, HSC, MP
Githunguri Constituency
UDA Party

Hon. Sheikh Umul Sheikh, MP
Mandera County
UDM Party

Hon. (Dr.) Shadrack Mwiti, MP
South Imenti Constituency
Jubilee Party

Hon. (Dr.) Ariko John Namoit, MP
Turkana South Constituency
ODM Party

Hon. Machele M. Soud, MP
Mvita Constituency
ODM Party

1.3 COMMITTEE SECRETARIAT

4. The Committee is facilitated by the following staff:

Ms. Tracy Chebet
Principal Clerk Assistant II

Ms. Jennifer Ndeto
Deputy Director, Legal Services

Mr. Benson Kamande
Clerk Assistant III

Ms. Winfred Kambua
Clerk Assistant III

Mr. Salem Lorot
Senior Legal Counsel

Mr. Eugene Luteshi
Audio Officer III

Ms. Nelly W. Ondieki
Research Officer III

Mr. George Ndenjeshe
Fiscal Analyst II

Mr. James Macharia
Media Relations Officer

Ms. Joyce Wachera
Hansard Reporter II

Mr. Benson Muthuri
Assistant Serjeant-At-Arms

Mr. Jared Onyancha
Protocol Officer

Mr. Allan Ngugi
Administrative Officer II

CHAPTER TWO

2.0 OVERVIEW OF SESSIONAL PAPER NO. 7 OF 2026 ON THE NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY

Background

5. The Sessional Paper No. 7 of 2026 was developed by the Governing Council of the National Infrastructure Fund pursuant to section 25 of the National Infrastructure Fund Act, No. 4 of 2026. The Cabinet Secretary for the National Treasury and Economic Planning, who is also the Chairperson of the Governing Council of the National Infrastructure Fund, transmitted it to the National Assembly. The Sessional Paper was tabled in the National Assembly on 12th August, 2026.

6. Section 25(1) and (2) of the National Infrastructure Fund Act provides for the development and matters to be specified in the Investment Policy in the following terms—

25. Investment Policy

(1) The Governing Council shall develop an Investment Policy for approval by Cabinet.

(2) The Investment Policy shall specify

(a) priority sectors proposed for development;

(b) proposed projects;

(c) any existing incomplete projects from the previous investment policy;

(d) expected rate of return on investment on specific projects;

(e) asset allocation, portfolio distribution and leverage ratios; and

(f) exposure limits per sector and project.

7. The Sessional Paper was thereafter committed to the Committee for consideration and tabling of its report pursuant to section 27 of the National Infrastructure Fund Act, No. 4 of 2026.

2.1. Intention of the Sessional Paper

8. Sessional Paper No. 7 of 2026 presents the Investment Policy Statement (IPS) for the National Infrastructure Fund (NIF). The National Infrastructure Fund was established under the National Infrastructure Fund Act, 2026 as a strategic national institution intended to mobilise long-term capital for commercially viable infrastructure of national significance. The Act establishes the Fund as a body corporate and sets out its purpose, governance and investment framework. The Investment Policy is intended to provide the policy framework within which the Fund will invest and manage its resources.

9. The Policy seeks to establish an alternative mechanism for financing national infrastructure outside the traditional Exchequer and borrowing framework. The Fund is therefore intended to provide a revolving financing mechanism through which initial capital is invested in infrastructure, and returns are subsequently recycled into future projects.

10. The principal objectives of the Investment Policy are to:
    i. provide a clear framework for investment and management of the Fund's resources;
    ii. finance commercially viable infrastructure of national significance;
    iii. mobilise domestic and international private capital;
    iv. reduce reliance on public borrowing for commercially viable infrastructure;
    v. promote commercially disciplined investment decisions;
    vi. strengthen Kenya's capacity to originate, structure and execute large infrastructure projects;
    vii. preserve and grow the Fund's capital base;
    viii. recycle investment proceeds into future infrastructure projects; and
    ix. promote transparency, accountability and responsible stewardship of public resources.

2.2. Role of Parliament

11. The Investment Policy was submitted to the National Assembly pursuant to the National Infrastructure Fund Act, 2026, which provides the statutory framework governing its development, content, submission and consideration. Sections 25–31 set out the key requirements for the Investment Policy, including the priority sectors and proposed projects, expected returns, asset allocation, portfolio distribution, leverage and exposure limits, risk management, submission and consideration by the National Assembly, approval with or without reservations or amendments, resubmission where declined, and the publication and review of the Policy.

12. The Sessional Paper therefore provides a compliance checklist showing how the proposed Investment Policy addresses these statutory requirements.

2.3. Establishment of the National Infrastructure Fund

13. The National Infrastructure Fund was established under the National Infrastructure Fund Act, 2026 to accelerate national infrastructure development, mobilise private and non-traditional sources of finance, reduce reliance on public debt for commercially viable infrastructure, and strengthen Kenya's capacity to structure and execute large projects. The Fund is intended to provide an alternative to Exchequer financing, with Government indicating that its seed capital will include privatisation proceeds and that it will mobilise additional capital from pension funds, banks, sovereign wealth funds and development finance institutions.

14. The Policy places commercial discipline and capital preservation at the centre of the Fund's investment approach. Projects are expected to demonstrate identifiable

demand, commercial viability, technical readiness and appropriate risk management, while ordinarily supporting at least 60 percent non-recourse project debt and generating a minimum expected equity return of 7 percent to the Fund. As a permanent national investment fund, its capital is intended to be preserved and strengthened over time, with investment income, realised gains and recycled proceeds used to finance successive generations of infrastructure.

2.4. Eligible Sectors and Infrastructure Priorities

2.5. Priority Sectors

15. The Policy identifies the principal infrastructure sectors as national highways, railway networks, airports, seaports, electricity generation, transmission and distribution, ICT infrastructure, water and irrigation, agriculture and livestock infrastructure, as well as other national-priority infrastructure approved by the Governing Council.

16. The Paper further expands these categories to encompass logistics infrastructure and key energy and petroleum infrastructure, including geothermal, hydro, wind and solar power generation, petroleum, oil and gas infrastructure, refineries, pipelines. In addition, the expanded scope covers telecommunications and fibre networks, cloud infrastructure and data centres, dams and desalination facilities, as well as agricultural value-addition infrastructure.

2.6. Investment Criteria and Project Appraisal

17. The Policy requires proposed projects to satisfy minimum investment criteria, including demonstrated demand, commercial viability, capacity to support at least 60 percent non-recourse project debt, a minimum expected equity return of 7 percent, technical readiness, environmental, legal and financial readiness, relevant regulatory approvals and compliance with the Board's Risk Management Framework.

18. It also provides for project preparation, technical appraisal and legal, technical, financial, environmental and social due diligence as part of the investment process. These requirements are consistent with the importance placed during parliamentary consideration of the enabling legislation on adequate feasibility studies and the use of the public-private partnership framework in preparing and structuring infrastructure projects.

2.7. Government Support Measures

19. The Policy provides that projects failing to meet the general investment criteria may only be considered where Government Support Measures are provided in accordance with the Act and where the Board is satisfied that the investment remains commercially and financially sustainable after taking those measures into account.

2.8. Treasury Management and Temporary Investment of Funds

20. Pending deployment into infrastructure investments, Fund resources are to be managed prudently to preserve capital, maintain liquidity and generate appropriate investment income. Surplus funds may be invested in Government securities in accordance with the statutory framework.

2.9. Governance and Accountability

21. The Policy establishes a two-tier governance structure, consistent with the Act, under which the Governing Council provides strategic oversight and establishes investment policy, while the Board is responsible for implementing the Policy through the Investment Strategy, Annual Business Plans, investment approvals and portfolio oversight. The Sessional Paper further provides that investment authority will be delegated through the Board Charter, thereby establishing the framework for allocating investment decision-making responsibilities within the Fund.

2.10. Fund Capitalisation and Source Of Resources

22. The Policy provides that the Fund will be capitalised principally through proceeds from privatisation and other strategic capital allocations by Government, to preserve and grow capital derived from public assets. The Government has subsequently indicated that privatisation proceeds, including proceeds associated with the Kenya Pipeline Company and other strategic asset transactions, are intended to form part of the Fund's seed capital.

2.11. Monitoring, Evaluation and Performance

23. The Sessional Paper provides that the Board will monitor both the financial and non-financial performance of the Fund, including financial performance, capital deployment, capital mobilisation, portfolio quality and national development outcomes. This indicates that the Fund is intended to be assessed not only on the financial returns generated from its investments, but also on its ability to mobilise additional capital, maintain a sound investment portfolio and contribute to broader national infrastructure and development objectives.

2.12. Five-Year Validity and Annual Review

24. The Sessional Paper provides that the Investment Policy will remain in force for five years, while the Board is required to undertake an annual review and recommend amendments to the Governing Council where necessary. This provides for periodic updating of the Policy while maintaining a longer-term investment framework.

2.13. Value for Money and Public Interest

25. The Sessional Paper states that the Fund is intended to reduce reliance on public borrowing for commercially viable infrastructure and preserve public resources by shifting from traditional Exchequer financing towards an investment-based model. The Policy therefore seeks to ensure that public capital is deployed commercially,

generates returns and is recycled into future infrastructure investments, rather than relying solely on additional Government borrowing.

2.14. Conclusion

26. The National Infrastructure Fund Investment Policy represents a significant shift towards investment-based infrastructure financing, with the potential to reduce reliance on public borrowing, mobilise private capital and recycle investment returns into future projects. The Policy contains important safeguards, including commercial viability requirements, minimum return and leverage thresholds, exposure limits, non-recourse financing and capital-preservation principles.

27. Finally, the IPS should provide the National Assembly with adequate and timely information on the Fund's capitalisation, investments, returns, losses, exposure, Government Support Measures, contingent liabilities, costs, private capital mobilisation and development outcomes.

CHAPTER THREE

3.0 PUBLIC PARTICIPATION AND STAKEHOLDER ENGAGEMENT ON THE BILL

28. Article 118 (1)(b) of the Constitution provides that Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.

29. To facilitate public participation, the Clerk of the National Assembly placed an advertisement in the print media on 15th August 2026 inviting the public to submit memoranda on the Sessional Paper. Further, the Clerk of the National Assembly, vide letters NA/DDC/F&NP/2026/116 and NA/DDC/F&NP/2026/117 dated 14th August 2026, invited key stakeholders to submit views on the Sessional Paper and attend a stakeholder engagement forum on 20th and 21st August 2026.

3.1 MEMORANDA RECEIVED ON THE SESSIONAL PAPER

30. The Committee received twelve (12) memoranda from the following stakeholders whose submissions are detailed below:

(1) The National Treasury;
(2) Institute of Certified Public Accountants of Kenya (ICPAK);
(3) Capital Markets Authority (CMA);
(4) Office of the Controller of Budget (OCOB);
(5) Nairobi International Financial Centre (NIFCA);
(6) Cliffe Dekker Hofmeyr (CDH);
(7) Office of the Auditor General (OAG);
(8) Bara Build Nexus;
(9) Olyvia M. Lavisa
(10) CPF Group;
(11) EMSI & Associates Advocates LLP; and
(12) Dhamana Guarantee Company Limited.

3.2 SUBMISSIONS FROM STAKEHOLDERS

General Submissions

3.2.1 The National Treasury

31. The Cabinet Secretary for the **National Treasury and Economic Planning, Hon. FCPA John Mbadi Ng'ongo, EGH,** appeared before the Committee on Thursday, 20th August 2026 and submitted that the Investment Policy Statement is a principles-based policy under section 25 of the NIF Act, 2026 that defines NIF's operating compact.

32.

33. The Policy performs four functions: it defines eligible sectors, screening standards and appraisal standards; it protects capital through stage-gated preparation, downside testing and exposure limits; it enables the Board to invest, manage exits and recycle capital; and it measures performance through Expected Equity IRRs, portfolio risk, capital mobilisation and national outcomes.
34. The **National Treasury** stated that NIF exists to shift commercially viable infrastructure investment beyond the national budget. The Fund is to accelerate nationally significant infrastructure, mobilise domestic, international and non-traditional capital, reduce reliance on public debt for commercially viable projects, and build national origination, structuring and execution capability. Public capital is intended to act catalytically, mobilising private investment while preserving fiscal space for public services.
35. They highlighted out a governance structure in which the Governing Council owns policy and the Board implements it. They noted that the Council establishes the investment policy through the IPS and defines objectives, principles, eligibility, thresholds and limits. The Board implements policy through strategy and plans, and takes decisions and exercises oversight through approvals, conflict management, portfolio management and reporting to Council.
36. They noted that the Implementation instruments include the Investment Strategy, Annual Business Plans, and Risk and Treasury frameworks. They proposed an annual feedback loop, in which monitoring informs annual policy review and periodic portfolio-level reporting to Council.
37. On the division of decision rights, the Council develops policy, considers amendments, oversees compliance and receives portfolio-level reporting. The Council does not oversee individual investments. The Board approves individual investments, implements strategy and plans, and applies appraisal, risk, conflict and portfolio controls.
38. The National Treasury proposed seven principles to guide every investment decision:

    (i)commercial viability;
    (ii)financial sustainability;
    (iii)commercial discipline;
    (iv)capital mobilisation;
    (v)technical integrity;
    (vi)responsible stewardship; and
    (vii)national development.

39. Before a project reaches detailed preparation, the National Treasury proposed a preparation mechanism under sections 32 and 33 of the Act.

    (i)Projects are screened first against statutory eligibility;
    (ii)priority-sector alignment;
    (iii)preliminary viability;

(iv)demand or off-take;
(v)development readiness; and
(vi)potential debt capacity.

40. Preparation then proceeds progressively, with further expenditure authorised only while a project retains a reasonable path to the Fund's investment criteria. The National Treasury proposed stopping or advancing projects at each stage if the prospect of investability no longer exists.

41. At the investment gate, the National Treasury proposed six tests: demand validation through identifiable users or off-take; bankability, requiring market-based cash flows able to support at least 60 percent non-recourse project debt; a project-specific Expected Equity IRR based on NIF cash flows from deployment to exit; a defined holding period and exit strategy set at appraisal; downside resilience under stress scenarios covering cost, delay, demand, operating, interest rate, foreign exchange and refinancing risk; and technical and risk readiness, under which risk is allocated to the party best placed to bear it.

42. Further, **National Treasury** noted that the Policy will include Government Support Measures provision, presented as an exception mechanism rather than an alternative investment standard. Where a project misses the general investment threshold, Government Support Measures may be applied under the Act. The Board must then re-underwrite the project and confirm it remains commercially and financially sustainable before it may proceed.

43. The National Treasury proposed six eligible infrastructure sectors: transport (highways, railways, airports, seaports and logistics); energy (generation, transmission, distribution and nationally significant systems); ICT (telecommunications, fibre, cloud and data centres); water and irrigation (supply, storage, dams, irrigation, desalination and bulk water); agriculture and livestock (production, storage, processing and value-add infrastructure); and other national priorities identified by the Governing Council and permitted by the Act.

44. Since this is the inaugural IPS, the National Treasury stated that there are no carried-over project commitments as there is no preceding policy. Project selection filters proposed include national development priority, commercial viability, catalytic economic impact, capital mobilisation potential, and alignment with the Fund's statutory purpose. Specific projects will be incorporated into the Annual Business Plan and pass through screening, preparation and feasibility under sections 32 and 33 before being brought to the Board for investment consideration.

45. The National Treasury proposes a range of investment structures grouped under three headings: direct capital (direct investments, equity and quasi-equity, and debt instruments); vehicles and partners (project finance, SPVs, infrastructure funds and co-investment platforms); and markets and development (capital market transactions, project development activities and strategic partner structures). They stated that the

structure of an investment may change, but the policy standards and portfolio guardrails apply regardless of structure.

46. On capital recycling, the National Treasury proposed a three-stage cycle. At entry, the target holding period, exit strategy and expected exit value are set as part of the Equity IRR appraisal. During the holding period, the Board reassesses the holding period and exit strategy against performance, market conditions and the Fund's long-term interests. At exit, capital is released through refinancing, institutional take-out, strategic or secondary sale, listing, securitisation, buy-back or another appropriate mechanism, and realised capital is redeployed into new investments where commercially appropriate.

47. The National Treasury proposed portfolio exposure limits measured against total Fund assets: a maximum of 40 percent in any one priority sector, and a maximum of 20 percent aggregate exposure to any single project entity, with all Fund instruments to that entity aggregated for the test. The Fund is not permitted to borrow on its own balance sheet, and project leverage is ordinarily to be non-recourse to the Fund. They highlighted that these limits are measured against Fund asset allocation, not against the capital structure or total asset value of an underlying project entity.

48. On treasury management, the National Treasury proposed three objectives applied before capital is deployed to projects: preserve capital, maintain liquidity for approved investment needs, and generate income solely through Government securities permitted under Section 43 of the Act. They stated that the Treasury Management Framework governs liquidity, maturity and deployment within this statutory investment universe and does not create broader asset classes.

49. The National Treasury proposed five performance lenses reviewed annually: returns against expected IRRs, capital deployment, capital mobilisation and recycling, portfolio and downside risk, and national development outcomes. The policy cycle runs on an annual rhythm, with the Board adopting an Annual Business Plan, setting project indicators and reviewing the IPS each year, and recommending amendments as required, subject to the statutory approval process. The National Treasury proposed a policy validity period of five years, at the end of which the Board reports all incomplete projects and a new policy cycle begins.

50. On Council oversight, the **National Treasury** proposed periodic reporting at portfolio level across eight items: portfolio composition and performance, capital deployed and private capital mobilised, performance against investment-specific Equity IRRs, sector and project-entity exposures, material portfolio and downside risks, the project-preparation pipeline and expenditure, underperformance, exits and capital recycled, and IPS compliance, breaches and remedial action. In their view this reporting supports policy oversight and does not transfer responsibility for individual investment decisions from the Board to the Council.

51. The National Treasury proposed six implementation instruments to make the policy executable. The Investment Strategy translates the IPS into portfolio priorities and investment approaches. The Annual Business Plan sets the project-preparation allocation, annual priorities and delivery commitments. Appraisal and stage-gate procedures screen projects early, reuse existing studies where appropriate, and govern progressive preparation spend. The Risk Management Framework defines stress testing, risk allocation, risk appetite and portfolio controls. The Treasury framework and procedures govern capital preservation, liquidity and approved surplus investment. The governance and reporting framework sets delegation, conflicts, performance measures and Council reporting. They stated that all six instruments are developed and approved in accordance with the Act and applicable governance arrangements.

3.2.2 Institute of Certified Public Accountants of Kenya (ICPAK)

52. **ICPAK** submitted that the National Infrastructure Fund Act, 2026 established the National Infrastructure Fund (NIF) as a vehicle for mobilizing resources for national infrastructure investment and advancing the Government's ambition to mobilize Ksh. 5 trillion over a ten-year period through domestic resource mobilization, monetization of public assets and the crowding in of private capital. They noted that NIF framework envisaged mobilization of Ksh. 5 trillion and crowding in private capital. However, the IPS does not clearly set out how this ambition will be progressively achieved, monitored and reported over the investment period. This will make it difficult to assess whether the Fund is attracting the expected level of private and development capital or whether its capital mobilization strategy requires adjustment.

53. **ICPAK** proposed that the Policy introduces a new Section 1.4 titled 'Policy Targets of the Fund' and to read as follows:

The Fund shall establish measurable targets to include

a) the targeted Fund capitalization over the policy period
b) annual and cumulative private-sector capital commitments
c) the targeted amount of development and concessional finance mobilized
d) the targeted ratio of private and institutional capital to Fund capital
e) annual and cumulative capital deployed to eligible infrastructure investments
f) the value of investment commitments and projects reaching financial close

The Board shall review performance against the approved targets at least annually and disclose the results in the Fund's annual performance report.

Appendix I

54. **ICPAK** submitted that the Appendix sets out key investment parameters but does not adequately address the foreign-exchange risks associated with mobilizing and investing capital from international investors or undertaking investments with foreign currency. The Institute recommended that Appendix I include a Foreign Exchange and Currency Risk Management Framework to ensure clarity in the following areas
    (a) the currencies in which the Fund may receive, hold and deploy capital
    (b) acceptable levels of unhedged foreign-currency exposure
    (c) circumstances requiring currency hedging

55. The Institute also recommended the addition of the following role to the Board for clarity

    The Board shall monitor the currency composition of the Fund's assets, liabilities and commitments and ensure that material currency mismatches are identified and managed.

56. This will enhance risk management and transparency in cross-border investment operations, ensuring that the Fund's capital mobilization strategy aligns with both national financial stability objectives.

57. **On Chapter 2, specifically 2.2-Commercial Viability, ICPAK** noted that a project may be capable of supporting debt but should not necessarily be financed to the maximum level of that capacity, given that it may expose the Fund to refinancing and default risks. They proposed amending the provision to read as follows;

    2.2.2. A project shall demonstrate financial capacity to support an appropriate level of non-recourse or limited-recourse debt, as determined through project-specific financial modelling and risk assessment.

    2.2.3. The appropriate debt-to-total-financing ratio shall be determined having regard to
    a) projected cash flows
    b) revenue certainty
    c) demand risk
    d) construction and operational risks
    e) project maturity
    f) contractual arrangements
    g) regulatory environment
    h) foreign exchange exposure
    i) interest-rate risk
    j) the overall risk profile of the project.

    2.2.4. Where a project is proposed for financing outside the standard financing parameters approved by the Board, the investment proposal shall document the basis for the deviation, the additional risks involved and the measures proposed to protect the Fund's capital.

58. They stated that this will provide flexibility and ensure that financing is aligned with the specific risk and cash-flow characteristics of each project.

59. **On 2.2 General Investment Criteria Financial Return, ICPAK** noted that the Policy requires projects to generate a minimum equity return of 7% to the Fund but does not explain the basis for this threshold or clarify whether it applies to individual investments or the Fund's overall portfolio. They proposed amending the provision to read as follows;

    2.2.5. The Fund shall seek to achieve positive risk-adjusted financial returns across its investment portfolio.

    2.2.6. The minimum required return for each investment shall be determined using an approved methodology that takes into account

    a) Fund's cost of capital
    b) prevailing market conditions
    c) inflation
    d) investment tenor
    e) liquidity
    f) project risks
    g) expected risk-adjusted return on comparable investments

    2.2.7. The Board shall approve and periodically review the methodology and applicable return benchmarks.

    2.2.8. Where an investment is expected to generate a return below the applicable benchmark, the investment proposal should provide

    a) a documented justification demonstrating its economic value
    b) the financial implications of accepting the lower return
    c) the associated risks and
    d) the measures proposed to protect the Fund's capital.

60. They observed that a risk-adjusted framework provides a more appropriate basis for evaluating infrastructure investments, it maintains that the Fund's overall performance should also be assessed on a portfolio basis. Additionally, it also provides a transparent basis for approving investments that may have lower financial returns but demonstrable strategic value.

61. **On Chapter 3 - Priority Sectors for Development, ICPAK** submitted that the sectors identified in the IPS are presented without a clear basis for determining how resources should be prioritized between sectors when available capital is limited. They proposed that the Policy introduces a sector prioritization framework under which allocations consider the following

    (a) national development priorities
    (b) project readiness
    (c) economic and social impact
    (d) commercial viability

(e) private capital mobilization potential
(f) implementation capacity
(g) historical budget absorption
(h) climate and environment
(i) equitable development

62. The Institute stated that this will provide an objective basis for portfolio construction.

63. **On 3.1 and 3.2 Priority Sectors and Proposed Projects, ICPAK** observed that the IPS does not currently use evidence of sector implementation performance to inform portfolio prioritization. They recommended that;

    (i) the Policy should include historical implementation performance as one of the portfolio-allocation criteria.

    (ii) The Board should assess sector and the projects' absorption performance, preferably using a rolling three-year trend where data is available.

    (iii) The FY2022/23 performance of sectors from the Controller of Budget should form part of the baseline assessment.

64. Additionally, **ICPAK** noted that proposed projects are identified at sector level rather than through a defined project selection framework. It fails to specify how these criteria will be applied or weighted. They proposed that the Policy establishes a project scoring and ranking framework. Where each project is assessed against defined criteria, including commercial viability, economic rate of return, financial return, project readiness, implementation capacity, fiscal risk, climate resilience, private capital mobilization, strategic importance and expected development outcomes. This will help in improving consistency and comparability in investment decisions.

65. Further, **ICPAK** proposed that the Policy allows the Governing Council to identify any other nationally significant infrastructure as a priority. They proposed that any additional sector or project category be supported by a documented investment case and needs assessment to meet the same investment criteria applicable to the identified priority sectors. This will prevent ad hoc expansion of the Fund's investment mandate.

66. **On 3.3 Portfolio Framework/Exposure Limits, ICPAK** noted that the IPS limits exposure to one sector to 40% of Fund assets and a single project to 20%. However, the policy does not demonstrate the basis for these thresholds or explain how concentration risk will be assessed across correlated sectors. They recommended that the Policy should require the Board to establish exposure limits based on

    (a) portfolio risk
    (b) sector correlation
    (c) project size
    (d) counterparty exposure financing structure
    (e) liquidity requirements.

67. **The** 40% sector and 20% project limits should be subject to periodic review based on portfolio risk analysis.

68. Finally, **ICPAK** submitted that the policy requires annual review by the Board but does not establish matters that should trigger a substantive amendment to the IPS. The Institute recommends the policy should indicate that review should consider
    (a) changes in the Fund's capital base
    (b) macroeconomic conditions such as interest rates, inflation, fiscal position
    (c) sector performance
    (d) regulatory changes
    (e) emerging infrastructure risks.

69. This will ensure that policy reviews are evidence-based and responsive to material changes.

3.2.3 Capital Markets Authority (CMA)

70. CMA appearing before the Committee submitted that on the list of Abbreviations, ABS is indicated as Annual Business Plan. They proposed replacing ABS with ABP.

71. On the Executive summary, they noted that the existing Capital Market Collective Investment Scheme regulations do not recognise Infrastructure Funds as an investment class/alternative. They recommended reviewing the Collective Investment Scheme regulations to recognise Infrastructure Fund as one of the asset classes.

72. **On the introduction part, CMA** noted that the NIF Act states that the NIF shall be a body corporate with perpetual succession, however, the IPS states that "*The Fund is a special purpose vehicle…*". They recommended clarifying the entity structure by reconciling the Policy as drafted and the NIF Act.

73. **On the general investment criteria, CMA** observed that the time horizon of the investment(s) as a key investment criterion is missing. They proposed introducing project-specific time horizon criterion as a key consideration in informing the NIF investment decisions.

74. **On Government Support Measures, CMA** noted that an element of supporting the 'public good' needs to be infused into the policy. They observed that infrastructure is an essential plank in setting the basis of all other growth by stunting systemic risks and availing accessible benefits to extensive areas and diverse communities. NIF should therefore have as one of its objectives, meeting public interest/good.

75. Additionally, the Authority stated projects that fail the general commercial criteria may still proceed where Government Support Measures apply, with no ceiling, approval threshold or disclosure requirement specified. CMA was of the view that non-disclosure of the reasons for Government support measure(s) may materially mis-state the projects' underlying risk profile. They proposed requiring quantified

ceilings on Government Support Measures and mandatory disclosure of any such support in the offering document(s).

76. **On the General Investment Criteria- Financial Return**, CMA highlighted that it is not clear whether:

    a) This is a KES or Hard Currency (e.g., USD) return
    b) This is a gross or net return
    c) This is a nominal or real return

77. They recommended that the Policy provide for the same minimum return of 7% irrespective of the sector and despite the differing risk-return profiles.

78. **On proposed projects, CMA noted that there is no reference to the aspect of the proposed projects leveraging capital markets as a key anchor,** as expressly mentioned in Par 5 of the foreword and Par. 4 of the Executive Summary. They submitted that countries that have registered impressive infrastructure development, including China, Malaysia, India, and Morocco, have actively leveraged capital markets as the pivot point for facilitating rapid capital raising while leveraging technology.

79. On **regularity of review of the IPS**, CMA stated that it is not clear what the Governing Council should do with the recommendations after the IPS review. They were of the opinion that there should be room to review the IPS (on an as-needed basis) within a shorter period to address new developments or market dynamics.

80. They proposed expressly indicating that the recommended amendments will then be adopted by the Governing Council and implemented in the subsequent period. Also, evaluate the IPS review period to account for new and/or unforeseen developments. By adding 'or as will be necessary in the view of the Governing Council.

81. **On treasury management, CMA** noted that MDAs are already overweight in Government securities. The investment room for investing surplus funds should be expanded. They proposed including all capital market securities as the potential universe of assets in which surplus funds may be invested.

3.2.4 Office of the Controller of Budget (OCOB)

Through a written submission the OCOB submitted as follows;

82. **On paragraph 2.3 of the IPS**, the CoB noted that the objective of reducing public debt could be undermined if the Government provides extensive guarantees and other support measures to Fund projects. The legislative framework allows government support measures, including binding undertakings, letters of support, letters of credit and credit guarantees. This creates an important fiscal- risk question: although the Fund may initially appear to be off- budget financing, government guarantees can ultimately expose taxpayers to contingent liabilities if projects fail.

83. **They** proposed amending the proposal to state;
    (i) when the Fund may borrow;
    (ii) who bears the repayment obligation;
    (iii) whether borrowing constitutes public debt;
    (iv) the circumstances under which the Government may provide guarantees;
    (v) maximum leverage ratios; and
    (vi) how contingent liabilities will be reported.

84. In their view, this introduces explicit leverage and guarantee ceilings to prevent the Fund **from** becoming an indirect source of public debt.

85. **On Paragraph 3.1**, the CoB noted that a sophisticated approach to examining whether national infrastructure projects are fairly distributed across Kenya is lacking. There is therefore the risk of concentrating investment in politically favoured regions or sectors. They stated that while investments should not be distributed to achieve political balance, the policy should ensure that national infrastructure investment does not systematically exclude economically productive but historically underserved regions. The CoB was of the view that the Investment Policy should establish transparent principles for geographical and sectoral allocation.

86. **On paragraph 2.2 on the minimum equity return**, the CoB observed that the minimum-return approach requires scrutiny. While a minimum return can impose useful commercial discipline, applying a uniform return threshold to fundamentally different infrastructure projects could be problematic. They proposed replacing the rigid uniform return threshold with risk- adjusted return benchmarks differentiated by sector, project maturity and risk.

87. **On paragraph 3.3 – the portfolio framework**, the CoB noted that the Act requires the Investment Policy to specify asset allocation, portfolio distribution and leverage ratios. However, these provisions need to be translated into robust quantitative risk limits that can be monitored in practice. They stated that there is need to require independent feasibility and value-for- money assessments before major investments are approved.

88. They proposed the Investment Policy to clearly define:
    (i) maximum exposure to a single project;
    (ii) maximum exposure to a particular sector;
    (iii) permissible levels of borrowing and leverage;
    (iv) foreign-exchange exposure limits;
    (v) counterparty limits;
    (vi) liquidity requirements;
    (vii) guarantees and contingent liabilities;
    (viii) acceptable credit-risk levels; and
    (ix) procedures for restructuring distressed investments.

89. The CoB stated that without these safeguards, the Fund could unintentionally recreate the high fiscal risks it is intended to cure.

90. **On 3.1- priority sectors**, the CoB stated that there is potential for duplication with existing institutions: The NIF operates within an already extensive infrastructure and public investment institutional framework. This is likely to create a risk of overlap with bodies such as the Kenya National Highways Authority, Kenya Airports Authority, KENGEN, KETRACO and the State Department for Public Investment and Assets Management, among others. This will increase the likelihood of duplicate project appraisals, competing mandates, additional administrative costs, and diluted accountability.

91. In the CoB's view the Investment Policy should clearly define the relationship among the Fund, National Treasury, the State Department for Public Investment and Assets Management, implementing agencies, and sector regulators, and specify where their responsibilities lie. The Policy should also make the Fund principally a financing and investment vehicle, rather than creating another project- implementation bureaucracy.

92. **On paragraph 2.2- general investment criteria**, the OCOB submitted that the commercial-return principle could disadvantage socially important projects. Some strategically important infrastructure projects may generate substantial social and economic benefits without producing sufficiently high direct financial returns. They stated that the policy should therefore distinguish between financial return and economic/ social return. Projects should be assessed using a broader development-adjusted investment framework rather than relying exclusively on financial profitability. They recommended creating a transparent project-ranking framework based on financial, economic, social, environmental and strategic criteria.

93. The Policy does not define the term 'National Infrastructure'. Instead, it relies on the definition provided in the NIF Act. The CoB stated that the absence of a sufficiently precise definition of national infrastructure may constitute a grey area that could create room for discretionary investment and allow resources to be directed towards projects of questionable economic value. They proposed the Investment Policy establish a clear taxonomy of eligible investments. It should distinguish between strategic national infrastructure, commercially viable infrastructure, social infrastructure and projects that should ordinarily be financed through the ordinary development budget.

94. **On the Stewardship of the Fund's Capital**, the CoB observed that the use of proceeds from privatisation and disposal of government assets as a source of funding is potentially innovative, but it also raises an important intergenerational issue. Public assets are finite. Selling an asset to finance infrastructure can be justified where the proceeds are invested productively. However, there is a risk that valuable public assets could be sold without adequate valuation or without demonstrating that the resulting investment will generate superior long-term public value. They proposed

establishing strong safeguards around valuation, disposal, investment and reporting. Additionally, ring-fencing and protecting proceeds from privatisation and asset disposal through transparent valuation, competitive disposal processes and clear investment rules.

95. The CoB noted that to ensure public trust, stronger conflict-of-interest provisions are needed in the Policy. Given the substantial financial resources involved, the policy should contain rigorous rules governing conflicts of interest involving Council members, directors, senior management, investment advisers, and related parties. They noted that declarations of interests should be mandatory, independently verified, and publicly disclosed where appropriate. Individuals with conflicts should be prohibited from participating in related decisions. This is essential for maintaining investor confidence and protecting public assets.

96. Additionally, they stated that Environmental, social and climate risks have not been incorporated in investment guardrails. They recommended integrating climate-risk and environmental sustainability assessments into every major investment decision.

3.2.5 Nairobi International Financial Centre (NIFCA)

NIFCA, through their written memoranda submitted as follows;

97. **NIFCA** submitted that while Section 25 correctly requires the Investment Policy to specify sectors, projects, returns, asset allocation, leverage and exposure limits, the Policy does not yet state how the Fund will crowd in private capital without compromising its statutory governance or creating uncontrolled contingent liabilities.

98. They proposed that this gap be addressed by expressly recognising six matters in the Policy: lawful investment and co-investment vehicles; institutional collaboration with NIFCA and other relevant agencies; domestic and international institutional capital mobilisation; investor-readiness standards; additionality, meaning that Fund participation should not needlessly displace private finance; and measurement of capital mobilised alongside capital invested.

99. NIFCA highlighted some gaps in the IPS as follows;

100. **On Investment and co-investment vehicles**, **NIFCA** stated that there is need to expressly permit lawful investment vehicles where they improve commercial viability, risk allocation or mobilisation. They iproposed inserting a new text to read as follows;

> *"The Fund may, subject to applicable law and its approved investment parameters, establish, invest through, participate in or co-invest alongside appropriate investment vehicles, including project companies, special purpose vehicles, funds, joint ventures and other legally recognised investment structures, where such structures enhance commercial viability, risk allocation, capital mobilisation or efficient management of an investment."*

101. Additionally, they noted that the policy needs to recognise NIFCA as one of several statutory institutions available to support investor participation and qualifying structures. They proposed text should read as follows;

> *"In mobilising domestic and international private capital, the Fund may collaborate with the Nairobi International Financial Centre Authority and other relevant public institutions to facilitate investor participation and, where appropriate, the establishment or utilisation of investment vehicles and financial structures within Kenya in accordance with applicable law."*

102. **On private capital mobilization**, NIFCA proposed the inclusion of the following text;

> *"For commercially viable projects, the Fund shall, where appropriate, seek to crowd in domestic and international institutional capital through co-investment, syndicated investment, funds, project companies and other appropriate financing mechanisms, while maintaining prudent risk allocation and protecting the financial interests of the Fund."*

103. They stated that this will make crowding-in a deliberate implementation objective.

104. Further, NIFCA noted that there is a domestic institutional capital gap. They proposed amending the IPS to include the following;

> *"The Fund shall, subject to applicable financial-sector laws and prudential requirements, promote opportunities for participation by domestic institutional investors in commercially viable national infrastructure investments."*

105. This will create opportunities, not mandates, for pensions, insurers and other eligible investors.

106. **On international institutional capital**, NIFCA proposed expressly permitting partnerships with SWFs, DFIs, infrastructure funds and other institutional investors. They recommended amending the Policy to read as follows;

> *"The Fund may seek investment partnerships and co-investment arrangements with sovereign wealth funds, development finance institutions, infrastructure funds, pension and insurance investors, private investment funds, climate-finance institutions and other eligible institutional investors."*

107. **On investor readiness/ bankability**, NIFCA was of the view that the Policy be amended to include; "*Projects intended to attract private capital shall be developed to an appropriate level of commercial and investor readiness, including clearly defined revenue models, risk allocation, governance arrangements, financing structures and, where applicable, investor entry and exit mechanisms.*" They stated that this will require projects seeking private capital to reach a defined commercial-readiness threshold.

108. **On the Capital Mobilisation metric**, NIFCA stated that there will be need to report both NIF capital deployed and third-party capital mobilised. They proposed inserting the following;

"The Fund shall monitor and report the amount of domestic and international private capital mobilised alongside its investments and an appropriate capital-mobilisation ratio, without double counting."

109. NIFCA noted that in determining whether to invest, the Fund shall consider the additionality of its participation, including whether its investment accelerates the project, addresses an identifiable financing constraint, improves bankability or mobilises additional private capital. This will prevent NIF from unnecessarily displacing private finance.

110. **On the vehicle governance**, NIFCA highlighted that any investment vehicle through which the Fund invests shall be subject to governance, financial reporting, audit, valuation, beneficial-ownership, conflict-of-interest and transparency requirements proportionate to the Fund's investment and consistent with applicable law. This ensures transparency and governance safeguards to vehicles in which NIF invests.

111. To ensure non-duplication, NIFCA proposed requiring use of existing statutory capabilities where practicable and should read as follows;

"In implementing this Policy, the Fund shall collaborate with relevant public institutions and regulatory authorities and, to the extent practicable, utilise existing statutory frameworks and institutional capabilities rather than duplicate functions assigned under written law."

3.2.6 Cliffe Dekker Hofmeyr (CDH)

CDH, through their written memoranda submitted as follows;

112. **On 2.2: Commercial Viability / Minimum 60% Non-Recourse Project Debt**. CDH observed that the section provides the 60% threshold and presents it as a minimum criterion applicable to every project. This may exclude otherwise viable infrastructure projects which have longer development periods, significant public-interest characteristics or different financing structures. They stated that the 60% threshold operate as a general benchmark, with a controlled exception for projects which are commercially and financially viable but cannot reasonably achieve the threshold because of the characteristics of the infrastructure sector or project.

113. They proposed amending the section to read as follows;

"Approved projects shall ordinarily be expected to generate market-based cash flows ccapable of supporting at least sixty percent non-recourse project debt. The Board may approve a project that does not meet this threshold where, following an independent financial assessment, it is satisfied that the project is commercially and financially sustainable and that the deviation is justified by the characteristics of the project or sector. The reasons for such approval shall be documented."

114. On section 2.2: Financial Return, CDH was of the view that the provision of a uniform minimum return may not adequately account for differences in project risk,

tenor, sector, inflation and capital structure. They stated that the 7% return be retained as a benchmark but that the Policy define the basis for calculating the return and permit a departure where justified by a documented risk-adjusted assessment. They proposed amending the section to read as follows;

> *"Projects shall be expected to generate a minimum risk-adjusted equity return of seven percent to the Fund, measured in accordance with investment guidelines approved by the Board.*
>
> *The Board may approve a project with an expected return below the benchmark where it determines, on the basis of a documented risk-adjusted assessment, that the investment remains financially sustainable and advances the statutory objectives of the Fund."*

115. **On Section 2.3: Government Support measures**, they highlighted that the Policy does not state what assessment must be undertaken before Government Support Measures are relied upon, nor does it expressly require consideration of the potential fiscal or contingent liability arising from such support. They proposed amending the section to read as follows;

> *"Where a project is considered for investment on the basis of Government Support Measures, the Board shall, before approving the investment, undertake or procure an assessment of the financial, fiscal and contingent liability implications of the proposed support and satisfy itself that the support is necessary, proportionate and consistent with the Public Finance Management Act and the National Infrastructure Fund Act."*

116. **On Section 3.2: Proposed Projects**, CDH stated that the Act expressly requires proposed projects to be specified in the Policy. They recommended approving the Policy with a reservation under Section 28(b) of the Act requiring the Governing Council to incorporate an indicative pipeline of proposed projects into Section 3.2.

117. **On section 3.2: Other National priority infrastructure**, the stakeholder noted that the phrase "other nationally significant infrastructure" is broad and does not identify the criteria or process through which a project outside the listed sectors may be designated a national priority. They proposed amending the proposal to read as follows;

> *"Any project falling outside the priority sectors specified in this Policy may be designated as national priority infrastructure where the Governing Council, on the recommendation of the Board, is satisfied that the project demonstrates significant national economic or strategic impact, is consistent with the objects of the Fund and satisfies the applicable investment criteria. The reasons for the designation shall be recorded in writing."*

118. **On 3.3: Sector and project exposure limits**, CDH stated that the section does not explain how "exposure" or "Fund assets" are to be calculated, particularly where the Fund invests through special purpose vehicles, infrastructure funds, co-investment arrangements or other indirect investment structures. They proposed a new provision to read as follows;

> *"For purposes of the sector and project exposure limits, the Board shall establish a methodology for calculating direct and indirect exposure, including exposure arising through special purpose vehicles, infrastructure funds, co-investment arrangements and other investment structures.*
> *The methodology shall be approved by the Governing Council and reviewed annually."*

119. **On Section 2.1 and Preface: Authority for the preparation of the Policy**, CDH submitted that the Policy and the Compliance Checklist ought to be aligned with Sections 25(1) and 26 of the Act by confirming that the Policy is developed by the Governing Council, approved by Cabinet and submitted to the National Assembly by the Cabinet Secretary, and that the Board's role is limited to implementation.

120. **On Section** 3.3: Leverage and the prohibition on balance sheet borrowing, the stakeholder recommended that the Policy states expressly that leverage shall be non-recourse to the Fund and that no instrument may be granted which constitutes borrowing or the taking of credit against the Fund's balance sheet, and that it identify the credit support the Fund may provide at project level within that limit. They proposed amending the section to read as follows;

> *"Leverage shall be undertaken only at the project or investment vehicle level and shall be non-recourse to the Fund. The Fund shall not borrow or take credit against its balance sheet. The Board may approve equity commitment undertakings, contingent equity, subordinated shareholder funding and similar support at project level, provided that the aggregate contingent exposure of the Fund is capped at the amount of the Fund's approved capital commitment to the relevant project, is quantified at the time of approval and is reported in accordance with the risk management framework."*

121. On Chapter 3: Security, intercreditor arrangements and enforcement, CDH stated that the Policy does not address the taking or realisation of security, the Fund's position as against senior lenders, or the exercise of step-in and enforcement rights where a project fails. They proposed amending the provision to read as follows;

> *"The Fund shall, where appropriate, take security for its investments and shall determine its position in relation to senior and other creditors in each transaction. The Board shall approve guidelines addressing the taking, holding, sharing and release of security, intercreditor and subordination arrangements, and the circumstances in which the Fund may exercise step-in, enforcement or remedial rights in respect of an underperforming project. Any release or subordination of security shall be approved by the Board and the reasons recorded in writing."*

122. **On Chapter 3: Co-investment arrangements and shareholder protections**, the stakeholder noted that the Policy refers to co-investment platforms and capital mobilisation as a performance measure but does not address the terms on which the Fund will co-invest or the governance and minority protections it will require where it holds a non-controlling interest. They stated that the Policy should require the Board to satisfy itself, before approving an investment, that the Fund's governance and minority protections in the relevant vehicle are appropriate to the Fund's interest and to the nature of the project.

123. They proposed amending the provision to read as follows;

> *"Where the Fund invests alongside other investors or through a special purpose vehicle, pooled investment vehicle or infrastructure fund, the Board shall, before approving the investment, satisfy itself that the constitutive and shareholder documents confer governance, participation, information and exit rights appropriate to the Fund's interest in the vehicle and to the nature of the project, and shall record its assessment in writing."*

124. **On Chapter 2: Conflicts of interest, related party transactions and political independence**, CDH noted that the chapter contains no operative provision on conflicts of interest, related party transactions or independence of investment decision-making. They proposed amending to include an operative provision as follows;

> *"Investment decisions shall be taken by the Board on commercial and technical grounds in accordance with this Policy and the Act, and no investment shall be approved on the direction of any person other than in accordance with the Act. A member of the Governing Council or of the Board who has a direct or indirect interest in a proposed investment or in a counterparty shall disclose that interest and shall not participate in the deliberation or approval of the matter. The Board shall approve a related party transaction policy requiring the identification, independent review and disclosure of any investment or transaction involving a director, member of the Governing Council, senior officer or their related parties."*

125. On Section 3.4: Treasury management, CDH stated that the Policy does not identify the instruments in which undeployed capital may be held, or any counterparty, concentration or tenor limits. They proposed expanding the section to reflect the statutory constraints and to set treasury guardrails as follows;

> *"Treasury investments shall be limited to Government securities approved by the Cabinet Secretary in accordance with Section 43 of the Act and to deposits held with the Central Bank of Kenya or with commercial banks maintained under Section 40(4) of the Act. The Board shall approve treasury guidelines specifying eligible instruments, minimum counterparty credit criteria, single counterparty and concentration limits, maximum tenor and liquidity requirements aligned to projected capital deployment, and shall report treasury exposures to the Governing Council."*

126. **On Chapter 2: Financial risk management framework**, CDH noted that the Policy does not identify the categories of financial risk to which the Fund will be exposed. Infrastructure investments of the kind contemplated will typically involve foreign currency debt, long tenors and refinancing at the end of an initial debt term.

127. They proposed inserting the following provision;

> *"The Risk Management Framework shall address, at a minimum, credit and counterparty risk, currency and interest rate risk, refinancing and liquidity risk, construction and completion risk, concentration risk and the use of hedging or other risk mitigation instruments."*

128. **On Chapter 4: Monitoring and evaluation**, the stakeholder highlighted that the Policy identifies broad areas of performance but does not establish minimum reporting intervals, minimum indicators or a deadline for reporting performance. Additionally, the Policy also includes "national development outcomes" as a performance consideration but does not indicate how these outcomes are to be measured. They recommended amending as follows;

> *"The Board shall monitor the performance of each approved project on a quarterly basis against financial and non-financial performance indicators. The Board shall include in its annual report a consolidated assessment of the performance of the Fund and each approved project, including capital deployed, financial returns, capital mobilised, project implementation status, material risks and national development outcomes."*
>
> *Additionally, they recommended that the annual Business Plan contain measurable development indicators appropriate to the relevant sector and project.*

129. **On the Appendix 1: Key Policy Parameters,** CDH recommended that the Appendix expressly identify whether each parameter is statutory, policy-based or operational. They recommended amending as follows;

> *"The policy parameters set out in this Appendix shall be classified as either statutory requirements under the National Infrastructure Fund Act, 2026 or additional policy parameters adopted under this Policy. Any amendment to a statutory or substantive policy parameter shall be undertaken in accordance with the applicable provisions of the Act."*

3.2.7 Office of the Auditor General (OAG)

The OAG through a written memoranda submitted as follows;

130. The OAG submitted that the Office recognises Kenya's infrastructure financing gap, the pressure on public debt and the need to mobilise long-term private capital. A properly designed Fund can support commercially viable infrastructure, crowd in institutional capital and recycle proceeds while preserving public value.

131. The Auditor General stated that some of the issues the Office raised during the consideration of the NIF Bill stage have been addressed in the Policy. However, some remain partly addressed they include;

(i) Define maximum gearing, coverage ratios, stress tests and treatment of public support.

(ii) Annex the actual five-year pipeline and define decision evidence, approvals and exceptions.

(iii) Quantify, cap, approve and disclose every fiscal commitment and contingent liability.

(iv) Define measurement, connected exposure, continuous monitoring and breach remedies.

(v) Require independent valuation, transparent price discovery, capital preservation and reinvestment rules.

(vi) Prescribe consolidation, project-level disclosure, record retention and contractual audit access.

132. Additionally, the OAG stated that Section 25(2) of the National Infrastructure Fund Act, 2026 requires the Investment Policy to specify particular matters. They noted that the checklist leaves several statutory requirements blank while a separate technical table asserts compliance with frameworks that are not identifiable in the substantive Policy. They proposed replacing the competing tables with one reconciled checklist showing the statutory requirement, exact Policy clause, implementation instrument, responsible body and evidence of compliance.

133. **On chapter 3 – projected sectors and projects**, the OAG noted that the IPS names sectors but does not identify the proposed projects to which the five-year mandate will apply. They stated that Parliament cannot evaluate aggregate capital demand, readiness, geographic and sector concentration, expected returns, Government support, or consistency with national development priorities.

134. They proposed annexing the proposed pipeline, showing for each project the sponsor, sector and location; estimated total cost and Fund commitment; proposed instrument and financing structure; readiness stage; expected return; Government support; key risks; and indicative implementation period.

135. **On section 2.2 and Appendix 1 - minimum expected equity return of 7%.** The OAG observed that the Policy does not state whether 7% is nominal or real, gross or net of fees, pre- or post-tax, Kenya-shilling or foreign-currency, project or Fund level, or measured over what period. They stated that a uniform figure may underprice construction, demand, regulatory, currency and liquidity risk. If interpreted as a nominal Kenya-shilling net return, it is below the 8.77% 91-day Treasury-bill benchmark published by the Central Bank of Kenya in August 2026, despite infrastructure equity being long-term and illiquid.

136. The OAG proposed defining the return measure and require a risk-adjusted hurdle-rate methodology by sector, project stage and currency, benchmarked to the relevant risk-free yield plus explicit risk premiums. Also, disclose expected gross and net

returns, fees, taxes, inflation assumptions and downside cases in each appraisal and the Annual Business Plan.

137. **On Sections 2.2 and 3.3; Appendix 1 - projects should support at least 60% non-recourse debt**. The OAG highlighted that the Policy does not prescribe maximum debt-to-capital, minimum debt-service or loan-life coverage, covenant headroom, stress tests, connected exposure or breach action. They recommended setting sector- and stage-specific maximum gearing and minimum DSCR/LLCR thresholds under base and stressed cases. Measure exposure using equity, loans, undrawn commitments, guarantees and other risk-bearing obligations; aggregate connected projects and specify escalation, cure and divestment action for breaches.

138. **On Section 3.4 - Treasury Management; general risk provisions**. The OAG noted that there are no binding limits or disclosure rules addressing foreign-currency debt against Kenya-shilling revenues, floating-rate exposure, refinancing concentration or hedge-counterparty risk. They recommended requiring project-level disclosure of unhedged currency, interest-rate and refinancing exposure; Board-approved limits and hedging arrangements for material mismatches; hedge effectiveness and counterparty limits; debt-maturity profiles; and stress tests linked to tariff, demand and support scenarios.

139. **On Section 2.3 - Government Support Measures; section 34 of the NIF Act**. The OAG was of the view that a project that fails the general criteria may be reconsidered after Government support, but the Policy does not prescribe quantified ceilings, ex-ante fiscal-risk clearance, affordability tests or comprehensive disclosure of the resulting obligations. They proposed requiring National Treasury fiscal-risk clearance; value-for-money and affordability assessment; disclosure of returns before and after support; present value, maximum exposure and probability-weighted cost; budget provision where required; project and portfolio ceilings; and annual reconciliation to national fiscal-risk and debt reporting.

140. **On Sections 2.2 and 2.3 - Demand Validation, Commercial Viability and Government Support Measures**. The OAG observed that for toll roads, bulk water, ports, energy and other user-pays infrastructure, the Policy specifies commercial-return requirements but no explicit tariff-affordability or social-access test. The OAG proposed requiring an affordability and social-access assessment as part of demand validation, with household or user-incidence analysis, tariff path and indexation, service-quality obligations, vulnerable-user arrangements and sensitivity testing. Any tariff subsidy, revenue-shortfall undertaking or viability support should be explicit, budgeted and treated as a Government Support Measure.

141. **On Section 2.1 - Guiding Principles; future Governance and Investment Frameworks**. The Policy does not prescribe minimum rules for declarations of interest, recusals, related-party transactions, beneficial ownership, politically exposed persons, sanctions, debarment, source of funds or adviser independence. The OAG proposed requiring continuing and transaction-specific declarations; mandatory

recusal; beneficial-ownership and source-of-funds verification; PEP, sanctions and debarment screening; related-party approval and disclosure; voting records and dissent; adviser rotation and independence; and auditable conflicts register covering the Council, Board, committees, management, sponsors and service providers.

142. **On Investment Decision and Governance Frameworks**. The OAG highlighted that the Policy does not establish functional independence between those who originate and structure a transaction and those who review risk, legality, valuation and final approval. They proposed defining separate accountable functions for origination, technical and financial appraisal, risk review, legal review, valuation, investment-committee recommendation, Board approval, monitoring and internal audit. Requiring documented challenge, conditions precedent, delegated-authority limits and escalation of dissent.

143. The OAG noted that the Policy does not cap, benchmark or require disclosure of management, arrangement, advisory, valuation, monitoring, transaction, carried-interest or performance-linked fees, including fees paid through SPVs. The OAG proposed requiring transparent competitive appointment where applicable; fee benchmarking; disclosure of gross and net returns; total expense ratio by project and portfolio; performance-fee methodology and clawback; related-party prohibition or enhanced approval; and annual disclosure of all fees, transaction costs and counterparties in the Business Plan and audited statements.

144. **On Executive Summary - investment structures; sections 2.2 and 3.3**, the OAG noted the Policy lists equity, debt, SPVs, capital-market transactions and co-investment platforms but does not distinguish those investment transactions from procurement of goods, works, services, advisers or disposal of public assets.

145. **They** proposed inserting a transaction-classification framework identifying the applicable route: PPADA procurement; PPP procurement; privatisation or asset disposal; capital-market process; or documented negotiated investment. For non-competitive transactions, they recommended requiring an approved rationale, independent valuation, market testing where feasible, best-value analysis, conflicts clearance and complete decision records.

146. Further, the OAG stated that the Policy does not state valuation standards, independence requirements, valuation date, treatment of control premiums, liabilities and transaction costs, price-discovery method or approval of material deviations from valuation.

147. **They** recommended requiring independent professional valuation by qualified advisers; transparent appointment and conflict checks; documented valuation methods, assumptions and sensitivity ranges; market testing or competitive price discovery where feasible; disclosure of gross proceeds, costs and debt settled; and Board reasons for any material departure from the independent range.

148. **On sections 3.5 and 3.6 on investment period and review**, the OAG observed that the Policy does not establish holding-period rationale, permitted exit routes, reinvestment triggers, treatment of realised income and unrealised gains, withdrawal rules or a minimum real-capital floor. They proposed ring-fencing and tracing gross sale, refinancing, distribution and exit proceeds; separate capital, realised income and unrealised gains; protect the inflation-adjusted value of net public contributions; and requiring a Board-approved exit and reinvestment framework covering holding rationale, exit routes, valuation, price discovery, transaction costs, reinvestment timing and post-exit evaluation.

149. **On Section 2.2 - Technical Readiness and Responsible Stewardship**. The OAG noted that the Policy refers generally to environmental and legal compliance but does not establish project classification, due diligence, climate-resilience screening, land and resettlement requirements, grievance mechanisms, incident reporting or continuing monitoring. The OAG was of the view that before commitment, require compliance with EMCA/EIA, climate, land-acquisition and resettlement law; quantified safeguard costs; disclosed permits, claims and mitigation measures; stakeholder engagement and grievance procedures; contractual ESG obligations; major-incident reporting; and post-investment monitoring.

150. Further, the OAG noted that the Policy does not specify how control, joint control and significant influence will be assessed or how controlled SPVs, structured interests and public commitments will be consolidated or disclosed. They proposed applying standards prescribed by the Public Sector Accounting Standards Board to determine the reporting boundary; consolidating controlled vehicles; disclosing joint arrangements and other structured interests; and reporting project by project the Fund's equity, loans, commitments, guarantees, support, related parties, fees, impairments, sensitivities and maximum contingent exposure. Reconcile these disclosures to national budget, debt and fiscal-risk reports.

151. **On Chapter Four - Monitoring and Evaluation; sections 35-37 of the NIF Act**. The Auditor General noted that the Policy identifies broad monitoring themes but no mandatory indicators, baselines, targets, reporting frequency, publication standard or distinction between committed and deployed private capital. They recommended for each project, publish approved and forecast cost and completion date; cost/time variance; capital committed and drawn; expected and actual return; leverage; Government support; impairment; material contract changes; private capital mobilised per shilling of Fund capital; and service outcomes covering access, reliability, affordability, jobs, local content, climate resilience and maintenance. Explain unresolved breaches and corrective action.

152. The OAG observed the Policy does not expressly require investment agreements, SPV documents and service-provider contracts to preserve complete decision records and access to information relevant to public capital and commitments. They proposed requiring a records schedule covering origination, due diligence, models, valuation, approvals, conflicts, procurement, contracts, drawdowns, performance,

Government support and exits; securing digital retention for the statutory period; data ownership and handover clauses; and contractual recognition of the Auditor-General's access to relevant records held by SPVs, managers and service providers.

153. **On Sections 26-31 of the NIF Act; Policy review, amendment and publication provisions**. The OAG noted the Policy does not clearly state the information that should accompany material amendments, annual Business Plans and public reporting, or how public and Parliamentary input will be recorded and responded to over the five-year period.

154. They proposed recording and publishing how material stakeholder submissions were considered; publishing the approved consolidated Policy, annual Business Plans and project summaries subject only to lawful confidentiality; disclosing material Policy and pipeline changes with reasons and fiscal effects; and providing Parliament with periodic portfolio, Government-support and breach reports in a standard format. Commercial confidentiality should be narrowly defined and should not conceal public obligations or aggregate risk.

3.2.8 Bara Build Nexus

155. Through their written submission, Bara Build Nexus supported the IPS, particularly the Policy's emphasis on commercial discipline, technical integrity, project preparation, capital mobilization, responsible stewardship and national development. They stated that the Fund should be designed not only as a financing platform, but as an intelligent infrastructure investment platform. Capital can only be deployed effectively when the underlying infrastructure decisions are supported by reliable, connected and decision-ready information.

156. They submitted that the NIF should establish a structured infrastructure intelligence framework connecting the full investment lifecycle:

Pipeline → Project Preparation → Appraisal → Investment Decision → Financing → Delivery → Operations → Performance → Learning → Reinvestment

157. This should create a common evidence base for both individual investment decisions and portfolio management.

158. Additionally, they stated that the Fund's project-development role provides an opportunity to establish a structured pipeline of potential investments rather than relying principally on projects arriving at the Fund already packaged for financing.

159. Projects should progress through defined stages:

Concept → Screening → Preparation → Appraisal → Investment Ready → Financial Close → Delivery → Operational Performance

160. Each stage should have defined evidence requirements and decision gates. This would allow the Fund to distinguish between a good infrastructure idea, a technically prepared project, and a genuinely investment-ready project.

161. Bara Build stated that the NIF should establish minimum information standards for projects seeking investment. These should cover, as relevant: demand; technical

design; costs; financing; revenue; land; approvals; environmental and social considerations; risk; implementation; asset performance; and lifecycle requirements. Standardization would improve comparability across projects and reduce dependence on fragmented institutional information.

162. They emphasized that the Fund's proposed exposure limits concentration should be assessed not only by financial exposure but also by risk correlation and infrastructure interdependence.

163. Further, Monitoring should not end with reporting whether a project is on budget or on schedule. Project data should feed back into future investment decisions. The Fund should progressively develop a national infrastructure investment knowledge base containing:

(i) projected versus actual costs;
(ii) projected versus actual demand;
(iii) projected versus actual returns;
(iv) construction performance;
(v) operational performance;
(vi) maintenance requirements;
(vii) risk events; and
(viii) lessons from completed investments.

164. This would create a learning investment institution, rather than simply a portfolio manager.

165. Finally, BARA Build Nexus recommended that infrastructure intelligence be embedded within the operational architecture of the National Infrastructure Fund. This would strengthen the NIF's commercial discipline while simultaneously advancing its broader national development mandate.

3.2.9 Olyvia M. Lavisa

166. Through a written memorandum, Olyvia submitted that the establishment of the National Infrastructure Fund (NIF) is an important shift in how Kenya approaches infrastructure financing. The Fund has the potential to move the country beyond reliance on annual budgetary allocations and public borrowing towards a more sustainable model of infrastructure investment, capital mobilization and recycling.

167. The stakeholder noted that long-term success of the NIF will depend not only on its ability to mobilize capital, but on its ability to consistently identify, prepare, select and manage the right infrastructure investments.

168. The Investment Policy provides a strong commercial and governance foundation and the stakeholder recommended strengthening the policy further around the quality of infrastructure investment decisions and the long-term public value generated by those investments.

169. The stakeholder stated that Commercial viability should remain central to the Fund. However, commercial viability alone should not become a proxy for infrastructure value. Investment appraisal should explicitly consider:

(i) economic and social value;
(ii) strategic national importance;

(iii) service outcomes and accessibility;
(iv) resilience and climate vulnerability;
(v) whole-life cost and maintainability;
(vi) lifecycle asset performance; and
(vii) catalytic effects on regional and economic development.

170. They highlighted that the Fund should assess projects not only on whether they can attract financing, but whether they represent sound long-term infrastructure investments for Kenya. The Policy appropriately requires demand validation, commercial viability, financial returns, technical readiness and risk management.

171. Olyvia recommended that these be operationalised through a transparent multi-dimensional investment appraisal framework, with minimum technical, financial, economic, environmental, social and governance gates before capital commitment. This would reduce the risk of selecting projects primarily because they are financially attractive while overlooking infrastructure that may generate significant wider economic value.

172. The Fund should therefore maintain a dedicated project-preparation function covering,

(i) feasibility and demand studies;
(ii) engineering and technical studies;
(iii) land and site readiness;
(iv) environmental and social assessments;
(v) financial and commercial structuring;
(vi) risk allocation;
(vii) transaction preparation; and
(viii) procurement readiness.

173. The NIF should establish a central, continuously updated information system covering its project pipeline and portfolio. The stakeholder noted that at minimum, this should enable decision-makers to understand:

(i) project readiness;
(ii) estimated cost and financing requirements;
(iii) demand and revenue assumptions;
(iv) risks and mitigations;
(v) implementation progress;
(vi) asset condition and performance;
(vii) financial performance; and
(viii) development outcomes.

174. This would allow the Fund to move from project-by-project decision-making towards portfolio intelligence and evidence-based capital allocation.

175. Olyvia supported the Policy's emphasis on commercial discipline and political independence. This should be reinforced through clearly documented investment decisions, independent technical and financial assurance, conflict-of-interest controls and published performance reporting. The Fund should be sufficiently independent to reject projects that do not meet its investment standards, while retaining a structured

mechanism through which Government may support strategically important projects that require appropriate public intervention.

176. They proposed project and portfolio performance to also track:
    (i) service delivery;
    (ii) cost and schedule performance;
    (iii) asset reliability;
    (iv) lifecycle performance;
    (v) resilience;
    (vi) local economic impact;
    (vii) environmental and social outcomes; and
    (viii) realized versus projected investment assumptions.
177. This will allow the Fund to learn from completed investments and improve subsequent investment decisions.

3.2.10 CPF Group

Through a written memorandum, CPF submitted as follows;

178. **On Section 2.1 – Commercial viability**, CPF noted that the policy should provide for a more comprehensive assessment of commercial viability, including, as applicable, IRR, DSCR/debt capacity, positive NPV, project-specific bankable revenues/offtake, completed feasibility studies, technical readiness, creditworthiness of counterparties, affordability and value for money. These should be applied proportionately depending on the asset class and investment structure. They submitted that the current commercial viability test should be on how the Fund will genuinely determine whether a project is capable of supporting greater private-sector participation.
179. On **Section 2.2 – General investment criteria: financial return**, CPF observed that the proposed 7% minimum requires further clarification. They noted that if the proposed return of 7% is maintained, it becomes the actual expected equity return presented to the Fund and potentially influence the quality of projects Fund's ability to attract institutional capital. They recommended that the Policy adopts a risk-adjusted return framework for equity, senior debt, subordinated debt, quasi-equity and other investment structures, taking into account project-specific risk, construction/development risk, illiquidity, inflation and currency risk where relevant.

180. Additionally, they noted that the Fund is intended to mobilise private and institutional capital. A return framework materially below market, could create an expectation that the fund is willing to provide concessional capital and could ultimately affect the quality of its pipeline and ability to attract co-investors.
181. On the **General investment criteria – non-recourse project debt**, CPF proposed clarifying that project debt should, as a general principle, be non-recourse to the Fund and secured against the relevant project/SPV assets, rights and cash flows.

This should not prevent a private sponsor/promoter from providing completion support, guarantees or additional security where appropriate, subject to the Fund's risk-management and contingent-liability framework. This proposed non-recourse debt requirement is an important protection for the Fund and should be clearly ring-fenced at Fund level.

182. On **Proposed projects**, CPF observed that the Fund should not become a mechanism for transferring or historically poorly performing projects. They recommended requiring every existing or proposed project to undergo a fresh and independent technical, commercial, legal, and financial appraisal before NIF investment. This should include cost-to-complete, outstanding liabilities, contractual position, demand/offtake, revised project economics, implementation risks, land, regulatory and procurement issues.
183. On **Incomplete projects**, CPF stated that existing incomplete or stalled projects should not automatically qualify for NIF financing simply because they are already Government projects. They proposed introducing a clear re-entry test for incomplete/stalled projects. Only projects that demonstrate renewed technical, commercial and financial viability following independent appraisal should qualify. The assessment should also consider whether restructuring, refinancing, rebidding or alternative financing would provide a better outcome before NIF capital is committed.
184. On **Asset allocation and portfolio distribution, CPF** noted that the proposed exposure limits are useful, but concentration risk can arise beyond the sector and single-project limits through common sponsors, counterparties, revenue sources or correlated sectors. They proposed strengthening the concentration-risk framework to cover sector, project, sponsor/counterparty and correlated exposures, together with periodic stress testing and scenario analysis.
185. On **Section 25(2)(f) – Sector and project exposure limits,** CPF submitted that nationally significant projects may, in exceptional circumstances, require exposure above the prescribed limits. However, exceptions should not undermine the diversification framework. They recommended retaining the prescribed limits but introduce a clear exception mechanism requiring documented justification, assessment of the impact on the overall portfolio, enhanced due diligence, appropriate risk mitigation and approval at the appropriate governance level.
186. On Section 25(4) – Risk management framework, CPF stated that the Act requires a formal risk-management framework. Given the nature of infrastructure investments, the IPS should provide sufficient direction on the key risks to be addressed. The framework should expressly cover credit, market, liquidity, construction, operational, legal/regulatory, counterparty, concentration, currency, refinancing and contingent-liability risks, together with stress testing, monitoring, early-warning indicators and escalation thresholds.
187. On **Section 19 – Investment structures,** CPF stated that the Fund needs sufficient structuring flexibility to allocate risk appropriately and attract private capital rather than relying predominantly on direct equity investment. They recommended that the policy should expressly encourage appropriate use of SPVs, project finance,

co-investment structures, pooled vehicles, securitisation, project bonds and other capital-markets instruments, where appropriate, to improve risk allocation and crowd in private and institutional capital.

188. **On Section 19 – Credit enhancement, CPF** observed that catalytic role can be significantly strengthened through appropriate credit-enhancement structures that reduce risk for private investors.

189. **On Section 32(2) – Project structuring and preparation, the** stakeholder noted that the ability to mobilise private capital will depend significantly on whether projects are sufficiently prepared before being presented for investment. They proposed providing for appropriate resources for feasibility studies, technical, legal and financial structuring, transaction advisory and project-development costs, with the objective of creating an investment-ready pipeline capable of reaching financial close.

190. **On Section 33 – Feasibility studies,** CPF stated that a feasibility study should establish not only whether a project is technically and economically desirable, but whether it is capable of being financed and implemented. They proposed linking the feasibility assessment more directly to investment approval and require consideration of the financing plan, revenue model, debt capacity, proposed risk allocation, bankability and route to financial close, alongside the statutory technical, legal, social, economic and environmental considerations.

191. **On Section 34 – Government support measures,** CPF observed that Government support can materially improve project bankability but may also create contingent fiscal liabilities. Government guarantees, letters of support, letters of credit and other support measures should be quantified, risk-assessed, appropriately approved and monitored, with clear limits on the Fund's exposure and the resulting contingent liabilities.

192. **On Section 1.3 – Catalytic objective,** CPF highlighted that the catalytic mandate is important, but it should not become a basis for funding projects that are otherwise commercially unviable. They recommended allowing the Fund to accept a lower direct financial return where there is a demonstrable catalytic benefit, such as significant third-party capital mobilisation, project de-risking or market creation. Such investments should require explicit approval, defined financial and development metrics and a clear rationale for the return concession.

193. On **Section 1.3 / capital mobilisation objective,** CPF was of the view that the success of the Fund should be assessed not only by the amount of NIF capital deployed but also by the amount of additional private and institutional capital it mobilises. They proposed a capital mobilisation/crowding-in KPI, including the ratio of private/institutional capital mobilised to NIF capital committed, with a clear methodology distinguishing capital committed from capital actually invested.

194. On **Performance management/section 25(4),** CPF stated that given the national importance of the Fund, the key performance indicators should be sufficiently clear to assess whether the Fund is delivering on both its commercial and catalytic infrastructure objectives. They proposed including clear KPIs covering financial

returns, capital mobilised, projects reaching financial close, preservation, capital deployment, project completion, defaults/impairments and portfolio concentration, catalytic/development outcomes. Financial and performance indicators should be separately measured.

195. On **Section 24 – Business plan, CPF** stated that the annual business plan should translate the Investment Policy into a practical investment programme. They proposed requiring the business plan to set out the investment pipeline, project-readiness status, capital deployment targets, expected returns, capital mobilisation targets, and capital requirements, with performance monitored against these targets.
196. On **Investment horizon/capital recycling,** the stakeholder was of the view that Infrastructure investments are long-term and illiquid. The Fund's ability to recycle capital will be important to its long-term sustainability and ability to finance subsequent projects.
197. They proposed having an exit and capital-recycling strategy, particularly for equity and quasi-equity investments. Potential mechanisms could include refinancing, strategic/institutional investor exits, capital-markets transactions, asset sales or other appropriate exit assumptions should form part of the original investment case.
198. **On Section 19 / Institutional capital mobilization**, CPF proposed that the Fund should ideally operate as an anchor investor and catalyst for institutional capital rather than becoming the principal or sole source of financing for projects. CPF proposed encouraging co-investment platforms and capital-markets structures that enable pension funds, insurers, banks, DFIs and other institutional investors to invest alongside or through the Fund. The Fund should be able to take an anchor position where this materially improves the ability to achieve financial close.
199. On **Portfolio liquidity / treasury management,** CPF was of the view that the policy should provide principles for liquidity and treasury management, including appropriate temporary liquidity investments with the approved investment pipeline and expected funding requirements.
200. **On Investment governance,** CPF noted that a commercially driven Fund requires clear investment decision-making and appropriate protection against conflicts and deviations from the approved investment framework. They proposed clearly establishing investment approval thresholds, delegated authority, escalation requirements and conflict-of-interest controls, including a requirement for material deviations from approved investment criteria or exposure limits to receive appropriate approval and reporting.
201. On **Reporting and transparency,** CPF highlighted that reporting should enable the Government, Parliament and institutional investors to assess whether the Fund is delivering financial returns and its intended infrastructure impact. They recommended that in addition to statutory reporting, provide for transparent reporting of capital committed and deployed, financial performance, private capital mobilised, project status, portfolio concentration, impairments/defaults and material contingent liabilities, subject to legitimate commercial confidentiality.

3.2.11 EMSI & Associates Advocates LLP

Through a written memoranda EMSI submitted as follows;

202. EMSI submitted that the version of the Investment Policy tabled as Sessional Paper No. 7 of 2026 may be incomplete on its own terms. They noted that the Table of Contents lists only a Foreword, Preface, Abbreviations, Executive Summary, four chapters and one appendix, yet the appended Compliance Checklist and Key Board Policy Decisions annex refer to a Project Preparation section, an Infrastructure Investment Framework, a Technical Integrity Principle, an Investment Decision Framework, an Infrastructure Governance Framework, a political independence clause, and a five-dimensional performance framework, none of which appear in the 22-page document as tabled.

203. EMSI stated that this gap is particularly significant because the Compliance Checklist records an 'Aligned' self-assessment against sections 32 and 33 of the Act, concerning feasibility studies and project preparation, despite the supporting text not being before Parliament. EMSI recommended requiring the Governing Council and Treasury to confirm in writing that the tabled version is complete, submit the missing sections or correct the annex's cross-references, suspend the ninety-day consideration period under section 27 until completeness is verified, and provide a corrected, fully paginated version of the Policy.

204. EMSI observed that the Investment Policy does not satisfy section 25(2)(b) of the Act, which requires the Policy to specify proposed projects in addition to priority sectors. They stated that paragraph 3.2, titled '*Proposed Projects*', restates sector categories rather than naming any project, pipeline or investment opportunity, and that the Policy's general investment criteria, a minimum 7 percent equity return and a 60 percent non-recourse debt capacity threshold, are investment screening criteria rather than the project-specific expected rates of return required by section 25(2)(d).

205. EMSI recommended that;

(i) the Governing Council append a defined project list or a documented project-identification methodology with a near-term pipeline,

(ii) provide indicative project-level or sector-level expected returns distinguishable from the general screening criteria, and

(iii) confirm that any future addition of named projects outside the approved policy will be treated as a substantive amendment under section 30 rather than being implemented through administrative action.

206. EMSI submitted that the Investment Policy expands the Fund's mandate beyond the statutory definition of 'national infrastructure' in section 2 of the Act. They noted that paragraph 3.2(b) extends the energy category to petroleum, oil, gas, refineries, pipelines and LNG infrastructure, none of which fall within the statutory definition, which is confined to electricity generation, transmission and distribution. Additionally, they stated that paragraph 3.2(f) creates an open-ended 'Other National Priority

Infrastructure' category that the Governing Council may expand without express parliamentary approval. Further, paragraph 1.1 uses the term 'catalytic national infrastructure', a phrase featured in the NIF Bill but was not carried into the enacted Act.

207. EMSI further submitted that the recently enacted Sovereign Wealth Fund Act, 2026 establishes a Strategic Infrastructure Investment Component with a broader, more open-ended mandate than the NIF Act's closed list, creating a material risk of overlap, competing project pipelines and duplicated public capital deployment between the two vehicles. They recommended that paragraph 3.2(b) be strictly aligned with the statutory definition, the term 'catalytic national infrastructure' be replaced with the statutory term, that any designation under paragraph 3.2(f) require National Assembly ratification or a formal amendment under section 30, and that Treasury table a coordination framework clarifying the division of responsibilities between the NIF and the Sovereign Wealth Fund's Strategic Infrastructure Investment Component.

208. EMSI observed that the Investment Policy does not address the reporting and disclosure obligations under section 35, the dual-account structure at the Central Bank **of** Kenya under section 40, the expenditure-control mechanism under section 41, or the withdrawal restrictions under section 42, which operate alongside Article 228(5) of the Constitution.

209. **EMSI** stated that these are not among the Policy's mandatory content requirements under section 25(2), but they are key safeguards over the custody and expenditure of Fund assets, and that omission could imply the existence of broader governance, treasury-management and control frameworks through which these statutory safeguards are intended to be operationalized.

210. EMSI recommended that the Governing Council confirm in writing that these statutory controls have been incorporated into the Fund's governance instruments, identify the specific instruments implementing them, provide the Committee with a summary of those arrangements, and ensure future Investment Policies describe the Fund's principal statutory financial controls on their face.

211. **EMSI** submitted that the Policy's 40% sector exposure cap and 20% single-project exposure cap permit substantial concentration relative to the Fund's narrow sectoral universe. They noted that an equally weighted allocation across the Act's eight sectors would be approximately 12.5% each, so a 40% cap allows concentration at more than three times that level, and that a 20% single-project limit means as few as five projects could account for the entire portfolio. Based on the approximately KES 310.3 billion of anticipated seed capital identified in the FY 2026/27 Budget Statement, EMSI calculated that a single project could absorb approximately KES 62 billion and a single sector approximately KES 124 billion.

212. The stakeholder highlighted that these thresholds are policy choices by the Governing Council rather than statutory requirements, since sections 25(2)(e) and (f) require the Policy to address diversification and risk management without prescribing

numerical limits. EMSI recommends that the Governing Council justify the thresholds with portfolio modelling and pipeline analysis, submit sensitivity analyses for early-stage concentration scenarios, consider a lower single-project limit of 10 to 15 percent during the Fund's formative years with graduated increases tied to asset growth, require exposure compliance to be measured at each reporting date rather than only at approval, and cross-reference the limits to the statutory Risk Management Framework.

213. EMSI submitted that the Investment Policy introduces an 'Investment Strategy' as a Board-level implementation instrument that has no basis anywhere in the Act. They stated that, as drafted, this instrument could become the primary document shaping investment selection and portfolio construction while sitting outside the governance framework established under sections 25 to 31, without a specified legal status, approval process, content requirement or reporting obligation.

214. EMSI recommended that-

(i) the Governing Council either remove reference to the Investment Strategy and rely solely on the Annual Business Plan and Risk Management Framework.

(ii) Or, if it is retained, require Governing Council approval in addition to Board approval, provide the Committee with a copy or framework description of it, and

(iii) if operationally necessary, pursue a future legislative amendment in the Act expressly establishing it.

215. EMSI submitted that the Policy's Treasury Management Framework, governing capital awaiting deployment, is undefined by the Act, which recognises only a Risk Management Framework requiring Governing Council approval under section 25(4). EMSI noted that paragraph 2.1 of the Policy omits the requirement that the Risk Management Framework receive Governing Council approval before taking effect, and that this matters because a substantial share of the Fund's approximately KES 310.3 billion in anticipated seed capital, from the Kenya Pipeline privatisation and the proposed partial divestiture of the Government's Safaricom stake to Vodacom, may sit uninvested for extended periods, exposed to cash-management, liquidity, custodial, counterparty and interest-rate risk under a framework lacking clear statutory footing.

216. EMSI recommended that paragraph 2.1 be amended to require Governing Council approval of the Risk Management Framework, that

(i) the Treasury Management Framework and Treasury Policies be integrated into the statutory Risk Management Framework rather than maintained as separate instruments,

(ii) both frameworks be tabled before the Committee given the scale of resources involved, and

(iii) the governance hierarchy between the Policy, the Risk Management Framework and Board-level procedures be clarified.

217. EMSI stated that the Policy appears to introduce a capitalization source not found in section 38 of the Act, which sets out an apparently exhaustive list of three sources: privatisation proceeds, proceeds from the sale of shares in a government-linked corporation under section 87A of the PFM Act, and the Fund's own investment income. EMSI noted that page 6 of the Policy nonetheless describes the Fund as capitalised from privatisation proceeds 'and other strategic capital allocations by the Government', an undefined phrase capable of being read as direct budgetary transfers, Exchequer injections or special appropriations not authorised by section 38.

218. EMSI recommended that;

(i) the phrase be deleted or replaced with an express cross-reference to section 38(a) to (c), or, if direct government capital support is intended,

(ii) Treasury provide the statutory authority for it, clarify whether any future government capital contributions are anticipated beyond section 38, and

(iii) confirm that any expansion of funding sources would require amendment of the Act rather than policy language alone.

219. EMSI submitted that the Policy's seven investment principles, commercial discipline, commercial viability, financial sustainability, capital mobilisation, technical integrity, responsible stewardship and national development, are not defined, not linked to measurable indicators, and are not connected to the five General Investment Criteria in paragraph 2.2 in any way. EMSI stated that, as drafted, the principles operate as statements of aspiration rather than enforceable standards capable of constraining the Board's investment discretion.

220. EMSI recommended that;

(i) each principle be given an operative definition or cross-referenced to the provisions implementing it,

(ii) measurable indicators be attached to each, such as a minimum private-sector co-investment ratio for capital mobilisation,

(iii) paragraph 2.2 state expressly that the General Investment Criteria are the minimum operational implementation of the principles,

(iv) additional criteria be considered, including sector alignment, local content, technology transfer and capacity building reflecting section 4(d) of the Act, and

(v) annual reporting under section 35 demonstrate how each approved investment satisfied both the principles and the criteria.

221. EMSI also submitted that paragraph 2.3, which allows investments falling short of the General Investment Criteria to proceed where Government Support Measures are provided, does not restate the statutory limits in section 34(2), under which such measures are permitted only to reduce political-risk premiums or to underwrite approved commercial risks under a negotiated project agreement. They observed that omitting these limits risks Government Support Measures being used generally to compensate for weak commercial fundamentals, and that such measures do not eliminate public-sector risk but convert it into a contingent liability of the national government, which defeats the purpose stated in section 4 of the Act if left undisclosed.

222. The stakeholder recommended that;

(i) paragraph 2.3 expressly cross-reference section 34(2),

(ii) Government Support Measures be confirmed as not constituting a general exemption from the commercial-viability, financial-return or technical-readiness requirements,

(iii) annual disclosure under section 35 cover the aggregate value, form, beneficiary projects and corresponding contingent liabilities of such measures,

(iv) an explicit exposure limit or participation cap be introduced, and

(v) the Risk Management Framework monitor aggregate contingent-liability exposure across the whole portfolio rather than project by project.

223. EMSI further submitted that Chapter 4's five performance dimensions, financial performance, capital deployment, capital mobilisation, portfolio quality and national development outcomes, are appropriate categories but carry no quantitative measures, reporting thresholds or baselines in the Policy itself. They noted that performance indicators are instead left to the Annual Business Plan, an instrument not subject to the same Cabinet and parliamentary approval process as the Investment Policy, so that material performance expectations could shift from one Business Plan cycle to the next without corresponding review.

224. They recommended that at least one headline KPI be embedded in the Policy for each of the five categories, for example a minimum blended portfolio-return target for financial performance and a private-capital-mobilisation ratio for capital mobilisation, that Annual Business Plan KPIs be required to align with and report against these headline indicators, that independent verification by the Auditor-General or another authorised reviewer be required, and that annual reporting explain any material deviation from approved targets.

225. **EMSI** submitted that Appendix I of the Policy states that 'Investment Authority' is delegated through the Board Charter, an instrument not disclosed to Parliament, without specifying the extent of the delegation, to whom it is made, reporting obligations, or how the Board retains accountability. They noted that sections 18 and

19 of the Act vest governance and investment powers directly in the Board, and submits that deferring investment authority to an unpublished Charter creates uncertainty over who may ultimately authorise the commitment of Fund capital.

226. EMSI recommended that;

(i) any delegation be confined to Board committees under the framework contemplated by section 21, such as an investment committee, and remain subject to Board approval unless Parliament expressly authorises broader delegation by amending the Act;

(ii) delegation to management, external advisers or third parties be confirmed as impermissible except where expressly permitted by law; and

(iii) material delegation thresholds and reserved matters be disclosed within the Policy itself rather than left to an unpublished governance document.

227. On capitalisation, EMSI noted that the FY 2026/27 Budget Statement identifies approximately KES 310.3 billion in seed capital, KES 106.3 billion from the Kenya Pipeline Company IPO and approximately KES 204 billion from the proposed partial divestiture of the Government's Safaricom stake to Vodacom, which remains modest against Treasury's own stated infrastructure financing gap of approximately USD 5 billion, or roughly KES 647 billion, a year. EMSI submitted that the Fund's future capitalisation depends on the timing of further privatisation transactions, the Government-Owned Enterprises Act, 2025, and regulations under section 48 of the Act whose status remains unclear, and cautions that if Government Support Measures become routine rather than exceptional, the practical effect may be to transfer fiscal risk rather than eliminate it.

228. On institutional overlap, EMSI noted that the Fund will operate alongside the Public-Private Partnerships programme under the PPP Act and the Strategic Infrastructure Investment Component under the Sovereign Wealth Fund Act, and submitted that without a clear division of mandates there is a risk of duplicated project origination, fragmented governance, competition for scarce capital and inconsistent investment decisions. EMSI recommended that Treasury explain how the Fund will scale toward closing the financing gap, incorporate Government Support Measures into fiscal-risk and debt-sustainability reporting, table a coordination framework covering the NIF, the PPP programme and the Sovereign Wealth Fund's Strategic Infrastructure Investment Component, provide a timeline for regulations under section 48, and confirm the governance and reporting measures that will apply while capital is being accumulated.

3.2.12 Dhamana Guarantee Company Limited

Through a written memoranda, Dhamana submitted as follows;

229. Dhamana stated that it supports the establishment of the Fund and its objectives. Dhamana recommended that the Policy should expressly recognise guarantees, credit enhancement, contingent capital facilities and other risk-sharing mechanisms as eligible instruments through which the Fund may leverage public capital to mobilise private investment.

230. They stated that the Policy authorise the Fund to allocate a portion of its capital to a National Infrastructure Guarantee and Risk-Sharing Window. This window would provide contingent backstop support to approved credit enhancement providers, such as Dhamana itself, enabling infrastructure bonds and project finance debt to be guaranteed and placed with domestic institutional investors, including pension funds, insurers and banks.

231. Dhamana highlighted that it had earlier proposed to the Government of Kenya a de-risking arrangement under which a portion of the Fund would be retained as a contingent capital facility or de-risking tranche, with Dhamana issuing guarantees to investors and the Fund's de-risking tranche operating as a contingent reimbursement or risk-sharing backstop in the event of defined claims.

232. They observed that this model is consistent with the Policy's stated objectives because it allows public capital to be leveraged multiple times rather than spent once, supports local currency financing, mobilises pension fund capital, and reduces the need for direct public borrowing.

233. Dhamana recommended amendments to the Investment Policy as follows:

(i) Recognise guarantees, credit enhancement, contingent capital and risk-sharing facilities as eligible deployment tools. They stated that the Fund can crowd in private capital rather than relying only on direct investments.

(ii) Create a National Infrastructure Guarantee and Risk-Sharing Window within or alongside the Fund. They noted that, Dhamana and other approved partners can de-risk infrastructure assets and mobilise domestic capital.

(iii) Permit supported projects to issue guaranteed infrastructure bonds, notes and asset-backed securities. The stakeholder observed that Pension funds, insurers and asset managers obtain investable infrastructure products.

(iv) Allow Treasury-supported payment support and reimbursement frameworks for public-sector obligations. They stated that this will reduce investor concern over government, county or SOE payment delays.

(v) Create a development risk and project preparation facility. A stronger pipeline of bankable, financeable and investment-ready projects.

(vi) Adopt mobilisation ratios and private capital participation as performance indicators. The Fund is assessed by capital catalysed, not only capital deployed.

(vii) Prioritise KES-denominated financing and credit enhancement. They stated that this will reduce foreign exchange risk and deeper domestic capital markets.

234. Dhamana submitted that, without express recognition of guarantee and risk-sharing instruments, the Policy carries several risks. They stated that the Fund may become simply a public investment vehicle rather than a platform that systematically crowds in banks, pension funds, insurers and other private investors, and that commercially important projects may fail to reach financial close where the Policy provides no structured tools to bridge credit, revenue or completion risk gaps.

235. Further, Dhamana observed that investors may remain cautious where projects depend on payments from government entities, counties, utilities or state-owned enterprises, that domestic banks may be unable or unwilling to provide financing tenors matched to project cash flows without credit enhancement or refinancing support, and that projects with construction exposure may remain unsuitable for pension funds unless backed by completion and performance support mechanisms. Additionally, project preparation may stay underfunded absent development risk capital, and that foreign currency borrowing may expose projects to depreciation risk while the absence of refinancing mechanisms could trap bank liquidity and limit project scale.

236. Dhamana proposed that contingent capital be expressly recognised as an eligible Fund deployment modality, permitting the Fund to allocate a portion of its resources to contingent capital facilities, risk reserves or guarantee support arrangements.

237. Additionally, they proposed that the Fund establish a dedicated Guarantee and Risk-Sharing Window supporting partial credit guarantees, bond guarantees, payment guarantees, refinancing guarantees, portfolio risk-sharing and project development guarantees, governed by clear eligibility, pricing, claims, monitoring and reporting rules. They stated that the Policy should create a category of approved capital mobilisation and risk-sharing partners, including financial guarantors, development finance institutions, credit enhancement providers and qualified infrastructure financing intermediaries.

238. Dhamana proposed that the Policy expressly permit Fund-supported projects to issue guaranteed infrastructure bonds, project bonds, green bonds, climate bonds, municipal bonds and asset-backed infrastructure securities, to create investable instruments for pension funds and insurers. They also proposed that, where the Fund supports a contingent facility, the Policy require pre-agreed Treasury reimbursement arrangements, reserve account mechanics, payment waterfalls and claim settlement procedures, that mobilisation performance be measured through indicators covering private capital mobilised, pension fund participation, guarantees issued, infrastructure bonds placed, refinancing volumes and leverage ratios achieved, and that the Fund

prioritise Kenya Shilling-denominated financing where commercially feasible to reduce foreign exchange exposure and deepen domestic capital markets.

239. Dhamana's included four supporting annexes. Annex I sets out a Risk-to-Guarantee Mechanism Matrix, mapping eight categories of project risk, including bankability, institutional investor participation, government or offtake payment risk, construction and completion risk, refinancing risk, bank portfolio capacity risk, project preparation risk and currency risk, to a corresponding Dhamana guarantee mechanism and the policy implication of recognising it.

240. Annex 2 sets out Dhamana's proposed NIF-Dhamana Contingent De-Risking Facility as an eight-step process: the Fund allocates a portion of its capital to a contingent de-risking tranche or risk reserve; Dhamana is appointed as a risk-sharing and credit enhancement partner under objective eligibility criteria; eligible projects, SPVs, state-owned enterprises, counties, PPPs or utilities issue KES-denominated debt instruments or obtain bank debt; Dhamana guarantees timely payment of principal and interest to bondholders, lenders or trustees; pension funds, insurers, banks and asset managers invest in the guaranteed instrument; Dhamana pays investors promptly if a defined payment default occurs; Dhamana is reimbursed, to the extent agreed, from the Fund's contingent de-risking tranche, reserve account or reimbursement facility; and the Fund reports capital mobilised, guarantee exposure, claims, recoveries, leverage ratios and development impact.

241. Annex 3 cites four international precedents Dhamana stated support recognising guarantee mechanisms in the Policy: InfraCredit in Nigeria, for local currency infrastructure bond guarantees; the African Development Bank's partial risk and partial credit guarantee facilities; Brazil's IDB-supported public-private partnership guarantee structures for government and public entity payment obligations; and Indian credit enhancement and refinancing models for long-tenor infrastructure financing.

242. Annex 4 sets out proposed conditions and safeguards for the Guarantee Window, namely objective eligibility criteria on commercial viability, public benefit, legal due diligence and environmental and social compliance; independent underwriting through credit, legal, technical and ESG review; risk-based guarantee pricing; exposure limits by project, sector, sponsor, county, offtake and guarantee provider; a defined claims process with triggers, cure periods, payment timelines and reserve account arrangements; annual transparency and reporting; and a safeguard that Dhamana remains an active risk underwriter, so that NIF support does not create automatic or unlimited government liability.

CHAPTER FOUR

4.0 COMMITTEE OBSERVATIONS

243. The Committee, having considered Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy and having engaged relevant stakeholders, makes the following observations:

4.1 Investment Policy Framework

(i) THAT, the Sessional Paper does not provide a comprehensive investment policy framework to guide the Fund in making investment decisions in a consistent, transparent and prudent manner. In particular, the Sessional Paper does not clearly set out the key investment guardrails relating to eligible and priority infrastructure sectors, project selection and ranking criteria, commercial viability, financial returns, capital mobilisation and additionality, portfolio allocation, sector and project exposure limits, leverage and borrowing, risk management, liquidity and treasury management, governance and conflict-of-interest safeguards, and monitoring, evaluation and reporting.

(ii) The Committee notes that the absence of these overarching parameters could result in inconsistent investment decisions and expose the Fund to unnecessary financial, operational and governance risks. The Committee therefore recommends that the Sessional Paper be amended to provide for a comprehensive investment policy framework establishing the principal investment guardrails applicable to the Fund and to enable the Board to operationalize detailed investment policies in line with the Fund's mandate and national infrastructure priorities.

4.2 Demand Validation

(iii) THAT, the Sessional Paper does not adequately address the need to establish whether the intended users or consumers of a proposed infrastructure project have both the ability and willingness to pay for the services to be provided. The Committee notes that infrastructure projects may have technically sound designs and strong projected demand but may nevertheless fail to generate sustainable revenues if the proposed users cannot afford the applicable charges or are unwilling to pay them. The Committee further notes that an assessment of ability to pay and willingness to pay is important in determining appropriate tariffs, user charges, revenue projections and ultimately the commercial viability of a project. The Committee therefore recommends that the Sessional Paper be amended to require demand validation to include an assessment of the ability to pay and willingness to pay of the target consumers or users of the project.

4.3 Commercial Viability and Project Leverage

(iv) THAT, the Sessional Paper does not provide sufficient clarity on the minimum commercial-viability requirements for projects or the treatment of proposals that depart from Board-approved financing parameters. The Committee noted that

requiring projects to demonstrate capacity to support a minimum level of non-recourse project debt would provide an objective measure of bankability, while strategically important projects may, in exceptional circumstances, require restructuring or Government Support Measures to improve their commercial viability. The Committee further observed that any departure from approved financing parameters should be properly justified and assessed to ensure that the Fund is not exposed to disproportionate financial and commercial risks. The Committee therefore recommends that the Sessional Paper be amended to prescribe a minimum 60% non-recourse project-debt requirement relative to total project cost, provide for appropriate project restructuring or Government Support Measures for strategically important projects that do not meet the threshold, and require any other departure from Board-approved financing parameters to be supported by a documented assessment of the associated risks, returns, debt-service capacity, Fund exposure and capital-protection measures.

4.4 Financing Structure Deviations

(v) THAT, the Sessional Paper does not provide sufficient guidance on the treatment of investment proposals that depart from Board-approved financing parameters. The Committee noted that while flexibility may be necessary for projects with strategic or developmental significance, such departures may increase the Fund's financial and credit risks and should therefore be supported by clear justification and risk assessment. The Committee therefore recommends that the Sessional Paper be amended to require any departure from Board-approved financing parameters, other than the minimum project-debt requirement under the Policy, to be justified in the investment appraisal, including an assessment of the incremental risks, impact on expected returns, debt-service capacity and Fund exposure, together with measures to protect the Fund's capital.

4.5 Financial Returns

(vi) THAT, the Sessional Paper currently appears to treat the prescribed 7% return as the applicable benchmark without sufficiently distinguishing between a minimum capital-preservation threshold and the Fund's target commercial return. The Committee noted that investment decisions should require a positive risk-adjusted expected equity return, taking into account the risks associated with each project, and that the 7% threshold should serve as an absolute minimum rather than the Fund's target return. The Committee further observed that strategically important projects may, in exceptional circumstances, require project restructuring or Government Support Measures to achieve the minimum return, and that projects which remain unable to meet the minimum threshold may be more appropriately supported through the Government's fiscal or budgetary framework. The Committee therefore recommends that the Sessional Paper be amended to require a positive risk-adjusted expected equity return, subject to an absolute minimum expected equity return of 7%, clarify that the 7% threshold is a capital-preservation

floor and not the Fund's target commercial return, and provide for project restructuring or applicable Government Support Measures for strategically important projects, with projects that remain below the minimum threshold being considered through the appropriate Government fiscal or budgetary framework.

4.6 Technical Readiness and Capital Mobilisation

(vii) THAT, the Sessional Paper places emphasis on financial, commercial and regulatory considerations but does not adequately provide for a structured assessment of the technical readiness of proposed infrastructure projects. The Committee noted that a project may be financially viable but may still face significant implementation challenges where its design, technology, site readiness, procurement arrangements or other technical requirements are not sufficiently developed. The Committee further observed that some infrastructure projects may require government support measures before they can reach financial close or commence implementation. The Committee therefore recommends that the Sessional Paper be amended to provide that technical readiness shall be assessed against a technical readiness framework developed by the Board and that the assessment shall also establish whether the project will require government support measures.

4.7 Risk Management

(viii) THAT, the Sessional Paper does not provide sufficiently detailed requirements for the assessment of the major risks associated with individual infrastructure projects. The Committee noted that infrastructure investments are exposed to multiple and interconnected risks that can affect project costs, completion, revenues, operations, debt repayment and ultimately the Fund's expected returns. The Committee was of the view that a comprehensive risk assessment should form an integral part of project appraisal and approval.

(ix) The Committee further observed that Section 25(4) of the National Infrastructure Fund Act, 2026 contemplates a risk management framework for the Fund. The Committee noted that the risk management framework appears to be a distinct requirement from the matters specified under Section 25(2). However, the Committee was of the view that, to the extent that risk management forms part of the investment criteria and guardrails of the Investment Policy, it should be expressly incorporated into the Sessional Paper to provide a clear basis for assessing project risks and protecting the Fund's capital. The Committee therefore recommends that the Sessional Paper be amended to require projects to comply with the risk management framework and demonstrate adequate assessment of financial, construction and completion, operational, user demand, legal and regulatory, environmental and social, political, foreign-exchange and interest-rate risks, together with any other material project-specific risks.

4.8 Government Support Measures

(x) THAT, the Sessional Paper does not adequately provide for the assessment and disclosure of contingent liabilities that may arise where a project benefits from government support measures. The Committee noted that government guarantees, commitments, undertakings or other forms of support may create financial obligations or exposures over the life of a project, even where such obligations do not arise immediately. The Committee was of the view that such potential liabilities should be identified and quantified at the project appraisal stage to facilitate proper assessment of fiscal and financial risks. The Committee therefore recommends that the Sessional Paper be amended to provide that a project which obtains government support measures shall include the estimated contingent liabilities for the duration of the project.

4.9 Proposed Projects and Investment Framework under section 25 of the Act

(xi) THAT, section 3.2 of the Sessional Paper does not comprehensively reflect the matters required under section 25 of the National Infrastructure Fund Act, 2026. The Committee noted that section 25(2) uses the mandatory wording that the Investment Policy "shall specify" the prescribed matters. The Committee was therefore of the view that these statutory requirements constitute the substantive yardstick against which the Committee should assess the Investment Policy in determining whether to approve it, decline it, or approve it with amendments.

(xii) The Committee further observed that the Sessional Paper does not comprehensively provide for the proposed projects, expected rates of return on specific projects, asset allocation, portfolio distribution, leverage ratios, the Investment Policy, and exposure limits per sector and project. The Committee therefore recommends that section 3.2 be amended to align the Sessional Paper with the requirements of section 25 of the National Infrastructure Fund Act, 2026 and to ensure that all matters required under the Act are expressly provided for.

4.10 Validity Period of the Investment Policy

(xiii) THAT, Section 25(3) of the National Infrastructure Fund Act, 2026 expressly provides for the validity of the Investment Policy for a period of five years. The Committee noted that the proposal by the National Treasury for an annual review of the Investment Policy may fall outside the scope of the five-year validity period prescribed by the Act. The Committee was of the view that the Sessional Paper should be aligned with the statutory requirement and that any review or adjustment of the Investment Policy should be undertaken in a manner consistent with the Act. The Committee therefore recommends that the Sessional Paper be amended to ensure that the validity and review of the Investment Policy are aligned with the five-year period prescribed under section 25(3) of the National Infrastructure Fund Act, 2026.

4.11 Portfolio Framework and Exposure Limits

(xiv) THAT, the Sessional Paper provided for maximum sector and single-project exposure limits but did not adequately provide for circumstances in which the Board may need to adjust those limits based on the characteristics and strategic importance of particular investments. The Committee noted that rigid application of exposure limits may not adequately account for the correlation between sectors and projects, economies of scale, liquidity requirements or the wider economic impact of strategically important infrastructure investments. The Committee was therefore of the view that the Board should have limited discretion to adjust exposure limits based on objective and demonstrable considerations while maintaining prudent portfolio management. The Committee therefore recommends that the Sessional Paper be amended to provide that the Board may adjust the maximum sector and single-project exposure limits based on an assessment of correlation between sectors and projects, economies of scale, liquidity requirements, and the economic impact of the sector or project on economic growth and employment creation.

4.12Conflicts of Interest

(xv) THAT, the Sessional Paper does not provide sufficiently explicit requirements for the identification and disclosure of actual, potential and perceived conflicts of interest in the appraisal and approval of investment projects. The Committee noted that conflicts of interest may undermine the objectivity and integrity of investment decisions and may expose the Fund to reputational, financial and governance risks. The Committee was therefore of the view that conflict-of-interest disclosure should form part of the project appraisal and approval process, particularly where public or State officers are involved. The Committee therefore recommends that the Sessional Paper be amended to require every project appraisal and approval to be accompanied by a statement disclosing any actual, potential or perceived conflict of interest involving a public or State officer, in accordance with the Conflict of Interest Act.

CHAPTER FIVE

5.0 COMMITTEE'S RECOMMENDATIONS

244. The Committee, having considered Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy and pursuant to the provisions of section 28 (b) of the National Infrastructure Fund Act, No. 4 of 2026, recommends that the House **approves the Sessional Paper with amendments as proposed in the Schedule in Chapter Six of this Report.**

CHAPTER SIX

6.0 SCHEDULE OF AMENDMENTS

The Committee proposes the following amendments to Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy:

(1) CHAPTER TWO — POLICY GUIDELINES

2.1 Purpose and Scope of the Investment Policy

THAT, the Sessional Paper be amended under 2.1 to include the following paragraph-

"The board shall operationalize a comprehensive investment policy framework establishing the principal investment guardrails applicable to the fund, including the following requirements:

(a) eligible and priority infrastructure sectors;

(b) project-selection and ranking criteria;

(c) commercial viability;

(d) financial returns and the methodology for determining required returns;

(e) capital mobilization and additionality;

(f) portfolio allocation;

(g) sector and project exposure limits;

(h) leverage and borrowing;

(i) risk management;

(j) liquidity and treasury management;

(k) governance and conflict-of-interest safeguards; and

(m) monitoring, evaluation and reporting."

Justification: To establish clear investment guardrails for the Fund and ensure that investment decisions are made in a transparent, prudent and consistent manner. It provides a framework for project selection, financial returns, portfolio allocation, exposure limits, risk management, governance, and accountability, while enabling the Board to operationalize detailed investment policies in line with the Fund's mandate and national infrastructure priorities.

(2) INVESTMENT CRITERIA

Demand Validation

THAT, the Sessional Paper be amended under paragraph 2.2 to include the following paragraph—

"In determining demand validation, the project shall provide an analysis of the ability to pay and willingness to pay of the target consumers or users of the project."

Justification: Assessments of the ability to pay and willingness to pay of the target population of users or consumers is critical in determining the appropriate user charges which anchor the commercial viability of the projects.

(3)COMMERCIAL VIABILITY AND PROJECT LEVERAGE

THAT, the Sessional Paper be amended under paragraph 2.2 by deleting the sub paragraph titled "commercial viability and substituting the following new sub-paragraphs-

> *"Commercial viability: A project shall demonstrate capacity to support a minimum of 60% non-recourse project debt relative to total project cost.*
>
> *Where a strategically important project does not meet this threshold, appropriate project restructuring or Government Support Measures permitted under section 34 of the Act may be considered to improve bankability.*
>
> *A project that remains unable to meet the minimum commercial-viability threshold should be considered through the applicable Government fiscal or budgetary funding framework rather than investment by the Fund.*
>
> *Where an investment proposal departs from the Board-approved financing parameters other than the minimum project-debt requirement under this Policy, the investment appraisal shall document the rationale for the departure, incremental risks, impact on expected returns, debt-service capacity and Fund exposure, and the measures proposed to protect the Fund's capital."*

Justification: The proposed amendment strengthens the Fund's investment appraisal by requiring any departure from approved financing parameters to be justified and assessed for its impact on risk, returns, debt-service capacity and Fund exposure. It allows flexibility for strategic projects while ensuring departures are evidence-based, transparent and supported by appropriate risk-mitigation measures, thereby protecting the Fund's capital and reinforcing accountability.

(4)FINANCIAL RETURN

THAT, the Sessional Paper be amended under paragraph 2.2 by deleting the subparagraph titled "financial return" and substituting with the following subparagraph:

> *"Projects shall be required to generate a positive risk-adjusted expected equity return, subject to an absolute minimum expected equity return of 7%.*
>
> *Where a strategically important project cannot meet the minimum return, project restructuring or Government Support Measures permitted under section 34 may be considered where applicable. A project that remains unable to meet the minimum return should be considered through the applicable Government fiscal or budgetary funding framework rather than investment by the Fund."*

Justification: The proposed amendment distinguishes the Fund's minimum capital-preservation threshold from its target commercial return. The 7% minimum provides a prudent floor for investment decisions, while the positive risk-adjusted return requirement ensures that projects are assessed against their underlying risks. It also allows restructuring or Government Support Measures for strategically important projects. Where the minimum return remains unattainable, the project should be considered through the Government's fiscal or budgetary framework, thereby protecting the Fund's capital and maintaining investment discipline.

(5) INVESTOR READINESS AND CAPITAL MOBILISATION

THAT the Sessional Paper be amended under paragraph 2.2 by inserting the following new sub-paragraph immediately after the words '*regulatory approval*' -

"Technical readiness shall be assessed against a technical readiness framework developed by the Board. Further, technical readiness shall also include whether the project will require government support measures"

Justification: To ensure that infrastructure projects are assessed not only on their financial and commercial viability but also on their technical readiness and implementation requirements. Requiring a Board-approved technical readiness framework, including an assessment of any government support measures required, will improve project preparedness, identify implementation risks early, and support more informed investment and capital mobilisation decisions.

(6)RISK MANAGEMENT

THAT, the Sessional Paper be amended under paragraph 2.2 immediately after the words *Risk management framework'* by inserting the following new sub-paragraph—

"Projects shall comply with the framework and demonstrate adequate assessment of major risks, including —

(a) financial risk;

(b) construction and completion risk;

(d) operational risk;

(e) user demand risk;

(f) legal and regulatory risk;

(g) environmental and social risk;

(h) Political Risk;

(i) foreign-exchange risk and interest-rate risk;

(j) any other material project-specific risk."

Justification: to ensure that all projects are subject to a consistent and comprehensive risk assessment before investment decisions are made. Requiring projects to comply with the risk management framework and assess key financial, construction, operational, demand, legal, environmental, political, foreign-exchange, interest-rate and project-specific risks will strengthen due diligence, support informed decision-making, and safeguard the Fund against material risks and potential losses.

(7)GOVERNMENT SUPPORT MEASURES

THAT, the Sessional Paper be amended under Paragraph 2.3 to provide that,

"The project which obtains government support measures shall also include the estimated contingency liabilities for the duration of the project."

Justification: To ensure that projects receiving government support measures properly identify and quantify the potential contingent liabilities arising from such support over the life of the project. This will promote transparency, enable the Fund and Government to assess potential financial exposures, and strengthen fiscal risk management and informed investment decision-making.

(8) CHAPTER THREE — PROPOSED SECTORS AND PROJECTS FOR DEVELOPMENT

*Delete Section 3.2 and replace with the following paragraph: "**a list of proposed projects;** any existing incomplete projects from the previous Investment Policy; the expected rate of return on investment for specific projects; asset allocation, portfolio distribution and leverage ratios; and, exposure limits per sector and project, in accordance with the mandatory provisions of section 25 of the Act."*

Justification: The amendment is necessary to align Section 3.2 with the mandatory requirements of section 25 of the National Infrastructure Act, 2026, and to ensure that the Sessional Paper provides a comprehensive framework for investment planning and oversight. It will promote transparency and accountability by clearly identifying proposed and incomplete projects, expected returns, asset allocation, portfolio distribution, leverage ratios, investment policy and exposure limits, thereby supporting prudent management of the Fund and compliance with the Act.

(9) PORTFOLIO FRAMEWORK AND EXPOSURE LIMITS

THAT, the Sessional Paper be amended by inserting a new paragraph before 3.4—

"The Board may adjust the maximum sector and single project exposure limits based on an assessment of correlation between sectors and projects, economies of scale, liquidity requirements, and economic impact of the sector or the single project on economic growth and employment creation."

Justification: To ensure that the Fund's exposure limits remain responsive to the specific characteristics and economic significance of investments, the amendment provides the Board with flexibility to adjust sector and single-project limits based on correlation, economies of scale, liquidity requirements, and the potential impact on economic growth and employment creation. This will promote prudent portfolio management while allowing the Fund to support strategically important investments.

Insert new section 3.4(a) before 3.5—

3.4(A) Conflicts of Interest

"Each project appraisal and approval shall be accompanied by a statement of actual, potential and perceived conflict of interest of any public officer or state officer in accordance with the Conflict of Interest Act."

Justification: To ensure that project appraisal and approval processes are transparent, objective and free from undue influence, the amendment requires disclosure of any actual, potential or perceived conflict of interest involving public or State officers in accordance with the Conflict of Interest Act. This will strengthen governance, promote accountability and protect the integrity of the Fund's investment decisions.

SIGNED.....**DATE**.....27th August 2026

HON. FCPA KURIA KIMANI, CBS, MP
CHAIRPERSON
DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – FIFTH SESSION - 2026
DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

ADOPTION LIST

REPORT ON SESSIONAL PAPER NO. 7 OF 2026 ON THE NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY

We, the Members of the Departmental Committee on Finance and National Planning have pursuant to Standing Order 199, adopted this Report and affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity today, ***Wednesday, 26th August 2026.***

S/NO.	NAME	SIGNATURE
1.	HON. FCPA. KURIA KIMANI, CBS, MP - **CHAIRPERSON**	
2.	HON. FCPA (AMB). BENJAMIN KIPKIRUI LANGAT, MP – **VICE CHAIRPERSON**	
3.	HON. KALUMA PETER OPONDO, CBS, MP	
4.	HON. GEORGE SUNKUYIA RISA, MP	
5.	HON. FCPA JOSEPH MAERO OYULA, OGW, MP	
6.	HON. ANDREW ADIPO OKUOME, MP	
7.	HON. DAVID MWALIKA MBONI, MP	
8.	HON. CHIFOROMODO MANGALE MUNGA, MP	
9.	HON. GATHONI WA MUCHOMBA, HSC, MP	
10.	HON. (CPA) JULIUS KIPLETTING RUTTO, MP	
11.	HON. PAUL KIBICHIY BIEGO, MP	
12.	HON. UMUL KER SHEIKH KASSIM, MP	
13.	HON. DR. SHADRACK MWITI ITHINJI, MP	
14.	HON. DR. JOHN ARIKO NAMOIT, MP	
15.	HON. MOHAMED SOUD MACHELE, MP	

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - FIFTH SESSION-2026

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 81ST SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING HELD ON WEDNESDAY, 26TH AUGUST 2026 AT COMMITTEE ROOM 7, MAIN PARLIAMENT BUILINGS AT 10.00 A.M

PRESENT

1. Hon. FCPA. Kuria Kimani, CBS, MP - **Chairperson**
2. Hon. David Mwalika Mboni, MP
3. Hon. George Sunkuyia Risa, MP
4. Hon. Paul Kibichiy Biego, MP
5. Hon. (Dr.) John Ariko Namoit, MP
6. Hon. CPA Julius Kipletting Rutto, MP
7. Hon. Umul Ker Sheikh Kassim, MP
8. Hon. Chiforomodo Mangale Munga, MP

ABSENT WITH APOLOGY

1. Hon. (Amb.) Benjamin Kipkirui Langat, CBS, MP - **Vice-Chairperson**
2. Hon. Kaluma Peter Opondo, CBS MP
3. Hon. Andrew Adipo Okuome, MP
4. Hon. (Dr.) Shadrack Mwiti Ithinji, MP
5. Hon. Gathoni Wamuchomba, MP
6. Hon. Mohamed Soud Machele, MP
7. Hon. FCPA. Joseph Maero Oyula, MP

COMMITTEE SECRETARIAT

1. Ms. Tracy Chebet - Principal Clerk Assistant II
2. Ms. Jennifer Ndeto - Deputy Director, Legal Service
3. Mr. Salem Lorot - Clerk Assistant III
4. Mr. Benson Kamande - Clerk Assistant III
5. Ms. Winfred Kambua - Clerk Assistant III
6. Ms. Emily Winny - Hansard Reporter III
7. Ms. Nelly Ondieki - Research Officer III
8. Ms. Joyce Wachera - Hansard Reporter III
9. Ms. Emily Akinyi - Hansard Reporter III
10. Mr. Luteshi Eugine - Audio Officer
11. Mr. Allan Kimani - Administrative Officer III

AGENDA

1. Prayers

2. Preliminaries;
3. Confirmation of Minutes/Matters Arising;
    i) **Consideration and Adoption of the Report on the Senate Amendments to the Public Finance Management (Amendment) (No. 4) Bill (National Assembly Bill No. 45 of 2024).**
    ii) **Consideration and Adoption of the Report on Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy.**
4. Any Other Business
5. Adjournment

MIN No. NA/F & NP/2026/321: PRELIMINARIES

The meeting was called to order at 10.38 a.m with a word of prayer. The Chairperson welcomed Members and informed the Committee that the purpose of the sitting was to consider and adopt two reports for tabling in the House.

MIN No. NA/F & NP/2026/322: CONFIRMATION OF MINUTES

The agenda was deferred.

MIN No. NA/F & NP/2026/323: CONSIDERATION AND ADOPTION OF THE REPORT ON THE SENATE AMENDMENTS TO THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) (NO. 4) BILL (NATIONAL ASSEMBLY BILLS NO. 45 OF 2024)

The Committee considered the draft Report on the Senate Amendments to the Public Finance Management (Amendment) (No. 4) Bill (National Assembly Bills No. 45 of 2024). Members noted that the Bill had been passed by the National Assembly and transmitted to the Senate, which subsequently consolidated into it provisions of the Public Finance Management (Amendment) (No. 2) Bill, 2024 and the Public Finance Management (Amendment) (No. 3) Bill, 2024.

The Committee noted that the Senate amendments principally provide for a limited extension of time for parliamentary consideration of the Budget Policy Statement; sustainability reporting standards for State organs and public entities; shorter financial reporting timelines; stronger follow up on audit recommendations and statutory deductions; alignment of county budget and Finance Bill timelines and a framework for financing, costing, reporting and management of assets and liabilities for functions transferred under Article 187 of the Constitution.

Members observed that the amendments largely incorporate provisions previously considered by the National Assembly and strengthen parliamentary scrutiny, public sector accountability and financial management. The Committee therefore agreed with the Senate amendments, including the consolidation of the provisions of the two related Public Finance Management amendment Bills into the Public Finance Management (Amendment) (No. 4) Bill, 2024.
Thereafter, upon proposal by Hon David Mboni, MP and seconded by Hon. Julius Rutto, M,P, the Committee unanimously adopted the Report and resolved that it be presented to the House.

MIN No. NA/F & NP/2026/324: CONSIDERATION AND ADOPTION OF THE REPORT ON SESSIONAL PAPER NO. 7 OF 2026 ON THE NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY

The Committee considered the draft Report on Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy. Members noted that the Policy provides the investment framework for the National Infrastructure Fund and is intended to mobilise long term capital for commercially viable infrastructure of national significance while reducing reliance on traditional Exchequer financing and public borrowing.

Having considered the Sessional Paper and the views received during public participation, the Committee identified the need for clearer investment guardrails covering project selection, commercial viability, financial returns, capital mobilisation, portfolio allocation, exposure limits, leverage, risk management, liquidity, governance and reporting. Members further emphasised the need for demand validation, including ability and willingness to pay; assessment of technical readiness; comprehensive project risk assessment and disclosure of contingent liabilities arising from Government Support Measures.

The Committee further observed that the Policy should fully comply with section 25 of the National Infrastructure Fund Act, 2026 by expressly addressing proposed projects, expected project returns, asset allocation, portfolio distribution, leverage ratios and exposure limits. Members also agreed that the five year validity of the Investment Policy should be maintained in accordance with the Act, that any adjustment of sector and project exposure limits should be objectively justified and that project appraisal and approval should include disclosure of actual, potential or perceived conflicts of interest.

The Committee consequently resolved to recommend that the House approves Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy with amendments as set out in the Report.

Thereafter, upon proposal by Hon. George Sunkuiya, MP and seconded by Hon. Chifromodo Mangale, MP, the Committee unanimously adopted the Report and resolved that it be presented to the House.

MIN No. NA/F & NP/2026/325: ADJOURNMENT/DATE OF THE NEXT MEETING

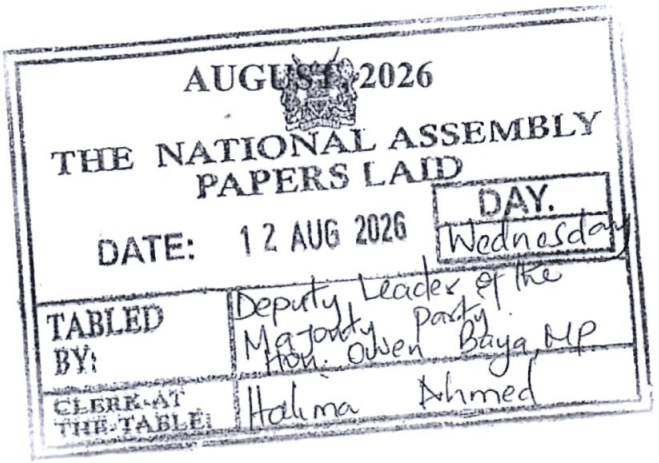
There being no other business, the meeting was adjourned at 11.46 a.m. The next meeting will be held on notice.

SIGNED: ..... **DATE:** 26th Aug, 2026

HON. FCPA. KURIA KIMANI, CBS, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

ONAL INFRASTRUCTURE FUND

THE NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY,



Foreword

The National Infrastructure Fund represents an important milestone in Kenya's journey towards financing the infrastructure required to sustain long-term economic growth and national transformation. As Government continues to pursue ambitious investments in transport, energy, water, digital infrastructure and other strategic sectors, it is essential that we complement public resources with innovative financing models capable of mobilising significant private capital.

The National Infrastructure Fund was established by Parliament to provide such a platform. Its purpose is not merely to finance infrastructure, but to catalyse commercially viable investment, crowd in domestic and international investors, strengthen Kenya's project development capability and create a sustainable mechanism through which investment proceeds are continually recycled into future generations of infrastructure.

This Investment Policy Statement provides the policy framework within which the Fund shall pursue these objectives. It establishes the investment principles, eligible investments, governance standards, portfolio parameters and investment criteria that will guide the prudent deployment of the Fund's resources. Equally important, it reinforces the principle that commercial discipline shall remain at the centre of every investment decision. Public capital entrusted to the Fund must generate both measurable national development outcomes and sustainable financial returns that preserve and grow the Fund over time.

The policy also reflects the Government's commitment to transparency, accountability and responsible stewardship. It provides clear governance guardrails while allowing sufficient flexibility for the Board to develop innovative investment structures capable of attracting institutional investors, development finance institutions, commercial lenders and strategic partners into nationally significant infrastructure projects.

The success of the National Infrastructure Fund will ultimately be measured not only by the infrastructure it finances, but by its ability to establish a new model of infrastructure financing in Kenya - one that mobilises private capital at scale, reduces reliance on public borrowing, strengthens our capital markets and creates a self-sustaining cycle of investment and capital recycling for future generations.

I commend the Governing Council, the Board and all those who contributed to the preparation of this Investment Policy Statement. I am confident that it provides a strong policy foundation upon which the National Infrastructure Fund will fulfil its mandate and contribute meaningfully to Kenya's long-term economic prosperity.



HON. FCPA JOHN MBADI NG'ONGO, EGH
CABINET SECRETARY, THE NATIONAL TREASURY
CHAIRMAN, GOVERNING COUNCIL
NATIONAL INFRASTRUCTURE FUND

Preface

The National Infrastructure Fund Act, 2026 establishes the National Infrastructure Fund as a strategic national institution to mobilise long-term capital for investment in commercially viable infrastructure of national significance. Central to the achievement of this mandate is a clear investment policy that provides strategic direction while ensuring the prudent stewardship of the Fund's resources.

Pursuant to Section 25 of the National Infrastructure Fund Act, the Governing Council has prepared this Investment Policy Statement (IPS) to establish the investment policy of the Fund. The IPS provides the overarching policy framework within which the Board shall invest and manage the resources of the Fund in accordance with the Act.

The Governing Council has deliberately adopted a principles-based approach. Rather than prescribe detailed investment processes, this IPS establishes the investment guardrails that will govern the Fund, including its investment objectives, guiding investment principles, eligible investments, investment criteria, portfolio framework, treasury management framework, governance arrangements and performance measures. This approach provides the Board with sufficient flexibility to respond to changing market conditions and emerging investment opportunities while ensuring that every investment remains consistent with the Fund's statutory mandate and long-term objectives.

The Governing Council expects the Board to implement this policy through a comprehensive Investment Strategy, supported by Annual Business Plans, a Risk Management Framework and other governance instruments approved by the Board from time to time. Together, these documents create a coherent governance framework in which policy is established by the Governing Council and implementation is undertaken by the Board, ensuring clear accountability, transparency and effective oversight.

The Fund has been established not simply as a source of financing, but as a catalyst for transforming the manner in which nationally significant infrastructure is financed in Kenya. By applying commercial discipline, mobilising domestic and international private capital, promoting sound project preparation and recycling investment proceeds into future infrastructure investments, the Fund will enable commercially viable infrastructure projects to be financed outside the national budget. In doing so, it will preserve scarce public resources for essential public services and strategic investments that cannot be financed on a commercial basis, while creating a sustainable cycle of investment and capital recycling that supports Kenya's long-term economic development.

The Governing Council is committed to ensuring that this Investment Policy Statement remains relevant and responsive to evolving national priorities, changing market conditions and international best practice. The IPS will therefore be reviewed periodically in accordance with the National Infrastructure Fund Act to ensure that it continues to provide an effective policy framework for the prudent management and deployment of the Fund's resources.

The Governing Council commends this Investment Policy Statement to the Board, management, investors, development partners and all stakeholders as the foundational policy framework that will guide the National Infrastructure Fund in mobilising capital, investing prudently and delivering nationally significant infrastructure that supports sustainable economic growth and improves the lives of all Kenyans

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List of Abbreviations

ABS	-	Annual Business Plan
ICT	-	Information Communication Technology
IPS	-	Investment Policy Statement
LNG	-	Liquefied Natural Gas
NIF	-	National Infrastructure Fund

Executive Summary

The National Infrastructure Fund (NIF) was established under the National Infrastructure Fund Act, 2026 to mobilise long-term capital for the development of commercially viable infrastructure of national significance. The Fund represents a new approach to infrastructure financing in Kenya by providing a sustainable investment platform that mobilises domestic and international private capital alongside public capital to accelerate infrastructure delivery while preserving scarce public resources.

This Investment Policy Statement (IPS), prepared by the Governing Council pursuant to Section 25 of the National Infrastructure Fund Act, establishes the investment policy of the Fund. It provides the strategic policy framework within which the Board shall invest and manage the resources of the Fund, while ensuring that all investment decisions are undertaken in accordance with the Act and the long-term objectives of the Fund.

The IPS adopts a principles-based approach to investment governance. Rather than prescribing detailed operational procedures, it establishes the investment philosophy, guiding principles, investment criteria, portfolio parameters, treasury management framework and governance arrangements that will guide the prudent stewardship of the Fund's resources. The Board is expected to operationalise this policy through the Investment Strategy, Annual Business Plans, Risk Management Framework and other governance instruments approved from time to time.

The investment philosophy of the Fund is founded on commercial discipline. The Fund seeks to invest only in commercially sustainable infrastructure capable of generating appropriate risk-adjusted returns while delivering measurable national development outcomes. Through this approach, the Fund aims to crowd in private capital, strengthen Kenya's project development capability, deepen domestic capital markets and recycle investment proceeds into future infrastructure investments, thereby creating a self-sustaining cycle of long-term infrastructure financing.

The IPS identifies nationally significant infrastructure sectors that are eligible for investment, including transport, energy, information and communications technology, water and irrigation, agriculture and livestock, together with any other national priority infrastructure approved by the Governing Council. To maximise flexibility in attracting investment capital, the Fund may invest through a broad range of investment structures, including direct investments, equity, quasi-equity, debt instruments, project finance structures, special purpose vehicles, infrastructure funds, co-investment platforms, capital market transactions and project development activities.

To ensure that the Fund remains financially sustainable, the IPS establishes minimum investment criteria that every investment must satisfy. Projects are required to demonstrate identifiable demand, commercial viability, technical readiness and appropriate risk management. As a minimum policy standard, investments should ordinarily be capable of supporting at least sixty percent non-recourse project debt while generating a minimum expected equity return of seven percent to the Fund. Projects that do not satisfy these commercial thresholds may only be considered where Government Support Measures are provided in accordance with the National Infrastructure Fund Act.

The IPS also establishes portfolio guardrails to ensure prudent diversification and effective risk management. Capital deployed in any one sector is limited to forty percent of the Fund's assets at the time of investment approval, while capital deployed in any single project is limited to twenty percent. The Fund shall not borrow against its own balance sheet, and leverage shall ordinarily be undertaken only at the project or investment vehicle level on a non-recourse basis.

Stewardship of the Fund's Capital

The National Infrastructure Fund is capitalised principally from the proceeds of privatisation and other strategic capital allocations by the Government. These resources represent scarce national assets that cannot readily be replaced once deployed. The Governing Council therefore regards the preservation and prudent growth of the Fund's capital base as one of its fundamental responsibilities.

The Fund is designed to operate as a permanent national investment fund whose capital is preserved and strengthened over time while its investment income, realised gains and recycled investment proceeds are continually deployed to finance successive generations of nationally significant infrastructure. This long-term investment philosophy ensures that today's strategic national assets continue to create value for future generations, while reducing the pressure on the national budget to finance commercially viable infrastructure projects.

Consistent with this philosophy, the Treasury Management Framework requires capital awaiting deployment to be managed prudently to preserve capital, maintain adequate liquidity and generate sustainable investment income. Treasury management is therefore not merely a cash management function; it is an essential component of safeguarding the long-term financial sustainability of the Fund and ensuring that it continues to meet Kenya's infrastructure needs for generations to come.

The IPS establishes a clear governance framework that distinguishes policy from implementation. The Governing Council is responsible for establishing the investment policy of the Fund through this IPS, while the Board is responsible for implementing that policy through the Investment Strategy, Annual Business Plans, investment approvals and ongoing portfolio oversight. This separation of responsibilities promotes accountability, transparency and disciplined investment decision-making while ensuring that investment activities remain aligned with the Fund's statutory mandate.

Ultimately, this Investment Policy Statement provides the foundation upon which the National Infrastructure Fund will mobilise capital, finance commercially viable infrastructure, preserve and grow its capital base, and recycle investment proceeds into future investments. Through this disciplined and sustainable approach, the Fund seeks to create an enduring national institution capable of supporting Kenya's infrastructure development, strengthening economic competitiveness and improving the quality of life for both present and future generations of Kenyans.

CHAPTER ONE

1.1 Introduction

The National Infrastructure Fund is a creation of the laws of Kenya under section 5 of the National Infrastructure Fund Act, 2026.

The Fund is a special purpose vehicle which was borne out of the need to scale up and accelerate development of catalytic national infrastructure. It is intended to be an alternative from exchequer funding of national infrastructure projects, thereby leaving the National Budget for priority social and economic activities such as education, health, social security etc.

This policy sets out broad guidelines on priority projects for funding under the National Infrastructure Fund. It will be a vital tool not just for resource mobilizations but also prioritizing government development projects.

The policy is anchored on Article 201 of the Constitution and the Public Finance Management Act. It is supported through implementation of the Privatization Act.

1.2 Background

Kenya's development has previously funded infrastructure programmes either through the national budget or through borrowing. This has proved unsustainable. The Government cannot sustain the development of mega infrastructure projects through continued increases in taxation or borrowing.

The national debt is also not sustainable for the kind of projects necessary to move Kenya from developing to developed.

It is against this background, that the National Infrastructure Fund was conceived. A revolving fund, whose monies will be used to fund the initial projects, and thereafter the revenues will be used to fund subsequent projects.

1.3 Purpose of the Fund

The purpose of the Fund is as set out in section 4 of the Act, that is: to scale up and accelerate development of national infrastructure; to mobilize private capital and non-traditional sources of infrastructure finance including domestic pension funds and collective investment schemes, sovereign wealth funds, climate finance; to reduce the reliance of public debt for the financing of commercially viable infrastructure investments and to strengthen the national capacity for origination, structuring and execution of large and complex infrastructure projects.

CHAPTER TWO

2 Policy Guidelines

2.1 Purpose of the Investment Policy

The Act requires the development of the Investment Policy to provide the policy framework within which the Board shall invest and manage the resources of the Fund.

This IPS establishes the investment guard rails applicable to the Fund. The detailed investment procedures, treasury management procedures, delegation of authority, risk management policies and investment guidelines shall be approved separately by the Board.

The Act requires that the IPS should specify: the priority sectors proposed for development; the proposed projects; expected rate of return on investments on specific projects; proposed asset allocation, portfolio distribution and leverage rations, and exposure limits per sector and project.

In implementation of this IPS, the Governing Council and the Board shall be guided by the following principles.

a) Commercial Discipline
b) Commercial viability.
c) Financial Sustainability
d) Capital Mobilisation
e) Technical Integrity
f) Responsible Stewardship
g) National Development

2.2 General Investment Criteria

Every proposed project shall satisfy the following minimum investment criteria:

Demand Validation: The respective projects shall demonstrate identifiable users, market demand or contracted off-take capable of supporting sustainable revenue generation.

Commercial Viability: Approved projects shall be expected to generate market-based cash flows capable of supporting a minimum of 60% non-recourse project debt. Commercial viability shall constitute the primary investment threshold for all investments.

Financial Return: Projects shall be expected to generate a minimum equity return of 7% to the Fund.

Technical Readiness: Projects shall demonstrate satisfactory technical, environmental, legal and financial readiness and shall be accompanied with the relevant regulatory approvals.

Risk: Projects shall comply with the Board's Risk Management Framework.

2.3 Government Support Measures

Projects that do not satisfy the Fund's general investment criteria shall only be considered where Government Support Measures are provided in accordance with the Act and the Board is satisfied that the investment remains commercially and financially sustainable after giving effect to those support measures.

CHAPTER THREE

3 Proposed sectors & projects for Development

3.1 Priority sectors for development

The Board shall prioritise investment in national infrastructure as set out in the Act, comprising:-

a) National highways;
b) Railway networks;
c) Airports;
d) Seaports;
e) Electricity generation, transmission and distribution infrastructure;
f) Information and communication infrastructure;
g) Water reservoirs and irrigation; and
h) Agribusiness infrastructure.

3.2 Proposed projects

The priority projects are identified based on national development priorities; commercial viability of the projects; catalytic economic impact; capital mobilisation potential; and alignment with the purposes of the Fund under the Act.

Consistent with Sections 2 and 25(2)(a) of the National Infrastructure Fund Act, the Governing Council identifies the following priority sectors for development under this IPS:-

(a) Transport Infrastructure

Including national highways, railway networks, airports, seaports, logistics infrastructure and other nationally significant transport infrastructure.

(b) Energy Infrastructure

Including electricity generation, transmission and distribution infrastructure, geothermal, hydro, wind, solar, petroleum, oil and gas infrastructure, refineries, pipelines, storage facilities, LNG infrastructure and other nationally significant energy infrastructure.

(c) Information and Communications Technology Infrastructure

Including telecommunications infrastructure, fibre optic networks, cloud infrastructure, data centres, digital infrastructure and other nationally significant ICT infrastructure.

(d) Water and Irrigation Infrastructure

Including water supply, water storage, dams, irrigation, desalination, bulk water infrastructure and other nationally significant water infrastructure.

(e) Agriculture and Livestock Infrastructure

Including infrastructure supporting agricultural and livestock production, storage, processing, logistics, value addition and other nationally significant agriculture and livestock infrastructure.

(f) Other National Priority Infrastructure

Including any other nationally significant infrastructure identified by the Governing Council as a national priority, provided such investments are consistent with the National Infrastructure Fund Act.

There are currently no ongoing, or outstanding projects since this is the inaugural Investment Policy.

3.3 Portfolio Framework/Exposure Limits

The Board shall maintain a diversified investment portfolio as approved by the Board, but in any case:-

a) The maximum exposure to any one sector shall not exceed 40% of Fund assets;
b) The maximum exposure to any single project shall not exceed 20% of Fund assets.

Leverage shall be undertaken only at the project or investment vehicle level and shall ordinarily be non-recourse to the Fund.

3.4 Treasury Management

Pending deployment into infrastructure investments, fund monies shall be managed prudently to preserve capital; maintain liquidity; and generate appropriate investment income.

Treasury investments shall be undertaken in accordance with the Act and applicable Board-approved Treasury Policies.

The surplus funds of the Fund may be invested in Government securities in accordance with Section 43 of the Act.

3.5 Investment period.

This investment policy shall be valid for a period of five (5) years.

The Board shall, prior to the commencement of a financial year, prepare and adopt a business plan based on the IPS.

At the end of the Investment period the Board shall submit a report to the Governing Council on all incomplete projects under this IPS.

3.6 Review

The Board shall review the IPS annually and shall, where necessary, recommend amendments to the Governing Council.

CHAPTER FOUR

4 Monitoring and Evaluation

The Board shall monitor implementation of the Fund based on financial and non-financial indicators. The Board shall evaluate the performance of the Fund having regard to:-

a) Financial Performance;
b) Capital Deployment;
c) Capital Mobilisation;
d) Portfolio Quality;
e) National Development Outcomes.

The Board shall monitor performance of each respective project approved under the IPS. The Board shall establish appropriate performance indicators through the annual Business Plan.

Appendix 1 – Key Policy Parameters

Policy	Board Proposal
Minimum project debt capacity	60% non-recourse project debt
Minimum expected equity return	7%
Maximum sector exposure	40% of Fund assets
Maximum single project exposure	20% of Fund assets
Balance sheet borrowing	Not permitted
Project leverage	Non-recourse
Treasury objective	Capital preservation, liquidity and income
Project preparation	Annual allocation through the Business Plan
Investment authority	Delegated through the Board Charter

NATIONAL INFRASTRUCTURE FUND

INVESTMENT POLICY STATEMENT

Compliance Checklist Against the National Infrastructure Fund Act, 2026

NIF Act Requirement	Relevant Section of Act	IPS Provision	Compliance
Investment Policy prepared by the Board	Section 25(1)	Purpose and Authority	☑
Investment Policy approved by Governing Council before submission	Section 25(1)	Covered in Review and Approval Process	☑
Investment Policy submitted to National Assembly	Section 25(1)	Review Section	
Validity period of five years	Section 25(3)	Review Clause	☑
Risk Management Framework	Section 25(4)	Risk Management Chapter	☑
Priority sectors identified	Section 25(2)(a)	Priority Sectors	☑
Proposed projects provided	Section 25(2)(b)	Proposed Projects	☑
Expected rates of return	Section 25(2)(d)	Investment Criteria and Expected Returns	☑
Asset allocation and portfolio distribution	Section 25(2)(e)	Portfolio Framework	☑
Leverage ratios	Section 25(2)(e)	Non-recourse Project Leverage	☑
Sector exposure limits	Section 25(2)(f)	Portfolio Framework	☑
Investment in national infrastructure only	Section 2	Eligible Investments	☑
Investment powers	Section 19	Investment Structures	☑
No borrowing against Fund balance sheet	Section 19(2)(a)	Portfolio Framework	☑

NIF Act Requirement	Relevant Section of Act	IPS Provision	Compliance
Project preparation	Sections 32 & 33	Project Preparation	
Government Support Measures	Section 34	Strategic Projects	
Business Plan linkage	Section 24	Proposed Projects / Governance	
Capital Account and Income Account recognised	Sections 38–42	Treasury Management	
Investment of surplus funds	Section 43	Treasury Management	
Reporting obligations	Part IV	Reporting	
Annual review by Board	Section 25	Review	

Added the technical compliance:

NIF Act Requirement	Relevant Section of Act	Revised IPS Provision	Compliance
Project preparation	Sections 32–33	Infrastructure Investment Framework	☑
Technical requirements incorporated into feasibility studies	Section 33(2)(a)	Technical Integrity Principle	☑
Legal, technical, financial, environmental and social due diligence	Section 33(2)	Investment Decision Framework	☑
Investment readiness prior to commitment of capital	Sections 32–33	Technical Integrity Principle	☑
Project structuring and preparation	Section 32(2)	Infrastructure Investment Framework	☑
Land requirements and site preparatory activities	Section 33(2)(e)	Infrastructure Investment Framework	☑
Technical appraisal supporting investment decisions	Sections 32–33	Investment Decision Framework	☑
Infrastructure resilience and lifecycle sustainability	Sections 32–33	Technical Integrity Principle	☑
Technical governance of infrastructure investments	Sections 19, 25 & 32	Infrastructure Governance Framework	☑
Technical management responsibilities	Section 25	Infrastructure Development & Technical Management Responsibilities	☑

Key Board Policy Decisions Reflected in the IPS

The IPS introduces the following Board policy decisions that are **not prescribed in the Act** but are consistent with its objectives:

Policy Decision	Purpose
Minimum 60% non-recourse project debt capacity	Defines commercial bankability
Minimum 7% expected equity return	Establishes minimum commercial return
Maximum 40% sector exposure	Portfolio diversification
Maximum 20% project exposure	Concentration risk management
Commercial viability as the primary investment gate	Protects Fund from political investment decisions
Demand validation requirement	Ensures customer-backed infrastructure
Project preparation recognised as a core function	Supports development of investment-ready projects
Political independence clause	Strengthens governance
Independent technical and financial assurance	Improves investment quality
Five-dimensional performance framework	Broadens performance assessment beyond financial returns

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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - FIFTH SESSION (2026)

IN THE MATTER OF ARTICLE 118(1)(B) OF THE CONSTITUTION AND IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF SESSIONAL PAPER NO. 7 OF 2026 ON THE NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY

INVITATION TO SUBMIT MEMORANDA

WHEREAS, Article 118(1)(b) of the Constitution requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament;

AND WHEREAS, Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy was submitted to the National Assembly and referred to the Departmental Committee on Finance and National Planning for consideration and reporting to the House;

IT IS NOTIFIED that **Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy** establishes the Investment Policy of the National Infrastructure Fund in accordance with Section 25 of the National Infrastructure Fund Act. The Policy provides a framework within which the National Infrastructure Fund Board shall invest and manage the resources of the Fund.

Specifically, the Policy seeks to—

(a) accelerate the development of nationally significant infrastructure;
(b) mobilise domestic and international private capital;
(c) reduce reliance on public debt for commercially viable infrastructure;
(d) strengthen national capacity for project origination, preparation, structuring and execution;
(e) generate sustainable commercial investment returns; and
(f) recycle investment proceeds into future infrastructure investments.

NOW THEREFORE, in compliance with Article 118(1)(b) of the Constitution, the Clerk of the National Assembly hereby invites the public to submit memoranda on the Sessional Paper to the Departmental Committee on Finance and National Planning.

A copy of the Sessional Paper is available at the National Assembly Table Office, Main Parliament Buildings, and on the Parliament website **www.parliament.go.ke.**

The memoranda may be forwarded to the **Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi;** hand-delivered to the **Office of the Clerk, Main Parliament Buildings, Nairobi;** or emailed to **cna@parliament.go.ke** to be received on or before **Monday, 24th August 2026** at **5.00 p.m.**

S. NJOROGE, CBS
CLERK OF THE NATIONAL ASSEMBLY

15th August, 2026

ambokojulians@gmail.com

"For the Welfare of Society and the Just Government of the People"

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17th August 2026

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Dear M. Mathai

RE: STAKEHOLDER ENGAGEMENT ON SESSIONAL PAPER NO. 7 OF 2026 ON THE NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY

The Departmental Committee on Finance and National Planning is established pursuant to National Assembly Standing Order 216 which mandates it inter alia, to ***study and review all the legislation referred to it***.

The Committee is considering **Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy** submitted to the National Assembly by the Cabinet Secretary for the National Treasury and Economic Planning for consideration and approval pursuant to **section 26 of the National Infrastructure Fund Act, 2026.**

The Policy provides the framework for the implementation and management of the National Infrastructure Fund and among other matters, addresses the priority infrastructure sectors, investment principles and criteria, mobilisation of capital, investment and portfolio management, governance, risk management, treasury management, monitoring, evaluation and performance measurement.

In undertaking its mandate, the Committee is required to facilitate and take into account the views of relevant stakeholders and the public on matters under its consideration. Accordingly, the Committee will undertake a **stakeholder engagement on the National Infrastructure Policy** to obtain views, comments and recommendations from key stakeholders on the Policy.

Pursuant to the provisions of Article 118(1) (b) of the Constitution of Kenya and Standing Order 127 (3), the Committee hereby invites you for meetings to discuss the said Investment Policy. The meetings will be held on **20th and 21st August 2026** as per the attached schedule at a venue to be communicated in due course.

Please ensure that your written and signed submission on the Investment Policy includes relevant policy recommendations for the Committee's consideration.
You are required to bring twenty (20) hard copies of your submissions to the meeting. Soft copies may be sent to cna@parliament.go.ke and copied to the email addresses of the liaison officers indicated below prior to the meeting.

The Committee's liaison officers are **Ms. Tracy Chebet, Principal Clerk Assistant**, who may be contacted on Tel. No. 0726-416-794 or email address: tracy.koskei@parliament.go.ke and **Mr. Benson Kamande** of Tel. No. 0789-459-387 or email address: benson.kamande@parliament.go.ke.

Yours

JEREMIAH W. NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

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REF: NA/DDC/F&NP/2026/118 **17th August 2026**

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Dear Mr. Matindi

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Pursuant to the provisions of Article 118(1) (b) of the Constitution and Standing Order 127 (3), the Committee hereby invites you for meetings to deliberate on the said Investment Policy. The meetings will be held on **Thursday, 20th and Friday, 21st August 2026**, as per the attached schedule at a venue to be communicated in due course.

Please ensure that your written and signed submission on the Investment Policy includes relevant policy recommendations for the Committee's consideration.

You are required to bring twenty (20) hard copies of your submissions to the meeting. Soft copies may be sent to cna@parliament.go.ke and copied to the email addresses of the liaison officers indicated below, prior to the meeting.

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Yours

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Dear Mr. Nyakundi,

RE: STAKEHOLDER ENGAGEMENT ON SESSIONAL PAPER NO. 7 OF 2026 ON THE NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY

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Yours

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Dear Ms Mugo

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The Chief Executive Officer
Frego Engineering Co. Ltd
P.o Box 17825-00500
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Dear Sir / Madam

RE: STAKEHOLDER ENGAGEMENT ON SESSIONAL PAPER NO. 7 OF 2026 ON THE NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY

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Yours

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For: CLERK OF THE NATIONAL ASSEMBLY

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Mr. Eliud karanja Matindi
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Mr. Dishon Keroti Mogire
Email: dishonkeroti@gmail.com

Dear Mr. Mogire

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Pursuant to the provisions of Article 118(1) (b) of the Constitution and Standing Order 127 (3), the Committee hereby invites you for meetings to deliberate on the said Investment Policy. The meetings will be held on **Thursday, 20th and Friday, 21st August 2026**, as per the attached schedule at a venue to be communicated in due course.

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Dear Mr. Mutio

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The Chief Executive Officer
Frego Engineering Co. Ltd
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Dear Mr. Motoro

RE: STAKEHOLDER ENGAGEMENT ON SESSIONAL PAPER NO. 7 OF 2026 ON THE NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY

The Departmental Committee on Finance and National Planning is established pursuant to National Assembly Standing Order 216 which mandates it inter alia, to ***study and review all the legislation referred to it.***

The Committee is considering **Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy** submitted to the National Assembly by the Cabinet Secretary for the National Treasury and Economic Planning for consideration and approval pursuant to **section 26 of the National Infrastructure Fund Act, 2026.**

The Policy provides the framework for the implementation and management of the National Infrastructure Fund and among other matters, addresses the priority infrastructure sectors, investment principles and criteria, mobilisation of capital, investment and portfolio management, governance, risk management, treasury management, monitoring, evaluation and performance measurement.

In undertaking its mandate, the Committee is required to facilitate and take into account the views of relevant stakeholders and the public on matters under its consideration. Accordingly, the Committee will undertake a **stakeholder engagement on the National Infrastructure Policy** to obtain views, comments and recommendations from key stakeholders on the Policy.

Pursuant to the provisions of Article 118(1) (b) of the Constitution of Kenya and Standing Order 127 (3), the Committee hereby invites you for meetings to discuss the said Investment Policy. The meetings will be held on **20th and 21st August 2026** as per the attached schedule at a venue to be communicated in due course.

Please ensure that your written and signed submission on the Investment Policy includes relevant policy recommendations for the Committee's consideration.
You are required to bring twenty (20) hard copies of your submissions to the meeting. Soft copies may be sent to cna@parliament.go.ke and copied to the email addresses of the liaison officers indicated below prior to the meeting.

The Committee's liaison officers are **Ms. Tracy Chebet, Principal Clerk Assistant**, who may be contacted on Tel. No. 0726-416-794 or email address: tracy.koskei@parliament.go.ke and **Mr. Benson Kamande** of Tel. No. 0789-459-387 or email address: benson.kamande@parliament.go.ke.

Yours

JEREMIAH W. NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

THE NATIONAL ASSEMBLY
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When replying, please quote

REF: NA/DDC/F&NP/2026/117 **17th August 2026**

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The Chief Executive Officer
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Dear Mr Koyi

RE: STAKEHOLDER ENGAGEMENT ON SESSIONAL PAPER NO. 7 OF 2026 ON THE NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY

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Yours

JEREMIAH W. NDOMBI, MBS
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Ref: TNT/CONF 268/019 'TY' (65)

19th August, 2026

SAMUEL NJOROGE, CBS
Clerk of the National Assembly
Parliament Buildings
Nairobi

Dear Clerk

RE: STAKEHOLDER ENGAGEMENT ON SESSIONAL PAPER NO. 7 OF 2026 ON THE NATIONAL INFRASTRUCTURE FUND INVESTMENT

Reference is made to letter No. NA/DDC/F&NP/2026/116 dated 14th August, 2026 from the Clerk of the National Assembly on the above subject matter. The Departmental Committee on Finance and National planning has invited me to a meeting on Thursday, 20th August, 2026 to discuss the said investment policy.

The purpose of this letter is to submit the National Treasury presentation.

Please consider

Yours Sincerely

Hon. FCPA. John Mbadi Ng'ongo, EGH
CABINET SECRETARY

Encl

NATIONAL INFRASTRUCTURE FUND

INVESTMENT POLICY, 2026

Presentation to Parliament

Policy guardrails for the prudent investment, management and stewardship of the Fund's resources

STATUTORY BASIS

Section 25

National Infrastructure Fund Act, 2026

Principles-based policy framework

AUGUST 2026

The IPS defines NIF's operating compact

A principles-based policy prepared under Section 25 of the National Infrastructure Fund Act, 2026.

01

Defines

Eligible sectors, early screening and project-specific investment appraisal standards.

02

Protects

Capital through stage-gated preparation, downside testing and aggregate exposure limits.

03

Enables

The Board to invest, manage exits and recycle capital through approved instruments.

04

Measures

Expected Equity IRRs, portfolio risk, capital mobilisation, recycling and national outcomes.

Parliament is being asked to approve the policy guardrails. Project-specific investment decisions will follow feasibility, investment appraisal and Board approval in accordance with the Act.

NIF exists to shift commercially viable infrastructure beyond the national budget

Public capital becomes catalytic - mobilising private investment while preserving fiscal space for essential public services.

SCALE

Accelerate nationally significant infrastructure.

MOBILISE

Attract domestic, international and non-traditional capital.

DE-RISK

Reduce reliance on public debt for commercially viable investment.

BUILD

Strengthen national origination, structuring and execution capability.

Implementation instruments make the IPS executable

The Governing Council sets policy; the Board implements it through strategies, plans and frameworks, subject to statutory approvals where applicable.

POLICY OWNER

Governing Council

Establishes the investment policy through the IPS.

→

POLICY

Investment Policy

Defines objectives, principles, eligibility, thresholds and limits.

→

IMPLEMENTATION INSTRUMENTS

Strategy + plans

Investment Strategy, Annual Business Plans, and Risk and Treasury frameworks, developed and approved in accordance with the Act.

→

EXECUTION

Decisions + oversight

Approvals, conflicts, portfolio management and Council reporting.

ANNUAL FEEDBACK LOOP

Monitoring informs annual policy review and periodic portfolio-level reporting to the Governing Council.

Seven principles guide every investment decision

National relevance and investment quality are treated as complementary obligations.

01

Commercial discipline

The central standard for deploying public capital.

02 **Commercial viability**

03 **Financial sustainability**

04 **Capital mobilisation**

05 **Technical integrity**

06 **Responsible stewardship**

07 **National development**

Together, these principles require investments to preserve and grow the Fund while delivering measurable national outcomes.

Only credible projects advance to detailed preparation

Under sections 32 and 33 of the Act, project preparation and feasibility follow approval of the IPS; project-specific economics can only be responsibly determined through that work.

01 SCREEN FIRST

Eligibility + readiness

Statutory eligibility
Priority-sector alignment
Preliminary commercial + technical viability
Demand or off-take
Development readiness
Potential debt capacity

02 PREPARE PROGRESSIVELY

Evidence before escalation

Use or supplement existing studies where appropriate.

Authorise further expenditure only while the project retains a reasonable path to the Fund's investment criteria.

03 STOP OR ADVANCE

Stage-gated decisions

Advance credible projects to detailed preparation and feasibility.

Limit or discontinue expenditure when the reasonable prospect of investability no longer exists.

IPS → Annual Business Plan → project screening → preparation and feasibility under sections 32–33 → investment appraisal → Board approval → monitoring → exit and capital recycling

Approval tests project-specific return and downside risk

Commercial viability remains essential, but return and risk tests now reflect each investment's structure and horizon.

01	**Demand validation**	DEMAND	Identifiable users, market demand or contracted off-take capable of supporting sustainable revenues.
02	**Bankability / debt capacity**	60%	Market-based cash flows capable of supporting at least 60% non-recourse project debt.
03	**Expected Equity IRR**	SPECIFIC	Project-specific; based on NIF cash flows from initial deployment through anticipated exit.
04	**Holding period + exit**	DEFINED	Target horizon, exit strategy and expected exit value are defined and documented at appraisal.
05	**Downside resilience**	STRESS	Reasonable stress scenarios test cost, delay, demand, operating, rate, FX and refinancing risks.
06	**Technical + risk readiness**	READY	Risks are allocated to the parties best able to manage, mitigate or bear them; Applicable implementation frameworks apply.

The Board must be satisfied that downside exposure is acceptable and the investment remains financially sustainable.

Government support cannot bypass commercial sustainability

Support measures are an exception mechanism - not an alternative investment standard.

EXCEPTION, NOT SUBSTITUTE

A project that falls short of the general criteria must be re-underwritten after Government Support Measures are applied.

01 **Project misses a general investment threshold**

↓

02 **Government Support Measures are structured under the Act**

↓

03 **Board confirms the investment remains commercially and financially sustainable**

Only then may the project proceed.

The IPS defines six eligible infrastructure areas

Scope covers nationally significant assets; additional priorities must remain consistent with the Act.

01 **Transport**

Highways, railways, airports, seaports and logistics infrastructure.

02 **Energy**

Generation, transmission, distribution and nationally significant energy systems.

03 **ICT**

Telecommunications, fibre, cloud, data centres and digital infrastructure.

04 **Water + irrigation**

Water supply, storage, dams, irrigation, desalination and bulk water.

05 **Agriculture + livestock**

Production, storage, processing, logistics and value-add infrastructure.

06 **Other national priorities**

Infrastructure identified by the Governing Council and permitted by the Act.

The inaugural IPS establishes the framework within which projects are identified, prepared and assessed

Specific projects are incorporated into the Annual Business Plan and proceed through screening, preparation and feasibility under sections 32–33 before being brought to the Board for investment consideration.

PROJECT SELECTION FILTERS

01 **National development priority**

02 **Commercial viability**

03 **Catalytic economic impact**

04 **Capital mobilisation potential**

05 **Alignment with the Fund's statutory purpose**

INAUGURAL IPS

No carried-over project commitments

As the inaugural IPS, there is no preceding policy from which projects could be carried forward.

Flexible structures widen the capital NIF can mobilise

The structure may change; the policy standards and portfolio guardrails do not.

DIRECT CAPITAL	Direct investments	Equity + quasi-equity	Debt instruments
VEHICLES + PARTNERS	Project finance + SPVs	Infrastructure funds	Co-investment platforms
MARKETS + DEVELOPMENT	Capital market transactions	Project development activities	Strategic partner structures

Every investment requires a defined path to capital recycling

Holding period and exit assumptions are established at entry, tested through the investment and reviewed as conditions change.

ENTRY 01

Define the horizon

Set the target holding period, anticipated exit or recycling strategy and expected exit value as part of the Equity IRR appraisal.

MANAGE 02

Review the assumptions

Reassess the holding period and exit strategy against performance, market conditions, value maximisation and the Fund's long-term interests.

REALISE + RECYCLE 03

Release capital

Use refinancing, institutional take-out, strategic or secondary sale, listing, securitisation, buy-back or another appropriate mechanism.

Where commercially appropriate, realised capital is redeployed into new infrastructure investments.

Exposure limits are measured against total Fund assets

Sector exposure is capped at 40%; all Fund instruments to one project entity are aggregated for the 20% test.

40%
Maximum aggregate allocation within any one priority sector

20%
Maximum aggregate exposure to any single project entity

0
Fund-level balance-sheet borrowing permitted

NR
Project leverage ordinarily non-recourse to the Fund

Asset allocation does not refer to the capital structure or total asset value of an underlying project entity.

Treasury discipline begins before capital deployment

Treasury management protects the Fund's long-term financial sustainability before project deployment.

01
Preserve capital
Protect the Fund's scarce and non-replaceable capital base.

02
Maintain liquidity
Ensure resources remain available for approved investment needs.

03
Generate income
Earn appropriate investment income solely through Government securities permitted under section 43 of the Act.

The Treasury Management Framework governs liquidity, maturity and deployment within this statutory investment universe; it does not create broader asset classes.

Policy oversight and Board execution remain distinct

Clear decision rights strengthen accountability while preserving the Board's operational independence.

GOVERNING COUNCIL

Develops policy + Oversees

- Develops the IPS and considers proposed amendments, subject to the statutory approval process.
- Receives periodic portfolio-level reporting
- Oversees policy compliance, not individual investments

BOARD

Implements + Decides

- Approves individual investments
- Implements strategy and Annual Business Plans
- Applies appraisal, risk, conflict and portfolio controls

CONFLICT OF INTEREST Investment decisions must be objective, independent and in the Fund's best interests. Actual, potential or perceived conflicts are disclosed and managed; a materially conflicted person does not participate except as permitted by law and the approved governance framework.

Five lenses anchor performance and annual review

Financial and non-financial outcomes are monitored together; policy relevance is reviewed every year.

PERFORMANCE LENSES

01 **Returns vs expected IRRs**

02 **Capital deployment**

03 **Capital mobilisation + recycling**

04 **Portfolio + downside risk**

05 **National development outcomes**

POLICY CYCLE

EVERY YEAR Board adopts an Annual Business Plan, sets project indicators and reviews the IPS.

AS REQUIRED The Board recommends amendments where necessary; any material amendment proceeds in accordance with the approval process prescribed under the Act.

YEAR 5 Policy term ends; the Board reports all incomplete projects and the next policy cycle begins.

Policy validity: five years

Council reporting stays at portfolio level

Periodic reporting strengthens policy oversight without shifting individual investment decisions from the Board.

IMPLEMENTATION + PERFORMANCE

01 **Portfolio composition + performance**

02 **Capital deployed + private capital mobilised**

03 **Performance against investment-specific Equity IRRs**

04 **Sector + project-entity exposures**

RISK + STEWARDSHIP

05 **Material portfolio + downside risks**

06 **Project-preparation pipeline + expenditure**

07 **Underperformance, exits + capital recycled**

08 **IPS compliance, breaches + remedial action**

Material breaches and risks are reported promptly with remedial action. Reporting supports policy oversight and does not transfer responsibility for individual investment decisions from the Board to the Council.

Eleven parameters form the standing policy reference

The Council amendments strengthen appraisal, preparation, portfolio controls, governance and reporting.

POLICY PARAMETER	STANDING POLICY POSITION
Minimum project debt capacity	**At least 60% non-recourse project debt**
Expected Equity IRR	**Project-specific; based on NIF cash flows from initial deployment through exit.**
Holding period + exit	**Defined at appraisal and periodically reviewed**
Maximum sector exposure	**40% of total Fund assets within one priority sector**
Maximum single-entity exposure	**20% of total Fund assets; all instruments aggregated**
Fund balance-sheet borrowing	**Not permitted**
Project leverage	**Ordinarily non-recourse to the Fund**
Screening + preparation	**Initial readiness gate; progressive spend under stage gates**
Downside + risk allocation	**Stress testing; risks placed with parties best able to bear them**
Treasury objective	**Capital preservation, liquidity and income**
Council reporting	**Periodic portfolio and policy reporting; Board independence preserved**

Six implementation instruments make the policy executable

Council amendments strengthen appraisal, control, governance and reporting.

01	**Investment Strategy**	Translate the IPS into portfolio priorities and investment approaches.
02	**Annual Business Plan**	Set the project-preparation allocation, annual priorities and delivery commitments.
03	**Appraisal + stage-gate procedures**	Screen early, reuse existing work and govern progressive preparation spend.
04	**Risk Management Framework**	Define stress testing, risk allocation, risk appetite and portfolio controls.
05	**Treasury framework + procedures**	Govern capital preservation, liquidity and approved surplus investment.
06	**Governance + reporting framework**	Set delegation, conflicts, performance measures and Council reporting.

Implementation instruments are developed and approved in accordance with the Act and applicable governance arrangements.

Disciplined entry, resilient stewardship and capital recycling build enduring national capability

BANKABLE INFRASTRUCTURE

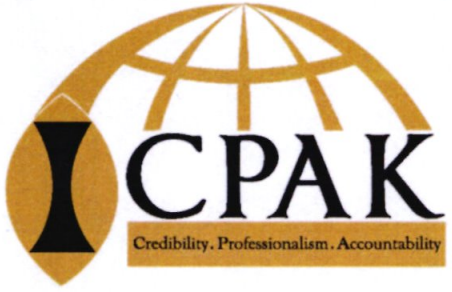
Credible projects screened, prepared and financed to investment standards.

PROTECTED PUBLIC CAPITAL

Project-specific returns, downside testing and portfolio limits govern deployment.

MOBILISED + RECYCLED CAPITAL

Private capital is crowded in and realised Fund capital is reinvested.



Institute of Certified Public Accountants of Kenya

SUBMISSION

ON

NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY 2026

AUGUST 2026

1. INTRODUCTION

The Institute of Certified Public Accountants of Kenya (ICPAK) is a statutory body of Accountants established under the Accountants Act CAP 531, with the mandate to develop and regulate the Accountancy Profession in Kenya. The Institute is also a member of the Pan Africa Federation of Accountants (PAFA) and the International Federation of Accountants (IFAC), the global umbrella body for the accountancy profession.

In response to the call by the National Assembly for feedback on Sessional paper no. 7 of 2026 on the National Infrastructure Fund Investment Policy, the Institute hereby submits general and specific comments for consideration.

2. BACKGROUND

The National Infrastructure Fund Act, 2026 established the National Infrastructure Fund (NIF) as a vehicle for mobilizing resources for national infrastructure investment and advancing the Government's ambition to mobilize Ksh. 5 trillion over a ten-year period through domestic resource mobilization, monetization of public assets and the crowding in of private capital.

Section 25 of the Act requires the NIF to develop an Investment Policy setting out, among other matters, priority sectors, proposed projects, expected rates of return, asset allocation and portfolio distribution, as well as exposure limits by sector and project. Given the scale of resources envisaged and the long-term nature of infrastructure investments, ICPAK considers the following areas important in strengthening the Investment Policy

(i) *Alignment of Sector Priorities with the Medium-Term Expenditure Framework:* The Policy should require the NIF's priority investment sectors and projects to be aligned with the Government's Medium-Term Expenditure Framework. It should also distinguish between projects that are identified as Government priorities and those that meet the NIF's investment and commercial criteria.

(ii) *Investment and Risk Management:* The Policy should establish clear and measurable parameters for investment decisions, including risk appetite, liquidity, foreign exchange exposure and minimum risk-adjusted returns.

(iii) *Mobilization of Private Capital:* The Fund should operate as a catalyst for private investment and therefore provide clear investment criteria and measurable targets for private capital mobilization

(iv) *Accountability:* Given the scale and public nature of the Fund, Investment decisions should be based on objective and documented assessments.

(v) *Value for Money:* Where a project does not meet the Fund's financial thresholds but has demonstrated strategic or economic value, the Policy should require a documented justification for the investment and the associated risks.

3. SUBMISSION ON THE NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY

The Institute has prepared the following proposals for consideration and adoption

	SECTION/ PARAGRAPH	ISSSUE OF CONCERN	PROPOSED AMMENDMENTS	JUSTIFICATION
			CHAPTER ONE: INTRODUCTION	
1.	**Background** New Provision 1.4 Policy Targets of the Fund	The Policy identifies capital mobilization as a key purpose of the Fund but does not translate this objective into specific and measurable implementation targets. The NIF framework envisaged mobilization of Ksh. 5 trillion and crowding in private capital. However, the IPS does not clearly set out how this ambition will be progressively achieved, monitored and reported over the investment period. This will make it difficult to assess whether the Fund is attracting the expected level of private and development capital or whether its capital mobilization strategy requires adjustment.	The Institute recommends that the Policy introduces a new Section 1.4 titled Policy Targets of the Fund and to read as follows The Fund shall establish measurable targets to include a) the targeted Fund capitalization over the policy period b) annual and cumulative private-sector capital commitments c) the targeted amount of development and concessional finance mobilized d) the targeted ratio of private and institutional capital to Fund capital e) annual and cumulative capital deployed to eligible infrastructure investments f) the value of investment commitments and projects reaching financial close The Board shall review performance against the approved targets at least annually and disclose the results in the Fund's annual performance report. The targets shall be reviewed where material changes in fiscal conditions, market conditions, the Fund's capital base or infrastructure	This will provide a basis for assessing the Fund's performance and ensure that the Ksh. 5 trillion mobilization ambition is supported by a implementation plan. Comparative analysis of other established funds such as Nigeria's *Investment Policy (2023–2027)* specifies the capital amounts the country aims to mobilize, providing a benchmark for monitoring success and guiding strategic adjustments.

	SECTION/ PARAGRAPH	ISSSUE OF CONCERN	PROPOSED AMMENDMENTS	JUSTIFICATION
			investment opportunities affect their continued relevance.	
2.	**Appendix 1** Key Policy Parameters	The Appendix sets out key investment parameters but does not adequately address the foreign-exchange risks associated with mobilizing and investing capital from international investors or undertaking investments with foreign currency. This is material because infrastructure investments are generally long-term, and exchange-rate movements can affect the value of capital commitments, project cash flows, debt-service obligations and the Fund's returns. The Policy should therefore provide a framework for managing currency exposure.	The Institute recommends that Appendix 1 include a Foreign Exchange and Currency Risk Management Framework to ensure clarity in the following areas a) the currencies in which the Fund may receive, hold and deploy capital b) acceptable levels of unhedged foreign-currency exposure c) circumstances requiring currency hedging The Institute also recommends the addition of the following role to the board for clarity The Board shall monitor the currency composition of the Fund's assets, liabilities and commitments and ensure that material currency mismatches are identified and managed.	This will enhance risk management and transparency in cross-border investment operations, ensuring that the Fund's capital mobilization strategy aligns with both national financial stability objectives

	SECTION/ PARAGRAPH	ISSSUE OF CONCERN	PROPOSED AMMENDMENTS	JUSTIFICATION
			CHAPTER TWO: POLICY GUIDELINES	

	SECTION/ PARAGRAPH	ISSSUE OF CONCERN	PROPOSED AMMENDMENTS	JUSTIFICATION
3.	**2.2. General Investment Criteria** Commercial Viability	The Policy requires a project to generate cash flows capable of supporting a minimum of 60% non-recourse project debt for infrastructure projects with different risk profiles, revenue, construction periods and operating characteristics. The World Bank's guidance recognizes that the appropriate debt-equity structure should be project-specific and depends among other factors on • Nature and level of project risk • Sector • Technology • Project value • Financial-market conditions A project may be capable of supporting debt but should not necessarily be financed to the maximum level of that capacity, given that it may expose the Fund to refinancing and default risks.	The Institute recommends that the provision should read as follows 2.2.2. A project shall demonstrate financial capacity to support an appropriate level of non-recourse or limited-recourse debt, as determined through project-specific financial modelling and risk assessment. 2.2.3. The appropriate debt-to-total-financing ratio shall be determined having regard to a) projected cash flows b) revenue certainty c) demand risk d) construction and operational risks e) project maturity f) contractual arrangements g) regulatory environment h) foreign exchange exposure i) interest-rate risk j) the overall risk profile of the project. 2.2.4. Where a project is proposed for financing outside the standard financing parameters approved by the Board, the investment proposal shall document the basis for the deviation, the additional risks involved and the measures proposed to protect the Fund's capital.	This will provide flexibility and ensure that financing are aligned with the specific risk and cash-flow characteristics of each project.
4.	**2.2 General Investment Criteria – Financial Return**	The Policy requires projects to generate a minimum equity return of 7% to the Fund but	The Institute recommends that the Provision should read as follows	• A risk-adjusted framework provides a more appropriate basis for evaluating

	SECTION/ PARAGRAPH	ISSSUE OF CONCERN	PROPOSED AMMENDMENTS	JUSTIFICATION
		does not explain the basis for this threshold or clarify whether it applies to individual investments or the Fund's overall portfolio. It is therefore unclear whether the 7% represents a return benchmark based on the Fund's cost of capital, prevailing market conditions, inflation, project risk or a portfolio-level target. At the same time, assessing returns only at portfolio level could result in individual investments carrying disproportionate risks or generating persistently inadequate returns.	2.2.5. The Fund shall seek to achieve positive risk-adjusted financial returns across its investment portfolio. 2.2.6. The minimum required return for each investment shall be determined using an approved methodology that takes into account a) Fund's cost of capital b) prevailing market conditions c) inflation d) investment tenor e) liquidity f) project risks g) expected risk-adjusted return on comparable investments 2.2.7. The Board shall approve and periodically review the methodology and applicable return benchmarks. 2.2.8. Where an investment is expected to generate a return below the applicable benchmark, the investment proposal should provide a) a documented justification demonstrating its economic value b) the financial implications of accepting the lower return c) the associated risks and d) the measures proposed to protect the Fund's capital.	infrastructure investments. • It maintains that the Fund's overall performance should also be assessed on a portfolio basis. • It also provides a transparent basis for approving investments that may have lower financial returns but demonstrable strategic value.

	SECTION/ PARAGRAPH	ISSSUE OF CONCERN	PROPOSED AMMENDMENTS	JUSTIFICATION
CHAPTER THREE: PROPOSED SECTORS AND PROJECTS FOR DEVELOPMENT				
5.	**3.1 Priority Sectors for Development**	The IPS identifies national highways, railways, airports, seaports, electricity, ICT, water, irrigation and agribusiness infrastructure as priority sectors. However, all sectors are presented without a clear basis for determining how resources should be prioritized between sectors when available capital is limited.	The Institute recommends that the Policy introduces a sector prioritization framework under which allocations consider the following a) national development priorities b) project readiness c) economic and social impact d) commercial viability e) private capital mobilization potential f) implementation capacity g) historical budget absorption h) climate and environment i) equitable development	This will provide an objective basis for portfolio construction.

	SECTION/ PARAGRAPH	ISSSUE OF CONCERN	PROPOSED AMMENDMENTS	JUSTIFICATION
	CHAPTER THREE: PROPOSED SECTORS AND PROJECTS FOR DEVELOPMENT			
6.	**3.1 and 3.2** **Priority Sectors and Proposed Projects**	The IPS does not currently use evidence of sector implementation performance to inform portfolio prioritization. Controller of Budget FY2024/25 data reveals differences in budget execution across infrastructure and related State Departments. For instance, overall absorption was 83% for Roads, 54% for Energy, 93% for ICT and Digital Economy, 91% for Water and Sanitation, 97% for Irrigation and 89% for Agriculture.	The Institute recommends the Policy should include historical implementation performance as one of the portfolio-allocation criteria. The Board should assess sector and the projects absorption performance, preferably using a rolling three-year trend where data is available. The Institute further recommends that FY2022/23 performance of sectors from the Controller of Budget should form part of the baseline assessment.	This will ensure that the projects demonstrate value for money.
7.	**3.2 Proposed Projects**	The proposed projects are identified at sector level rather than through a defined project selection framework. The policy states that projects will be selected based on development priorities, commercial viability, catalytic impact, capital mobilization and alignment with the Act, but fails to specify how these criteria will be applied or weighted.	The Institute recommends that the Policy establishes a project scoring and ranking framework. Each project should be assessed against defined criteria, including commercial viability, economic rate of return, financial return, project readiness, implementation capacity, fiscal risk, climate resilience, private capital mobilization, strategic importance and expected development outcomes.	This will help in improving consistency and comparability in investment decisions.

	SECTION/ PARAGRAPH	ISSSUE OF CONCERN	PROPOSED AMMENDMENTS	JUSTIFICATION
8.	**3.2 Proposed Projects**	The policy allows the Governing Council to identify any other nationally significant infrastructure as a priority.	The Institute recommends that any additional sector or project category to be supported by a documented investment case and needs assessment to meet the same investment criteria applicable to the identified priority sectors.	This will prevent ad hoc expansion of the Fund's investment mandate.
9.	**3.3 Portfolio Framework/Exposure Limits**	The IPS limits exposure to one sector to 40% of Fund assets and a single project to 20%. However, the policy does not demonstrate the basis for these thresholds or explain how concentration risk will be assessed across correlated sectors.	The Institute recommends that the Policy should require the Board to establish exposure limits based on a) portfolio risk b) sector correlation c) project size d) counterparty exposure financing structure e) liquidity requirements. The 40% sector and 20% project limits should be subject to periodic review based on portfolio risk analysis.	Concentration risk can arise even where sector limits are observed.
10.	**3.6 Review**	The policy requires annual review by the Board but does not establish matters that should trigger a substantive amendment to the IPS.	The Institute recommends the policy should indicate that review should consider a) changes in the Fund's capital base b) macroeconomic conditions such as interest rates, inflation, fiscal position c) sector performance d) regulatory changes e) emerging infrastructure risks.	This will ensure that policy reviews are evidence-based and responsive to material changes.

4. ICPAK RECOMMENDATIONS

(i) There is need to make private capital mobilization a measurable investment objective for the Infrastructure fund.
(ii) The Policy should require each proposed investment to demonstrate its expected risk adjusted return against the Fund's approved risk appetite and investment objectives
(iii) The Policy should require that investment decisions be supported by a standard investment appraisal and approval process with the reasons for approval, rejection or any departure from prescribed investment parameters.

5. REFERENCES

CFA Institute. (2021, September 14). *Four considerations for strong investment policy statements.* CFA Institute

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CAPITAL
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Issue No.	Pg. No.	Section/Statement	Comments	Recommendations
1.	Pg. 4	**List of Abbreviations**	ABS is indicated as Annual Business Plan	Replace with ABP instead of ABS
2.	Pg. 5 (Par. 5)	**Executive Summary** *The Fund may invest in a broad range of investment structures including... infrastructure funds...*	The existing Capital Market Collective Investment Scheme regulations do not recognise Infrastructure Funds as an investment class/alternative.	There will be a need to review Collective the CM Investment Scheme regulations to recognise infrastructure fund as one of the asset classes.
3.	Pg. 7 (Par. 2)	**Chapter 1: Introduction** *The Fund is a special purpose vehicle...*	According to the NIF Act , the NIF shall be a body corporate with perpetual succession.	Clarify the entity structure by reconciling the Policy as drafted and the NIF Act.
4.	Pg. 8	**General Investment Criteria**	The time horizon of the investment(s) as a key investment criterion is missing.	Introduce project-specific time horizon criterion as a key consideration in informing the NIF investment decisions.
5.	Pg. 1 Par 5 & Pg. 9	**Government Support Measures** *''Success of the fund will ultimately be measured by the infrastructure it finances...*	An element of supporting the 'public good' needs to be infused into the policy.	Infrastructure is an essential plank in setting the basis of all other growth by stunting systemic risks and availing accessible benefits to extensive areas and diverse communities. NIF should

Issue No.	Pg. No.	Section/Statement	Comments	Recommendations
				therefore have as one of its objectives, meeting public interest/good.
6.	Pg.9	**Government Support Measures** *Projects that fail the general commercial criteria shall only be considered where government support measures are provided..*	Projects that fail the general commercial criteria may still proceed where Government Support Measures apply, with no ceiling, approval threshold or disclosure requirement specified.	Non-disclosure of the reasons for Government support measure(s) may materially mis-state the projects' underlying risk profile. To address this, require quantified ceilings on Government Support Measures and mandatory disclosure of any such support in the offering document(s).
7.	Pg. 9; Pg. 14	**General Investment Criteria: Financial Return** *Projects shall be expected to generate a minimum equity return of 7%...* **Appendix 1: Key Policy Parameters** *Minimum Expected Return..*	It is not clear whether: a) This is a KES or Hard Currency (e.g., USD) return b) This is a gross or net return c) This is a nominal or real return The policy provides for the same minimum return of 7% irrespective of the sector and despite the differing risk-return profiles.	Clarify the type of return referred to in the policy document. Consider setting an investment return threshold that varies by sector and risk profile.

Issue No.	Pg. No.	Section/Statement	Comments	Recommendations
8.	Pg. 10	**Proposed projects** *The Board shall prioritize investment in National Infrastructure as set out...*	There is no reference to the aspect of the proposed projects leveraging capital markets as a key anchor as expressly mentioned in **Par 5** of the **foreword** and **Par. 4** of the **Executive Summary**	Countries that have registered impressive infrastructure development among them China, Malaysia, India and Morocco, among others have leveraged capital markets actively as the pivot point for facilitating rapid capital raising while leveraging technology.
9.	Pg 12	**Regularity of Review of the IPS** *.. The Investment Policy shall be valid for 5 years..* *''The Board shall review the IPS annually...and recommend amendments to the Governing Council..*	It is not clear what the Governing Council should do with the recommendations after the IPS review. There should be room to conduct a review of the IPS (on a need basis) within a shorter period to take care of new developments or market dynamics.	Expressly indicate that the recommended amendments will then be adopted by the Governing Council and implemented in the subsequent period. Evaluate the period of the IPS review to take care of new and/or unforeseen developments. By adding 'or as will be necessary in the view of the Governing Council..
10.	Pg. 11	**Treasury Management** *Surplus Funds of the fund may be invested in Government Securities..*	MDAs are already overweight in Government securities. The investment room for investing surplus funds should be expanded.	Include all capital market securities as the potential universe of assets in which surplus funds may be invested.


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Attention:
By Email: **cna@parliament.go.ke**; **tracy.koskei@parliament.go.ke**;

Dear Sir

STAKEHOLDER ENGAGEMENT ON SESSIONAL PAPER NO. 7 OF 2026 ON THE NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY BY THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

We refer to your letter dated 17 August 2026 on the above matter.

We enclose our comments in the annexed memorandum following our review of the National Infrastructure Fund Investment Policy, 2026 (the "**Policy**").

We are available to provide clarification during the Committee's hearings and remain committed to supporting the legislative process. The writer may be reached on the email address; **Alex.Kanyi@cdhlegal.com**.

Yours faithfully

P.P

Alex Kanyi

Partner

No	Clause	Description of the Clause	Recommendations	Justification
1.	Clause 2.2: *Commercial Viability / Minimum 60% Non-Recourse Project Debt*	Clause 2.2 provides that approved projects should generate market-based cash flows capable of supporting a minimum of 60% non-recourse project debt and states that commercial viability shall constitute the primary investment threshold for all investments. The 60% threshold is also reproduced in Appendix 1 of the Policy as a key policy parameter requiring a Board policy decision rather than a statutory requirement. The clause nevertheless presents it as a minimum criterion applicable to every project. This may exclude otherwise viable infrastructure projects which have longer development periods, significant public-interest characteristics or different financing structures.	We propose that the 60% threshold operate as a general benchmark, with a controlled exception for projects which are commercially and financially viable but cannot reasonably achieve the threshold because of the characteristics of the infrastructure sector or project. We therefore propose that the clause be amended to read: "Approved projects shall ordinarily be expected to generate market-based cash flows capable of supporting at least sixty percent non-recourse project debt. The Board may approve a project that does not meet this threshold where, following an independent financial assessment, it is satisfied that the project is commercially and financially sustainable and that the deviation is justified by the characteristics of the project or sector. The reasons for such approval shall be documented."	The Policy itself recognises that the 60% requirement is a Board policy decision and not a statutory threshold. A controlled exception is preferable to either retaining an inflexible threshold or removing it altogether. It maintains commercial discipline while allowing the Fund to accommodate different infrastructure financing models.
2.	Clause 2.2: *Financial Return*	The Policy provides that projects must generate a minimum 7% annual equity return to the Fund.	We therefore recommend that the 7% return be retained as a benchmark but that the Policy define the basis for calculating the	The 7% figure is expressly identified in the Policy as a Board policy decision. Defining the return

No	Clause	Description of the Clause	Recommendations	Justification
		The provision of a uniform minimum return may not adequately account for differences in project risk, tenor, sector, inflation and capital structure.	return and permit a departure where justified by a documented risk-adjusted assessment. We propose that the clause be amended to read: "Projects shall be expected to generate a minimum risk-adjusted equity return of seven percent to the Fund, measured in accordance with investment guidelines approved by the Board. The Board may approve a project with an expected return below the benchmark where it determines, on the basis of a documented risk-adjusted assessment, that the investment remains financially sustainable and advances the statutory objectives of the Fund."	methodology would avoid uncertainty during investment appraisal, while a risk-adjusted approach would prevent the Fund from making investment decisions based solely on a nominal return threshold.
3.	Clause 2.3: *Government Support measures*	Clause 2.3 permits projects that do not satisfy the general investment criteria to be considered where Government Support Measures are provided in accordance with the National Infrastructure Fund Act, 2026 (the "**Act**") and the Board is satisfied that the investment remains commercially and financially	We recommend that the Policy require a documented fiscal-risk and value-for-money assessment before a project may rely on Government Support Measures. We propose an amendment of the wording to read:	The Fund is a public institution entrusted with significant public resources. Section 25(4) of the Act requires the Fund's risk-management framework to identify, measure, monitor and manage financial and contingent

No	Clause	Description of the Clause	Recommendations	Justification
		sustainable after taking those measures into account. However, the clause does not state what assessment must be undertaken before Government Support Measures are relied upon, nor does it expressly require consideration of the potential fiscal or contingent liability arising from such support.	"Where a project is considered for investment on the basis of Government Support Measures, the Board shall, before approving the investment, undertake or procure an assessment of the financial, fiscal and contingent liability implications of the proposed support and satisfy itself that the support is necessary, proportionate and consistent with the Public Finance Management Act and the National Infrastructure Fund Act."	liabilities. The additional requirement would therefore operationalise an existing statutory risk-management obligation rather than introduce an unrelated requirement.
4.	Clause 3.2: *Proposed Projects*	Clause 3.2 identifies priority sectors and states that priority projects are identified based on national development priorities, commercial viability, catalytic economic impact, capital mobilisation potential and alignment with the purposes of the Fund. It then lists sectors including transport, energy, ICT, water and irrigation, agriculture and livestock and "other national priority infrastructure." The clause concludes that there are currently no ongoing or outstanding projects since this is the inaugural Policy. Section 25(2)(b) of the Act expressly requires the Policy to specify proposed projects. The Policy identifies sectors but does not itself identify specific proposed projects. Stating that there are no ongoing	The statutory requirement is that the Policy itself specify the proposed projects. That requirement can therefore only be satisfied before the Policy is published under Section 31 of the Act. We recommend that the Committee approve the Policy with a reservation under Section 28(b) of the Act requiring the Governing Council to incorporate an indicative pipeline of proposed projects into Clause 3.2, so that the pipeline forms part of the Policy as revised under Section 30(1)(b) and published under Section 31.	The Act expressly requires proposed projects to be specified in the Policy.

No	Clause	Description of the Clause	Recommendations	Justification
		or outstanding projects does not necessarily address the statutory requirement to specify proposed projects.		
5.	Clause 3.2: *Other National priority infrastructure*	The Policy permits investment in "any other nationally significant infrastructure identified by the Governing Council as a national priority", provided the investment is consistent with the Act. The phrase "other nationally significant infrastructure" is broad and does not identify the criteria or process through which a project outside the listed sectors may be designated a national priority.	We recommend that the Policy establish an objective criterion and a documented approval process for designating infrastructure outside the listed priority sectors as a national priority. We propose the Clause be refined as follows: "Any project falling outside the priority sectors specified in this Policy may be designated as national priority infrastructure where the Governing Council, on the recommendation of the Board, is satisfied that the project demonstrates significant national economic or strategic impact, is consistent with the objects of the Fund and satisfies the applicable investment criteria. The reasons for the designation shall be recorded in writing."	The recommendation preserves flexibility to respond to emerging national infrastructure needs while reducing the risk of the investment mandate being expanded without objective criteria.
6.	Clause 3.3: *Sector and project exposure limits*	Clause 3.3 provides that exposure to any one sector shall not exceed 40% of Fund assets, while exposure to a single project shall not exceed 20% of Fund	We recommend that the Policy require the Board to prescribe the methodology for	A defined review period will make the obligation operational. More importantly, the annual review

No	Clause	Description of the Clause	Recommendations	Justification
		assets. It also provides that leverage shall ordinarily be undertaken at project or investment-vehicle level and on a non-recourse basis. However, the clause does not explain how "exposure" or "Fund assets" are to be calculated, particularly where the Fund invests through special purpose vehicles, infrastructure funds, co-investment arrangements or other indirect investment structures.	calculating sector and project exposure, including direct and indirect exposure. We propose an inclusion of a provision that reads: "For purposes of the sector and project exposure limits, the Board shall establish a methodology for calculating direct and indirect exposure, including exposure arising through special purpose vehicles, infrastructure funds, co-investment arrangements and other investment structures. The methodology shall be approved by the Governing Council and reviewed annually."	should not inadvertently create a mechanism through which substantive provisions approved through the statutory process can be amended internally. The Act provides a specific parliamentary process for approval and amendment of the Policy.
7.	Clause 2.1 and Preface: Authority for the preparation of the Policy	Clause 2.1 and the Preface state that the Governing Council has prepared the Policy pursuant to Section 25 of the Act. The Compliance Checklist annexed to the Policy, however, records the requirement as "Investment Policy prepared by the Board" under Section 25(1) and refers to approval by the Governing Council before submission. Section 25(1) of the Act in fact requires the Governing Council to develop the Investment Policy for approval by	We recommend that the Policy and the Compliance Checklist be aligned with Sections 25(1) and 26 of the Act by confirming that the Policy is developed by the Governing Council, approved by Cabinet and submitted to the National Assembly by the Cabinet Secretary, and that the Board's role is limited to implementation. We propose that the Compliance Checklist entry be corrected to read: "Investment Policy developed by the	The allocation of responsibility between the Governing Council and the Board is the foundation of the Fund's governance framework and determines who is accountable for policy as opposed to implementation. An inconsistency on the face of the Policy as to which organ prepared it may be relied upon to challenge the validity of the

No	Clause	Description of the Clause	Recommendations	Justification
		Cabinet, and Section 26 then requires the Cabinet Secretary to submit it to the National Assembly.	Governing Council and approved by Cabinet - Section 25(1)".	Policy or of investment decisions made under it.
8.	Clause 3.3: Leverage and the prohibition on balance sheet borrowing	Clause 3.3 provides that leverage shall be undertaken only at project or investment vehicle level and "shall ordinarily be non-recourse to the Fund". Appendix 1 records project leverage as "non-recourse" and balance sheet borrowing as "not permitted". Section 19(2)(a) of the Act prohibits the Board from borrowing or taking credit against the Fund's balance sheet. The qualification "ordinarily" suggests that recourse to the Fund may be permitted in unspecified circumstances, and the Policy does not address the forms of credit support that lenders customarily require at project level, such as equity commitment or contingent equity undertakings, completion support, standby facilities and sponsor guarantees.	We recommend that the Policy state expressly that leverage shall be non-recourse to the Fund and that no instrument may be granted which constitutes borrowing or the taking of credit against the Fund's balance sheet, and that it identify the credit support the Fund may provide at project level within that limit. We propose that Clause 3.3 be amended to read: "Leverage shall be undertaken only at the project or investment vehicle level and shall be non-recourse to the Fund. The Fund shall not borrow or take credit against its balance sheet. The Board may approve equity commitment undertakings, contingent equity, subordinated shareholder funding and similar support at project level, provided that the aggregate contingent exposure of the Fund is capped at the amount of the Fund's approved capital commitment to the relevant project, is quantified at the time of approval and is reported in accordance with the risk management framework."	Lenders to infrastructure projects will require some form of sponsor support, and the absence of a stated position invites requests which the Fund is not permitted to accept. Replacing "ordinarily" with a firm prohibition removes any suggestion that recourse to the Fund is available and aligns the Policy with Section 19(2)(a), while the express carve-out allows the Fund to provide the quantified, capped support required to achieve financial close.

No	Clause	Description of the Clause	Recommendations	Justification
9.	Chapter 3: Security, intercreditor arrangements and enforcement	Section 19(1)(b) to (e) of the Act empowers the Board to acquire, hold, surrender, exchange and realise security and security interests of any kind for the due discharge of obligations under its investments, and Section 19(1)(g) permits it to accept interests in real or personal property as security. The Policy does not address the taking or realisation of security, the Fund's position as against senior lenders, or the exercise of step-in and enforcement rights where a project fails.	We recommend that the Policy include a clause setting out the Fund's approach to security and enforcement. We propose a provision to the following effect: "The Fund shall, where appropriate, take security for its investments and shall determine its position in relation to senior and other creditors in each transaction. The Board shall approve guidelines addressing the taking, holding, sharing and release of security, intercreditor and subordination arrangements, and the circumstances in which the Fund may exercise step-in, enforcement or remedial rights in respect of an underperforming project. Any release or subordination of security shall be approved by the Board and the reasons recorded in writing."	Security is the principal means by which the Fund can protect public capital where a project underperforms, and the value of the Fund's position depends on decisions taken at financial close on ranking, sharing and intercreditor terms. A stated policy position enables the Fund to negotiate consistently with commercial lenders and development finance institutions and avoids the Fund being asked to subordinate or release its security on an ad hoc basis.
10.	Chapter 3: Co-investment arrangements and shareholder protections	One of the statutory purposes of the Fund under Section 4(b) of the Act is to mobilise private capital and non-traditional sources of infrastructure finance, including domestic pension funds, collective investment schemes, sovereign wealth funds and climate finance, and Section 19(1)(l) permits the Board to establish special purpose vehicles, pooled investment vehicles, infrastructure funds and other capital market instruments for that purpose. The	We recommend that the Policy require the Board to satisfy itself, before approving an investment, that the Fund's governance and minority protections in the relevant vehicle are appropriate to the Fund's interest and to the nature of the project. We propose a provision to the following effect: "Where the Fund invests alongside other investors or through a special purpose vehicle, pooled	The Fund will frequently be a minority investor in project companies, and its ability to protect public capital in that position depends on contractual governance rights rather than voting control. The rights that are appropriate will vary from project to project according to the Fund's stake, the co-investors

No	Clause	Description of the Clause	Recommendations	Justification
		Policy refers to co-investment platforms and capital mobilisation as a performance measure but does not address the terms on which the Fund will co-invest or the governance and minority protections it will require where it holds a non-controlling interest.	investment vehicle or infrastructure fund, the Board shall, before approving the investment, satisfy itself that the constitutive and shareholder documents confer governance, participation, information and exit rights appropriate to the Fund's interest in the vehicle and to the nature of the project, and shall record its assessment in writing."	involved and the structure adopted, so requiring the Board to assess their adequacy before approving an investment preserves flexibility while ensuring the question is addressed before capital is committed.
11.	Chapter 2: Conflicts of interest, related party transactions and political independence	Sections 12 and 16(6) of the Act require members of the Governing Council and directors of the Board to disclose material interests and to abstain from deliberating or voting, and Section 37(c) requires the Fund to identify and disclose transactions with directors or their close relatives. Section 6(3) provides that the Governing Council shall not have control over the operations of the Fund and that the Board shall exercise independence. The Policy lists "political independence clause" and "commercial viability as the primary investment gate" as Board policy decisions protecting the Fund from political investment decisions, but Chapter Two contains no operative provision on conflicts of interest, related party transactions or independence of investment decision-making.	We recommend that Chapter Two include an operative provision to the following effect: "Investment decisions shall be taken by the Board on commercial and technical grounds in accordance with this Policy and the Act, and no investment shall be approved on the direction of any person other than in accordance with the Act. A member of the Governing Council or of the Board who has a direct or indirect interest in a proposed investment or in a counterparty shall disclose that interest and shall not participate in the deliberation or approval of the matter. The Board shall approve a related party transaction policy requiring the identification, independent review and disclosure of any investment or transaction involving a	The Fund invests public resources alongside private investors, and its ability to attract institutional capital depends on investors being satisfied that investment decisions are made on commercial grounds. Stating the independence of investment decision-making and the related party review process in the Policy operationalises the disclosure duties already imposed by the Act and gives effect to the political independence parameter identified in the Policy itself.

No	Clause	Description of the Clause	Recommendations	Justification
			director, member of the Governing Council, senior officer or their related parties."	
12.	Clause 3.4: Treasury management	Clause 3.4 provides that pending deployment, monies of the Fund shall be managed prudently to preserve capital, maintain liquidity and generate appropriate investment income, in accordance with the Act and Board-approved treasury policies, and that surplus funds may be invested in Government securities in accordance with Section 43 of the Act. Section 43 permits the Board to invest surplus funds in Government securities only with the approval of the Cabinet Secretary, and Section 40 requires the monies and income of the Fund to be held at the Central Bank of Kenya, with other accounts permitted at commercial banks for investment and operational purposes. The Policy does not identify the instruments in which undeployed capital may be held, or any counterparty, concentration or tenor limits.	We recommend that Clause 3.4 be expanded to reflect the statutory constraints and to set treasury guardrails. We propose that the clause provide: "Treasury investments shall be limited to Government securities approved by the Cabinet Secretary in accordance with Section 43 of the Act and to deposits held with the Central Bank of Kenya or with commercial banks maintained under Section 40(4) of the Act. The Board shall approve treasury guidelines specifying eligible instruments, minimum counterparty credit criteria, single counterparty and concentration limits, maximum tenor and liquidity requirements aligned to projected capital deployment, and shall report treasury exposures to the Governing Council."	Undeployed capital is likely to represent a substantial part of the Fund's assets in its early years, and the Fund is exposed to bank counterparty and liquidity risk while that capital is held. A treasury clause that identifies eligible instruments and counterparty limits and records the Cabinet Secretary's approval requirement gives effect to Sections 40 and 43 of the Act and ensures that capital is available when a project reaches financial close.
13.	Chapter 2: Financial risk management framework	Clause 2.2 requires only that projects comply with the Board's Risk Management Framework, and the Policy does not identify the categories of financial risk to which the Fund will be exposed. Infrastructure investments of the kind contemplated will typically	We recommend that the Policy identify the minimum content of the risk management framework required by Section 25(4) of the Act. We propose a provision to the following effect: "The Risk Management Framework shall address, at a minimum, credit and	Currency mismatch and refinancing risk are the principal causes of financial distress in infrastructure projects financed with long-term debt, and exposures of this kind arise at the point of investment

No	Clause	Description of the Clause	Recommendations	Justification
		involve foreign currency debt, long tenors and refinancing at the end of an initial debt term.	counterparty risk, currency and interest rate risk, refinancing and liquidity risk, construction and completion risk, concentration risk and the use of hedging or other risk mitigation instruments."	rather than when they crystallise. Identifying the categories of risk in the Policy operationalises the existing statutory obligation and enables the Fund to price and structure investments on a risk-adjusted basis consistent with the return benchmark.
14.	Chapter 4: *Monitoring and evaluation*	Chapter Four requires the Board to monitor implementation using financial and non-financial indicators and identifies financial performance, capital deployment, capital mobilisation, portfolio quality and national development outcomes. It further provides that the Board shall establish appropriate performance indicators through the annual Business Plan. The Policy identifies broad areas of performance but does not establish minimum reporting intervals, minimum indicators or a deadline for reporting performance. The Policy also includes "national development outcomes" as a performance consideration but does not indicate how these outcomes are to be measured.	We therefore recommend that the Policy establish minimum performance indicators and quarterly monitoring, while leaving the Board flexibility to develop additional indicators through the annual Business Plan. The Clause could have a provision with the effect that: "The Board shall monitor the performance of each approved project on a quarterly basis against financial and non-financial performance indicators. The Board shall include in its annual report a consolidated assessment of the performance of the Fund and each approved project, including capital deployed, financial returns, capital mobilised, project implementation status,	The provision would convert the broad monitoring obligation into a measurable framework without prescribing every operational indicator in the Policy. It would also align project-level monitoring with the Fund's broader reporting obligations under Part IV of the Act. Further, this will ensure that the Fund is assessed not only on financial returns but also against the national development objectives that form part of its mandate, while avoiding a rigid one-size-fits-all set of indicators for all infrastructure sectors.

No	Clause	Description of the Clause	Recommendations	Justification
		Without defined indicators, the Fund's development impact may be assessed subjectively and may not be capable of meaningful comparison from one year to another.	material risks and national development outcomes." Further, we recommend that the annual Business Plan contain measurable development indicators appropriate to the relevant sector and project. This could for example take the form: "For each approved project, the annual Business Plan shall specify measurable national development indicators appropriate to the project, which may include infrastructure capacity created, service coverage, employment generated, private capital mobilised, regional economic impact and other relevant outcomes. Performance against the indicators shall be reported annually."	
15.	Appendix 1: *Key Policy Parameters*	Appendix 1 identifies the 60% minimum project debt capacity, 7% minimum expected equity return, 40% maximum sector exposure, 20% maximum single-project exposure and prohibition on balance-sheet borrowing. The Appendix also identifies these as "Board Proposal" parameters.	We therefore recommend that the Appendix expressly identify whether each parameter is statutory, policy-based or operational. The clause could be amended to have the effect below:	This will improve legal clarity and avoid treating a Board policy choice as though it were a statutory requirement. The Policy itself acknowledges that several of the key parameters are Board policy

No	Clause	Description of the Clause	Recommendations	Justification
		The Appendix does not expressly distinguish between parameters arising from the Act and parameters adopted as additional policy decisions by the Board/Governing Council.	"The policy parameters set out in this Appendix shall be classified as either statutory requirements under the National Infrastructure Fund Act, 2026 or additional policy parameters adopted under this Policy. Any amendment to a statutory or substantive policy parameter shall be undertaken in accordance with the applicable provisions of the Act."	decisions that are not prescribed by the Act.

REPUBLIC OF KENYA

Office of the Controller of Budget

COMMENTS ON SESSIONAL PAPER NO. 7 OF 2026 ON NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY SUBMITTED TO THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING OF THE NATIONAL ASSEMBLY

August 2026

1. Introduction

The Office of the Controller of Budget (OCOB) is established under Article 228 of the Constitution to oversee the implementation of the budgets of the National and County Governments by authorising withdrawals from public funds as established under Articles 204, 206 and 207 of the Constitution of Kenya. Article 228 (5) of the Constitution requires the Controller of Budget (CoB) not to approve any withdrawals from public funds unless satisfied that such withdrawals are authorised by law. The CoB is further guided by the principles of public finance as articulated in Article 201 of the Constitution, which requires that public funds be used prudently and responsibly.

1.1 Functions and Role of the Controller of Budget

a. **Oversight Role:** The CoB oversees the implementation of national and county governments' budgets per Article 228 (4) of the Constitution. This role involves monitoring the use of public funds and reporting to Parliament on the utilisation.
b. **Controlling Role:** The CoB authorises withdrawals from public funds, namely, the Consolidated Fund (Article 206(4)), County Revenue Fund (Article 207(2)(3)), and Equalisation Fund (Article 204(9)). In authorising withdrawals, I must be satisfied that the withdrawal complies with the law and is permitted under Article 228(5) of the Constitution.
c. **Reporting Role:** By preparing statutory reports (quarterly, annual and special reports) to the Executive and Legislature on Budget implementation of the National and County governments (Article 228(6) and Sections 9 and 10 of the CoB Act, Cap 429. Through these reports, the Controller of Budget ensures continuous monitoring of the usage of public funds.
d. **Advisory Role:** Providing advice to Parliament and County Governments on financial matters, including where the Cabinet Secretary responsible for the National Treasury exercises his mandate to stop the transfer of funds to a State organ or public entity, pursuant to Article 225 (7)(a) of the Constitution.
e. **Investigation Role:** Investigate on one's own initiative or following a complaint made by a member of the public on budget implementation matters, pursuant to Article 252(1)(a) of the Constitution.
f. **Dispute Resolution Role:** Undertaking alternative dispute resolution, namely reconciliation, mediation, and negotiation, to resolve conflicts and issues relating to budget implementation between the national and county governments or between county governments.
g. **Public Sensitisation Role: disseminating information to the public on budget implementation at both levels of Government (Section 39(8) of the Public Finance Management Act, Cap 412A, hereinafter referred to as the PFM Act).**

This is in line with Article 35 of the Constitution, which provides for the right of access to information held by the state. This ensures that the public is well informed about budget implementation, enabling them to actively and effectively participate in the budget process.

h. **Monitoring Role:** Undertaking monitoring, evaluating, reporting and making recommendations to the National and County Governments on measures to improve budget implementation.

i. **Enforcement of Budget Ceilings:** Enforcing budgetary ceilings as set by legislation and other institutions mandated to set any such limit as mandated under Section 5(d) of the Controller of Budget Act, Cap 429.

This report is prepared in response to a letter **Ref: NA/DDC/F&N/2026/116** dated **14th August 2026** from the Office of the Clerk of the National Assembly inviting the Controller of Budget to participate in stakeholder engagement on Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy.

2. Comments on National Infrastructure Fund (NIF) Investment Policy

The National Infrastructure Fund was established by the National Infrastructure Fund Act 2026, assented to in March 2026. The Act requires the Fund's Board to develop a five-year Investment policy covering priority sectors, proposed projects, expected returns, asset allocation and exposure limits. The Draft Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy represents an important shift in Kenya's approach to infrastructure financing. It seeks to move the country from a predominantly debt-financed infrastructure model towards an investment-led model capable of mobilising domestic and international private capital. The National Infrastructure Fund Act, 2026, establishes the institutional framework for this approach and identifies the Fund's broad purpose as mobilising resources from sources such as domestic pension funds, collective investment schemes, sovereign wealth funds and climate finance, while reducing reliance on public debt for commercially viable infrastructure investments.

The policy is therefore potentially transformative. However, its success will depend not merely on the amount of capital mobilised but on the quality of investment decisions, governance, transparency, risk management, regional equity and the extent to which commercially driven investments remain aligned with Kenya's broader development objectives. Our comments on policy recommendations in the NIF Investment Policy are presented in Table 1 below.

Table 1: Comments on policy recommendations in NIF Investment Policy

S/no.	Policy Recommendation	Weaknesses/ Areas of Concern	Mitigation Measures	COB Recommendations
1.	Under Paragraph 2.3, the policy provides that projects that do not satisfy the Fund's general investment criteria shall be considered only where Government support measures are provided in accordance with the Act and the Board is satisfied that the investment remains commercially viable and financially sustainable after giving effect to those support measures. According to Section 34 of the NIF Act, 2026, the Government support measures referred to in the Policy include (a) a binding undertaking; (b) a letter of support; (c) a letter of credit; (d) a credit guarantee, whether partial or full; (e) approval for issuance of partial risk guarantees and political risk insurance; or (f) any other instrument that the Cabinet Secretary is responsible for matters relating to finance may, on the advice of the Board, determine:	**Risk of reintroducing public debt through government guarantees:** The objective of reducing public debt could be undermined if the Government provides extensive guarantees and other support measures to Fund projects. The legislative framework allows government support measures, including binding undertakings, letters of support, letters of credit and credit guarantees. This creates an important fiscal-risk question: although the Fund may initially appear to be off-budget financing, government guarantees can ultimately expose taxpayers to contingent liabilities if projects fail.	The distinction between investment and borrowing must be clearly brought out in the NIF Investment Policy. The Investment Policy should consequently state clearly: ✓ when the Fund may borrow; ✓ who bears the repayment obligation; ✓ whether borrowing constitutes public debt; ✓ the circumstances under which the Government may provide guarantees; ✓ maximum leverage ratios; and ✓ how contingent liabilities will be reported. These safeguards are necessary to prevent the Fund from likely shifting debt outside the conventional	Introduce explicit leverage and guarantee ceilings to prevent the Fund from becoming an indirect source of public debt.

			financing framework, which may aggravate the fiscal risk.	
2.	Under Paragraph 3.1, the Policy Proposes priority sectors for development to include: i. National highways ii. Railway networks; iii. Airports; iv. Seaports v. Electricity generation, transmission and distribution vi. Information and Communication; vii. Water Reservoirs and Irrigation; and viii. Agribusiness	A more sophisticated approach to examining whether national infrastructure projects are fairly distributed across Kenya is lacking. **There is therefore the risk of concentrating investment in politically favoured regions or sectors:** Infrastructure allocation has historically been politically sensitive in Kenya. A large central investment fund could potentially become vulnerable to political lobbying and regional competition.	The Investment Policy should establish transparent principles for geographical and sectoral allocation.	While investments should not be distributed to achieve political balance, the policy should ensure that national infrastructure investment does not systematically exclude economically productive but historically underserved regions.
3.	The draft policy proposes a minimum equity return on projects of 7 per cent under Paragraph 2.2 on general investment criteria (Page 9) Appendix 1 on key Policy Parameters (Page 14) also outlines, among other parameters, that the minimum expected equity return is proposed at 7 per cent.	**The minimum-return approach requires scrutiny:** While a minimum return can impose useful commercial discipline, applying a uniform return threshold to fundamentally different infrastructure projects could be problematic. Roads, ports, water infrastructure, renewable energy, irrigation and digital infrastructure have different risk profiles, gestation	The Policy should adopt risk-adjusted return benchmarks, rather than treating a single return threshold as applicable to all projects.	Replace a rigid uniform return threshold with risk-adjusted return benchmarks differentiated by sector, project maturity and risk.

		periods, revenue structures and social externalities. The Policy should adopt risk-adjusted return benchmarks, rather than treating a single return threshold as applicable to all projects.		
4.	Paragraph 3.3 on Portfolio Framework/Exposure Limits requires that the Board shall maintain a diversified investment portfolio as approved by the Board, but in any case:- a) The maximum exposure to any one sector shall not exceed 40% of Fund assets; b) The maximum exposure to any single project shall not exceed 20% of Fund assets.	Unclear risk appetite and leverage management: The Act requires the Investment Policy to specify asset allocation, portfolio distribution and leverage ratios. However, these provisions need to be translated into robust quantitative risk limits that can be monitored in practice.	The Investment Policy should clearly define: ✓ maximum exposure to a single project; ✓ maximum exposure to a particular sector; ✓ permissible levels of borrowing and leverage; ✓ foreign-exchange exposure limits; ✓ counterparty limits; ✓ liquidity requirements; ✓ guarantees and contingent liabilities; ✓ acceptable credit-risk levels; and ✓ procedures for restructuring distressed investments. Without these safeguards, the Fund could	Require independent feasibility and value-for-money assessments before major investments are approved.

			unintentionally recreate the high fiscal risks it is intended to cure.	
5.	Paragraph 3.1 of the Policy Proposes priority sectors for development to include: i. National highways ii. Railway networks; iii. Airports; iv. Seaports v. Electricity generation, transmission and distribution vi. Information and Communication; vii. Water Reservoirs and Irrigation; and viii. Agribusiness	There is potential for duplication with existing institutions: The NIF operates within an already extensive infrastructure and public investment institutional framework. There is a risk of overlap with bodies such as the Kenya National Highways Authority, Kenya Airports Authority, KENGEN, KETRACO and the State Department for Public Investment and Assets Management, among others. This increases the likelihood of duplicate project appraisals, competing mandates, additional administrative costs, and diluted accountability.	The Investment Policy should clearly define the relationship among the Fund, National Treasury, the State Department for Public Investment and Assets Management, implementing agencies, and sector regulators, and specify where their responsibilities lie. The Policy should also make the Fund principally a financing and investment vehicle, rather than creating another project-implementation bureaucracy.	Clarify institutional responsibilities between the Fund, the State Department for Public Investment and Assets Management and other implementing agencies.
6.	The General Investment Criteria specified in Paragraph 2.2 requires that qualifying infrastructure projects be commercially viable. The Policy proposes market-based cash flow generation sufficient to support at least 60% non-recourse project debt for approved projects. It further provides that Commercial viability shall constitute the primary investment threshold for all investments.	The commercial-return principle could disadvantage socially important projects: The emphasis on commercial viability and expected returns is appropriate for an investment fund, but it presents a potential weakness. Some strategically important infrastructure projects may generate substantial social and economic benefits without	The policy should therefore distinguish between financial return and economic/ social return. Projects should be assessed using a broader development-adjusted investment framework rather than relying exclusively on financial profitability.	Create a transparent project-ranking framework based on financial, economic, social, environmental and strategic criteria.

		producing sufficiently high direct financial returns. For example, infrastructure serving marginalised or remote regions may have lower commercial returns but significant benefits in terms of employment, market access, regional integration and poverty reduction.		
7.	The Policy does not define the term 'National Infrastructure'. Instead, it relies on the definition provided in the NIF Act. According to the NIF Act, "national infrastructure" means national highways, railway networks, airports, seaports, electricity generation, transmission, and distribution infrastructure, information and communication infrastructure, water reservoirs, and irrigation and agribusiness infrastructure.	**There is Insufficient clarity on what constitutes "national infrastructure":** the absence of a sufficiently precise definition of national infrastructure. This may constitute a grey area that could create room for discretionary investment and allow resources to be directed towards projects of questionable economic value.	The Investment Policy should therefore establish a clear taxonomy of eligible investments. It should distinguish between strategic national infrastructure, commercially viable infrastructure, social infrastructure and projects that should ordinarily be financed through the ordinary development budget.	Define eligible infrastructure precisely and establish clear exclusion criteria for projects that do not meet national, economic or commercial-investment thresholds.
8.	On Page 6 of the Policy under the Stewardship of the Fund's Capital, the Policy states that the National Infrastructure Fund is capitalised principally from the proceeds of privatisation and other strategic capital allocations by the Government.	The use of proceeds from privatisation and disposal of government assets as a source of funding is potentially innovative, but it also raises an important intergenerational issue. Public assets are finite. Selling an asset to finance infrastructure can be justified where the proceeds are	The Policy should establish strong safeguards around valuation, disposal, investment and reporting.	Ring-fence and protect proceeds from privatisation and asset disposal through transparent valuation, competitive disposal processes and clear investment rules.

		invested productively. Still, there is a risk that valuable public assets could be sold without adequate valuation or without demonstrating that the resulting investment will generate superior long-term public value. The legal framework has since been amended to channel privatisation proceeds into the NIF, but the policy should establish strong safeguards around valuation, disposal, investment and reporting.		
9.	The Policy, under Paragraph 2.1 on its purpose, proposes establishing the investment guardrails applicable to the Fund. It further states that the detailed investment procedures, treasury management procedures, delegation of authority, risk management policies and investment guidelines shall be approved separately by the Board. Consequently, the conflict-of-interest provisions are missing from the Policy.	**To ensure public trust, stronger conflict-of-interest provisions are needed in the Policy. Given the substantial financial resources involved, the policy should contain rigorous rules governing conflicts of interest involving Council members, directors, senior management, investment advisers,** and related parties.	Declarations of interests should be mandatory, independently verified, and publicly disclosed where appropriate. Individuals with conflicts should be prohibited from participating in related decisions. This is essential for maintaining investor confidence and protecting public assets.	Strengthen conflict-of-interest provisions, including beneficial ownership disclosure, recusal requirements and cooling-off periods.
		Environmental, social and climate risks have not been incorporated in investment guardrails.	The environmental and social safeguards are increasingly fundamental and should be embedded in the investment conditions. This will also enhance the Country's	Integrate climate-risk and environmental sustainability assessments into every major investment decision.

			potential to access international climate finance and development funds.	

FCPA Dr Margaret Nyakang'o, CBS
CONTROLLER OF BUDGET

REPUBLIC OF KENYA

NAIROBI INTERNATIONAL FINANCIAL CENTRE

DDC 8 19/8/26

NAIROBI INTERNATIONAL FINANCIAL CENTRE AUTHORITY

Ref. No. NIFCA/SG&D/5/1 VOL. I/ (7) **18th August, 2026**

The Clerk of the National Assembly
Parliament Buildings
P.O. Box 41842-00100
NAIROBI

Tracy chebet to facilitate 19/8/26

Dear Hon. Clerk,

RE: SUBMISSION OF MEMORANDUM ON SESSIONAL PAPER NO. 7 OF 2026 ON THE NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY

Reference is made to the National Assembly's invitation to submit memoranda on Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy.

Please find enclosed the Memorandum of the Nairobi International Financial Centre Authority for consideration by the Departmental Committee on Finance and National Planning.

The Authority supports the objectives of the National Infrastructure Fund and has confined its proposals to matters directly relevant to Kenya's financial-services and capital-mobilisation architecture. The Memorandum proposes a limited framework through which the Fund may, where appropriate and subject to applicable law, utilise investment and co-investment vehicles, collaborate with NIFCA and other relevant institutions, and crowd in domestic and international institutional capital.

The proposals are anchored in the National Infrastructure Fund Act, 2026; the Nairobi International Financial Centre Act, Cap. 495 and its Regulations; and the Fourth Medium Term Plan 2023-2027, which expressly contemplates the establishment of investment vehicles under the NIFC programme. They do not seek to alter the governance, project-selection or investment decision-making mandate of the National Infrastructure Fund.

We respectfully request the Committee to consider the recommendations and proposed policy wording set out in the enclosed Memorandum when considering Sessional Paper No. 7 of 2026.

Please accept the assurances of our highest consideration.

DIRECTORATE OF DEPARTMENTAL COMMITTEES RECEIVED 19 AUG 2026

NATIONAL ASSEMBLY RECEIVED 19 AUG 2026 CLERK'S OFFICE P. O. Box 41842, NAIROBI.

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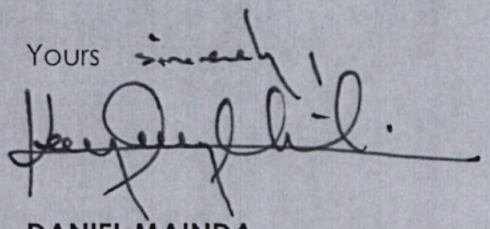
Yours sincerely



DANIEL MAINDA
CHIEF EXECUTIVE OFFICER

NAIROBI INTERNATIONAL FINANCIAL CENTRE

MEMORANDUM
TO THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING
ON SESSIONAL PAPER NO. 7 OF 2026 ON THE NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY
SUBMITTED BY THE NAIROBI INTERNATIONAL FINANCIAL CENTRE AUTHORITY

18 August 2026

EXECUTIVE SUBMISSION

NIFCA supports the National Infrastructure Fund Investment Policy and proposes a narrow set of amendments to strengthen its ability to crowd in domestic and international private capital. The recommendations do not transfer investment, project-selection, approval or fund-management functions to NIFCA. They recognise, instead, that Kenya already has a statutory international financial-centre framework under the Nairobi International Financial Centre Act and Regulations through which project finance, fund management, collective investment schemes, climate finance, investor companies, special purpose vehicles and joint-venture investment entities may operate. MTP IV separately provides for the establishment of investment vehicles under the NIFC programme. The Investment Policy should therefore permit the Fund, where commercially appropriate and subject to applicable law, to utilise this existing architecture for co-investment, capital mobilisation and Kenyan-domiciled investment structures.

1. PURPOSE OF THE MEMORANDUM

The Nairobi International Financial Centre Authority (NIFCA) submits this Memorandum pursuant to Article 118(1)(b) of the Constitution and the National Assembly's invitation for public participation on Sessional Paper No. 7 of 2026.

The submission is deliberately focused. NIFCA does not seek an exclusive mandate over capital mobilisation for the National Infrastructure Fund (NIF), nor any role in approving, selecting or managing NIF investments. The purpose is to ensure that the Investment Policy is legally coherent with Kenya's existing financial-services architecture and sufficiently practical to mobilise private capital at scale.

The central proposition is that the NIF should remain the national infrastructure investment institution, while the NIFC should remain an enabling financial-centre framework. Where a transaction requires a fund, project company, special purpose vehicle, joint venture, investment manager, custodian, arranger or other

qualifying financial structure, the Policy should permit the NIF to use existing statutory frameworks rather than create parallel structures.

2. CONSTITUTIONAL AND STATUTORY CONTEXT

Article 118(1)(b) requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its committees. The present process is therefore an opportunity to ensure that the final Investment Policy is implementable, commercially credible and consistent with the wider body of Kenyan law.

Under section 25 of the National Infrastructure Fund Act, 2026, the Governing Council develops the Investment Policy for Cabinet approval. The Policy must specify priority sectors, proposed projects, incomplete projects from the previous policy, expected rates of return on specific projects, asset allocation, portfolio distribution and leverage ratios, and exposure limits per sector and project. Section 25(4) additionally requires a formal risk-management framework approved by the Governing Council. Sections 26 to 31 establish National Assembly approval, consideration, notification, amendment and publication of the Policy.

This architecture is significant: Parliament is not approving an abstract statement of intent. The Investment Policy is the principal statutory instrument that will determine the Fund's investment direction, portfolio parameters and risk boundaries for its five-year validity period. It should therefore address not only what the Fund may invest in, but also the mechanisms by which investible projects can crowd in additional capital.

3. RELEVANT FEATURES OF THE NATIONAL INFRASTRUCTURE FUND ACT, 2026

The Act establishes an investment framework centred on commercially viable national infrastructure. Section 24 requires the annual business plan to be based on the Investment Policy. Sections 32 to 34 address project preparation, feasibility and Government support measures, while sections 35 to 37 impose reporting, disclosure and financial-transparency obligations.

Section 38 is particularly important to the design of the Policy. It identifies the Fund's statutory monies as proceeds of privatisation under the Privatization Act, 2025; proceeds from sale of shares in a government-linked corporation under section 87A of the Public Finance Management Act; and proceeds from investments undertaken by the Fund. The statutory design therefore reinforces the need for commercial discipline, capital preservation, recycling of investment proceeds and

a clear distinction between the Fund's own capital and capital mobilised alongside it.

The 2026/27 Budget Statement has also described the NIF as an innovative mechanism for mobilising private capital and expertise for commercially viable infrastructure, including capital from pension funds, sovereign wealth funds, private equity, banks and development finance institutions. This policy direction supports an Investment Policy that treats crowding-in as a core operating objective rather than an incidental outcome.

4. THE NIFC STATUTORY FRAMEWORK

The Nairobi International Financial Centre Act, Cap. 495, establishes the Centre as an operating framework to facilitate and support an efficient and globally competitive financial-services sector in Kenya. Section 6 requires the Authority to establish and maintain an efficient operating framework to attract and retain firms, develop and recommend strategies and incentive structures with relevant agencies, and review and recommend improvements to the legal and regulatory framework.

Section 7 empowers NIFCA to formulate and implement policies relating to the Centre; collaborate with relevant agencies; certify firms to conduct qualified activities; recommend development of legal, regulatory and institutional frameworks; cooperate and enter into arrangements with local and international institutions; and undertake activities necessary to fulfil the statutory objectives of the Centre.

Sections 27 to 32 establish the qualified-activity and certification architecture and the rights and benefits applicable to NIFC firms. Section 40 enables regulations to designate qualified activities, prescribe conditions of entry and address other matters necessary to achieve the Act's objectives. These provisions make the NIFC an operating framework, not a substitute regulator: underlying sectoral licensing and prudential requirements continue to apply where required by law.

5. INVESTMENT VEHICLES EXPRESSLY CONTEMPLATED UNDER THE NIFC REGULATIONS

The First Schedule to the Nairobi International Financial Centre (General) Regulations, Legal Notice 268 of 2021, is directly relevant to infrastructure investment structuring. Qualified activities include investment banking (including investment finance and project finance); asset management and administration (including collective investment schemes and fund management); investment business; custody and trustee business; climate finance and green financial

instruments; company administration; holding companies; corporate finance; investor companies (including special purpose vehicles and special purpose acquisition companies); and joint-venture companies encompassing collaborative investment entities.

This is an important legal fact. Kenya does not need to invent a new statutory ecosystem each time the NIF wishes to syndicate or co-invest. The existing NIFC framework can host or support qualifying entities and activities, subject always to the licences, approvals and prudential requirements of the relevant regulators.

For NIF purposes, potentially relevant structures may include project companies, special purpose vehicles, infrastructure funds, co-investment vehicles, joint ventures, collective investment schemes and holding structures. The appropriate structure must remain transaction-specific and subject to applicable law, tax, accounting, procurement, public-finance and regulatory requirements.

6. ALIGNMENT WITH THE FOURTH MEDIUM TERM PLAN 2023-2027

MTP IV is the current implementation framework for Kenya Vision 2030. Within the Financial Services Sector, the NIFC programme is intended to attract domestic and foreign investment, support innovation and contribute to sustainable and inclusive economic growth.

Crucially, MTP IV expressly states that the NIFC project entails development of incentive packages to attract capital investment, establishment of investment vehicles and innovation hubs, and setting up fintech in the NIFC.

This provides a direct policy bridge between the Investment Policy and the NIFC framework. Recognising NIFC-compatible investment vehicles in the NIF Policy would not create a new mandate; it would operationalise an existing national development commitment through a newly established infrastructure investment institution.

7. POLICY GAP IDENTIFIED

Section 25 of the NIF Act correctly requires the Investment Policy to specify sectors, projects, returns, asset allocation, leverage and exposure limits. The Policy should, however, be equally clear on how the Fund will crowd in capital without compromising its statutory governance or creating uncontrolled contingent liabilities.

The gap can be addressed conservatively by expressly recognising: (i) lawful investment and co-investment vehicles; (ii) institutional collaboration with NIFCA and other relevant agencies; (iii) domestic and international institutional capital

mobilisation; (iv) investor-readiness standards; (v) additionality; and (vi) measurement of capital mobilised alongside capital invested.
These additions would strengthen implementation while leaving all investment decisions with the organs established under the NIF Act.

8. PRINCIPLES THAT SHOULD GOVERN ANY NIFC-NIF INTERFACE

First, no NIF investment should be required to obtain NIFC certification merely because the NIF participates in it. Certification should apply only where an entity elects or is otherwise eligible to operate as an NIFC firm under the NIFC Act and Regulations.
Second, NIFCA should not approve NIF projects, determine asset allocation, set expected returns, manage the Fund or exercise authority over the NIF Governing Council or Board.
Third, collaboration should be permissive and functional. The NIF should be able to work with NIFCA where the NIFC framework adds value in investor access, fund or vehicle establishment, qualified financial services, international institutional relationships or Kenyan domiciliation.
Fourth, all regulated activities must remain subject to the applicable regulator. The NIFC framework should facilitate regulatory coordination, not displace the Central Bank of Kenya, Capital Markets Authority, Insurance Regulatory Authority, Retirement Benefits Authority or any other statutory regulator.
Fifth, the Policy should preserve commercial discipline. A vehicle is a means of structuring an investment; it must never be used to obscure public ownership, bypass public-finance controls, create off-balance-sheet liabilities or dilute transparency.

9. PROPOSED POLICY AMENDMENTS

Issue / Gap	Recommended Policy Position	Proposed Wording	Legal / Policy Basis
Investment and co-investment vehicles	Expressly permit lawful investment vehicles where they improve commercial viability, risk allocation or mobilisation.	'The Fund may, subject to applicable law and its approved investment parameters, establish, invest through, participate in or co-invest alongside	NIF Act ss.24-25, 32-34; NIFC Regulations First Schedule.

Issue / Gap	Recommended Policy Position	Proposed Wording	Legal / Policy Basis
		appropriate investment vehicles, including project companies, special purpose vehicles, funds, joint ventures and other legally recognised investment structures, where such structures enhance commercial viability, risk allocation, capital mobilisation or efficient management of an investment."	
NIFC collaboration	Recognise NIFCA as one of several statutory institutions available to support investor participation and qualifying structures.	"In mobilising domestic and international private capital, the Fund may collaborate with the Nairobi International Financial Centre Authority and other relevant public institutions to facilitate investor participation and, where appropriate, the establishment or utilisation of investment vehicles and financial structures within Kenya in accordance with applicable law."	NIFC Act ss.6-7; MTP IV NIFC programme.
Private capital mobilisation	Make crowding-in a deliberate implementation objective.	"For commercially viable projects, the Fund shall, where appropriate, seek to crowd in domestic and international	NIF Act s.25 investment parameters and s.38 sources; 2026/27 Budget policy direction.

Issue / Gap	Recommended Policy Position	Proposed Wording	Legal / Policy Basis
		institutional capital through co-investment, syndicated investment, funds, project companies and other appropriate financing mechanisms, while maintaining prudent risk allocation and protecting the financial interests of the Fund."	
Domestic institutional capital	Create opportunities, not mandates, for pensions, insurers and other eligible investors.	'The Fund shall, subject to applicable financial-sector laws and prudential requirements, promote opportunities for participation by domestic institutional investors in commercially viable national infrastructure investments."	NIF Act commercial investment framework; RBA/IRA/CMA laws remain applicable.
International institutional capital	Expressly permit partnerships with SWFs, DFIs, infrastructure funds and other institutional investors.	'The Fund may seek investment partnerships and co-investment arrangements with sovereign wealth funds, development finance institutions, infrastructure funds, pension and insurance investors, private investment funds, climate-finance institutions and other eligible institutional investors."	NIFC Act s.7(h); NIFC Regulations; MTP IV.

Issue / Gap	Recommended Policy Position	Proposed Wording	Legal / Policy Basis
Investor readiness / bankability	Require projects seeking private capital to reach a defined commercial-readiness threshold.	"Projects intended to attract private capital shall be developed to an appropriate level of commercial and investor readiness, including clearly defined revenue models, risk allocation, governance arrangements, financing structures and, where applicable, investor entry and exit mechanisms."	NIF Act ss.32-34; s.25 return/risk parameters.
Capital mobilisation metric	Report both NIF capital deployed and third-party capital mobilised.	'The Fund shall monitor and report the amount of domestic and international private capital mobilised alongside its investments and an appropriate capital-mobilisation ratio, without double counting."	NIF Act ss.35-37 reporting/disclosure; commercial accountability.
Additionality	Prevent NIF from unnecessarily displacing private finance.	"In determining whether to invest, the Fund shall consider the additionality of its participation, including whether its investment accelerates the project, addresses an identifiable financing constraint, improves bankability or mobilises additional private capital."	Purpose of catalytic public capital; fiscal discipline.

Issue / Gap	Recommended Policy Position	Proposed Wording	Legal / Policy Basis
Vehicle governance	Apply transparency and governance safeguards to vehicles in which NIF invests.	"Any investment vehicle through which the Fund invests shall be subject to governance, financial reporting, audit, valuation, beneficial-ownership, conflict-of-interest and transparency requirements proportionate to the Fund's investment and consistent with applicable law."	NIF Act ss.25(4), 35-37; PFM and audit requirements.
Non-duplication	Require use of existing statutory capabilities where practicable.	"In implementing this Policy, the Fund shall collaborate with relevant public institutions and regulatory authorities and, to the extent practicable, utilise existing statutory frameworks and institutional capabilities rather than duplicate functions assigned under written law."	NIFC Act ss.6-7; whole-of-government efficiency.

10. WHY THE PROPOSALS ARE LEGALLY DEFENDABLE

The recommendations are anchored in existing statutory functions rather than implied powers. The NIF Act gives the Governing Council responsibility for the Investment Policy and the Fund's organs responsibility for investment implementation. Nothing proposed alters that allocation.

The NIFC Act separately creates an operating framework for internationally competitive financial services and gives NIFCA express collaboration, certification and legal-framework development functions. The Regulations then identify the

precise financial and corporate structures relevant to infrastructure capital mobilisation.

The proposed language uses 'may collaborate' and 'where appropriate' deliberately. It avoids an exclusive gateway, avoids compulsory NIFC certification, and preserves the discretion of the NIF and the jurisdiction of financial-sector regulators.

The proposals also avoid creating a new source of NIF monies beyond section 38. Third-party investors would invest into or alongside specific structures on their own account; their capital should not be represented as statutory monies of the Fund unless lawfully received as such. This distinction is important for public-finance integrity.

11. SAFEGUARDS AGAINST FISCAL AND GOVERNANCE RISK

NIFCA recommends that any private-capital mobilisation provision be read together with section 25(4)'s formal risk-management framework. The Policy should require identification and approval of leverage, guarantees, contingent liabilities, foreign-exchange exposure, refinancing risk and concentration risk before a transaction is committed.

Where Government support measures are proposed under the Act, the transaction should clearly identify the fiscal exposure and comply with the Constitution, Public Finance Management Act and all approval requirements. Investment vehicles should not be used to shift liabilities outside transparent public reporting.

Related-party transactions, beneficial ownership, conflicts of interest, valuation and disposal arrangements should be expressly governed. Institutional investors will demand these protections in any event; embedding them in the Policy strengthens both public accountability and investibility.

12. EXPECTED NATIONAL BENEFITS

A carefully framed NIF-NIFC interface can deepen Kenya's domestic financial markets by increasing the supply of investible long-term assets; create participation pathways for pension and insurance capital; attract sovereign, DFI, infrastructure, private-equity, private-credit and climate capital; and retain more structuring, fund-management, custody, legal, accounting and advisory activity in Kenya.

It can also improve capital efficiency. The appropriate measure of success is not simply how much public capital the NIF deploys, but how effectively that capital

is recycled and how much additional private capital is mobilised without creating disproportionate fiscal risk.

Finally, the approach advances MTP IV's express commitment to establish investment vehicles within the NIFC programme and links that commitment to a concrete national investment pipeline.

13. MATTERS NIFCA DOES NOT RECOMMEND

For clarity and to preserve institutional coherence, NIFCA does not recommend: making NIFCA the exclusive capital-mobilisation agent of the NIF; requiring every NIF investment or project company to be NIFC-certified; transferring project selection or investment approval to NIFCA; allowing investment vehicles to bypass procurement, PFM, tax, regulatory or audit laws; compelling regulated pension or insurance funds to invest in NIF projects; or establishing parallel regulatory powers within either institution.

These exclusions are intentional. The objective is interoperability between statutory frameworks, not institutional expansion.

14. CONCLUSION AND FORMAL REQUEST

The National Infrastructure Fund has the potential to change the manner in which Kenya finances commercially viable national infrastructure. That potential will be realised only if the Fund combines investment discipline with an effective mechanism for attracting capital beyond its own balance sheet.

Kenya already has a statutory financial-centre framework capable of supporting many of the financial activities and investment vehicles required for that purpose. MTP IV expressly contemplates the establishment of investment vehicles under the NIFC programme. The final Investment Policy should connect these frameworks in a limited, lawful and practical manner.

NIFCA therefore respectfully requests the Departmental Committee on Finance and National Planning to recommend incorporation of the proposed provisions on investment vehicles, NIFCA collaboration, private-capital mobilisation, investor readiness, additionality, mobilisation reporting, vehicle governance and non-duplication into Sessional Paper No. 7 of 2026 before approval by the National Assembly.

LEGAL AND POLICY AUTHORITIES

- Constitution of Kenya, 2010 - Article 118(1)(b) (public participation in the business of Parliament).

- National Infrastructure Fund Act, 2026 - sections 24-31 (business plans and Investment Policy); sections 32-34 (project preparation, feasibility and Government support); sections 35-37 (reporting, disclosure and financial transparency); section 38 (sources of funds).
- Nairobi International Financial Centre Act, Cap. 495 - sections 4, 6, 7, 27-32 and 40.
- Nairobi International Financial Centre (General) Regulations, Legal Notice 268 of 2021 - regulation 4 and First Schedule (qualified activities).
- Fourth Medium Term Plan 2023-2027 - Financial Services Sector / Nairobi International Financial Centre programme.
- National Treasury FY 2026/27 Budget Statement - policy direction on the National Infrastructure Fund and mobilisation of private capital.

NAIROBI INTERNATIONAL FINANCIAL CENTRE AUTHORITY
18 August 2026

REPUBLIC OF KENYA

NAIROBI INTERNATIONAL FINANCIAL CENTRE

NAIROBI INTERNATIONAL FINANCIAL CENTRE AUTHORITY

Ref. No. NIFCA/SG&D/5/1 VOL. I/ (7) **18th August, 2026**

The Clerk of the National Assembly
Parliament Buildings
P.O. Box 41842-00100
NAIROBI

Dear Hon. Clerk,

RE: SUBMISSION OF MEMORANDUM ON SESSIONAL PAPER NO. 7 OF 2026 ON THE NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY

Reference is made to the National Assembly's invitation to submit memoranda on Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy.

Please find enclosed the Memorandum of the Nairobi International Financial Centre Authority for consideration by the Departmental Committee on Finance and National Planning.

The Authority supports the objectives of the National Infrastructure Fund and has confined its proposals to matters directly relevant to Kenya's financial-services and capital-mobilisation architecture. The Memorandum proposes a limited framework through which the Fund may, where appropriate and subject to applicable law, utilise investment and co-investment vehicles, collaborate with NIFCA and other relevant institutions, and crowd in domestic and international institutional capital.

The proposals are anchored in the National Infrastructure Fund Act, 2026; the Nairobi International Financial Centre Act, Cap. 495 and its Regulations; and the Fourth Medium Term Plan 2023-2027, which expressly contemplates the establishment of investment vehicles under the NIFC programme. They do not seek to alter the governance, project-selection or investment decision-making mandate of the National Infrastructure Fund.

We respectfully request the Committee to consider the recommendations and proposed policy wording set out in the enclosed Memorandum when considering Sessional Paper No. 7 of 2026.

Please accept the assurances of our highest consideration.

NATIONAL ASSEMBLY
RECEIVED
19 AUG 2026
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Yours sincerely

DANIEL MAINDA
CHIEF EXECUTIVE OFFICER

NAIROBI INTERNATIONAL FINANCIAL CENTRE

MEMORANDUM
TO THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING
ON SESSIONAL PAPER NO. 7 OF 2026 ON THE NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY
SUBMITTED BY THE NAIROBI INTERNATIONAL FINANCIAL CENTRE AUTHORITY

18 August 2026

EXECUTIVE SUBMISSION

NIFCA supports the National Infrastructure Fund Investment Policy and proposes a narrow set of amendments to strengthen its ability to crowd in domestic and international private capital. The recommendations do not transfer investment, project-selection, approval or fund-management functions to NIFCA. They recognise, instead, that Kenya already has a statutory international financial-centre framework under the Nairobi International Financial Centre Act and Regulations through which project finance, fund management, collective investment schemes, climate finance, investor companies, special purpose vehicles and joint-venture investment entities may operate. MTP IV separately provides for the establishment of investment vehicles under the NIFC programme. The Investment Policy should therefore permit the Fund, where commercially appropriate and subject to applicable law, to utilise this existing architecture for co-investment, capital mobilisation and Kenyan-domiciled investment structures.

1. PURPOSE OF THE MEMORANDUM

The Nairobi International Financial Centre Authority (NIFCA) submits this Memorandum pursuant to Article 118(1)(b) of the Constitution and the National Assembly's invitation for public participation on Sessional Paper No. 7 of 2026.

The submission is deliberately focused. NIFCA does not seek an exclusive mandate over capital mobilisation for the National Infrastructure Fund (NIF), nor any role in approving, selecting or managing NIF investments. The purpose is to ensure that the Investment Policy is legally coherent with Kenya's existing financial-services architecture and sufficiently practical to mobilise private capital at scale.

The central proposition is that the NIF should remain the national infrastructure investment institution, while the NIFC should remain an enabling financial-centre framework. Where a transaction requires a fund, project company, special purpose vehicle, joint venture, investment manager, custodian, arranger or other

qualifying financial structure, the Policy should permit the NIF to use existing statutory frameworks rather than create parallel structures.

2. CONSTITUTIONAL AND STATUTORY CONTEXT

Article 118(1)(b) requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its committees. The present process is therefore an opportunity to ensure that the final Investment Policy is implementable, commercially credible and consistent with the wider body of Kenyan law.

Under section 25 of the National Infrastructure Fund Act, 2026, the Governing Council develops the Investment Policy for Cabinet approval. The Policy must specify priority sectors, proposed projects, incomplete projects from the previous policy, expected rates of return on specific projects, asset allocation, portfolio distribution and leverage ratios, and exposure limits per sector and project. Section 25(4) additionally requires a formal risk-management framework approved by the Governing Council. Sections 26 to 31 establish National Assembly approval, consideration, notification, amendment and publication of the Policy.

This architecture is significant: Parliament is not approving an abstract statement of intent. The Investment Policy is the principal statutory instrument that will determine the Fund's investment direction, portfolio parameters and risk boundaries for its five-year validity period. It should therefore address not only what the Fund may invest in, but also the mechanisms by which investible projects can crowd in additional capital.

3. RELEVANT FEATURES OF THE NATIONAL INFRASTRUCTURE FUND ACT, 2026

The Act establishes an investment framework centred on commercially viable national infrastructure. Section 24 requires the annual business plan to be based on the Investment Policy. Sections 32 to 34 address project preparation, feasibility and Government support measures, while sections 35 to 37 impose reporting, disclosure and financial-transparency obligations.

Section 38 is particularly important to the design of the Policy. It identifies the Fund's statutory monies as proceeds of privatisation under the Privatization Act, 2025; proceeds from sale of shares in a government-linked corporation under section 87A of the Public Finance Management Act; and proceeds from investments undertaken by the Fund. The statutory design therefore reinforces the need for commercial discipline, capital preservation, recycling of investment proceeds and

a clear distinction between the Fund's own capital and capital mobilised alongside it.

The 2026/27 Budget Statement has also described the NIF as an innovative mechanism for mobilising private capital and expertise for commercially viable infrastructure, including capital from pension funds, sovereign wealth funds, private equity, banks and development finance institutions. This policy direction supports an Investment Policy that treats crowding-in as a core operating objective rather than an incidental outcome.

4. THE NIFC STATUTORY FRAMEWORK

The Nairobi International Financial Centre Act, Cap. 495, establishes the Centre as an operating framework to facilitate and support an efficient and globally competitive financial-services sector in Kenya. Section 6 requires the Authority to establish and maintain an efficient operating framework to attract and retain firms, develop and recommend strategies and incentive structures with relevant agencies, and review and recommend improvements to the legal and regulatory framework.

Section 7 empowers NIFCA to formulate and implement policies relating to the Centre; collaborate with relevant agencies; certify firms to conduct qualified activities; recommend development of legal, regulatory and institutional frameworks; cooperate and enter into arrangements with local and international institutions; and undertake activities necessary to fulfil the statutory objectives of the Centre.

Sections 27 to 32 establish the qualified-activity and certification architecture and the rights and benefits applicable to NIFC firms. Section 40 enables regulations to designate qualified activities, prescribe conditions of entry and address other matters necessary to achieve the Act's objectives. These provisions make the NIFC an operating framework, not a substitute regulator: underlying sectoral licensing and prudential requirements continue to apply where required by law.

5. INVESTMENT VEHICLES EXPRESSLY CONTEMPLATED UNDER THE NIFC REGULATIONS

The First Schedule to the Nairobi International Financial Centre (General) Regulations, Legal Notice 268 of 2021, is directly relevant to infrastructure investment structuring. Qualified activities include investment banking (including investment finance and project finance); asset management and administration (including collective investment schemes and fund management); investment business; custody and trustee business; climate finance and green financial

instruments; company administration; holding companies; corporate finance; investor companies (including special purpose vehicles and special purpose acquisition companies); and joint-venture companies encompassing collaborative investment entities.

This is an important legal fact. Kenya does not need to invent a new statutory ecosystem each time the NIF wishes to syndicate or co-invest. The existing NIFC framework can host or support qualifying entities and activities, subject always to the licences, approvals and prudential requirements of the relevant regulators.

For NIF purposes, potentially relevant structures may include project companies, special purpose vehicles, infrastructure funds, co-investment vehicles, joint ventures, collective investment schemes and holding structures. The appropriate structure must remain transaction-specific and subject to applicable law, tax, accounting, procurement, public-finance and regulatory requirements.

6. ALIGNMENT WITH THE FOURTH MEDIUM TERM PLAN 2023-2027

MTP IV is the current implementation framework for Kenya Vision 2030. Within the Financial Services Sector, the NIFC programme is intended to attract domestic and foreign investment, support innovation and contribute to sustainable and inclusive economic growth.

Crucially, MTP IV expressly states that the NIFC project entails development of incentive packages to attract capital investment, establishment of investment vehicles and innovation hubs, and setting up fintech in the NIFC.

This provides a direct policy bridge between the Investment Policy and the NIFC framework. Recognising NIFC-compatible investment vehicles in the NIF Policy would not create a new mandate; it would operationalise an existing national development commitment through a newly established infrastructure investment institution.

7. POLICY GAP IDENTIFIED

Section 25 of the NIF Act correctly requires the Investment Policy to specify sectors, projects, returns, asset allocation, leverage and exposure limits. The Policy should, however, be equally clear on how the Fund will crowd in capital without compromising its statutory governance or creating uncontrolled contingent liabilities.

The gap can be addressed conservatively by expressly recognising: (i) lawful investment and co-investment vehicles; (ii) institutional collaboration with NIFCA and other relevant agencies; (iii) domestic and international institutional capital

mobilisation; (iv) investor-readiness standards; (v) additionality; and (vi) measurement of capital mobilised alongside capital invested.

These additions would strengthen implementation while leaving all investment decisions with the organs established under the NIF Act.

8. PRINCIPLES THAT SHOULD GOVERN ANY NIFC-NIF INTERFACE

First, no NIF investment should be required to obtain NIFC certification merely because the NIF participates in it. Certification should apply only where an entity elects or is otherwise eligible to operate as an NIFC firm under the NIFC Act and Regulations.

Second, NIFCA should not approve NIF projects, determine asset allocation, set expected returns, manage the Fund or exercise authority over the NIF Governing Council or Board.

Third, collaboration should be permissive and functional. The NIF should be able to work with NIFCA where the NIFC framework adds value in investor access, fund or vehicle establishment, qualified financial services, international institutional relationships or Kenyan domiciliation.

Fourth, all regulated activities must remain subject to the applicable regulator. The NIFC framework should facilitate regulatory coordination, not displace the Central Bank of Kenya, Capital Markets Authority, Insurance Regulatory Authority, Retirement Benefits Authority or any other statutory regulator.

Fifth, the Policy should preserve commercial discipline. A vehicle is a means of structuring an investment; it must never be used to obscure public ownership, bypass public-finance controls, create off-balance-sheet liabilities or dilute transparency.

9. PROPOSED POLICY AMENDMENTS

Issue / Gap	Recommended Policy Position	Proposed Wording	Legal / Policy Basis
Investment and co-investment vehicles	Expressly permit lawful investment vehicles where they improve commercial viability, risk allocation or mobilisation.	'The Fund may, subject to applicable law and its approved investment parameters, establish, invest through, participate in or co-invest alongside	NIF Act ss.24-25, 32-34; NIFC Regulations First Schedule.

Issue / Gap	Recommended Policy Position	Proposed Wording	Legal / Policy Basis
		appropriate investment vehicles, including project companies, special purpose vehicles, funds, joint ventures and other legally recognised investment structures, where such structures enhance commercial viability, risk allocation, capital mobilisation or efficient management of an investment."	
NIFC collaboration	Recognise NIFCA as one of several statutory institutions available to support investor participation and qualifying structures.	"In mobilising domestic and international private capital, the Fund may collaborate with the Nairobi International Financial Centre Authority and other relevant public institutions to facilitate investor participation and, where appropriate, the establishment or utilisation of investment vehicles and financial structures within Kenya in accordance with applicable law."	NIFC Act ss.6-7; MTP IV NIFC programme.
Private capital mobilisation	Make crowding-in a deliberate implementation objective.	"For commercially viable projects, the Fund shall, where appropriate, seek to crowd in domestic and international	NIF Act s.25 investment parameters and s.38 sources; 2026/27 Budget policy direction.

Issue / Gap	Recommended Policy Position	Proposed Wording	Legal / Policy Basis
		institutional capital through co-investment, syndicated investment, funds, project companies and other appropriate financing mechanisms, while maintaining prudent risk allocation and protecting the financial interests of the Fund."	
Domestic institutional capital	Create opportunities, not mandates, for pensions, insurers and other eligible investors.	'The Fund shall, subject to applicable financial-sector laws and prudential requirements, promote opportunities for participation by domestic institutional investors in commercially viable national infrastructure investments."	NIF Act commercial investment framework; RBA/IRA/CMA laws remain applicable.
International institutional capital	Expressly permit partnerships with SWFs, DFIs, infrastructure funds and other institutional investors.	'The Fund may seek investment partnerships and co-investment arrangements with sovereign wealth funds, development finance institutions, infrastructure funds, pension and insurance investors, private investment funds, climate-finance institutions and other eligible institutional investors."	NIFC Act s.7(h); NIFC Regulations; MTP IV.

Issue / Gap	Recommended Policy Position	Proposed Wording	Legal / Policy Basis
Investor readiness / bankability	Require projects seeking private capital to reach a defined commercial-readiness threshold.	"Projects intended to attract private capital shall be developed to an appropriate level of commercial and investor readiness, including clearly defined revenue models, risk allocation, governance arrangements, financing structures and, where applicable, investor entry and exit mechanisms."	NIF Act ss.32-34; s.25 return/risk parameters.
Capital mobilisation metric	Report both NIF capital deployed and third-party capital mobilised.	"The Fund shall monitor and report the amount of domestic and international private capital mobilised alongside its investments and an appropriate capital-mobilisation ratio, without double counting."	NIF Act ss.35-37 reporting/disclosure; commercial accountability.
Additionality	Prevent NIF from unnecessarily displacing private finance.	"In determining whether to invest, the Fund shall consider the additionality of its participation, including whether its investment accelerates the project, addresses an identifiable financing constraint, improves bankability or mobilises additional private capital."	Purpose of catalytic public capital; fiscal discipline.

Issue / Gap	Recommended Policy Position	Proposed Wording	Legal / Policy Basis
Vehicle governance	Apply transparency and governance safeguards to vehicles in which NIF invests.	"Any investment vehicle through which the Fund invests shall be subject to governance, financial reporting, audit, valuation, beneficial-ownership, conflict-of-interest and transparency requirements proportionate to the Fund's investment and consistent with applicable law."	NIF Act ss.25(4), 35-37; PFM and audit requirements.
Non-duplication	Require use of existing statutory capabilities where practicable.	"In implementing this Policy, the Fund shall collaborate with relevant public institutions and regulatory authorities and, to the extent practicable, utilise existing statutory frameworks and institutional capabilities rather than duplicate functions assigned under written law."	NIFC Act ss.6-7; whole-of-government efficiency.

10. WHY THE PROPOSALS ARE LEGALLY DEFENDABLE

The recommendations are anchored in existing statutory functions rather than implied powers. The NIF Act gives the Governing Council responsibility for the Investment Policy and the Fund's organs responsibility for investment implementation. Nothing proposed alters that allocation.

The NIFC Act separately creates an operating framework for internationally competitive financial services and gives NIFCA express collaboration, certification and legal-framework development functions. The Regulations then identify the

precise financial and corporate structures relevant to infrastructure capital mobilisation.

The proposed language uses 'may collaborate' and 'where appropriate' deliberately. It avoids an exclusive gateway, avoids compulsory NIFC certification, and preserves the discretion of the NIF and the jurisdiction of financial-sector regulators.

The proposals also avoid creating a new source of NIF monies beyond section 38. Third-party investors would invest into or alongside specific structures on their own account; their capital should not be represented as statutory monies of the Fund unless lawfully received as such. This distinction is important for public-finance integrity.

11. SAFEGUARDS AGAINST FISCAL AND GOVERNANCE RISK

NIFCA recommends that any private-capital mobilisation provision be read together with section 25(4)'s formal risk-management framework. The Policy should require identification and approval of leverage, guarantees, contingent liabilities, foreign-exchange exposure, refinancing risk and concentration risk before a transaction is committed.

Where Government support measures are proposed under the Act, the transaction should clearly identify the fiscal exposure and comply with the Constitution, Public Finance Management Act and all approval requirements. Investment vehicles should not be used to shift liabilities outside transparent public reporting.

Related-party transactions, beneficial ownership, conflicts of interest, valuation and disposal arrangements should be expressly governed. Institutional investors will demand these protections in any event; embedding them in the Policy strengthens both public accountability and investibility.

12. EXPECTED NATIONAL BENEFITS

A carefully framed NIF-NIFC interface can deepen Kenya's domestic financial markets by increasing the supply of investible long-term assets; create participation pathways for pension and insurance capital; attract sovereign, DFI, infrastructure, private-equity, private-credit and climate capital; and retain more structuring, fund-management, custody, legal, accounting and advisory activity in Kenya.

It can also improve capital efficiency. The appropriate measure of success is not simply how much public capital the NIF deploys, but how effectively that capital

is recycled and how much additional private capital is mobilised without creating disproportionate fiscal risk.

Finally, the approach advances MTP IV's express commitment to establish investment vehicles within the NIFC programme and links that commitment to a concrete national investment pipeline.

13. MATTERS NIFCA DOES NOT RECOMMEND

For clarity and to preserve institutional coherence, NIFCA does not recommend: making NIFCA the exclusive capital-mobilisation agent of the NIF; requiring every NIF investment or project company to be NIFC-certified; transferring project selection or investment approval to NIFCA; allowing investment vehicles to bypass procurement, PFM, tax, regulatory or audit laws; compelling regulated pension or insurance funds to invest in NIF projects; or establishing parallel regulatory powers within either institution.

These exclusions are intentional. The objective is interoperability between statutory frameworks, not institutional expansion.

14. CONCLUSION AND FORMAL REQUEST

The National Infrastructure Fund has the potential to change the manner in which Kenya finances commercially viable national infrastructure. That potential will be realised only if the Fund combines investment discipline with an effective mechanism for attracting capital beyond its own balance sheet.

Kenya already has a statutory financial-centre framework capable of supporting many of the financial activities and investment vehicles required for that purpose. MTP IV expressly contemplates the establishment of investment vehicles under the NIFC programme. The final Investment Policy should connect these frameworks in a limited, lawful and practical manner.

NIFCA therefore respectfully requests the Departmental Committee on Finance and National Planning to recommend incorporation of the proposed provisions on investment vehicles, NIFCA collaboration, private-capital mobilisation, investor readiness, additionality, mobilisation reporting, vehicle governance and non-duplication into Sessional Paper No. 7 of 2026 before approval by the National Assembly.

LEGAL AND POLICY AUTHORITIES

- Constitution of Kenya, 2010 - Article 118(1)(b) (public participation in the business of Parliament).

- National Infrastructure Fund Act, 2026 - sections 24-31 (business plans and Investment Policy); sections 32-34 (project preparation, feasibility and Government support); sections 35-37 (reporting, disclosure and financial transparency); section 38 (sources of funds).
- Nairobi International Financial Centre Act, Cap. 495 - sections 4, 6, 7, 27-32 and 40.
- Nairobi International Financial Centre (General) Regulations, Legal Notice 268 of 2021 - regulation 4 and First Schedule (qualified activities).
- Fourth Medium Term Plan 2023-2027 - Financial Services Sector / Nairobi International Financial Centre programme.
- National Treasury FY 2026/27 Budget Statement - policy direction on the National Infrastructure Fund and mobilisation of private capital.

NAIROBI INTERNATIONAL FINANCIAL CENTRE AUTHORITY
18 August 2026

REPUBLIC OF KENYA

OFFICE OF THE AUDITOR-GENERAL
Enhancing Accountability

PRESENTATION TO THE NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

SESSIONAL PAPER NO. 7 OF 2026

NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY

OVERALL POSITION: The objective of the Policy is supportable. However, the Policy is not yet sufficiently complete, risk-calibrated or audit-ready to govern the initial deployment of public capital. The Office recommends that the identified gaps be addressed and the Policy amended and consolidated before it is considered for approval and before any investment commitment is made.

Presented by

FCPA Nancy Gathungu, CBS
AUDITOR-GENERAL, REPUBLIC OF KENYA
August 2026

1. Appreciation, purpose and basis of submission

Honourable Chairperson and Honourable Members,

I thank the Departmental Committee on Finance and National Planning for inviting the Office of the Auditor-General to comment on Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy, laid before the House on 12 August 2026.

The Office recognises Kenya's infrastructure financing gap, the pressure on public debt and the need to mobilise long-term private capital. A properly designed Fund can support commercially viable infrastructure, crowd in institutional capital and recycle proceeds while preserving public value.

Relationship with Parliament

Article 229 of the Constitution requires the Auditor-General to audit and report on the use of public resources, while Parliament considers audit reports and takes appropriate action. The two institutions therefore have complementary roles: the Office supplies independent assurance, and Parliament provides democratic scrutiny and follow-up.

Purpose of the present engagement

This submission builds on the Office's earlier comments on the National Infrastructure Fund Bill, 2026. The Investment Policy is the stage at which the Act's high-level requirements should become binding investment, risk-management, reporting and accountability rules. The review asks whether the Policy is complete, financially prudent, fiscally transparent and capable of effective oversight and audit.

2. What the Policy proposes and what it does well

The Policy seeks to establish a commercially oriented framework through which the Fund can invest in nationally significant infrastructure, attract private capital and recycle investment proceeds.

Main features

- Priority sectors: transport, energy, information and communication technology, water and irrigation, and agribusiness infrastructure.
- Investment gates covering demand validation, commercial viability, technical readiness and legal and environmental compliance.
- A minimum expected equity return of 7% and a requirement that projects support at least 60% non-recourse debt.
- Portfolio caps of 40% in one sector and 20% in one project.
- Government Support Measures for qualifying projects that do not initially satisfy the general criteria.
- Treasury management of surplus cash and annual review during the five-year Policy period.

Positive features

Feature	OAG assessment
Commercial discipline	The Policy establishes an investment screen rather than an entirely discretionary project-selection process.
Balance-sheet protection	The Fund is restricted from borrowing directly against its own balance sheet; project leverage is ordinarily non-recourse.
Concentration limits	Sector and project exposure ceilings create a useful starting point for portfolio discipline.
Private-capital mobilisation	The Policy recognises co-investment, institutional capital and commercially sustainable infrastructure delivery.
Review cycle	Annual review permits parameters to respond to market conditions, provided material changes remain transparent and properly approved.

BALANCED ASSESSMENT: These strengths should be retained. The concern is that material limits, definitions and disclosure obligations are missing or deferred to future Board instruments, yet the Policy is intended to govern the first deployment of public capital.

3. Status of earlier Auditor-General observations

The Policy responds to some matters raised by the Office at Bill stage. Others are only partly addressed or remain outstanding and should now be dealt with through the Policy to the extent permitted by the Act.

Earlier issue	Policy response	Status	What remains
Borrowing and leverage	Fund-level borrowing is restricted; project borrowing is ordinarily non-recourse.	Partly addressed	Define maximum gearing, coverage ratios, stress tests and treatment of public support.
Commercial project selection	Demand, viability and technical-readiness gates are stated.	Partly addressed	Annex the actual five-year pipeline and define decision evidence, approvals and exceptions.
Government support and hidden liabilities	Support may cure sub-commercial projects.	Outstanding in substance	Quantify, cap, approve and disclose every fiscal commitment and contingent liability.
Portfolio exposure	40% sector and 20% project limits are included.	Partly addressed	Define measurement, connected exposure, continuous monitoring and breach remedies.
Asset valuation and future generations	Asset recycling is contemplated but detailed rules are absent.	Outstanding	Require independent valuation, transparent price discovery, capital preservation and reinvestment rules.
Reporting, audit and SPVs	Broad reporting provisions are recognised.	Partly addressed	Prescribe consolidation, project-level disclosure, record retention and contractual audit access.

OAG VIEW: The appropriate response is not to reopen the Act through the Sessional Paper. It is to ensure that every matter capable of being operationalised through the Policy is made clear, binding and auditable before approval.

4. Compliance with section 25 of the Act

Section 25(2) of the National Infrastructure Fund Act, 2026 requires the Investment Policy to specify particular matters. The principal gaps are set out below.

Required matter	Position in Policy	OAG assessment
Priority sectors	Specified.	Substantially addressed.
Proposed projects	Sectors are listed; no actual projects are identified.	Not addressed: Parliament is not shown the proposed five-year pipeline.
Expected rates of return	A general minimum equity return of 7% is stated.	Partly addressed: the return measure and project-specific expectations are undefined.
Asset allocation and portfolio distribution	Sector and project exposure caps are provided.	Not fully addressed: exposure ceilings are not an asset-allocation strategy.
Exposure limits	40% per sector and 20% per project, measured at approval.	Partly addressed: measurement basis, connected exposure, monitoring and breach treatment are missing.
Leverage ratios	Projects should support at least 60% non-recourse debt.	Not addressed as required: minimum debt capacity is not a maximum leverage ratio.
Incomplete projects	The Policy states that none currently exist.	Addressed for the inaugural Policy, subject to verification and disclosure of later additions.

COMPLIANCE CHECKLIST: The checklist attached to the Policy claims compliance with matters not clearly contained in the substantive chapters, including risk management, investment structures, independent assurance and detailed reporting. It should be reconciled line by line and every claim linked to an operative provision in the revised Policy.

5. Detailed observations and recommended amendments

Each matter below identifies the operative Policy provision, the gap, the fiscal and audit consequence, the amendment required before approval and the principal legal anchor.

ISSUE 1: Accuracy and integrity of the compliance checklist	
Policy provision	Compliance Checklist appended to the Policy; section 25 of the NIF Act.
Gap	The checklist leaves several statutory requirements blank while a separate technical table asserts compliance with frameworks that are not identifiable in the substantive Policy.
Fiscal and audit consequence	Parliament may approve a document on the basis of an assurance that cannot be traced to binding text. Future audit would then test controls that were claimed but never formally adopted.
Required amendment	Replace the competing tables with one reconciled checklist showing the statutory requirement, exact Policy clause, implementation instrument, responsible body and evidence of compliance. Remove any unsupported compliance claim. **Legal anchor:** *NIF Act, sections 24-31; Constitution, Article 201(a).*

ISSUE 2: Absence of the proposed five-year project pipeline	
Policy provision	Chapter Three - Proposed Sectors and Projects; section 25(2)(b) of the NIF Act.
Gap	The document names sectors but does not identify the proposed projects to which the five-year mandate will apply.
Fiscal and audit consequence	Parliament cannot evaluate aggregate capital demand, readiness, geographic and sector concentration, expected returns, Government support or consistency with national development priorities. An open-ended mandate also weakens later accountability for project substitution.
Required amendment	Annex the proposed pipeline, showing for each project the sponsor, sector and location; estimated total cost and Fund commitment; proposed instrument and financing structure; readiness stage; expected return; Government support; key risks; and indicative implementation period. Require disclosure and approval of material pipeline changes. **Legal anchor:** *NIF Act, sections 24, 25(2)(b) and 30; PFM (Public Investment Management) Regulations, 2022.*

Detailed observations and recommended amendments (continued)

ISSUE 3: Definition and risk calibration of the 7% return	
Policy provision	Section 2.2 and Appendix 1 - minimum expected equity return of 7%.
Gap	The Policy does not state whether 7% is nominal or real, gross or net of fees, pre- or post-tax, Kenya-shilling or foreign-currency, project or Fund level, or measured over what period.
Fiscal and audit consequence	A uniform figure may underprice construction, demand, regulatory, currency and liquidity risk. If interpreted as a nominal Kenya-shilling net return, it is below the 8.77% 91-day Treasury-bill benchmark published by the Central Bank of Kenya in August 2026, despite infrastructure equity being long-term and illiquid.
Required amendment	Define the return measure and require a risk-adjusted hurdle-rate methodology by sector, project stage and currency, benchmarked to the relevant risk-free yield plus explicit risk premiums. Disclose expected gross and net returns, fees, taxes, inflation assumptions and downside cases in each appraisal and the Annual Business Plan. **Legal anchor:** *NIF Act, section 25(2)(c)-(d); Constitution, Article 201(d).*

ISSUE 4: Maximum leverage, coverage ratios and stress testing	
Policy provision	Sections 2.2 and 3.3; Appendix 1 - projects should support at least 60% non-recourse debt.
Gap	A minimum debt-capacity test is not a maximum leverage ratio. The Policy does not prescribe maximum debt-to-capital, minimum debt-service or loan-life coverage, covenant headroom, stress tests, connected exposure or breach action.
Fiscal and audit consequence	Projects may qualify by carrying more debt rather than by being resilient. Excess leverage can transfer distress, refinancing pressure and support demands to the Fund or Government even where debt is legally non-recourse.
Required amendment	Set sector- and stage-specific maximum gearing and minimum DSCR/LLCR thresholds under base and stressed cases. Measure exposure using equity, loans, undrawn commitments, guarantees and other risk-bearing obligations; aggregate connected projects and specify escalation, cure and divestment action for breaches. **Legal anchor:** *NIF Act, section 25(2)(e)-(f); PFM Act and Regulations; PPP Act, 2021 where applicable.*

Detailed observations and recommended amendments (continued)

ISSUE 5: Foreign-exchange, interest-rate and refinancing exposure	
Policy provision	Section 3.4 - Treasury Management; general risk provisions.
Gap	No binding limits or disclosure rules address foreign-currency debt against Kenya-shilling revenues, floating-rate exposure, refinancing concentration or hedge-counterparty risk.
Fiscal and audit consequence	Exchange-rate depreciation, interest-rate increases or refinancing failure may impair project cash flows and trigger calls for tariff increases, restructuring or Government support. Without project-level disclosure, the aggregate public exposure may remain hidden.
Required amendment	Require project-level disclosure of unhedged currency, interest-rate and refinancing exposure; Board-approved limits and hedging arrangements for material mismatches; hedge effectiveness and counterparty limits; debt-maturity profiles; and stress tests linked to tariff, demand and support scenarios. **Legal anchor:** *NIF Act, section 25(2)(e)-(f); PFM framework on fiscal and treasury risk; applicable financial-instrument disclosure standards.*

ISSUE 6: Government Support Measures and contingent liabilities	
Policy provision	Section 2.3 - Government Support Measures; section 34 of the NIF Act.
Gap	A project that fails the general criteria may be reconsidered after Government support, but the Policy does not prescribe quantified ceilings, ex-ante fiscal-risk clearance, affordability tests or comprehensive disclosure of the resulting obligations.
Fiscal and audit consequence	A project may appear commercially viable only because the taxpayer absorbs risks rejected by private investors. Guarantees, letters of support, revenue undertakings and termination obligations may accumulate outside the visible budget and debt stock.
Required amendment	Require National Treasury fiscal-risk clearance; value-for-money and affordability assessment; disclosure of returns before and after support; present value, maximum exposure and probability-weighted cost; budget provision where required; project and portfolio ceilings; and annual reconciliation to national fiscal-risk and debt reporting. Support should not cure weak appraisal, sponsor undercapitalisation or avoidable cost overruns. **Legal anchor:** *NIF Act, section 34; PFM Act, sections 58-62 where guarantees arise; PPP Act, 2021; Constitution, Article 201.*

Detailed observations and recommended amendments (continued)

ISSUE 7: Tariff affordability and social access	
Policy provision	Sections 2.2 and 2.3 - Demand Validation, Commercial Viability and Government Support Measures.
Gap	For toll roads, bulk water, ports, energy and other user-pays infrastructure, the Policy specifies commercial-return requirements but no explicit tariff-affordability or social-access test.
Fiscal and audit consequence	A financially modelled tariff may be unaffordable to users, generate resistance, suppress demand or require later subsidies. If affordability support is embedded silently in the transaction, the true public-service cost and contingent exposure will not be visible.
Required amendment	Require an affordability and social-access assessment as part of demand validation, with household or user-incidence analysis, tariff path and indexation, service-quality obligations, vulnerable-user arrangements and sensitivity testing. Any tariff subsidy, revenue-shortfall undertaking or viability support should be explicit, budgeted and treated as a Government Support Measure. **Legal anchor:** *Constitution, Article 43; PPP Act, 2021; PFM Act; applicable sector tariff laws and regulators.*

ISSUE 8: Governance, conflicts of interest and beneficial ownership	
Policy provision	Section 2.1 - Guiding Principles; future Governance and Investment Frameworks.
Gap	The Policy does not prescribe minimum rules for declarations of interest, recusals, related-party transactions, beneficial ownership, politically exposed persons, sanctions, debarment, source of funds or adviser independence.
Fiscal and audit consequence	Co-investment and negotiated transactions can conceal connected parties, undisclosed influence, conflicted valuations or unsuitable capital. Weak records make responsibility difficult to establish during audit or investigation.
Required amendment	Require continuing and transaction-specific declarations; mandatory recusal; beneficial-ownership and source-of-funds verification; PEP, sanctions and debarment screening; related-party approval and disclosure; voting records and dissent; adviser rotation and independence; and an auditable conflicts register covering the Council, Board, committees, management, sponsors and service providers. **Legal anchor:** *Constitution, Articles 10, 73 and 201; PPADA; Leadership and Integrity Act; ACECA; POCAMLA; beneficial-ownership requirements.*

Detailed observations and recommended amendments (continued)

ISSUE 9: Separation of origination, appraisal and approval	
Policy provision	Investment Decision and Governance Frameworks referred to in the Policy but deferred to future instruments.
Gap	The Policy does not establish functional independence between those who originate and structure a transaction and those who review risk, legality, valuation and final approval.
Fiscal and audit consequence	Deal momentum, sponsor influence or performance incentives may weaken challenge. The same team may effectively validate its own assumptions, creating self-review risk and reducing the reliability of the approval record.
Required amendment	Define separate accountable functions for origination, technical and financial appraisal, risk review, legal review, valuation, investment-committee recommendation, Board approval, monitoring and internal audit. Require documented challenge, conditions precedent, delegated-authority limits and escalation of dissent. **Legal anchor:** *NIF Act governance and investment provisions; PFM Act and Regulations on internal control; Mwongozo governance principles where applicable.*

ISSUE 10: Adviser, fund-management, transaction and performance fees	
Policy provision	Not expressly addressed in the substantive Policy.
Gap	The Policy does not cap, benchmark or require disclosure of management, arrangement, advisory, valuation, monitoring, transaction, carried-interest or performance-linked fees, including fees paid through SPVs.
Fiscal and audit consequence	Layered fees can materially reduce net public returns while remaining dispersed across projects and vehicles. Performance fees may incentivise excessive risk or valuation choices, and related advisers may create conflicts.
Required amendment	Require transparent competitive appointment where applicable; fee benchmarking; disclosure of gross and net returns; total expense ratio by project and portfolio; performance-fee methodology and clawback; related-party prohibition or enhanced approval; and annual disclosure of all fees, transaction costs and counterparties in the Business Plan and audited statements. **Legal anchor:** *PFM Act and Regulations; PPADA where procurement applies; Public Audit Act; applicable accounting standards.*

Detailed observations and recommended amendments (continued)

ISSUE 11: Procurement and investment-transaction procedures	
Policy provision	Executive Summary - investment structures; sections 2.2 and 3.3.
Gap	The Policy lists equity, debt, SPVs, capital-market transactions and co-investment platforms but does not distinguish those investment transactions from procurement of goods, works, services, advisers or disposal of public assets.
Fiscal and audit consequence	A blanket procurement approach may make genuine investment transactions unworkable; treating every transaction as exempt may create a governance gap. Either outcome risks legal challenge, poor price discovery and loss of value.
Required amendment	Insert a transaction-classification framework identifying the applicable route: PPADA procurement; PPP procurement; privatisation or asset disposal; capital-market process; or documented negotiated investment. For non-competitive transactions, require an approved rationale, independent valuation, market testing where feasible, best-value analysis, conflicts clearance and complete decision records. **Legal anchor:** *Constitution, Article 227; PPADA and Regulations; PPP Act; Privatisation Act, 2023; Capital Markets Act and applicable regulations.*

ISSUE 12: Independent valuation and price discovery for asset recycling	
Policy provision	Executive Summary - Stewardship of the Fund's Capital; asset-monetisation funding model.
Gap	The Policy does not state valuation standards, independence requirements, valuation date, treatment of control premiums, liabilities and transaction costs, price-discovery method or approval of material deviations from valuation.
Fiscal and audit consequence	Public assets may be sold below fair value, during adverse market conditions or without a transparent comparison of alternatives. The Fund may then record only net cash received, obscuring the public wealth surrendered and the costs of conversion.
Required amendment	Require independent professional valuation by qualified advisers; transparent appointment and conflict checks; documented valuation methods, assumptions and sensitivity ranges; market testing or competitive price discovery where feasible; disclosure of gross proceeds, costs and debt settled; and Board reasons for any material departure from the independent range. **Legal anchor:** *Privatisation Act, 2023; PPADA where applicable; Constitution, Articles 201 and 227; Public Audit Act and ISSAI independence principles.*

Detailed observations and recommended amendments (continued)

ISSUE 13: Capital preservation, exit and reinvestment	
Policy provision	Revolving-fund objective; sections 3.5 and 3.6 on investment period and review.
Gap	The Policy does not establish holding-period rationale, permitted exit routes, reinvestment triggers, treatment of realised income and unrealised gains, withdrawal rules or a minimum real-capital floor.
Fiscal and audit consequence	Asset-recycling proceeds may be consumed, stranded or reinvested without demonstrating that the new assets and services justify the public value sold. Inflation, fees, losses and recurrent withdrawals may erode the Fund across generations.
Required amendment	Ring-fence and trace gross sale, refinancing, distribution and exit proceeds; separate capital, realised income and unrealised gains; protect the inflation-adjusted value of net public contributions; and require a Board-approved exit and reinvestment framework covering holding rationale, exit routes, valuation, price discovery, transaction costs, reinvestment timing and post-exit evaluation. **Legal anchor:** *NIF Act, purpose and financial provisions, including sections 38-43; Constitution, Article 201; applicable accounting standards.*

ISSUE 14: Environmental, social, climate, land and resettlement safeguards	
Policy provision	Section 2.2 - Technical Readiness and Responsible Stewardship.
Gap	The Policy refers generally to environmental and legal compliance but does not establish project classification, due diligence, climate-resilience screening, land and resettlement requirements, grievance mechanisms, incident reporting or continuing monitoring.
Fiscal and audit consequence	Unresolved land claims, displacement, environmental damage or climate vulnerability can delay projects, increase costs, reduce service benefits, impair assets and expose the State to compensation and reputational risk.
Required amendment	Before commitment, require compliance with EMCA/EIA, climate, land-acquisition and resettlement law; quantified safeguard costs; disclosed permits, claims and mitigation measures; stakeholder engagement and grievance procedures; contractual ESG obligations; major-incident reporting; and post-investment monitoring. Recognised international standards may supplement, but not replace, Kenyan law. **Legal anchor:** *EMCA, 1999; Climate Change Act, 2016; Land Act, 2012; Constitution, Articles 40, 42, 43 and 69; applicable sector law.*

Detailed observations and recommended amendments (continued)

ISSUE 15: SPV consolidation and off-balance-sheet exposure	
Policy provision	Investment structures involving SPVs, co-investments and project-level leverage; reporting provisions.
Gap	The Policy does not specify how control, joint control and significant influence will be assessed or how controlled SPVs, structured interests and public commitments will be consolidated or disclosed.
Fiscal and audit consequence	Project debt, guarantees, undrawn commitments, termination payments and related-party balances may remain outside the Fund's reported position even though the Fund or State bears the economic risk.
Required amendment	Apply standards prescribed by the Public Sector Accounting Standards Board to determine the reporting boundary; consolidate controlled vehicles; disclose joint arrangements and other structured interests; and report project by project the Fund's equity, loans, commitments, guarantees, support, related parties, fees, impairments, sensitivities and maximum contingent exposure. Reconcile these disclosures to national budget, debt and fiscal-risk reports. **Legal anchor:** *NIF Act, Part IV and section 45; PFM Act; Public Audit Act; applicable IPSAS/IFRS consolidation and disclosure standards.*

ISSUE 16: Project-level performance and public reporting	
Policy provision	Chapter Four - Monitoring and Evaluation; sections 35-37 of the NIF Act.
Gap	The Policy identifies broad monitoring themes but no mandatory indicators, baselines, targets, reporting frequency, publication standard or distinction between committed and deployed private capital.
Fiscal and audit consequence	Aggregate portfolio reporting may conceal cost overruns, delays, impaired investments, weak service outcomes or overstated capital mobilisation. Parliament and citizens would be unable to connect Fund expenditure to infrastructure actually delivered.
Required amendment	For each project, publish approved and forecast cost and completion date; cost/time variance; capital committed and drawn; expected and actual return; leverage; Government support; impairment; material contract changes; private capital mobilised per shilling of Fund capital; and service outcomes covering access, reliability, affordability, jobs, local content, climate resilience and maintenance. Explain unresolved breaches and corrective action. **Legal anchor:** *NIF Act, sections 24 and 35-37; Constitution, Articles 10 and 201; Access to Information Act, 2016.*

Detailed observations and recommended amendments (continued)

ISSUE 17: Record retention and Auditor-General access rights	
Policy provision	Reporting, governance and investment-agreement provisions; section 45 of the NIF Act.
Gap	The Policy does not expressly require investment agreements, SPV documents and service-provider contracts to preserve complete decision records and access to information relevant to public capital and commitments.
Fiscal and audit consequence	Material records may be held by private managers, advisers, lenders, contractors or offshore vehicles and become unavailable when audit begins. This can limit assurance over appraisal, valuation, contracting, support, performance, related parties and exits.
Required amendment	Require a records schedule covering origination, due diligence, models, valuation, approvals, conflicts, procurement, contracts, drawdowns, performance, Government support and exits; secure digital retention for the statutory period; data ownership and handover clauses; and contractual recognition of the Auditor-General's access to relevant records held by SPVs, managers and service providers. This is an access safeguard, not participation in investment decisions. **Legal anchor:** *Constitution, Article 229; Public Audit Act, section 9; NIF Act, section 45; PFM records and accountability requirements.*

ISSUE 18: Parliamentary oversight and public participation	
Policy provision	Sections 26-31 of the NIF Act; Policy review, amendment and publication provisions.
Gap	The Policy does not clearly state the information that should accompany material amendments, annual Business Plans and public reporting, or how public and Parliamentary input will be recorded and responded to over the five-year period.
Fiscal and audit consequence	The approved mandate may evolve through later Board instruments without equivalent visibility. Citizens may see aggregate announcements but not the projects, risks, support commitments, service outcomes and changes made in their name.
Required amendment	Record and publish how material stakeholder submissions were considered; publish the approved consolidated Policy, annual Business Plans and project summaries subject only to lawful confidentiality; disclose material Policy and pipeline changes with reasons and fiscal effects; and provide Parliament with periodic portfolio, Government-support and breach reports in a standard format. Commercial confidentiality should be narrowly defined and should not conceal public obligations or aggregate risk.

ISSUE 18: Parliamentary oversight and public participation	
	Legal anchor: *Constitution, Articles 10, 118, 201 and 229; NIF Act, sections 26-31 and 35-37; Access to Information Act, 2016.*

6. Legal and regulatory cross-reference

The recommendations largely require the Policy to operationalise existing law and standards more explicitly; they do not create a parallel legal regime.

Framework	Relevance to the revised Policy
Constitution of Kenya, 2010	Articles 10, 43, 118, 201, 206, 227, 228 and 229 anchor public participation, social rights, prudent public finance, procurement, withdrawal oversight and independent audit.
National Infrastructure Fund Act, 2026	Primary framework: Business Plan and five-year Investment Policy; project preparation; Government Support Measures; reporting and disclosure; accounts, withdrawals, surplus investment and audit.
PFM Act and Regulations	Guarantees and contingent liabilities; budget and fiscal-risk reporting; internal control; annual estimates; multi-year commitments; and public investment appraisal, selection, monitoring and evaluation.
PPP Act, 2021	Applicable where a transaction is a PPP: feasibility, affordability, value for money, fiscal commitments, procurement and contract management.
PPADA and Regulations	Applicable to procurement and asset disposal within its scope, including advisers, managers, contractors, goods, works and services; supports fair process, competition, conflicts management and records.
Privatisation and capital-market laws	Govern disposal or offering of public shareholdings and securities; support valuation, market process, approvals, disclosure and price discovery.
Public Audit Act, 2015	Preserves Auditor-General independence, unrestricted access to relevant records, annual and performance audit, and assurance over lawfulness and effectiveness of public-resource use.
Environmental, climate and land laws	EMCA, Climate Change Act and Land Act govern environmental assessment, resilience, land acquisition, compensation and related obligations.
Integrity, AML and ownership rules	Leadership and Integrity Act, ACECA, POCAMLA and beneficial-ownership requirements support conflicts, source-of-funds, PEP, sanctions and connected-party controls.
Accounting and disclosure standards	Standards prescribed by PSASB, including applicable consolidation, financial-instrument, fair-value, impairment, related-party and contingent-liability requirements.

LEGAL DISCIPLINE: The revised Policy should identify which framework governs each transaction type and should not use later Board instruments to dilute mandatory constitutional or statutory controls.

7. Relevant international practice

International examples are used only for transferable practices and do not displace Kenyan law. Each lesson below is linked to a specific gap in the proposed Policy.

Comparator	Practice observed	Transferable lesson for Kenya
India - NIIF	A sovereign-anchored alternative-asset manager that raises most capital from global and domestic institutional investors; its infrastructure strategy emphasises commercially attractive, risk-adjusted returns and governance.	Clarify investor alignment, professional investment management, portfolio strategy, risk-adjusted return and sustainability requirements.
Nigeria - NSIA	Separates the Nigeria Infrastructure Fund, Stabilisation Fund and Future Generations Fund, each with a distinct mandate and investment objective.	Ring-fence infrastructure capital, define withdrawal and capital-preservation rules, and distinguish infrastructure delivery from stabilisation or ordinary budget support.
Africa50	Uses project-development and project-finance vehicles and an ESG management system that embeds screening, due diligence, contractual action plans, monitoring and reporting across the investment cycle.	Separate origination and investment challenge, and operationalise environmental and social safeguards from pre-investment screening through exit.
Singapore - Temasek	Publishes an annual public review covering portfolio value, long-term returns, investments and divestments; its current reporting uses mark-to-market valuation for much of the portfolio.	Adopt consistent valuation, portfolio-performance and exit disclosure, including gross investments, divestments, net deployment and long-horizon returns.
Ghana - GIIF	A revolving infrastructure fund with an environmental and social policy and project-preparation initiatives intended to develop bankable, climate-resilient projects.	Make project preparation, readiness and safeguards operational; disclose the pipeline, appraisal status and development costs before capital commitment.
Indonesia - INA	Reports commitment to the Santiago Principles and a formal risk-management framework within its governance and investment practices.	Use a transparent risk appetite, documented governance and public reporting capable of demonstrating adherence rather than relying on broad principles alone.

COMMON LESSON: Credible public investment vehicles combine a clear mandate with professional decision-making, disciplined valuation, defined risk limits, transparent public support, reliable reporting and independent ex-post audit.

8. Matters to be addressed before approval

The Office recommends that the following matters be incorporated into an amended and consolidated Policy before it is considered for approval.

Priority	Minimum content of the revised Policy
A. Statutory completeness	Correct the compliance checklist; annex the actual five-year project pipeline; provide a genuine asset-allocation framework; and define how material changes will be approved and published.
B. Return and risk calibration	Define the 7% return; set sector-specific leverage and coverage limits; prescribe stress tests; and establish foreign-exchange, interest-rate, refinancing, connected-exposure and breach controls.
C. Government support	Require ex-ante fiscal-risk clearance, affordability and value-for-money tests, quantified ceilings, budget treatment and project-by-project disclosure of all Government Support Measures and contingent liabilities.
D. Governance and integrity	Separate origination, appraisal, risk, legal review, approval and audit; require conflicts, recusal, related-party, beneficial-ownership, PEP, source-of-funds, adviser-independence and voting-record controls.
E. Fees and transaction discipline	Classify transactions under the correct legal route; disclose and benchmark all fees; require independent valuation, transparent price discovery and documented best value for non-competitive transactions.
F. Public-value protection	Ring-fence proceeds; distinguish capital, income and unrealised gains; protect the real value of public contributions; and establish holding-period, exit, reinvestment and post-exit evaluation rules.
G. People and environment	Require tariff-affordability and social-access tests; environmental and social screening; climate resilience; land and resettlement compliance; mitigation costs; grievance mechanisms and continuing monitoring.
H. Reporting and auditability	Define the SPV reporting boundary; consolidate controlled entities; publish project-level financial, delivery and development indicators; retain complete records; preserve contractual audit access; and strengthen Parliamentary reporting.

OFFICE'S POSITION: The Policy objective is sound, but the present document does not yet provide the complete five-year investment mandate contemplated by the Act. The identified gaps should be addressed before approval and before any investment commitment is made under the Policy.

9. Conclusion

The National Infrastructure Fund presents a genuine opportunity to mobilise long-term capital for infrastructure without relying exclusively on sovereign borrowing. The proposed Policy already contains useful foundations: commercial screening, project-level non-recourse financing, concentration limits, technical readiness and an annual review cycle.

However, the first Policy will establish the institutional habits, transaction precedents and risk boundaries that may govern very large amounts of public wealth over several years. Ambiguity at this stage will not remain theoretical: it may become leverage, contingent liabilities, under-valued disposals, unaffordable tariffs, unresolved land claims, opaque SPVs or incomplete audit evidence.

The Office therefore recommends that the Policy be amended and consolidated before it is considered for approval. The revised document should contain the proposed project pipeline, binding prudential parameters, quantified Government-support rules, integrity safeguards, asset-recycling and intergenerational protections, environmental and social safeguards, complete SPV reporting and enforceable records and audit-access provisions.

I thank the Committee for the opportunity to make this presentation.

FCPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Key references

- Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy.
- Constitution of Kenya, 2010; National Infrastructure Fund Act, No. 4 of 2026.
- PFM Act, 2012; PFM (National Government) Regulations, 2015; PFM (Public Investment Management) Regulations, 2022.
- PPP Act, 2021; PPADA, 2015 and Regulations, 2020; Privatisation Act, 2023; Public Audit Act, 2015.
- EMCA, 1999; Climate Change Act, 2016; Land Act, 2012; Access to Information Act, 2016; applicable integrity, AML, beneficial-ownership and accounting requirements.
- Central Bank of Kenya, Treasury Bills, August 2026; official publications of NIIF India, NSIA Nigeria, Africa50, Temasek, GIIF Ghana and Indonesia Investment Authority.

International examples are referenced for transferable practices only and do not displace Kenyan law.

SUBMISSION ON THE NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY, 2026

Submitted by: BARA Build Nexus

Position: Infrastructure Intelligence Consultancy

Subject: Strengthening Infrastructure Intelligence, Project Readiness and Investment Decision-Making within the NIF

Date: 23rd August 2026

1. OUR POSITION

BARA Build Nexus welcomes the establishment of the National Infrastructure Fund (NIF) and its ambition to mobilize long-term capital for nationally significant infrastructure.

We particularly support the Policy's emphasis on commercial discipline, technical integrity, project preparation, capital mobilization, responsible stewardship and national development.

Our principal recommendation is that the Fund should be designed not only as a financing platform, but as an intelligent infrastructure investment platform.

Capital can only be deployed effectively when the underlying infrastructure decisions are supported by reliable, connected and decision-ready information.

2. CORE RECOMMENDATION: ESTABLISH AN INFRASTRUCTURE INTELLIGENCE FRAMEWORK

The NIF should establish a structured infrastructure intelligence framework connecting the full investment lifecycle:

> ***Pipeline → Project Preparation → Appraisal → Investment Decision → Financing → Delivery → Operations → Performance → Learning → Reinvestment***

This should create a common evidence base for both individual investment decisions and portfolio management.

3. WHAT THE FRAMEWORK SHOULD ENABLE

The Fund should be able to answer, at any point:

Project readiness

- Is the project technically ready?
- Is demand sufficiently validated?
- Are land, approvals and other enabling conditions sufficiently advanced?
- Is the project commercially and financially structured?

Investment quality

- What problem does the infrastructure solve?
- What is its economic and national value?
- What are the principal risks?
- What are the whole-life costs?
- What assumptions underpin the projected returns?

Portfolio intelligence

- Where is NIF capital concentrated?
- Which sectors and projects are performing?
- Where are emerging risks?
- Which projects are delayed or underperforming?
- What lessons should influence future investments?

4. CREATE A NATIONAL INFRASTRUCTURE PROJECT PIPELINE

The Fund's project-development role provides an opportunity to establish a structured pipeline of potential investments rather than relying principally on projects arriving at the Fund already packaged for financing.

Projects should progress through defined stages, for example:

> ***Concept → Screening → Preparation → Appraisal → Investment Ready → Financial Close → Delivery → Operational Performance***

Each stage should have defined evidence requirements and decision gates.

This would allow the Fund to distinguish between a good infrastructure idea, a technically prepared project, and a genuinely investment-ready project.

5. STANDARDISE INFRASTRUCTURE DATA

The NIF should establish minimum information standards for projects seeking investment.

These should cover, as relevant:

- demand;
- technical design;
- costs;
- financing;
- revenue;
- land;
- approvals;
- environmental and social considerations;
- risk;
- implementation;
- asset performance; and
- lifecycle requirements.

Standardization would improve comparability across projects and reduce dependence on fragmented institutional information.

6. INTRODUCE PORTFOLIO-LEVEL DECISION INTELLIGENCE

The Fund's proposed exposure limits provide important portfolio discipline.

However, concentration should be assessed not only by financial exposure but also by risk correlation and infrastructure interdependence.

For example, multiple investments may appear diversified by project but remain exposed to the same demand, climate, geographic, regulatory or macroeconomic risk.

The Fund should therefore develop portfolio-level risk intelligence alongside conventional financial exposure limits.

7. MAKE PERFORMANCE DATA REUSABLE

Monitoring should not end with reporting whether a project is on budget or on schedule. Project data should feed back into future investment decisions.

The Fund should progressively develop a national infrastructure investment knowledge base containing:

- projected versus actual costs;
- projected versus actual demand;
- projected versus actual returns;
- construction performance;
- operational performance;
- maintenance requirements;
- risk events; and
- lessons from completed investments.

This would create a learning investment institution, rather than simply a portfolio manager.

8. CONCLUSION

Kenya does not only need more infrastructure capital. It needs better information about where capital should go, under what conditions, with what risks and towards what outcomes.

BARA Build Nexus therefore recommends that infrastructure intelligence be embedded within the operational architecture of the National Infrastructure Fund.

The strategic opportunity is to create a Fund where:

> *Better data produces better decisions; better decisions produce better investments; and better investments produce better infrastructure outcomes.*

This would strengthen the NIF's commercial discipline while simultaneously advancing its broader national development mandate.

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SUBMISSION ON THE NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY, 2026

Submitted by: Olyvia M. Lavisa

Professional Capacity: Civil & Structural Engineer / Infrastructure Professional

Subject: Professional Review of the National Infrastructure Fund Investment Policy

Date: 24th August 2026

1. INTRODUCTION

I welcome the establishment of the National Infrastructure Fund (NIF) as an important shift in how Kenya approaches infrastructure financing. The Fund has the potential to move the country beyond reliance on annual budgetary allocations and public borrowing towards a more sustainable model of infrastructure investment, capital mobilization and recycling.

My comments focus on one central consideration:

> The long-term success of the NIF will depend not only on its ability to mobilize capital, but on its ability to consistently identify, prepare, select and manage the right infrastructure investments.

The Investment Policy provides a strong commercial and governance foundation. I recommend strengthening the policy further around the quality of infrastructure investment decisions and the long-term public value generated by those investments.

2. KEY RECOMMENDATIONS

2.1. Define Infrastructure Investment Quality as a Core Fund Objective

Commercial viability should remain central to the Fund. However, commercial viability alone should not become a proxy for infrastructure value.

Investment appraisal should explicitly consider:

- economic and social value;
- strategic national importance;
- service outcomes and accessibility;
- resilience and climate vulnerability;
- whole-life cost and maintainability;

- lifecycle asset performance; and
- catalytic effects on regional and economic development.

The Fund should therefore assess projects not only on whether they can attract financing, but whether they represent sound long-term infrastructure investments for Kenya.

2.2. Strengthen the Project-Selection Framework

The Policy appropriately requires demand validation, commercial viability, financial returns, technical readiness and risk management.

I recommend that these be operationalised through a transparent multi-dimensional investment appraisal framework, with minimum technical, financial, economic, environmental, social and governance gates before capital commitment.

This would reduce the risk of selecting projects primarily because they are financially attractive while overlooking infrastructure that may generate significant wider economic value.

2.3. Establish Project Preparation as an Explicit Investment Function

The recognition of project preparation is particularly important.

Kenya's infrastructure financing challenge is not only a shortage of capital. It is also a shortage of investment-ready projects.

The Fund should therefore maintain a dedicated project-preparation function covering, as appropriate:

- feasibility and demand studies;
- engineering and technical studies;
- land and site readiness;
- environmental and social assessments;
- financial and commercial structuring;
- risk allocation;
- transaction preparation; and
- procurement readiness.

A project should not be considered "ready" merely because financing can theoretically be structured around it.

2.4. Make Whole-Life Infrastructure Performance an Investment Consideration

The Policy recognizes infrastructure resilience and lifecycle sustainability. This should be translated into investment decisions.

Investment appraisal should consider not only capital expenditure and initial returns, but also:

> *construction → commissioning → operation → maintenance → rehabilitation → eventual renewal/disposal.*

Projects with lower initial costs but materially higher lifecycle costs should not automatically be preferred over more sustainable alternatives.

2.5. Build An Infrastructure Intelligence System Around the Fund

The NIF should establish a central, continuously updated information system covering its project pipeline and portfolio.

At minimum, this should enable decision-makers to understand:

- project readiness;
- estimated cost and financing requirements;
- demand and revenue assumptions;
- risks and mitigations;
- implementation progress;
- asset condition and performance;
- financial performance; and
- development outcomes.

This would allow the Fund to move from project-by-project decision-making towards portfolio intelligence and evidence-based capital allocation.

2.6. Protect The Fund from Both Political and Commercial Distortion

The Policy's emphasis on commercial discipline and political independence is welcome.

This should be reinforced through clearly documented investment decisions, independent technical and financial assurance, conflict-of-interest controls and published performance reporting.

The Fund should be sufficiently independent to reject projects that do not meet its investment standards, while retaining a structured mechanism through which Government may support strategically important projects that require appropriate public intervention.

2.7. Expand the Performance Framework

The existing financial, capital deployment, mobilization, portfolio quality and national development indicators provide a sound foundation.

I recommend that project and portfolio performance also track:

- service delivery;
- cost and schedule performance;
- asset reliability;
- lifecycle performance;
- resilience;
- local economic impact;
- environmental and social outcomes; and
- realized versus projected investment assumptions.

This will allow the Fund to learn from completed investments and improve subsequent investment decisions.

3. CONCLUSION

The National Infrastructure Fund can become considerably more than an alternative source of infrastructure finance. It can become a national infrastructure investment institution capable of improving how Kenya identifies, prepares, finances and manages strategic infrastructure.

I therefore support the direction of the Investment Policy and recommend that its implementation place equal emphasis on capital discipline, investment quality, infrastructure performance and long-term national value.

The central test should ultimately be:

Are we not only financing more infrastructure, but also making better infrastructure investment decisions?

That is the standard against which the NIF can become a durable institution for Kenya's next generation of infrastructure.

I submit.

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CPF GROUP
FULFILLING LIVES

Our Ref: CPF/1/2

August 24, 2026

Mr. Samuel Njoroge, CBS
Clerk of the National Assembly
Main Parliament Buildings
P.O. Box 41842-00100
NAIROBI, KENYA

Dear Clerk,

RE: MEMORANDUM ON SESSIONAL PAPER NO. 7 OF 2026: THE NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY

We refer to the above matter and invitation to the public published on August 15, 2026, requesting stakeholder input and submissions of memoranda on Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy, pursuant to Article 118(1)(b) of the Constitution of Kenya.

As an institutional investor, fund manager, and financial advisory services provider active across East Africa's capital markets, infrastructure, real estate, and project finance sectors, CPF Group strongly supports the establishment of a robust financing framework to accelerate national infrastructure development, mobilize private and institutional capital, and enhance commercial project execution.

CPF Group is pleased to submit its detailed technical comments and recommendations on the proposed Investment Policy for consideration by the Departmental Committee on Finance and National Planning. Our submissions highlight specific considerations and recommendations aimed at enhancing commercial viability criteria, refining return expectations to attract institutional capital, strengthening risk management and governance frameworks, and establishing effective capital mobilization and recycling mechanisms.

Enclosed herewith is the comprehensive matrix containing our observations and proposed amendments.

Directors: Maurice Nduranu - (Chairman) | Dr. Hosea Kili, SC,MBS - (CEO) | Dr. Benedict Mkalama | Margaret Osure | Victor Odendo | Isabel Juma | Joseph Rono

KENYA | UGANDA | RWANDA | SOUTH SUDAN

www.cpf.africa

We remain available to provide further clarification or to participate in any upcoming public hearing sessions, as may be required by the Committee.

Yours Sincerely

DR. HOSEA K. KILI, SC, MBS
GROUP MANAGING DIRECTOR / CEO

Encl. CPF Group Memoranda Matrix on Sessional Paper No. 7 of 2026

NO.	RELEVANT PROVISION	CPF RECOMMENDATION	RATIONALE/JUSTIFICATION
1	**Section 2.1 – Commercial viability**	The policy should provide for a more comprehensive assessment of commercial viability, including, as applicable, positive NPV, project-specific IRR, DSCR/debt capacity, contracted or bankable revenues/offtake, creditworthiness of counterparties, completed feasibility studies, technical readiness, legal and regulatory readiness, affordability and value for money. These should be applied proportionately depending on the asset class and investment structure.	The current commercial viability test should provide greater clarity on how the Fund will determine whether a project is genuinely bankable and capable of supporting private-sector participation.
2	**Section 2.2 – General investment criteria: financial return**	Clarify whether the 7% represents a minimum threshold or target return, and whether it applies strictly to equity investments or forms part of an overall Fund-level return objective. The policy should adopt a risk-adjusted and instrument-specific return framework for equity, senior debt, subordinated debt, quasi-equity and other investment structures, taking into account project risk, construction/development risk, illiquidity, inflation and currency risk where relevant.	The proposed 7% minimum expected equity return requires further clarification. The concern is not simply that 7% may be low, but that if it becomes the de facto investment target, it may influence the quality of projects presented to the Fund and potentially undermine the Fund's ability to attract institutional capital.

NO.	RELEVANT PROVISION	CPF RECOMMENDATION	RATIONALE/JUSTIFICATION
3	**Section 2.2 – Financial return / institutional capital mobilisation**	The 7% should not become the Fund's target return. The core portfolio should be expected to generate competitive, risk-adjusted returns. Where the Fund deliberately accepts a lower return for a catalytic purpose, this should be through a clearly defined and separately governed catalytic allocation, with the rationale, expected mobilisation and development outcomes clearly demonstrated.	The Fund is intended to mobilise private and institutional capital. A return framework perceived as materially below market could create an expectation that the Fund is willing to provide concessional capital and could ultimately affect the quality of its pipeline and ability to attract co-investors.
4	**General investment criteria – non-recourse project debt**	Clarify that project debt should, as a general principle, be non-recourse to the Fund and secured against the relevant project/SPV assets, rights and cash flows. This should not prevent a private sponsor/promoter from providing completion support, guarantees or additional security where appropriate, subject to the Fund's risk-management and contingent-liability framework.	The proposed non-recourse debt requirement is an important protection for the Fund and should be clearly ring-fenced at Fund level.
5	**Section 25(2)(b) – Proposed**	Require every existing or proposed project to undergo a fresh and independent technical, commercial, legal and financial appraisal before	The Fund should not become a mechanism for transferring poorly performing or historically

NO.	RELEVANT PROVISION	CPF RECOMMENDATION	RATIONALE/JUSTIFICATION
	projects	NIF investment. This should include cost-to-complete, outstanding liabilities, contractual position, demand/offtake, revised project economics, implementation risks, land, regulatory and procurement issues.	problematic projects from Government entities to the Fund.
6	**Section 25(2)(c) – Incomplete projects**	Introduce a clear re-entry test for incomplete/stalled projects. Only projects that demonstrate renewed technical, commercial and financial viability following independent appraisal should qualify. The assessment should also consider whether restructuring, refinancing, rebidding or alternative financing would provide a better outcome before NIF capital is committed.	Existing incomplete or stalled projects should not automatically qualify for NIF financing simply because they are already Government projects.
7	**Section 25(2)(e) – Asset allocation and portfolio distribution**	Strengthen the concentration-risk framework to cover sector, project, sponsor/counterparty and correlated exposures, together with periodic stress testing and scenario analysis. The Fund should assess the combined exposure to a sponsor or counterparty across different investments rather than assessing each project in isolation.	The proposed exposure limits are useful, but concentration risk can arise beyond the sector and single-project limits through common sponsors, counterparties, revenue sources or correlated sectors.

NO.	RELEVANT PROVISION	CPF RECOMMENDATION	RATIONALE/JUSTIFICATION
8	**Section 25(2)(f) – Sector and project exposure limits**	Retain the prescribed limits but introduce a clear exception mechanism requiring documented justification, assessment of the impact on the overall portfolio, enhanced due diligence, appropriate risk mitigation and approval at the appropriate governance level.	Nationally significant projects may, in exceptional circumstances, require exposure above the prescribed limits. However, exceptions should not undermine the diversification framework.
9	**Section 25(4) – Risk management framework**	The framework should expressly cover credit, market, liquidity, construction, operational, legal/regulatory, counterparty, concentration, currency, refinancing and contingent-liability risks, together with stress testing, monitoring, early-warning indicators and escalation thresholds.	The Act requires a formal risk-management framework. Given the nature of infrastructure investments, the IPS should provide sufficient direction on the key risks to be addressed.
10	**Section 19 – Investment structures**	The policy should expressly encourage appropriate use of SPVs, project finance, co-investment structures, pooled vehicles, securitisation, project bonds and other capital-markets instruments, where appropriate, to improve risk allocation and crowd in private and institutional capital.	The Fund needs sufficient structuring flexibility to allocate risk appropriately and attract private capital rather than relying predominantly on direct equity investment.

NO.	RELEVANT PROVISION	CPF RECOMMENDATION	RATIONALE/JUSTIFICATION
11	**Section 19 – Credit enhancement / risk sharing**	Where legally permissible, expressly provide for guarantees, first-loss capital, subordinated capital, liquidity facilities, credit enhancement, viability-gap structures and other risk-sharing mechanisms, subject to separate exposure and contingent-liability limits, appropriate risk assessment and approval requirements.	The Fund's catalytic role can be significantly strengthened through appropriate credit-enhancement structures that reduce risk for private investors.
12	**Section 32(2) – Project structuring and preparation**	Provide for appropriate resources for feasibility studies, technical, legal and financial structuring, transaction advisory and project-development costs, with the objective of creating an investment-ready pipeline capable of reaching financial close.	The ability to mobilise private capital will depend significantly on whether projects are sufficiently prepared before being presented for investment.
13	**Section 33 – Feasibility studies**	Link the feasibility assessment more directly to investment approval and require consideration of the financing plan, revenue model, debt capacity, proposed risk allocation, bankability and route to financial close, alongside the statutory technical, legal, social, economic and environmental considerations.	A feasibility study should establish not only whether a project is technically and economically desirable, but whether it is capable of being financed and implemented.

NO.	RELEVANT PROVISION	CPF RECOMMENDATION	RATIONALE/JUSTIFICATION
14	**Section 34 – Government support measures**	Government guarantees, letters of support, letters of credit and other support measures should be quantified, risk-assessed, appropriately approved and monitored, with clear limits on the Fund's exposure and the resulting contingent liabilities.	Government support can materially improve project bankability but may also create contingent fiscal liabilities.
15	**Section 1.3 – Catalytic objective**	Allow the Fund to accept a lower direct financial return where there is a demonstrable catalytic benefit, such as significant third-party capital mobilisation, project de-risking or market creation. Such investments should require explicit approval, defined financial and development metrics and a clear rationale for the return concession.	The catalytic mandate is important, but it should not become a basis for funding projects that are otherwise commercially unviable.
16	**Section 1.3 / capital mobilisation objective**	Introduce a capital mobilisation/crowding-in KPI, including the ratio of private/institutional capital mobilised to NIF capital committed, with a clear methodology distinguishing capital committed from capital actually invested.	The success of the Fund should be assessed not only by the amount of NIF capital deployed but also by the amount of additional private and institutional capital it mobilises.

NO.	RELEVANT PROVISION	CPF RECOMMENDATION	RATIONALE/JUSTIFICATION
17	**Performance management / section 25(4)**	Include clear KPIs covering financial returns, capital preservation, capital mobilised, projects reaching financial close, project completion, portfolio concentration, defaults/impairments and infrastructure/development outcomes. Financial performance and catalytic/development performance should be separately measured.	Given the national importance of the Fund, the key performance indicators should be sufficiently clear to assess whether the Fund is delivering on both its commercial and infrastructure objectives.
18	**Section 24 – Business plan**	Require the business plan to set out the investment pipeline, project-readiness status, annual deployment targets, expected returns, capital requirements, project-preparation requirements and capital mobilisation targets, with performance monitored against these targets.	The annual business plan should translate the Investment Policy into a practical investment programme.
19	**Investment horizon / capital recycling**	Require an exit and capital-recycling strategy, particularly for equity and quasi-equity investments. Potential mechanisms could include refinancing, strategic/institutional investor exits, capital-markets transactions, asset sales or other appropriate exits. Exit assumptions should form part of the original investment case.	Infrastructure investments are long-term and illiquid. The Fund's ability to recycle capital will be important to its long-term sustainability and ability to finance subsequent projects.

NO.	RELEVANT PROVISION	CPF RECOMMENDATION	RATIONALE/JUSTIFICATION
20	**Section 19 / institutional capital mobilisation**	Encourage co-investment platforms and capital-markets structures that enable pension funds, insurers, banks, DFIs and other institutional investors to invest alongside or through the Fund. The Fund should be able to take an anchor position where this materially improves the ability to achieve financial close.	The Fund should ideally operate as an anchor and catalyst for institutional capital rather than become the principal or sole source of financing for projects.
21	**Portfolio liquidity / treasury management**	The policy should provide principles for liquidity and treasury management, including appropriate liquidity buffers, permitted temporary investments and alignment of available liquidity with the approved investment pipeline and expected funding requirements.	Infrastructure investments have long deployment periods, while the Fund will need to maintain sufficient liquidity to meet investment commitments.
22	**Investment governance**	Clearly establish investment approval thresholds, delegated authority, escalation requirements and conflict-of-interest controls, including a requirement for material deviations from approved investment criteria or exposure limits to receive appropriate approval and reporting.	A commercially driven Fund requires clear investment decision-making and appropriate protection against conflicts and deviations from the approved investment framework.

NO.	RELEVANT PROVISION	CPF RECOMMENDATION	RATIONALE/JUSTIFICATION
23	**Reporting and transparency**	In addition to statutory reporting, provide for transparent reporting of capital committed and deployed, financial performance, private capital mobilised, project status, portfolio concentration, impairments/defaults and material contingent liabilities, subject to legitimate commercial confidentiality.	Reporting should enable the Government, Parliament and institutional investors to assess whether the Fund is delivering financial returns and its intended infrastructure impact.

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Our Ref: 9900/008/NIF

August 24th, 2026

The Clerk of the National Assembly
Parliament Buildings
P.O. Box 41842-00100
Nairobi, Kenya

Attention: Mr. S. Njoroge
Email: cna@parliament.go.ke

Dear Sirs/Madam:

RE: SUBMISSION OF PUBLIC MEMORANDUM ON SESSIONAL PAPER NO. 7 OF 2026: NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY

We write on behalf of EMSI & Associates Advocates LLP to formally submit the attached Memorandum on the proposed National Infrastructure Fund Investment Policy tabled before the National Assembly as **Sessional Paper No. 7 of 2026** by the National Treasury and presently under consideration by the Departmental Committee on Finance and National Planning.

As legal practitioners advising both public and private sector participants in Kenya's infrastructure sector, we support the Fund's underlying objective of mobilising long-term, predominantly private and non-recourse capital for commercially viable national infrastructure projects, thereby reducing reliance on the national budget and public debt as the primary sources of infrastructure financing.

Our review of the Investment Policy, however, identifies a number of significant legal, governance, policy and implementation issues that we respectfully submit warrant the Committee's consideration before Parliament approves Sessional Paper No. 7 of 2026. These issues include questions concerning the completeness of the tabled document, the absence of identified projects, mandate and sectoral scope, portfolio concentration limits, governance instruments lacking a clear statutory basis, risk management and treasury oversight, funding-source integrity, investment criteria, Government Support Measures, monitoring and evaluation, delegation of investment authority, statutory financial controls, and broader capitalisation and institutional-overlap concerns.

The Memorandum sets out our findings, recommendations and supporting rationale with reference to the National Infrastructure Fund Act, the Public Finance Management Act, the Sovereign Wealth Fund Act, constitutional principles of public finance and accountability, and selected international infrastructure-fund comparators. We respectfully request that the Memorandum be received as part of the public participation process relating to the Committee's consideration of Sessional Paper No. 7 of 2026 and be circulated to Members of the Departmental Committee on Finance and National Planning for their review.

Mary Waithiegeni Chege (LLB, LLM, CPSK, CP³P®) | Mary Anne Wachira (LLB, CPSK)

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We further respectfully urge the Committee to obtain written clarification from the Governing Council of the National Infrastructure Fund and the National Treasury on the matters identified in the Memorandum before making its recommendation to the House regarding approval of the Investment Policy.

We thank the National Assembly for the opportunity to contribute to this important policy process and remain available should the Committee require any clarification on the contents of our submission.

Yours faithfully,



MARY WAITHIEGENI CHEGE
MANAGING PARTNER
EMSI & ASSOCIATES ADVOCATES LLP

PUBLIC MEMORANDUM ON
SESSIONAL PAPER NO. 7 OF 2026: NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY

August 24th, 2026

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EXECUTIVE SUMMARY

EMSI & Associates Advocates LLP welcomes the opportunity to submit this Memorandum on the proposed National Infrastructure Fund Investment Policy, tabled before the National Assembly on August 12th, 2026 as Sessional Paper No. 7 of 2026 (the **"Investment Policy"**) by the National Treasury, for consideration by the Departmental Committee on Finance and National Planning.

As legal practitioners advising both public and private sector clients in the infrastructure sector, we support the underlying objective of mobilising long-term, predominantly private and non-recourse capital for commercially viable national infrastructure projects, thereby reducing reliance on the national budget and public debt to finance Kenya's infrastructure programme.

This Memorandum is prepared against a legal and regulatory landscape that has evolved significantly since the enactment of the National Infrastructure Fund Act, including, among other developments, the following:

- **The Sovereign Wealth Fund Act, 2026 (Act No. 25 of 2026)**, which was assented to on July 8th, 2026 and came into force on July 24th, 2026, is now operational. The Act establishes a Strategic Infrastructure Investment Component whose scope, funding base and mandate overlap in several material respects with those of the National Infrastructure Fund (the **"NIF"** or the **"Fund"**); and

- **The Public Finance Management Act (Cap. 412A)** (the **"PFM Act"**), being the principal legislation governing the management of public funds, applies to the Fund both by express statutory cross-reference and through its general provisions. In addition, the proposed Public Finance Management (Amendment) Bill, 2026 (Draft 3) remains under consideration by the Departmental Committee on Finance and National Planning ahead of Second Reading, while the draft Public Finance Management (National Government) (Amendment) Regulations, 2026 have undergone public participation but have not yet been finalised.

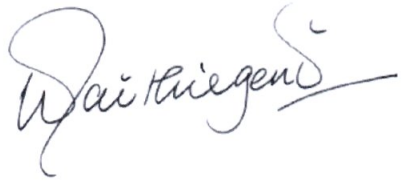
Our review concludes that, in several respects, the Investment Policy aligns reasonably well with the structural framework established under the Act, including the prescribed sector list, the five-year validity period, the quantified exposure limits and the prohibition on balance-sheet borrowing. However, we have identified **twelve substantive issues** and other general ones that warrant the Committee's consideration before Sessional Paper No. 7 of 2026 is approved. These issues include:

- Completeness of the Document Tabled as Sessional Paper No. 7 of 2026;
- Absence of Named Proposed Projects;
- Priority-Sector Scope Creep, "Catalytic National Infrastructure", and the Sovereign Wealth Fund Act;
- Silence on Statutory Financial Controls;
- Reasonableness of the 40% Sector and 20% Project Exposure Thresholds;
- Undefined Statutory Basis for the "Investment Strategy";
- Treasury Management Framework and Risk Management Framework: Governance Risk at KES 310.3 Billion Scale;
- "Strategic Capital Allocations by the Government" vis-à-vis the Closed Funding Sources in Section 38;
- Investment Principles and General Investment Criteria: Breadth and Sufficiency;
- Non-Recourse Project-Level Leverage, Government Support Measures and International Comparators;
- Monitoring and Evaluation: Sufficiency of Criteria and Need for Embedded KPIs;
- "Investment Authority" Delegation Through the Board Charter; and
- Other Critical Issues for Parliament's Consideration.

For each issue identified, we set out our findings, recommendations and supporting rationale, drawing upon the National Infrastructure Fund Act, the PFM Act, the Sovereign Wealth Fund Act and comparative experience from infrastructure funds and development finance institutions.

Accordingly, we respectfully urge the Committee to address the issues identified in this Memorandum and to obtain written clarification from both the Governing Council and the National Treasury on the matters raised herein before recommending approval of Sessional Paper No. 7 of 2026.

Yours faithfully,



Mary Waithiegeni Chege
MANAGING PARTNER
EMSI & ASSOCIATES ADVOCATES LLP

KEY FINDINGS

PART A: COMPLETENESS OF THE DOCUMENT TABLED AS SESSIONAL PAPER NO. 7 OF 2026

Issue

Our review indicates that the version of the Draft National Infrastructure Fund Investment Policy tabled as Sessional Paper No. 7 of 2026 may be incomplete when assessed against its own internal cross-references and supporting annexures. In particular, we note that:

- The Table of Contents identifies only the following sections: Foreword, Preface, Abbreviations, Executive Summary, Chapter 1 (Introduction), Chapter 2 (Policy Guidelines), Chapter 3 (Proposed Sectors and Projects), Chapter 4 (Monitoring and Evaluation) and Appendix I;

- The appended Compliance Checklist and Key Board Policy Decisions annex refer to a number of substantive sections and frameworks that do not appear anywhere within the structure or text of the 22-page document as tabled. These include references to:
  (i) a Project Preparation section;
  (ii) an Infrastructure Investment Framework;
  (iii) a Technical Integrity Principle;
  (iv) an Investment Decision Framework;
  (v) an Infrastructure Governance Framework;
  (vi) a political independence clause; and
  (vii) a five-dimensional performance framework.

The absence of these referenced sections makes it impossible to verify several of the Investment Policy's own self-assessed compliance findings. This is particularly significant in relation to sections 32 and 33 of the National Infrastructure Fund Act concerning feasibility studies, project preparation and related investment safeguards, where the compliance annex records an "Aligned" assessment despite the supporting text not appearing in the document before Parliament.

Recommendation

We recommend that the National Assembly, before approving Sessional Paper No. 7 of 2026, require the Governing Council and the National Treasury to:

(i) Confirm in writing that the version tabled as Sessional Paper No. 7 of 2026 constitutes the complete and final proposed Investment Policy Statement submitted for parliamentary approval;

(ii) Submit the chapters, policy frameworks and sections referenced in the Compliance Checklist and Key Board Policy Decisions annex that are currently absent from the tabled document, or alternatively amend the annexes to remove any inaccurate cross-references where no such provisions exist;

(iii) Suspend the running of the ninety-day consideration period contemplated under section 27 of the Act until the completeness and accuracy of the policy package have been verified; and

(iv) Provide the Committee with a corrected, consolidated and fully paginated version of the Investment Policy that incorporates all operative provisions, annexes and supporting frameworks intended to form part of the policy.

Rationale

(i) A compliance annex that certifies conformity with provisions that do not appear in the operative text undermines the reliability and evidential value of the entire self-assessment

exercise. The National Assembly cannot reasonably discharge its oversight responsibility under section 28 of the Act where the basis of the compliance assessment cannot be independently verified from the document before it;

(ii) Parliamentary scrutiny depends upon the availability of a complete and internally consistent policy instrument. Where key investment governance, project preparation and decision-making frameworks are referenced but not included, neither Members of Parliament nor stakeholders can adequately assess whether the Investment Policy satisfies the statutory requirements contemplated by the Act;

(iii) The apparent inconsistency between the body of the Investment Policy and its annexures creates uncertainty as to whether Parliament has been presented with the complete policy package approved by the Governing Council or only a partial extract thereof. Such uncertainty should be resolved before the approval process proceeds further;

(iv) Article 118 of the Constitution requires Parliament to facilitate public participation and public access to legislative and policy processes. Meaningful participation is difficult to achieve where the document made available to stakeholders may be incomplete or where material provisions referred to within the document are unavailable for review and comment; and

(v) As a matter of good legislative and regulatory practice, policy documents submitted for parliamentary approval should be internally coherent, complete and capable of being assessed on their face without requiring recourse to undisclosed supporting materials. The Committee should therefore seek formal clarification before relying on the Investment Policy's stated compliance conclusions.

PART B: ABSENCE OF NAMED PROPOSED PROJECTS

Issue

The Investment Policy does not appear to satisfy the requirement in section 25(2)(b) of the National Infrastructure Fund Act that the Investment Policy specify **"proposed projects"** in addition to identifying **"priority sectors proposed for development"** under section 25(2)(a) of the Act. In particular, we note that:

- Although paragraph 3.2 of the Investment Policy is titled **"Proposed Projects"**, the section does not identify any specific projects, project pipelines or investment opportunities. Instead, it restates the sector categories in which the Fund may invest and notes that there are no incomplete projects because this is the Fund's inaugural policy;

- The distinction drawn by Parliament in section 25(2) between **priority sectors** and **proposed projects** suggests that the Act contemplates a level of specificity beyond broad sector identification. The current drafting effectively conflates these separate statutory requirements;

- The absence of identified projects also affects compliance with section 25(2)(d), which requires the Investment Policy to specify expected rates of return. Rather than providing project-specific or portfolio-specific return expectations, the Investment Policy relies on a general investment criterion requiring a minimum equity return of 7% and a minimum non-recourse debt capacity threshold of 60% under paragraph 2.2; and

- While such thresholds may serve as investment screening criteria, they are not equivalent to expected returns for proposed projects or investment categories as contemplated by the Act.

Recommendation
We recommend that the National Assembly, before approving Sessional Paper No. 7 of 2026, require the Governing Council to:

(i) Append to the Investment Policy a defined list of proposed projects, pipeline transactions or investible opportunities intended for consideration during the policy period, or alternatively provide a documented project-identification methodology together with a near-term project pipeline sufficient to satisfy section 25(2)(b) in substance;

(ii) Provide indicative project-level, sector-level or sub-portfolio expected returns that are distinguishable from the general investment qualification criteria set out in paragraph 2.2, thereby addressing the requirements of section 25(2)(d) of the NIF Act; and

(iii) Confirm that any future introduction of named projects not contemplated by the approved policy will be treated as a substantive amendment requiring compliance with the revision procedure under section 30 of the Act, rather than being implemented through administrative action alone.

Rationale

(i) Parliament's review function under sections 27 and 28 is intended to extend beyond the approval of broad sectoral priorities. The absence of identified projects limits parliamentary scrutiny to abstract policy preferences rather than the specific investments, liabilities and delivery commitments that the Fund is expected to undertake;

(ii) Project identification is an important mechanism through which Parliament and the public can assess anticipated economic impact, financial viability, implementation risks and alignment with national development priorities;

(iii) Expected rates of return are inherently linked to the characteristics of the projects or portfolios under consideration. General investment thresholds provide limited insight into the returns Parliament can reasonably expect the Fund to achieve; and

(iv) Requiring future project additions to proceed through the statutory revision mechanism would preserve Parliament's oversight role and prevent the practical scope of the Fund from expanding beyond that approved through the NIF Act's section 27 process.

PART C: PRIORITY-SECTOR SCOPE CREEP, "CATALYTIC NATIONAL INFRASTRUCTURE", AND THE SOVEREIGN WEALTH FUND ACT

Issue
Our review indicates that the Investment Policy expands the Fund's mandate beyond the statutory definition of **"national infrastructure"** contained in section 2 of the NIF Act and introduces terminology that lacks a clear legislative foundation. Specifically, we note that:

- Section 2 of the Act defines **"national infrastructure"** through a closed and exhaustive list comprising:
  (i) national highways;
  (ii) railway networks;
  (iii) airports;
  (iv) seaports;
  (v) electricity generation, transmission and distribution infrastructure;

(vi) information and communication infrastructure;
(vii) water reservoirs and irrigation infrastructure; and
(viii) agribusiness infrastructure.

- Paragraph 3.2(b) of the Investment Policy, dealing with **Energy Infrastructure,** extends the category to include petroleum, oil and gas infrastructure, refineries, pipelines, storage facilities and liquefied natural gas (LNG) infrastructure. None of these asset classes are expressly included within the statutory definition, which is confined to electricity generation, transmission and distribution infrastructure.

- Paragraph 3.2(f) of the Investment Policy further establishes an **"Other National Priority Infrastructure"** category that may be expanded through designation by the Governing Council. As drafted, this provision creates an open-ended mechanism capable of extending the Fund's sectoral mandate without express parliamentary approval;

- In addition, paragraph 1.1 of the Investment Policy states that the Fund was established to accelerate the development of **"catalytic national infrastructure"**. While the term **"catalytic"** featured in the NIF Bill, this term does not appear in the NIF Act as enacted and does not form part of the statutory definition of national infrastructure or the Fund's objects. The phrase therefore appears to derive from earlier policy or legislative drafting materials rather than from the existing legislation itself;

- The enactment and commencement of the **Sovereign Wealth Fund Act, 2026** introduces a further governance concern. Section 12 establishes a **Strategic Infrastructure Investment Component** authorised to finance strategic infrastructure investment priorities aligned with national development objectives. Unlike the NIF Act's closed list, this mandate appears to be framed in broader and more open-ended terms; and

- When read together, the Investment Policy's use of expandable sector categories, the undefined concept of "catalytic" infrastructure and the Sovereign Wealth Fund Act's strategic infrastructure mandate create a material risk of overlap between two separate public investment vehicles with potentially competing mandates, funding sources and project pipelines.

Recommendation
We recommend that the National Assembly, before approving Sessional Paper No. 7 of 2026, require the Governing Council to:

(i) Amend paragraph 3.2(b) to align strictly with the statutory definition contained in section 2 of the Act by limiting the energy category to electricity generation, transmission and distribution infrastructure, unless and until Parliament separately amends the Act to include petroleum, oil, gas, refinery, pipeline and LNG infrastructure;

(ii) Remove the phrase **"catalytic national infrastructure"** from paragraph 1.1 and replace it with the statutory term **"national infrastructure"**, thereby ensuring consistency with the enacted legislation;

(iii) Amend paragraph 3.2(f) to provide that any designation of **"Other National Priority Infrastructure"** shall require ratification by the National Assembly or trigger a formal amendment of the Investment Policy under section 30 of the Act before becoming effective; and

(iv) Require the National Treasury to table a formal coordination framework or explanatory memorandum clarifying the relationship between the National Infrastructure Fund and the

Strategic Infrastructure Investment Component established under the Sovereign Wealth Fund Act, including the mechanisms for project allocation, investment prioritisation and capital deployment between the two funds.

Rationale

(i) A closed statutory definition serves an important governance function by establishing clear boundaries around the activities a public investment vehicle may undertake. Policy instruments should not be permitted to expand those boundaries without express legislative authority;

(ii) The inclusion of sectors not contemplated by section 2 of the NIF Act raises questions regarding legality, mandate creep and the proper relationship between the Investment Policy and the parent statute;

(iii) The use of non-statutory terminology such as **"catalytic national infrastructure"** introduces uncertainty regarding the intended scope of the Fund and risks importing concepts that Parliament did not adopt in the final legislation;

(iv) Allowing the Governing Council unilaterally to designate additional categories of infrastructure would effectively permit amendment of the Fund's mandate through policy implementation rather than through parliamentary processes;

(v) The commencement of the Sovereign Wealth Fund Act substantially alters the institutional environment in which the NIF will operate. Absent a clear delineation of responsibilities, there is a risk of duplication in project origination, fragmented investment decision-making, competition for limited public investment capital and uncertainty regarding which vehicle should finance particular infrastructure assets; and

(vi) Given that both frameworks contemplate the deployment of public capital into infrastructure projects and may draw, directly or indirectly, upon overlapping public resources and government-linked investment opportunities, Parliament should seek clarity on the intended division of responsibilities before approving the Investment Policy in its current form.

PART D: SILENCE ON STATUTORY FINANCIAL CONTROLS

Issue

The Investment Policy is largely silent on a number of the NIF Act's core financial-control mechanisms notwithstanding their importance to the governance and safeguarding of Fund assets. In particular, we note that:

- The Investment Policy does not address:
  (i) the reporting and disclosure obligations established under section 35 of the Act;

  (ii) the dual-account structure maintained at the Central Bank of Kenya under section 40 of the Act;

  (iii) the expenditure-control mechanism established by section 41 of the Act and administered through the Administrator of the Fund; or

(iv) the withdrawal restrictions under section 42 of the Act, which operate in conjunction with Article 228(5) of the Constitution which provides that the Controller of Budget shall not approve any withdrawal from a public fund unless satisfied that the withdrawal is authorised by law;

- While it is acknowledged that these matters do not appear within the mandatory content requirements prescribed by section 25(2) of the Act, they however represent key statutory safeguards governing the custody, expenditure and reporting of Fund resources;

- The omission is particularly notable because the Investment Policy's Compliance Checklist and supporting annexes imply the existence of broader governance, treasury-management and control frameworks through which these statutory safeguards are intended to be operationalised;

- As discussed in Part A of this Memorandum, however, several of the frameworks and governance instruments referenced in the annexes do not appear in the document tabled before Parliament, rendering it impossible to verify whether these statutory controls have in fact been incorporated into the Fund's operational architecture; and

- The result is a governance gap in which Parliament is asked to rely on compliance assertions without access to the instruments that purportedly implement the relevant statutory obligations.

Recommendation

We recommend that the National Assembly, before approving Sessional Paper No. 7 of 2026, require the Governing Council to:

(i) Confirm in writing that:
   a) the reporting obligations under section 35;
   b) the Central Bank of Kenya account arrangements contemplated by section 40;
   c) the expenditure-control framework established under section 41;
   d) the withdrawal restrictions under section 42; and
   e) all associated internal controls;

   have indeed been incorporated into the Fund's governance instruments and operating procedures.

(ii) Identify the specific instruments through which those statutory requirements are implemented, including any Risk Management Framework, Treasury Management Framework, Board Charter, delegations framework or operational procedures;

(iii) Provide the Committee with a summary of those arrangements, whether as an appendix to the Investment Policy, an annex to the Annual Business Plan or a separate governance memorandum; and

(iv) Ensure that future Investment Policies include a concise description of the Fund's principal statutory financial controls to enable Parliament and stakeholders to assess governance arrangements without reliance on unexplained compliance assertions.

Rationale

(i) Sections 35, 40, 41 and 42 constitute some of the NIF Act's most important safeguards against misuse, premature depletion or improper management of Fund resources;

(ii) A fund capitalised primarily from once-off privatisation proceeds requires particularly robust expenditure, custody and reporting controls because losses arising from weak governance may be difficult or impossible to replace through ordinary revenue streams;

(iii) Parliament should not be required to infer the existence of critical financial controls solely from a compliance annex, particularly where portions of that annex cannot be independently verified from the text before it; and

(iv) Transparency regarding the implementation of statutory controls is essential to effective parliamentary oversight and consistent with the broader public-finance principles of accountability and openness reflected in the Constitution and the PFM Act.

PART E: REASONABLENESS OF THE 40% SECTOR AND 20% PROJECT EXPOSURE THRESHOLDS

Issue

Paragraph 3.3 of the Investment Policy establishes a maximum sector exposure limit of **40% of Fund assets** and a maximum exposure limit of **20% of Fund assets to any single project**. These limits are intended to serve as diversification safeguards across the Fund's investment portfolio. However, the appropriateness of those thresholds warrants further scrutiny vis-à-vis the number of identified sectors in Section 2 of the NIF act which could essentially lead to five projects in three sectors.

In particular, we note that:

- The National Infrastructure Fund Act restricts the Fund's mandate to a relatively narrow universe of eligible infrastructure sectors. Whether assessed against the Act's eight-sector framework or the Investment Policy's six recategorised sectors, a 40% sector exposure cap permits a substantial degree of portfolio concentration. Within an eight-sector universe, an equally weighted allocation would represent approximately 12.5% per sector. A 40% limit therefore permits concentration at more than three times that level;

- Similarly, a 20% single-project exposure limit means that as few as five projects could account for the entirety of the Fund's invested assets. Based on the approximately KES 310.3 billion of confirmed and anticipated seed capital identified in the FY 2026/2027 Budget Statement, a single project could absorb approximately KES 62 billion, while a single sector could account for approximately KES 124 billion;

- These concentration levels appear difficult to reconcile with the diversification objective expressly referenced in paragraph 3.3 of the draft IP. While diversification does not require equal allocation across sectors, concentration limits should be calibrated to mitigate the risk that adverse developments affecting a single project or sector could materially impair the Fund's overall performance; and

- Importantly, sections 25(2)(e) and 25(2)(f) of the NIF Act require the Investment Policy to address investment diversification and risk management, but they do not prescribe specific numerical limits. The 40% and 20% thresholds are therefore policy choices made by the Governing Council rather than statutory requirements. As such, Parliament is entitled to evaluate whether those thresholds are reasonable, proportionate and consistent with the Fund's investment objectives and risk profile.

Recommendation

We recommend that the National Assembly, before approving Sessional Paper No. 7 of 2026, require the Governing Council to:

(i) Provide a written justification / rationale for the proposed 40% sector limit and 20% single-project limit, including the assumptions, portfolio modelling and pipeline analysis used to derive those thresholds;

(ii) Submit sensitivity analyses demonstrating how the Fund's portfolio would perform under plausible early-stage investment scenarios, including circumstances where a small number of projects account for a significant proportion of Fund assets;

(iii) Consider adopting a lower single-project exposure limit, such as 10% to 15% of Fund assets, during the Fund's formative years when assets under management remain relatively modest and concentration risk is highest, with any subsequent increase linked to predetermined asset-growth thresholds;

(iv) Require exposure compliance to be measured and reported at each reporting date rather than solely at the time of investment approval, and require any limit breaches arising from valuation changes, asset disposals or portfolio concentration effects to be reported promptly to the Governing Council; and

(v) Cross-reference the concentration limits expressly to the Risk Management Framework required under section 25(4) of the NIF Act to ensure that exposure thresholds operate as part of an integrated risk-governance framework rather than as standalone metrics.

Rationale

(i) Concentration limits are only meaningful when viewed in the context of the size of the investible universe, the number of eligible projects and the Fund's overall capital base. A concentration framework that may be appropriate for a mature, diversified infrastructure investor may not be suitable for a newly established fund operating under a narrow statutory mandate;

(ii) During the Fund's early years, portfolio diversification will likely exist more as a policy objective than as an achieved reality. Permitting substantial concentrations before a broad portfolio has been assembled increases the Fund's exposure to project-specific, sector-specific and political risks;

(iii) The Fund's relatively limited initial capitalisation heightens the potential consequences of a single major project underperforming, experiencing cost overruns or failing to achieve financial close;

(iv) Concentration limits should therefore operate as dynamic risk-management tools that evolve with portfolio maturity, rather than fixed thresholds applied irrespective of the Fund's stage of development; and

(v) Requiring regular reporting against current asset values would better enable the Governing Council and Parliament to monitor concentration risk as it emerges, rather than only at the point investments are approved.

PART F: UNDEFINED STATUTORY BASIS FOR THE "INVESTMENT STRATEGY"

Issue

The Investment Policy introduces an **"Investment Strategy"** as a key implementation instrument notwithstanding the absence of any explicit statutory recognition of such an instrument within the NIF Act itself. Specifically, we note that:

- Page 6 of the Investment Policy states that the Governing Council is responsible for establishing the Fund's investment policy through the IP, while the Board is responsible for implementing that policy through, among other instruments, an **Investment Strategy**, Annual Business Plans, investment approvals and portfolio oversight;

- The NIF Act does not define, reference or otherwise establish an **Investment Strategy**. Section 24 requires the preparation of an annual Business Plan, while section 25(4) requires the establishment of a Risk Management Framework. Neither provision, nor any other provision of the Act, creates an Investment Strategy as a distinct governance, planning or decision-making instrument;

- As presently drafted, the Investment Strategy appears to occupy a significant position within the Fund's governance architecture as it sits between:

  (i) the Investment Policy approved through the statutory process involving the Governing Council, Cabinet and Parliament; and
  (ii) the Annual Business Plan prepared under section 24 of the NIF Act;

- The Investment Policy does not specify the legal status, mandatory content, approval process, reporting obligations or review requirements applicable to the Investment Strategy. **This therefore creates the prospect of a Board-level document of potentially considerable importance directing the deployment of public assets without any express statutory foundation or parliamentary visibility**. In practical terms, the Investment Strategy could become the primary document shaping investment selection and portfolio construction despite operating outside the governance framework established by sections 25 to 31 of the NIF Act.

Recommendation

We recommend that the National Assembly, before approving Sessional Paper No. 7 of 2026, require the Governing Council to:

(i) remove reference to the Investment Strategy and rely solely on the implementation instruments expressly contemplated by the NIF Act, namely the Annual Business Plan and the Risk Management Framework;

(ii) If the Investment Strategy is retained, require that it be approved by the Governing Council in addition to the Board, consistent with the Governing Council's statutory responsibility under section 6(2) of the NIF Act to provide overall direction to the Fund;

(iii) Provide the Committee with a copy of the proposed Investment Strategy, or at minimum a framework describing its anticipated contents and governance arrangements;

(iv) Ensure that any document intended to govern or materially influence investment decision-making derives its authority from an instrument expressly recognised by the Act or by an approved policy adopted pursuant to the Act; and

(v) Consider recommending a future legislative amendment expressly establishing and defining the Investment Strategy, should the Governing Council demonstrate that such an instrument is operationally necessary.

Rationale

(i) Public investment funds should operate through governance instruments that possess a clear legal basis, defined approval authority and transparent accountability mechanisms. The introduction of an undefined implementation document therefore creates uncertainty regarding responsibility, oversight and legal authority;

(ii) The concern is not the existence of internal planning documents as such, but rather the possibility that a document with significant influence over investment decisions may exist outside the statutory architecture deliberately established by Parliament;

(iii) Section 6(2) of the NIF Act assigns the Governing Council responsibility for providing overall direction to the Board. An Investment Strategy that guides portfolio construction, investment selection and capital allocation is sufficiently consequential that it should not be left solely to Board approval unless Parliament has expressly authorised such an arrangement;

(iv) Retaining undefined governance instruments risks creating a parallel decision-making framework operating alongside, but not clearly subordinate to, the statutory instruments recognised by the NIF Act; and

(v) Greater clarity regarding the status of the Investment Strategy would improve accountability, reduce interpretive uncertainty and ensure that all significant investment decisions remain traceable to an identifiable source of legal authority.

PART G: TREASURY MANAGEMENT FRAMEWORK AND RISK MANAGEMENT FRAMEWORK - GOVERNANCE RISK AT KES 310.3 BILLION SCALE

Issue

The Investment Policy introduces a **Treasury Management Framework** as a central component of the Fund's financial governance architecture notwithstanding the absence of any express statutory basis for such an instrument under the National Infrastructure Fund Act.

Specifically, we note that:

- The NIF Act does not refer to a "Treasury Framework" or a "Treasury Management Framework". Rather, section 25(4) requires the Board to establish a **Risk Management Framework**, subject to approval by the Governing Council, addressing financial risks, contingent liabilities and compliance with the Public Finance Management Act;
-
- Chapter 3.4 of the Investment Policy ("Treasury Management") states that capital awaiting deployment must be managed in accordance with a Treasury Management Framework designed to preserve capital, maintain liquidity and generate investment income and the chapter further provides that treasury investments shall be undertaken in accordance with Board-approved Treasury Policies;

- Neither the Treasury Management Framework nor the Treasury Policies are recognised, defined or governed by the NIF Act and the Investment Policy does not specify their legal status, approval requirements, reporting obligations or relationship to the statutory Risk Management Framework required by section 25(4) of the Act;

- In addition, paragraph 2.1 of the Investment Policy states that detailed investment procedures, treasury management procedures, delegation instruments, risk-management policies and investment guidelines will be approved separately by the Board. This statement omits the statutory requirement that the Risk Management Framework be approved by the Governing Council before taking effect; in accordance with Section 25(4) of the NIF Act;

- This omission is significant given the scale of assets involved. Based on the Budget Statement and other identified funding sources, the Fund is expected to hold approximately KES 310.3 billion in confirmed and anticipated seed capital from the Kenya Pipeline privatisation and partial divestiture of the GoK's stake in Safaricom to Vodacom and a substantial proportion of that capital may therefore remain uninvested for extended periods while projects are originated, structured and brought to financial close; and

- During that period, the Fund's exposure will principally arise from cash-management, liquidity-management, custodial, counterparty-credit and interest-rate risks. Reliance upon a Board-approved Treasury Management Framework lacking a clear statutory foundation creates uncertainty regarding accountability and oversight over the management of those risks.

Recommendation

We recommend that the National Assembly, before approving Sessional Paper No. 7 of 2026, require the Governing Council to:

(i) Amend paragraph 2.1 of the Investment Policy to state expressly that the Risk Management Framework established by the Board shall require and receive Governing Council approval in accordance with section 25(4) of the NIF Act before taking effect;

(ii) Integrate the Treasury Management Framework and all Treasury Policies into the statutory Risk Management Framework either as dedicated chapters, schedules or subsidiary components, rather than maintaining them as independent governance instruments;

(iii) Table the substantive contents of both the Risk Management Framework and the Treasury Management Framework before the Committee, either alongside the Investment Policy or within a specified period following approval, given the scale of public resources involved at present as per the FY 2026/2027 Budget Statement;

(iv) Require both frameworks expressly to incorporate and operationalise the applicable investment, cash-management, reporting and accountability requirements of the Public Finance Management Act; and

(v) Clarify the governance hierarchy between the Investment Policy, the Risk Management Framework, Treasury Policies and any Board-level procedures to ensure that all treasury activities are traceable to a legally recognised source of authority.

Rationale

(i) Section 25(4) of the NIF Act reserves final approval of the Risk Management Framework to the Governing Council, whose membership includes senior public officers entrusted with oversight of significant public financial resources. That approval mechanism constitutes an important statutory safeguard and should not be diluted through the creation of parallel Board-level frameworks;

(ii) The management of uninvested capital is not a peripheral administrative function. For a newly established fund, treasury management may represent the principal financial

activity during the initial years of operation, making governance arrangements during this period particularly important;

(iii) A Treasury Management Framework that exists outside the statutory Risk Management Framework risks creating uncertainty regarding accountability, oversight and compliance obligations;

(iv) Parliament should be satisfied that all material financial risks associated with approximately KES 310.3 billion of public capital are governed through instruments that possess a clear legal basis, transparent approval processes and appropriate oversight mechanisms; and

(v) Integrating treasury-management arrangements into the statutory Risk Management Framework would strengthen governance coherence, eliminate ambiguity and ensure that all financial risks are subject to the same approval and accountability standards established by the Act.

PART H: "STRATEGIC CAPITAL ALLOCATIONS BY THE GOVERNMENT" VIS-À-VIS THE CLOSED FUNDING SOURCES IN SECTION 38

Issue

The Investment Policy appears to introduce a source of capitalisation that is not reflected in the statutory funding framework established by the National Infrastructure Fund Act. Specifically, we note that:

- Section 38 of the NIF Act sets out the Fund's sources of monies in apparently exhaustive terms, namely:
  (i) proceeds of privatisation under the Privatization Act, 2025;
  (ii) proceeds from the sale of shares in a government-linked corporation under section 87A of the Public Finance Management Act; and
  (iii) income and returns generated from the Fund's own investments.

- However, under the heading "**Stewardship of the Fund's Capital**", page 6 of the Investment Policy states that the Fund is capitalised principally from "the proceeds of privatisation ***and other strategic capital allocations by the Government***";

- The phrase "other strategic capital allocations by the Government" does not appear in section 38 of the NIF Act and is not defined elsewhere in the Investment Policy;

- As drafted, the phrase is capable of being interpreted as referring to direct budgetary allocations, Exchequer transfers, capital injections, special appropriations or other forms of government support not expressly authorised by section 38; and

- The inclusion of an undefined category of capitalisation creates uncertainty as to whether the Investment Policy is merely describing possible policy preferences or purporting to recognise an additional funding source beyond those provided by Parliament in the NIF Act.

Recommendation

We recommend that the National Assembly, before approving Sessional Paper No. 7 of 2026, require the Governing Council to:

(i) **Delete the phrase "other strategic capital allocations by the Government"** or replace it with an express cross-reference limited to the sources of funding set out in section 38(a)-(c) of the Act;

(ii) If the phrase is intended to describe direct budgetary transfers, fiscal injections or other forms of government capital support, provide a written explanation of the statutory authority under which such transfers may be made, given that section 38 does not expressly contemplate direct Exchequer funding;

(iii) Clarify whether the Governing Council anticipates any future capital contributions from Government beyond the mechanisms established under section 38 and, if so, identify the legislative authority supporting such contributions; and

(iv) Confirm that any future expansion of the Fund's funding sources beyond section 38(a)-(c) would require amendment of the NIF Act rather than implementation through policy language alone.

Rationale

(i) Section 38 of the NIF performs an important fiscal-governance function by defining the permissible sources of capital available to the Fund and thereby establishing clear limits on how the Fund may be recapitalised;

(ii) The closed-list approach reflects Parliament's apparent intention that the Fund be financed principally through asset-recycling mechanisms and investment returns rather than through recurrent dependence on direct budgetary appropriations;

(iii) Allowing undefined references to "strategic capital allocations" risks blurring the distinction between a self-sustaining investment vehicle and a conventionally funded public spending programme;

(iv) Transparency regarding funding sources is particularly important because the Fund was established, in part, to reduce reliance on the national budget and public borrowing as the primary means of financing infrastructure development; and

(v) Policy language should therefore mirror the statutory funding framework with precision. References that may imply the existence of additional capitalisation channels not authorised by Parliament risk creating uncertainty regarding the scope of the Fund's powers and the integrity of its funding model.

PART I: INVESTMENT PRINCIPLES AND GENERAL INVESTMENT CRITERIA — BREADTH AND SUFFICIENCY

Issue

The Investment Policy establishes a two-tier framework consisting of broad investment principles and more detailed investment criteria. While the latter provides a degree of operational guidance, the relationship between the two is insufficiently developed and may limit their usefulness as governance tools. In particular, we note that:

- Paragraph 2.1 of the Investment Policy sets out seven overarching principles intended to guide the Governing Council and the Board in its implementation:

(i) Commercial Discipline;
(ii) Commercial Viability;
(iii) Financial Sustainability;
(iv) Capital Mobilisation;
(v) Technical Integrity;
(vi) Responsible Stewardship; and
(vii) National Development.

- However, not a single one of these principles is defined, accompanied by measurable indicators, or linked to specific decision-making requirements. As presently drafted, they operate primarily as **statements of aspiration rather than enforceable investment standards**;

- Further, paragraph 2.2 of the Investment Policy establishes five General Investment Criteria including:
  (i) Demand Validation;
  (ii) Commercial Viability;
  (iii) Financial Return, including a minimum 7% equity return requirement;
  (iv) Technical Readiness; and
  (v) Risk Management compliance.

- There is, however, no explicit explanation of how the General Investment Criteria implement the seven investment principles or how decision-makers are expected to apply the two frameworks together; and

- As a result, the seven principles are framed at such a high level of generality that they are capable of supporting a wide range of potentially conflicting investment decisions, thus limiting their effectiveness as practical constraints on the exercise of the Board's investment discretion.

Recommendation
We recommend that the National Assembly, before approving Sessional Paper No. 7 of 2026, require the Governing Council to:

(i) Provide an operative definition of each of the seven investment principles or cross-reference each principle to the specific provisions of the Investment Policy through which it is implemented;

(ii) Introduce measurable indicators, benchmarks or policy parameters associated with each principle. For example:
  a) Capital Mobilisation could be linked to a minimum private-sector co-investment ratio;
  b) Responsible Stewardship could be linked to portfolio-risk and reporting requirements;
  c) National Development could be linked to alignment with approved national development priorities.

(iii) Amend paragraph 2.2 to state expressly that the General Investment Criteria constitute the minimum operational requirements through which the principles set out in paragraph 2.1 are implemented.

(iv) Consider incorporating additional investment criteria that better reflect the purposes and objectives of the Act, including:
  d) a sector-alignment criterion linked to national priority sectors;

e) a strategic-priority ranking criterion;
f) a local-content requirement;
g) a technology-transfer criterion; or
h) a capacity-building criterion reflecting section 4(d) of the NIF Act; and

(v) Require annual reporting under section 35 demonstrating how each approved investment satisfied both the paragraph 2.1 principles and the paragraph 2.2 General Investment Criteria.

Rationale

(i) High-level investment principles serve an important governance role, but only where they are translated into measurable requirements capable of guiding and constraining decision-making;

(ii) Without clear definitions, performance indicators or reporting obligations, the seven principles risk becoming aspirational statements rather than meaningful standards against which investment decisions can be assessed;

(iii) The distinction between principles and criteria should be made explicit. Principles should articulate the Fund's objectives and values, while investment criteria should provide the practical tests through which those objectives are applied to individual transactions;

(iv) A clearer linkage between the two would strengthen transparency, improve consistency in investment decision-making and facilitate more effective oversight by the Governing Council, Parliament and the public;

(v) Given the broad investment powers conferred upon the Board under section 19 of the Act, it is particularly important that the Investment Policy articulate objective and verifiable standards for determining whether individual investments are consistent with the Fund's statutory mandate; and

(vi) Requiring annual reporting against both the principles and the criteria would convert the framework from a statement of intent into an operational accountability mechanism, enabling Parliament and stakeholders to assess whether the Fund's investment decisions consistently reflect the objectives of the Act.

PART J: NON-RECOURSE PROJECT-LEVEL LEVERAGE, GOVERNMENT SUPPORT MEASURES AND INTERNATIONAL COMPARATORS

Issue

The Investment Policy appropriately recognises the statutory prohibition against borrowing at Fund level, but does not sufficiently address the fiscal and governance implications of Government Support Measures used to facilitate project-level financing. In particular, we note that:

- Paragraph 3.3 of the Investment Policy provides that leverage shall be undertaken only at the project or investment-vehicle level and shall ordinarily be non-recourse to the Fund. This approach is consistent with section 19(2)(a) of the Act, which prohibits balance-sheet borrowing by the Fund itself and reflects established infrastructure-finance practice whereby debt is secured against project revenues and assets rather than against the sponsor's balance sheet;

- However, paragraph 2.3 permits investments that fall short of the General Investment Criteria to proceed where Government Support Measures are provided in accordance with the Act. While the paragraph references the existence of Government Support Measures, it does not expressly

restate the statutory limitations imposed by section 34(2) of the NIF Act which permits Government Support Measures only for two specific purposes:

(i) reducing political-risk premiums associated with an approved investment; and
(ii) underwriting approved commercial risks under a negotiated project investment agreement;

- By omitting these statutory limitations, paragraph 2.3 risks creating the impression that Government Support Measures may be used generally to compensate for weak commercial fundamentals or to exempt projects from the commercial-viability requirements established elsewhere in the Investment Policy;

- The distinction is important because non-recourse financing does not eliminate public-sector risk as it merely reallocates it. Where government guarantees, letters of support, political-risk insurance or comparable credit-enhancement instruments are deployed to improve project bankability, the exposure may cease to reside on the Fund's balance sheet but instead become a contingent liability of the national government which defeats the purpose of the Fund as stated in Section 4 of the NIF Act;

- The Investment Policy fails to address how such contingent liabilities will be measured, disclosed, monitored or reported and the absence of an explicit framework for identifying and disclosing Government Support Measures limits Parliament's ability to evaluate the Fund's true fiscal exposure and may understate the extent to which public resources remain at risk notwithstanding the use of non-recourse financing structures.

Recommendation
We recommend that the National Assembly, before approving Sessional Paper No. 7 of 2026, require the Governing Council to:

(i) Amend paragraph 2.3 to expressly cross-reference section 34(2) and state that Government Support Measures may be provided only in the circumstances expressly permitted by the NIF Act;

(ii) Clarify that Government Support Measures do not constitute a general exemption from the commercial-viability, financial-return or technical-readiness requirements set out in paragraph 2.2;

(iii) In compliance with Section 89(2)(i) of the PFM Act, require annual disclosure under section 35 of the NIF Act of:

a) the aggregate value of Government Support Measures issued in support of Fund investments;
b) the form of support provided;
c) the projects benefiting from such support; and
d) the corresponding contingent liabilities assumed by the national government.

(iv) Introduce an explicit exposure limit or participation cap for Government Support Measures relative to total project cost, so that public risk-sharing remains proportionate and targeted; and

(v) Require the Risk Management Framework under section 25(4) of the NIF Act to assess and monitor aggregate contingent-liability exposure arising from Government Support Measures across the entire portfolio, rather than solely on a project-by-project basis.

Rationale

(i) The NIF Act contemplates Government Support Measures as narrowly tailored risk-mitigation tools and not substitutes for commercial viability as is implied in the Draft Policy;

(ii) Without explicit safeguards, there is a risk that projects incapable of meeting the Fund's investment criteria may be advanced through progressively larger forms of government support, thereby transferring risk from the Fund to the national balance sheet;

(iii) International best practice demonstrates that successful infrastructure-investment vehicles generally combine project-level non-recourse financing with clearly defined, monitored and disclosed government support mechanisms;

(iv) Transparent disclosure of contingent liabilities is necessary to ensure Parliament can evaluate the full fiscal implications of investment decisions rather than only the direct balance-sheet exposure of the Fund itself; and

(v) Requiring portfolio-level monitoring would provide a more accurate assessment of cumulative fiscal risk and would assist in preventing the creation of material government liabilities outside the ordinary budget process.

PART K: MONITORING AND EVALUATION – SUFFICIENCY OF CRITERIA AND NEED FOR EMBEDDED KPIS

Issue

Chapter 4 of the Investment Policy establishes a Monitoring and Evaluation framework built around five broad performance dimensions but does not incorporate measurable indicators, targets or benchmarks against which performance can be objectively assessed. Specifically, we note that:

- The Board is required to evaluate the Fund against the following criteria:
  (i) Financial Performance;
  (ii) Capital Deployment;
  (iii) Capital Mobilisation;
  (iv) Portfolio Quality; and
  (v) National Development Outcomes;

- While these categories are appropriate and broadly consistent with the Fund's statutory objectives, the Investment Policy does not prescribe any quantitative performance measures, reporting thresholds or baseline expectations for any of them;

- Instead, Chapter 4 provides that performance indicators will be established through the Annual Business Plan and this approach effectively delegates the determination of performance standards to an annual Board-prepared instrument that is not subject to the same approval process applicable to the Investment Policy itself;

- As a result, material performance expectations may vary from one Business Plan cycle to the next without any corresponding review by Cabinet or Parliament; and

- The absence of Investment Policy-level performance benchmarks makes it more difficult for Parliament to assess whether the Fund is indeed succeeding in achieving the objectives for which it was established over the full five-year life of the Investment Policy.

Recommendation

We recommend that the National Assembly, before approving Sessional Paper No. 7 of 2026, require the Governing Council to:

(i) Incorporate at least one headline KPI within the Investment Policy for each of the five Monitoring and Evaluation categories.

(ii) Consider including indicators such as:
   a) a minimum blended portfolio-return target and leverage ratio for Financial Performance;
   b) a portfolio-deployment target measured against available capital and the five-year policy horizon for Capital Deployment;
   c) a private-capital-mobilisation ratio for Capital Mobilisation;
   d) a maximum watch-list or non-performing-project threshold for Portfolio Quality; and
   e) measurable development indicators, including employment generation, infrastructure capacity created or services delivered, for National Development Outcomes.

(iii) Require Annual Business Plan KPIs to align with and be reported against the headline Investment Policy-level indicators, enabling performance to be tracked consistently across reporting periods;

(iv) Establish a requirement for independent verification of reported performance by the Auditor-General or another appropriately authorised reviewer; and

(v) Require annual reporting to explain any material deviation from approved Investment Policy-level performance targets.

Rationale

(i) Monitoring frameworks are most effective when accompanied by objective, measurable and publicly disclosed performance benchmarks;

(ii) Leaving all KPI-setting to annual Business Plans risks permitting performance expectations to be revised over time without the level of scrutiny attached to the Investment Policy;

(iii) Embedding core KPIs within the Investment Policy would strengthen accountability, improve comparability across years and provide Parliament with a stable framework against which to evaluate performance throughout the Policy's five-year lifespan;

(iv) Consistent reporting against predefined indicators would enhance transparency and reduce the risk of performance being assessed against moving benchmarks; and

(v) Independent verification would further strengthen confidence in reported outcomes and ensure that performance assessments reflect actual results rather than internally generated evaluations alone.

PART L: "INVESTMENT AUTHORITY" DELEGATION THROUGH THE BOARD CHARTER

Issue

Appendix I of the Investment Policy ("Key Policy Parameters") states, in its final row, that **"Investment Authority"** is **"delegated through the Board Charter."** While it is common practice for Boards generally to have board charters, this reference in the Investment Policy raises important governance

and accountability concerns due to the proposed delegation under Appendix I. In particular, we note the following:

- The NIF Act vests the Fund's governance and investment powers directly in the Board. Under section 18, the Board is responsible for key functions including resource mobilisation, approval of budgets, strategic direction, contracting and oversight of risk management. Section 19 further grants investment powers to the Board, subject to the approved Investment Policy;

- The Investment Policy then proceeds to defer this to yet another instrument – in addition to the Investment Strategy discussed above – and does not specify:
  (i) the extent of authority delegated under the Charter;
  (ii) to whom such authority is delegated;
  (iii) reporting obligations; or
  (iv) the mechanisms through which the Board retains accountability for delegated decisions;

- As drafted, the reference creates uncertainty regarding who may ultimately authorise the commitment of Fund capital and whether such decisions remain traceable to a statutorily authorised decision-maker which should be the Board pursuant to sections 18 and 19 of the NIF Act.

Recommendation

We recommend that the National Assembly, before approving Sessional Paper No. 7 of 2026, require the Governing Council to:

(i) Require that any delegation of investment authority be confined to Board committees framework contemplated by section 21 (e.g. an investment committee) and subject to Board approval, unless Parliament expressly authorises broader delegation vide amendments to the NIF Act;

(ii) Confirm that investment decision-making authority may not be delegated to management, external advisers or third parties except to the extent expressly permitted by law; and

(iii) Disclose within the Investment Policy itself any material delegation thresholds, approval limits or reserved matters, rather than leaving such matters solely to an unpublished governance document.

Rationale

(i) The authority to commit public investment capital is one of the Board's most significant statutory responsibilities and should therefore be exercised through governance arrangements that are transparent, legally grounded and clearly documented;

(ii) A delegation mechanism referenced only in a summary appendix, without disclosure of the underlying instrument, limits Parliament's ability to assess whether investment decisions will be made by appropriately authorised persons in accordance with sections 18 and 19 of the NIF Act;

(iii) While committee structures can improve efficiency and responsiveness, they should operate within the confines of the statutory framework established by Parliament rather than through implied delegation powers; and

(iv) Given the scale of capital under management, Parliament should seek assurance that every investment decision can be traced to a lawful delegation of authority and an identifiable decision-maker in compliance with the Public Finance Management Act.

PART M: OTHER CRITICAL ISSUES FOR PARLIAMENT'S CONSIDERATION

Issue

While the Investment Policy focuses on the Fund's proposed investment framework, Parliament's consideration of Sessional Paper No. 7 of 2026 should also be informed by several broader fiscal, institutional and implementation issues arising from the FY 2026/27 Budget Statement and the wider policy environment.

(a) Capitalisation and Sustainability Relative to the Infrastructure Financing Gap

- The 2026/27 Budget Statement identifies approximately KES 310.3 billion of confirmed and anticipated seed capital for the Fund, comprising:
  (i) approximately KES 106.3 billion from the Kenya Pipeline Company IPO; and
  (ii) approximately KES 204 billion expected from the proposed partial divestiture of the Government's Safaricom shareholding to Vodacom;

- Even assuming full receipt of those funds, the resulting initial capital base remains modest when assessed against the Government's stated infrastructure financing gap of approximately USD 5 billion annually (approximately KES 647,050,000,000.00);

- The Fund's future capitalisation is closely linked to the broader Government-Owned Enterprises reform and privatisation programme, and will depend significantly on the timing of privatisation transactions, implementation of the Government-Owned Enterprises Act, 2025, completion of related regulatory frameworks, and the promulgation of regulations contemplated under section 48 governing investment policy, Government Support Measures and operational procedures, the status and timing of which remain unclear. Further, if Government Support Measures become routine rather than exceptional, the practical result may be the transfer rather than the elimination of fiscal risk;

- The Fund's long-term viability therefore depends not merely on the recycling of privatisation proceeds, but also on its ability to mobilise substantial private-sector and institutional capital under a clear, coherent and predictable investment framework that promotes transparency, accountability and prudent stewardship of public resources.

(b) Institutional Overlap

- The Fund will operate alongside several existing or newly established infrastructure-financing mechanisms, including:

  (i) the Public-Private Partnerships programme under the PPP Act, Cap 430;
  (ii) the Strategic Infrastructure Investment Component established under the Sovereign Wealth Fund Act, 2026; and
  (iii) other infrastructure-financing initiatives administered by government entities and development-finance institutions.

- Without a clearly articulated division of mandates, functions and project-allocation responsibilities, there is a risk of:
  (i) duplicated project origination between the Fund and contracting authorities;
  (ii) fragmented governance;
  (iii) competition for scarce capital resources; and
  (iv) inconsistent investment decision-making.

Recommendation

We recommend that the National Assembly, before approving Sessional Paper No. 7 of 2026, require the National Treasury to:

(i) Explain how the Fund is expected to scale from its initial capital base toward assisting in the closure of Kenya's infrastructure financing gap, including assumptions regarding capital recycling and private-capital mobilisation;

(ii) Incorporate Government Support Measures and related contingent liabilities into future fiscal-risk disclosures and debt-sustainability reporting;

(iii) Table a formal coordination framework explaining the relationship between:
   a) the National Infrastructure Fund;
   b) the Public-Private Partnerships programme; and
   c) the Strategic Infrastructure Investment Component established under the Sovereign Wealth Fund Act.

(iv) Provide a timeline for the promulgation of regulations contemplated under section 48 and explain how operational readiness will be maintained pending their adoption; and

(v) Confirm the governance, reporting and transparency measures that will apply during the Fund's initial years of operation while capital is being accumulated and deployed.

Rationale

(i) Parliament's approval of an Investment Policy of this scale should be based not only on the policy's internal provisions but also on a clear understanding of the Fund's broader fiscal context;

(ii) Capitalisation, contingent liabilities, regulatory readiness and institutional coordination are fundamental determinants of whether the Fund can achieve its stated objectives;

(iii) Consideration of these issues is especially important given that significant components of the Fund's anticipated capital base remain dependent upon future transactions and policy implementation measures;

(iv) A comprehensive understanding of the Fund's interaction with other national infrastructure-financing mechanisms will assist Parliament in assessing whether the proposed framework delivers additional financing capacity or merely replicates existing institutions; and

(v) Requiring these clarifications before approval would strengthen parliamentary oversight, improve transparency and reduce implementation risk during the Fund's formative years.

① DDC & 25/8/26

② Ms. T. Chebet, PCA II

Pse deal Mutega DD-DC 26/AUG/2026

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FINAL SUBMISSION PACK

Memorandum on Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy

Prepared for	**Clerk of the National Assembly / Departmental Committee on Finance and National Planning**
Purpose	Formal public participation memorandum on the National Infrastructure Fund Investment Policy
Policy reference	Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy
Central recommendation	Recognise Dhamana-style guarantee, credit enhancement and contingent risk-sharing facilities as eligible NIF instruments
Date	24th August 2026

DIRECTOR GENERAL
26 AUG 2026
Directorate of Departmental Committees

NATIONAL ASSEMBLY
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Date: 24th August 2026

The Clerk of the National Assembly
P.O. Box 41842-00100
Nairobi, Kenya

Dear Sir/Madam,

RE: MEMORANDUM ON SESSIONAL PAPER NO. 7 OF 2026 ON THE NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY

Dhamana Guarantee Company Limited ("**Dhamana**") welcomes the opportunity to submit comments on **Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy**. Dhamana supports the establishment of the National Infrastructure Fund ("NIF" or the "Fund") as a catalytic national platform to accelerate the development of commercially viable infrastructure, mobilise domestic and international private capital, reduce reliance on public debt, strengthen project preparation and recycle proceeds into future infrastructure investment.

Dhamana is a specialist credit guarantee institution focused on mobilising long-term local currency capital into infrastructure and other productive sectors. Dhamana's submission is therefore focused on how the Policy can be strengthened to ensure that the Fund operates not only as a direct investment vehicle, but also as a national capital mobilisation and risk-sharing platform.

In particular, Dhamana recommends that the **Policy should expressly recognise guarantees, credit enhancement, contingent capital facilities and other risk-sharing mechanisms as eligible instruments through which the Fund may leverage public capital to mobilise private investment**. This would allow the Fund to work with approved risk-sharing partners, including financial guarantors, to support bankable infrastructure bonds, project finance debt, refinancing transactions and institutional investor participation.

We respectfully submit the attached memorandum for consideration by the Departmental Committee on Finance and National Planning.

Yours faithfully,

Christopher Olobo
Chief Executive Officer
Dhamana Guarantee Company Limited
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1. Executive Summary

Dhamana strongly supports the objectives of the National Infrastructure Fund Investment Policy. The Policy provides an important foundation for mobilising long-term capital into nationally significant infrastructure, reducing reliance on public debt, promoting project preparation and recycling investment proceeds into future infrastructure. However, the current Policy would be significantly strengthened by expressly incorporating guarantees, credit enhancement, contingent capital and risk-sharing facilities as eligible tools for achieving these objectives.

Dhamana's core recommendation is that the Fund should be framed not only as an infrastructure investor, but as an infrastructure capital mobilisation platform. This requires an explicit policy architecture allowing the Fund to allocate a defined portion of its capital to contingent risk-sharing facilities that support credit enhancement and guarantee issuance. Such facilities can mobilise commercial banks, pension funds, insurers, asset managers and other institutional investors while preserving public resources.

Core proposal

The Policy should authorise the Fund to allocate a portion of its capital to a National Infrastructure Guarantee and Risk-Sharing Window. This window would provide contingent backstop support to approved credit enhancement providers such as Dhamana, enabling infrastructure bonds and project finance debt to be guaranteed and placed with domestic institutional investors.

2. Dhamana's Strategic Position

Dhamana is positioned to support the NIF through its mandate to deepen domestic capital markets and mobilise long-term local currency financing for public infrastructure, private infrastructure, public-private partnerships, state-owned enterprises, county and municipal entities, and structured finance transactions.

Dhamana's earlier proposal to the Government of Kenya contemplated a de-risking arrangement under which a portion of the NIF would be retained as a contingent capital facility or de-risking tranche. Dhamana would issue guarantees to investors, while the NIF de-risking tranche would operate as a contingent reimbursement or risk-sharing backstop in the event of defined claims.

This model is consistent with the Policy's stated objectives because it enables public capital to be leveraged multiple times, supports local currency financing, mobilises pension fund capital and reduces the need for direct public borrowing.

3. Summary of Key Recommendations

No.	Policy area	Recommended amendment	Expected outcome
1	Eligible instruments	Recognise guarantees, credit enhancement, contingent capital and risk-sharing facilities as eligible deployment tools.	The Fund can crowd in private capital rather than relying only on direct investments.
2	Guarantee window	Create a National Infrastructure Guarantee and Risk-Sharing Window within or alongside the Fund.	Dhamana and other approved partners can de-risk infrastructure assets and mobilise domestic capital.
3	Infrastructure bonds	Permit supported projects to issue guaranteed infrastructure bonds, notes and asset-backed securities.	Pension funds, insurers & asset managers obtain investable infrastructure products.

4	Payment risk	Allow Treasury-supported payment support and reimbursement frameworks for public sector obligations.	Reduced investor concern over government, county or SOE payment delays.
5	Project development	Create a development risk and project preparation facility.	Strong pipeline of bankable, financeable and investment-ready projects.
6	Mobilisation KPIs	Adopt mobilisation ratios and private capital participation as performance indicators.	The Fund is assessed by capital catalysed, not only by capital deployed.
7	Local currency finance	Prioritise KES-denominated financing and credit enhancement.	Reduced foreign exchange risk and deeper domestic capital markets.

4. Key Policy Risks if the Draft Is Not Strengthened

Private capital mobilisation risk: The Fund may become a public investment vehicle rather than a platform that systematically crowds in banks, pension funds, insurers and other private investors.

Project bankability risk: Commercially important projects may fail to reach financial close where the Policy does not provide structured tools to bridge credit, revenue or completion risk gaps.

Government and offtake payment risk: Investors may remain cautious where projects depend on payments from government entities, counties, utilities or state-owned enterprises.

Long-tenor financing risk: Domestic banks may be unable or unwilling to provide infrastructure tenors aligned to project cashflows without credit enhancement or refinancing support.

Construction and completion risk: Projects with construction exposure may remain unsuitable for pension funds unless backed by robust completion and performance support mechanisms.

Pipeline development risk: Project preparation may remain underfunded unless development risk capital and early-stage structuring support are included.

FX and refinancing risk: Foreign currency borrowing may expose projects to depreciation risk, while lack of refinancing mechanisms may trap bank liquidity and limit project scale.

5. Proposed Additional Policy Comments

A. Contingent capital should be an eligible Fund deployment modality

The Policy should expressly permit the Fund to allocate a portion of its resources to contingent capital facilities, risk reserves or guarantee support arrangements. This is essential to implement a Dhamana-style de-risking structure in which public capital is not immediately spent but is reserved to support risk-sharing and private capital mobilisation.

B. The Fund should establish a Guarantee and Risk-Sharing Window

The Policy should provide for a dedicated window that supports partial credit guarantees, bond guarantees, payment guarantees, refinancing guarantees, portfolio risk-sharing and project development guarantees. This window should be governed by clear eligibility, pricing, claims, monitoring and reporting rules.

C. The Fund should recognise approved risk-sharing partners

The Policy should create a category of approved capital mobilisation and risk-sharing partners, including financial guarantors, DFIs, credit enhancement providers and qualified infrastructure financing intermediaries.

D. Infrastructure bonds should be recognised as a strategic financing tool

The Policy should expressly permit Fund-supported projects to issue guaranteed infrastructure bonds, project bonds, green bonds, climate bonds, municipal bonds and asset-backed infrastructure securities. This will create investable instruments for pension funds and insurers.

E. Treasury reimbursement and claim settlement rules should be formalised

Where the Fund supports a contingent facility, the Policy should require pre-agreed reimbursement arrangements, reserve account mechanics, payment waterfalls and claim settlement procedures to ensure investor confidence.

F. Mobilisation performance should be measured

The Policy should include performance indicators for private capital mobilised, pension fund participation, guarantees issued, infrastructure bonds placed, refinancing volumes and leverage ratios achieved.

G. The Policy should support local currency mobilisation

The Fund should prioritise KES financing where commercially feasible. Dhamana-backed guarantees can help mobilise local institutional investors and reduce exposure to foreign exchange volatility.

6. Suggested Drafting Insertions

Eligible instruments: "The Fund may deploy its resources through equity, quasi-equity, debt, guarantees, credit enhancement, contingent capital facilities, risk-sharing arrangements, insurance, liquidity support, refinancing support and other instruments approved by the Board for the purpose of mobilising private capital into infrastructure."

Guarantee and Risk-Sharing Window: "The Board may establish a Guarantee and Risk-Sharing Window to support infrastructure projects through guarantees, credit enhancement, contingent capital, risk reserves and reimbursement arrangements provided directly by the Fund or through approved risk-sharing partners."

Approved partners: "The Fund may enter into arrangements with financial guarantors, development finance institutions, insurers, credit enhancement providers, banks and other qualified institutions for the purpose of mobilising private and institutional capital into eligible infrastructure projects."

Capital mobilisation objective: "The Fund shall seek to maximise the mobilisation of private sector capital, including pension fund, insurance, banking and capital markets investment, through blended finance, credit enhancement and risk-sharing structures."

Infrastructure securities: "Eligible investments may include guaranteed infrastructure bonds, project bonds, notes, securitisation instruments, asset-backed securities, refinancing instruments and other capital markets instruments linked to eligible infrastructure assets."

Reporting: "The Fund shall report annually on capital deployed, private capital mobilised, guarantees and credit enhancement supported, institutional investor participation, leverage ratios achieved and development impact outcomes."

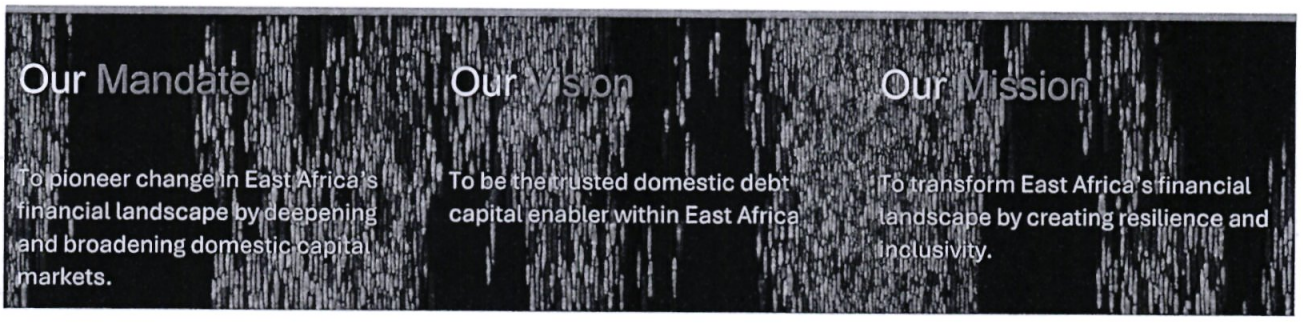
Submitted by Dhamana Guarantee Company Limited in response to the invitation to submit memoranda on Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy.

For and on behalf of Dhamana Guarantee Company Limited:

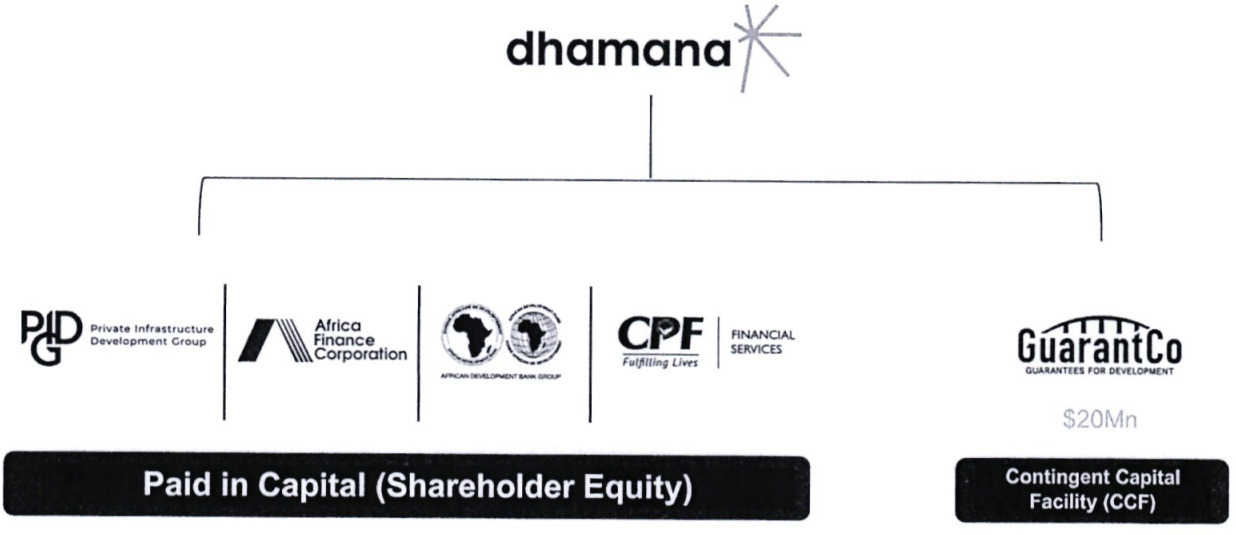
Christopher Olobo
Chief Executive Officer
Dhamana Guarantee Company Limited
Date: 24th August 2026

Who We Are

Dhamana is a highly rated East African financial guarantor that guarantees financial debt instruments like bonds, loans, and structure finance products across both the public and private sector.



Our Capital Structure



Annex 1: Risk-to-Guarantee Mechanism Matrix

Risk	Guarantee mechanism	How the mechanism works	Policy implication
Bankability / financial close risk	Partial Credit Guarantee	Dhamana guarantees scheduled debt service or a defined portion of project finance debt to improve credit quality.	Recognise partial credit guarantees as eligible Fund-supported instruments.
Institutional investor participation risk	Infrastructure Bond Guarantee	Dhamana wraps project bonds or infrastructure notes to provide timely payment protection to investors.	Permit guaranteed infrastructure bonds and notes as eligible structures.
Government / offtake payment risk	Payment Support Guarantee	Dhamana pays investors on missed scheduled payments and is reimbursed from a pre-agreed NIF contingent facility or reserve.	Create Treasury reimbursement / risk reserve mechanics.
Construction and completion risk	Completion or Performance Guarantee	Defined support for cost overruns, contractor default or completion delays through structured coverage.	Allow construction-phase risk mitigation for eligible projects.
Refinancing risk	Take-Out / Refinancing Guarantee	Dhamana supports refinancing from bank debt into long-term bonds or institutional investor instruments.	Support asset recycling and market-based refinancing.
Bank portfolio capacity risk	Portfolio Risk-Sharing Facility	Dhamana shares credit risk on a portfolio of infrastructure loans originated by banks.	Allow portfolio-level, not only project-level, guarantees.
Project preparation risk	Development Risk Guarantee	Coverage or reimbursement support for early-stage project preparation and financial close costs.	Create a development risk window linked to project preparation.
Currency risk	Local Currency Credit Enhancement	Prioritise KES debt and guarantee structures to avoid FX mismatch.	Promote local currency infrastructure finance.

Annex 2: Proposed NIF-Dhamana Contingent De-Risking Facility

Dhamana's proposed model can be summarised as follows:

Step	Description
1	NIF allocates a defined portion of its capital to a contingent de-risking tranche or risk reserve.
2	Dhamana is appointed or approved as a risk-sharing and credit enhancement partner under objective eligibility criteria.
3	Eligible infrastructure projects, SPVs, SOEs, counties, PPPs or utilities issue KES-denominated debt instruments or obtain bank debt.
4	Dhamana issues a guarantee to bondholders, lenders or trustees, providing timely payment protection for scheduled principal and interest.

5	Pension funds, insurers, banks and asset managers invest in the guaranteed instrument.
6	If a defined payment default occurs, Dhamana pays investors promptly under the guarantee.
7	Dhamana is reimbursed, to the extent agreed, from the NIF contingent de-risking tranche, reserve account or reimbursement facility.
8	The Fund reports capital mobilised, guarantee exposure, claims, recoveries, leverage ratios and development impact.

Annex 3: International Precedents to Support the Policy Case

The following international precedents demonstrate that guarantees and risk-sharing facilities are commonly used to transform public capital into larger pools of private infrastructure finance.

Jurisdiction / institution	Relevant mechanism	Lesson for Kenya	How Dhamana can support adaptation
Nigeria / InfraCredit	Local currency infrastructure bond guarantees and partial credit guarantee facilities.	A domestic guarantee platform can mobilise long-term local currency institutional capital.	Dhamana can serve as Kenya's equivalent risk-sharing and infrastructure bond guarantee platform.
African Development Bank / ADF guarantees	Partial risk guarantees and partial credit guarantees to mobilise private sector investment.	Guarantees can cover defined government, political, credit and payment risks.	Dhamana can provide localised credit enhancement with DFI co-risk sharing where required.
Brazil / IDB-supported PPP guarantee structures	Guarantees covering government and public entity payment obligations under PPPs and infrastructure contracts.	Government-linked payment risk can be mitigated without full direct public financing.	Dhamana can provide payment guarantees backed by NIF reserve or Treasury support.
India / infrastructure credit enhancement and refinancing models	Credit enhancement, refinancing and take-out structures for infrastructure.	Long-tenor financing needs can be addressed through market-based refinancing channels.	Dhamana can support refinancing guarantees and institutional bond take-out structures.

Annex 4: Conditions and Safeguards for the Guarantee Window

Objective eligibility criteria: Projects should meet specified eligibility tests on commercial viability, public benefit, legal due diligence, environmental and social compliance, and financial sustainability.

Independent underwriting: Any guarantee should be subject to independent credit appraisal, legal review, technical review, financial model review and ESG assessment.

Risk-based pricing: Guarantee fees should reflect risk, tenor, coverage level, security package and expected loss.

Exposure limits: The window should include limits for single project, sector, sponsor, county, offtake and guarantee provider exposure.

Defined claims process: Claims triggers, cure periods, payment timelines, reserve account arrangements and reimbursement rights should be clearly documented.

Transparency and reporting: Annual reporting should include guarantee exposure, private capital mobilised, claims, recoveries, leverage ratios and impact metrics.

No automatic loss transfer: Dhamana should remain an active risk underwriter; NIF support should not create automatic or unlimited government liability.