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REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
**THIRTEENTH PARLIAMENT-
FOURTH SESSION**
SPECIAL FUND ACCOUNTS COMMITTEE

**REPORT ON THE CONSIDERATION OF THE AUDITED
ACCOUNTS FOR THE JUDICIARY MORTGAGE SCHEME FUND
FOR THE FINANCIAL YEARS 2011/2012 TO 2021/2022**

NATIONAL ASSEMBLY
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DIRECTORATE OF AUDIT APPROPRIATIONS
& GENERAL PURPOSE COMMITTEES, NATIONAL
ASSEMBLY
PARLIAMENT BUILDINGS
NAIROBI

JULY 2025



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT-
FOURTH SESSION

SPECIAL FUND ACCOUNTS COMMITTEE

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FOR THE FINANCIAL YEARS 2011/2012 TO 2021/2022

DIRECTORATE OF AUDIT APPROPRIATIONS
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ASSEMBLY
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JULY 2025

SPECIAL FUND ACCOUNTS COMMITTEE- JUDICIARY CAR LOAN AND MORTGAGE SCHEME FUND

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List of Abbreviations and Acronyms

- | | | |
|----------|---|--|
| 1) CoK | - | Constitution of Kenya, 2010 |
| 2) FY | - | Financial Year |
| 3) MDAs | - | Ministries, Departments and Agencies |
| 4) MOU | - | Memorandum of Understanding |
| 5) PFM | - | Public Finance Management |
| 6) OAG | - | Office of the Auditor-General |
| 7) PSASB | - | Public Sector Accounting Standards Board |

CHAIRPERSON'S FOREWORD

Hon. Speaker, on behalf of the Special Funds Accounts Committee and under Standing Order 199, it is my pleasant duty and honour to present to the House the report of the Committee on consideration of the reports of the Auditor-General on the audited financial statements for the Judiciary Mortgage Scheme Fund for the financial years 2011/2012 to 2021/2022.

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

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

The Committee received oral and written submissions from Mr. Paul Ndemo, the then Ag. Chief Registrar, Judiciary Mortgage Scheme Fund. The Committee also received oral and written submissions from Ms. Fridah Mokaya, the current Chief Registrar of the Fund, regarding the audited financial statements for the Financial Years 2011/2012 to 2017/2018. The submissions formed the basis of the Committee's observations, findings, and recommendations. These are also contained in the Minutes and Hansard Reports of Committee proceedings.

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

HON. FATUMA ZAINAB MOHAMMED, M.P.
CHAIRPERSON, SPECIAL FUNDS ACCOUNTS COMMITTEE

CHAPTER ONE

1.0 PREFACE

1.1 Establishment and Mandate of Special Funds Accounts Committee

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

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

1.2 Committee Membership

2. The Committee comprises the following members:

S/ N	Name	Constituency	Party
1	Hon. Fatuma Zainab Mohammed, MP (Chairperson)	Migori (CWR)	Independent
2	Hon. Dawood Abdul Rahim, HSC, MP (Vice Chairperson)	North Imenti	Independent
3	Hon. Mary Emaase Otucho , MP	Teso South (CWR)	UDA
4	Hon. Charles Ngusya Nguna	Mwingi West	Wiper
5	Hon. Dr. Christine Ombaka Oduor, MP	Siaya (CWR)	ODM
6	Hon. Erastus Kivasu Nzioka, MP	Mbooni	Wiper
7	Hon. Eve Akinyi Obara, MP	Kabondo Kasipul	ODM
8	Hon. Joseph Majimbo Kalasinga, MP	Kabuchai	FORD-K
9	Hon. Tom Mboya Odege, MP	Nyatike	ODM
10	Hon. Catherine Nakhabi Omanyoo, MP	Busia (CWR)	ODM

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11	Hon. Cecilia Asinyen Ngitit, MP	Turkana (CWR)	UDA
12	Hon. Erick Kahugu Wamumbi, MP	Mathira	UDA
13	Hon. Joseph Kimutai Cherorot, MP	Kipkelion East	UDA
14	Hon. Onchoke Charles Mamwacha, MP	Bonchari	UPA
15	Hon. Paul Kibichi Biego, MP	Chesumei	UDA

1.3 Committee Secretariat

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

S/ N	NAME	DESIGNATION
1	Mr. Erick Nyambati	Senior Clerk Assistant
2.	Ms. Comfort Achieng	Clerk Assistant III
3	Mr. Nimrod Mate	Clerk Assistant III
4	Mr. Robert Ngetich	Fiscal Analyst II
5	Ms. Judith Kanyoko	Legal Counsel II
6	Ms. Bevaline Mosoti	Research Officer III
7.	Mr. Derrick Kathurima	Media Relations Officer III
9	Ms. Felistus Muiya	Public Communications Officer III
10	Mr. Peter Mutethia	Hansard Audio Officer III
11	Mr. Joshua Lenambet	Serjeant At Arms

CHAPTER TWO

EXAMINATION OF AUDITED ACCOUNTS FOR JUDICIARY CAR LOAN AND MORTGAGE SCHEME FUND FOR THE FINANCIAL YEARS 2011/2012 TO 2020/2021

4. Mr. Paul Ndemo, the Ag. Chief Registrar then appeared before the Committee on **Tuesday 13th February 2024** to adduce evidence on the audited financial statements for the Judiciary Car loan and Mortgage Scheme Fund for the Financial Years **2018/2019** to 2021 /2022. During the meeting, the Accounting Officer was accompanied by:

1. Mr. Wycliffe Wanga - Fund Administrator
2. Ms. Domsiana Onyango - Chief Accountant
3. Mr. Ken Ogutu - legal Counsel.

5. Ms. Fridah Mokaya, the current Chief Registrar of the Fund, also appeared before the Committee on Tuesday 19th April, 2024 to adduce evidence on the audited financial statements for the Financial Year 2011/2012 to 2017/2018. During the meeting, the Accounting Officer was accompanied by:

1. Mr. Paul Ndemo - Deputy Chief Registrar Judiciary.
2. Mr. Ken Ogutu - legal Counsel.
3. Mr. Wycliffe Wanga - Fund Administrator
4. Mr. Moses K. Serem - Registrar Court of Appeal
5. Ms. Domsiana Onyango - Chief Accountant.

2.1. Examination of the audited accounts for Judiciary Car loan and Mortgage Scheme Fund for the financial year 2011/2012

1. Inaccuracies in the Financial Statements

1. The statement of financial performance did not disclose operating expenses incurred during the year including bank charges, commissions and expenses paid to the Scheme administrator. In addition, analysis of loan disbursement and repayment over the years was not provided in the notes to the financial statements. In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Submissions of the Accounting Officer

2. The Accounting Officer submitted that—
It is correct that the statement of financial performance did not disclose bank charges, commissions and expenses paid to the scheme administrator. These were retained by the scheme administrator. The scheme administrator maintains financial records and only discloses the loans disbursed and the bank balances. The MOU provided for a 3% administration fee to be charged by the scheme administrator.

SPECIAL FUND ACCOUNTS COMMITTEE- JUDICIARY CAR LOAN AND MORTGAGE SCHEME FUND

3. However, the scheme administrator was engaged on the disclosure of administration fees and other charges and is now disclosing the administration fees and other charges levied on the scheme as evidenced in the Financial Statements of 2022/2023. The loan disbursement and repayment schedules were provided to the auditor and annexed in the Management responses.

Findings and Observations of the Committee

4. **The Committee observed that—**
 - i. **There was no disclosure for scheme administrator expenses & charges for the year 2011/2012 contrary to National Government PFM Regulations 101(4).**
 - ii. **The loan disbursement and repayment schedules submitted were not admissible since they were not certified as true copies.**
 - iii. **The matter is unresolved.**

Recommendations of the Committee

5. **The Committee recommended that—**
 - i. **Within three months upon the adoption of this report the Accounting Officer must provide certified loan disbursements and repayment schedules to the Auditor General for audit verification.**
 - ii. **The Accounting Officer must ensure that all financial statements comply with the financial reporting guidelines issued by the Public Sector Accounting Standard Board in accordance with Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2015.**

2. Undisclosed Interest on Mortgage Loans Disbursed

6. The statement of financial performance reflects Interest income amount of Kshs. 17,950,106 as disclosed in Note 3 to the financial statements. The amount was in respect of accrued interest on bank balances. However, interest earned from mortgage loans was not disclosed in the financial statements. Furthermore, amortization schedules for the mortgage loans to confirm interest earned during the year were not provided for audit verification. In the circumstances, the accuracy and completeness of interest income amounting to Kshs. 17,950,106 could not be confirmed.

Submissions of the Accounting Officer

7. The Accounting Officer submitted that—

The sum of Kshs. 17,950,106, being interest on undisbursed funds, were correctly disclosed in our financial reports as cited by the audit. The interest goes back to the revolving fund. The amortization forms which indicated the interest and other charges were also maintained and provided by the scheme administrator. The charges indicated in the schedules were due to the

scheme administrator. Attached is a sample of the amortization schedules that were provided for audit.

Findings and Observations of the Committee

8. The Committee observed that—

- i. During the financial year there was no disclosure for interest earned on the loans disbursed.**
- ii. The Amortization schedules were not provided for audit verification.**
- iii. The accounting officer was in breach of Section 66 (b) and (g) and Section 68 (1), (2)(c) of the PFM Act,2015.**
- iv. The accuracy and completeness of interest income amounting to Kshs. 17,950,106 could not be confirmed.**
- v. The matter is unresolved.**

Recommendations of the Committee

9. The Committee recommended that—

- i. Within three months upon adoption of this report the Accounting Officer and the Scheme Administrator should disclose the interest earned from the mortgage loans and provide the amortization schedules to the Auditor- General for audit verification.**
- ii. The Accounting Officer ensures that all applicable accounting and financial controls, systems, standards, laws, and procedures are followed in the preparation of Annual Reports and financial statements and in accordance with the standards prescribed by the Public Sector Accounting Standards Board and in compliance with regulation 101 (4) of the public finance management (National Government) Regulations, 2015.**

Unsupported Cash and Cash Equivalent

- 10.** The Statement of financial position and as disclosed in Note 4 to the financial statements reflects cash and cash equivalents balance of Kshs.380,801,311. The balance includes current account and fixed deposit account balances of Kshs. 16,399,106 and Kshs. 364,402,205 respectively. However, bank reconciliations, certificates of fixed deposit and cash books were not provided to support the balance. In the circumstances, the accuracy and completeness of cash and cash equivalents amounting to Kshs. 380,801,311 could not be confirmed.

Submissions of the Accounting Officer

- 11.** The Accounting Officer submitted the following;

The Cash book and the bank reconciliation had not been prepared at the time of the audit in view of the scheme administrator maintaining the books of account. However, they extracted the cash books and bank reconciliation and samples provided in the Management responses.

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Findings and Observations of the Committee

12. The Committee observed that—

- i. Bank certificates for fixed Deposits were not provided for audit verification**
- ii. The matter is unresolved.**

Recommendations of the Committee

The Committee recommended that—

- (i) Within three months of the adoption of this report, the Accounting Officer to submit Bank certificates for fixed Deposits for audit verification.**
- (ii) The Accounting Officer should ensure timely submission of accounting documentation required for audit verification during the audit as per the provisions of Section 31(4) of the Public Audit Act, 2015.**

6. Late Submission of Financial Statements

13. The financial statements for the year ended 30 June, 2012 were submitted for audit on 1 February, 2023. This was contrary to Section 68(2) (k) of the Public Finance Management Act, 2012 which requires accounting officer for a national government entity, Parliamentary Service Commission and the Judiciary to prepare annual financial statements for each financial year within months after the end of the financial year and submit them to the Auditor- General for audit. In the circumstances, Management was in breach of the law

Submissions of the Accounting Officer

14. The Accounting Officer submitted the following;

They did not prepare the financial accounts and acknowledged the omission. They endeavored to adhere to the statutory timelines for submitting the financial statements for the scheme for audit.

Findings and Observations of the Committee

15. The Committee observed that—

- i. The Accounting Officer was in breach of Section 68(2)(k) of the PFM Act.**
- ii. The matter is unresolved**

Recommendations of the Committee

16. The Committee recommended that—

The Accounting Officer should ensure timely submission of accounting documentation required for audit verification during the audit as per the provisions of Section 31(4) of the Public Audit Act, 2015.

Lack of Enabling Legislation Establishing the Mortgage Scheme

17. Review of information and documents provided for audit revealed that the Judiciary Mortgage Scheme did not have an enabling legislation establishing the Fund. Management did not provide a satisfactory explanation for the operationalization of the Fund without the enabling

SPECIAL FUND ACCOUNTS COMMITTEE- JUDICIARY CAR LOAN AND MORTGAGE SCHEME FUND

legislation. In the circumstances, the legality, name of the fund and its operations could not be confirmed.

Submissions of the Accounting Officer

- 18.** The Accounting Officer submitted the following;
there was no enabling legislation for the scheme which had been operating under a Memorandum of Understanding executed in November 2011 between the Judiciary and the scheme administrator. However, the Judicial Service Commission had constituted a team to develop a legislative framework for the scheme.

Findings and Observations of the Committee

- 19.** The Committee observed that—
- (i) The Fund operated without regulations**
 - (ii) the legality, name of the fund and its operations could not be confirmed.**
 - (iii) The matter is unresolved.**

Recommendations of the Committee

- 20.** The Committee recommended that—
Within six months of the adoption of this report, the Accounting Officer must develop regulations to operationalise the Fund and submit the same to the Auditor General for audit verification.

SPECIAL FUND ACCOUNTS COMMITTEE- JUDICIARY CAR LOAN AND MORTGAGE SCHEME FUND

2.2. Examination of the Auditor General reports Judiciary Car loan and Mortgage Scheme Fund for the financial year 2012/2013

1. Inaccuracies in the Financial Statements

- 21.** The statement of financial performance did not disclose operating expenses incurred during the year including bank charges, commissions and expenses paid to the Scheme administrator. In addition, analysis of loan disbursement and repayment over the years was not provided in the notes to the financial statements. In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Submissions of the Accounting Officer

- 22.** The Accounting Officer submitted that—it was correct the statement of financial performance did not disclose the figures of bank charges, commissions and expenses paid to the scheme administrator. These were retained by the scheme administrator. The scheme administrator maintains financial records and only discloses the loans disbursed and the bank balances. The MOU provided for a 3% administration fees which the scheme administrator was to charge. We however engaged the scheme administrator who are now disclosing the administration fees and other charges levied on the scheme as evidenced in the Financial Statements of 2022/2023 and also in the loan disbursement and repayment schedules are available and were provided to the auditor and annexed in the management responses.

Findings and Observations of the Committee

- 23. The Committee observed that—**
- i. There was no disclosure for scheme administrator expenses & charges for the year 2011/2012 contrary to National Government PFM Regulations 101(4).**
 - ii. The loan disbursement and repayment schedules submitted were not admissible since they were not certified as true copies.**
 - iii. The matter is unresolved.**

Recommendations of the Committee

- 24. The Committee recommended that—**
- i. Within three months upon the adoption of this report the Accounting Officer must provide certified loan disbursements and repayment schedules to the Auditor General for audit verification.**
 - ii. The Accounting Officer must ensure that all financial statements comply with the financial reporting guidelines issued by the Public Sector Accounting Standard Board in accordance with Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2015.**

Undisclosed Interest on Mortgage Loans Disbursed

- 25.** The statement of financial performance reflects interest income of Kshs. 18,308,078 and as disclosed in Note 3 to the Financial Statements. The amount was in respect of accrued interest on bank balances. However, interest earned from mortgage loans was not disclosed in the

SPECIAL FUND ACCOUNTS COMMITTEE- JUDICIARY CAR LOAN AND MORTGAGE SCHEME FUND

financial statements. Further, amortization schedules for the mortgage loans to confirm interest earned during the year were not provided for audit verification. In the circumstances, the accuracy and completeness of interest income amounting to Kshs. 18,308,078 could not be confirmed.

Submissions of the Accounting Officer

26. The Accounting Officer submitted that—

Interest on undisbursed funds is correctly disclosed in our financial reports as cited by the audit, an amount of Kshs. 18,308,078. This is the amount earned on unutilised funds and the same goes back to the revolving fund. The amortization forms which indicate the interest and other charges are also maintained and provided by the scheme administrator. The charges indicated in the schedules are due to the scheme administrator. Attached is a sample of the amortization schedules that were provided for audit.

Findings and Observations of the Committee

27. The Committee observed that—

- i. During the financial year there was no disclosure for interest earned on the loans disbursed.**
- ii. The Amortization schedules were not provided for audit verification.**
- iii. The accounting officer was in breach of Section 66 (b) and (g) and Section 68 (1),(2)(c) of the PFM Act, 2015.**
- iv. The matter is unresolved.**

Recommendations of the Committee

28. The Committee recommended that—

- i. Within three months upon adoption of this report the Accounting Officer and the Scheme Administrator should disclose the interest earned from the mortgage loans and provide the amortization schedules to the Auditor- General for audit verification.**
- ii. The Accounting Officer ensures that all applicable accounting and financial controls, systems, standards, laws, and procedures are followed in the preparation of Annual Reports and financial statements and in accordance with the standards prescribed by the Public Sector Accounting Standards Board and in compliance with regulation 101 (4) of the public finance management (National Government) Regulations, 2015.**

Unsupported Cash and Cash Equivalent

29. The Statement of financial position and as disclosed in Note 4 to the financial statements reflects cash and cash equivalents balance of Kshs. 409,685,326. The balance includes current account and fixed deposit account balances of Kshs. 20,881,714 and Kshs. 388,803,612 respectively. However, bank reconciliations, certificate of fixed deposit account and cash

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books were not provided to support the balance. In the circumstances, the accuracy and completeness of cash and cash equivalents balance amounting of Kshs.409,685,326 could not be confirmed.

Submissions of the Accounting Officer

30. The Accounting Officer submitted that—

It is true the Cash book and the bank reconciliation had not been prepared at the time of the audit in view of the scheme administrator maintaining the books of account. We however have extracted the cash books and bank reconciliation and samples attached in the Management Response.

Findings and Observations of the Committee

31. The Committee observed that—

- i. Bank certificates for fixed Deposits were not provided for audit verification**
- ii. The accuracy and completeness of cash and cash equivalents balance amounting of Kshs.409,685,326 could not be confirmed.**
- iii. The matter is unresolved.**

Recommendations of the Committee

The Committee recommended that—

Within three months of the adoption of this report, the Accounting Officer to submit bank reconciliations, certificate of fixed deposit account and cash books to support the balance amounting to Kshs.409,685,326 for audit verification

Late Submission of Financial Statements

32. The financial statements for the year ended 30 June, 2013 were submitted for audit on 1 February, 2023. This was contrary to Section 68(2) (k) of the Public Finance Management Act, 2012 which requires accounting officer for a national government entity, Parliamentary Service Commission and the Judiciary to prepare annual financial statements for each financial year within months after the end of the financial year and submit them to the Auditor- General for audit. In the circumstances, Management was in breach of the law.

Submissions of the Accounting Officer

33. The Accounting Officer submitted that—

The observation is correct. We did not prepare the financial accounts and we acknowledge the omission. We shall endeavor to adhere to the statutory timelines for submitting the financial statements for the scheme.

Findings and Observations of the Committee

34. The Committee observed that—

- iii. The Accounting Officer was in breach of Section 68(2)(k) of the PFM Act.**
- iv. The matter is unresolved**

Recommendations of the Committee

35. The Committee recommended that—

The Accounting Officer should ensure timely submission of accounting documentation required for audit verification during the audit as per the provisions of Section 31(4) of the Public Audit Act, 2015.

Lack of Enabling Legislation Establishing the Mortgage Scheme

36. Review of information and documents provided for audit revealed that the Judiciary Mortgage Scheme did not have an enabling legislation establishing the Fund. Management did not provide a satisfactory explanation for the operationalization of the Fund without the enabling legislation. In the circumstances, the legality, name of the fund and its operations could not be confirmed.

Submissions of the Accounting Officer

37. The Accounting Officer submitted the following;

It is true that there is no enabling legislation for the scheme which has been operating under a Memorandum of Understanding executed in November 2011 between the Judiciary and the scheme administrator. However, the Judicial Service Commission has now constituted a team to develop a legislative framework for the scheme.

Findings and Observations of the Committee

38. The Committee observed that—;

- (i) The Fund operated without regulations**
- (ii) the legality, name of the fund and its operations could not be confirmed.**
- (iii) The matter is unresolved.**

Recommendations of the Committee

39. The Committee recommended that—

Within six months of the adoption of this report, the Accounting Officer must develop regulations to operationalise the Fund and submit the same to the Auditor General for audit verification.

SPECIAL FUND ACCOUNTS COMMITTEE- JUDICIARY CAR LOAN AND MORTGAGE SCHEME FUND

2.3. Examination of the Auditor General reports Judiciary Car loan and Mortgage Scheme Fund for the financial year 2013/2014

1. Inaccuracies in the Financial Statements

40. The statement of financial performance did not disclose operating expenses incurred during the year including bank charges, commissions and expenses paid to the Scheme administrator. In addition, analysis of loan disbursement and repayment over the years was not provided in the notes to the financial statements. In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Submissions of the Accounting Officer

41. The Accounting Officer submitted that—;
- It is correct the statement of financial performance did not disclose the figures of bank charges, commissions and expenses paid to the scheme administrator. These were retained by the scheme administrator. The scheme administrator maintains financial records and only discloses the loans disbursed and the bank balances. The MOU provided for a 3% administration fees which the scheme administrator was to charge.
42. We however engaged the scheme administrator who are now disclosing the administration fees and other charges levied on the scheme as evidenced in the Financial Statements of 2022/2023 and also annexed. The loan disbursement and repayment schedules are available and were provided to the auditor and annexed.

Findings and Observations of the Committee

43. The Committee observed that—
- i. **There was no disclosure for scheme administrator expenses & charges for the year 2011/2012 contrary to National Government PFM Regulations 101(4).**
 - ii. **The loan disbursement and repayment schedules submitted were not admissible since they were not certified as true copies.**
 - iii. **The matter is unresolved.**

Recommendations of the Committee

44. The Committee recommended that—
- i. **Within three months upon the adoption of this report the Accounting Officer must provide certified loan disbursements and repayment schedules to the Auditor General for audit verification.**
 - ii. **The Accounting Officer must ensure that all financial statements comply with the financial reporting guidelines issued by the Public Sector Accounting Standard Board in accordance with Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2015.**

Undisclosed Interest on Mortgage Loans Disbursed

45. statement of financial performance and as disclosed in Note 3 to the Financial Statements reflects Interest income amount of Kshs. 30,501,202. The amount was in respect of accrued interest on balances. However, interest earned from mortgage loans was not disclosed in the financial statements. Further, amortization schedules for the mortgage loans to confirm interest earned during the year were not provided for audit verification. In the circumstances, the accuracy and completeness of interest income amounting to Kshs. 30,501,202 could not be confirmed.

Submissions of the Accounting Officer

46. The Accounting Officer submitted that—

Interest on undisbursed funds is correctly disclosed in our financial reports as cited by the audit, an amount of Kshs. 30,501,202. This is the amount earned on unutilised funds and the same goes back to the revolving fund. The amortization forms which indicate the interest and other charges are also maintained and provided by the scheme administrator. The charges indicated in the schedules are due to the scheme administrator. Attached is a sample of the amortization schedules that were provided for audit.

Findings and Observations of the Committee

47. The Committee observed that—

- i. During the financial year there was no disclosure for interest earned on the loans disbursed.
- ii. The Amortization schedules were not provided for audit verification.
- iii. The accounting officer was in breach of Section 66 (b) and (g) and Section 68 (1),(2)(c) of the PFM Act, 2015.
- iv. The matter is unresolved.

Recommendations of the Committee

48. The Committee recommended that—

- i. Within three months upon adoption of this report the Accounting Officer and the Scheme Administrator should disclose the interest earned from the mortgage loans and provide the amortization schedules to the Auditor- General for audit verification.
- ii. The Accounting Officer ensures that all applicable accounting and financial controls, systems, standards, laws, and procedures are followed in the preparation of Annual Reports and financial statements and in accordance with the standards prescribed by the Public Sector Accounting Standards Board and in compliance with regulation 101 (4) of the public finance management (National Government) Regulations, 2015.

SPECIAL FUND ACCOUNTS COMMITTEE- JUDICIARY CAR LOAN AND MORTGAGE SCHEME FUND

Unsupported Cash and Cash Equivalent

49. The Statement of financial position and as disclosed in Note 4 to the financial statements reflects cash and cash equivalents balance of Kshs.499,423,574 as at 30 June 2014. However, the balance differs with Kshs.512,383,104 reflected in Note 4 to the financial statements which includes current account and fixed deposit account balances of Kshs. 9,084,189 and Kshs.503,298,915 respectively. Further, bank reconciliations, certificates of fixed deposit account and cash books were not provided to support the balance. In the circumstances, the accuracy and completeness of cash and cash equivalents amounting to Kshs. 499,423,574 could not be confirmed.

Submissions of the Accounting Officer

50. The Accounting Officer submitted that—

It is true the Cash book and the bank reconciliation had not been prepared at the time of the audit in view of the scheme administrator maintaining the books of account. We however have extracted the cash books and bank reconciliation and samples attached in the Management Response.

Findings and Observations of the Committee

51. The Committee observed that—

- i. **Bank certificates for fixed Deposits were not provided for audit verification**
- ii. **The accuracy and completeness of cash and cash equivalents balance amounting of Kshs. 499,423,574 could not be confirmed.**
- iii. **The matter is unresolved.**

Recommendations of the Committee

The Committee recommends that—

52. **Within three months of the adoption of this report, the Accounting Officer to submit bank reconciliations, certificate of fixed deposit account and cash books to support the balance amounting to Kshs. 499,423,574 for audit verification**

Late Submission of Financial Statements

53. The financial statements for the year ended 30 June, 2014 were submitted for audit on 1 February, 2023. This was contrary to Section 68(2) (k) of the Public Finance Management Act, 2012 which requires accounting officer for a national government entity, Parliamentary Service Commission and the Judiciary to prepare annual financial statements for each financial year within months after the end of the financial year and submit them to the Auditor- General for audit. In the circumstances, Management was in breach of the law.

Submissions of the Accounting Officer

54. The Accounting submitted that—

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The observation is correct. We did not prepare the financial accounts and we acknowledge the omission. We shall endeavor to adhere to the statutory timelines for submitting the financial statements for the scheme.

Findings and Observations of the Committee

55. The Committee observed that—

- i. The Accounting Officer was in breach of Section 68(2)(k) of the PFM Act.**
- ii. The matter is unresolved**

Recommendations of the Committee

56. The Committee recommended t that—

The Accounting Officer should ensure timely submission of accounting documentation required for audit verification during the audit as per the provisions of Section 31(4) of the Public Audit Act, 2015.

Lack of Enabling Legislation Establishing the Mortgage Scheme

57. Review of information and documents provided for audit revealed that the Judiciary Mortgage Scheme did not have an enabling legislation establishing the Fund. Management did not provide a satisfactory explanation for the operationalization of the Fund without the enabling legislation. In the circumstances, the legality, name of the fund and its operations could not be confirmed.

Submissions of the Accounting Officer

58. The Accounting Officer that—

It is true that there is no enabling legislation for the scheme which has been operating under a Memorandum of Understanding executed in November 2011 between the Judiciary and the scheme administrator. However, the Judicial Service Commission has now constituted a team to develop a legislative framework for the scheme.

Findings and Observations of the Committee

59. The Committee observed that—

- (i) The Fund operated without regulations**
- (ii) the legality, name of the fund and its operations could not be confirmed.**
- (iii)The matter is unresolved.**

Recommendations of the Committee

60. The Committee recommended that:

Within six months of the adoption of this report, the Accounting Officer must develop regulations to operationalise the Fund and submit the same to the Auditor General for audit verification.

2.4. Examination of the Auditor General reports Judiciary Car loan and Mortgage Scheme Fund for the financial year 2014/2015

1. Inaccuracies in the Financial Statements

61. The statement of financial performance did not disclose operating expenses incurred during the year including bank charges, commissions and expenses paid to the Scheme administrator. In addition, analysis of loan disbursement and repayment over the years was not provided in the notes to the financial statements. In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Submissions of the Accounting Officer

62. The Accounting Officer submitted that—

It is correct the statement of financial performance did not disclose the figures of bank charges, commissions and expenses paid to the scheme administrator. These were retained by the scheme administrator. The scheme administrator maintains financial records and only discloses the loans disbursed and the bank balances. The MOU provided for a 3% administration fees which the scheme administrator was to charge. We however engaged the scheme administrator who are now disclosing the administration fees and other charges levied on the scheme as evidenced in the Financial Statements of 2022/2023 and also annexed. The loan disbursement and repayment schedules are available and were provided to the auditor and annexed.

Findings and Observations of the Committee

63. The Committee observed that—

- i.** There was no disclosure for scheme administrator expenses & charges for the year 2011/2012 contrary to National Government PFM Regulations 101(4).
- ii.** The loan disbursement and repayment schedules submitted were not admissable since they were not certified as true copies.
- iii.** The matter is unresolved.

Recommendations of the Committee

64. The Committee recommended that—

- i.** Within three months upon the adoption of this report the Accounting Officer must provide certified loan disbursements and repayment schedules to the Auditor General for audit verification.
- ii.** The Accounting Officer must ensure that all financial statements comply with the financial reporting guidelines issued by the Public Sector Accounting Standard Board in accordance with Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2015.

2. Undisclosed Interest on Mortgage Loans Disbursed

65. The statement of financial performance and as disclosed in Note 3 to the Financial Statements reflects Interest income amount of Kshs. 31,686,278. The amount was in respect of accrued interest on bank balances. However, interest earned from mortgage loans was not disclosed in the financial statements. Further, amortization schedules for the mortgage loans to confirm interest earned during the year were not provided for audit verification. In the circumstances, the accuracy and completeness of interest income amounting to Kshs. 31,686,278 could not be confirmed.

Submissions of the Accounting Officer

66. The Accounting Officer submitted that—
Interest on undisbursed funds is correctly disclosed in our financial reports as cited by the audit, an amount of Kshs. 31,686,278. This is the amount earned on unutilised funds and the same goes back to the revolving fund. The amortization forms which indicate the interest and other charges are also maintained and provided by the scheme administrator. The charges indicated in the schedules are due to the scheme administrator. Attached is a sample of the amortization schedules that were provided for audit.

Findings and Observations of the Committee

67. The Committee observed that—

- i. During the financial year there was no disclosure for interest earned on the loans disbursed.**
- ii. The Amortization schedules were not provided for audit verification.**
- iii. The accounting officer was in breach of Section 66 (b) and (g) and Section 68 (1),(2)(c) of the PFM Act, 2015.**
- iv. The matter is unresolved.**

Recommendations of the Committee

68. The Committee recommended that—

- i. Within three months upon adoption of this report the Accounting Officer and the Scheme Administrator should disclose the interest earned from the mortgage loans and provide the amortization schedules to the Auditor- General for audit verification.**
- ii. The Accounting Officer ensures that all applicable accounting and financial controls, systems, standards, laws, and procedures are followed in the preparation of Annual Reports and financial statements and in accordance with the standards prescribed by the Public Sector Accounting Standards Board and in compliance with regulation 101 (4) of the public finance management (National Government) Regulations, 2015.**

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3. Cash and Cash Equivalent

69. The Statement of financial position and as disclosed in Note 4 to the financial statements reflects cash and cash equivalents balance of Kshs. 731,813,479 as at 30 June 2015. The balance includes current account and fixed deposit account balances of Kshs. 11,275,458 and Kshs. 720,538,021 respectively. However, bank reconciliations, certificates of fixed deposit account and cash books were not provided to support the balance. In the circumstances, the accuracy and completeness of cash and cash equivalents amounting to Kshs. 731,813,479 could not be confirmed.

Submissions of the Accounting Officer

70. The Accounting Officer submitted that—

It is true the Cash book and the bank reconciliation had not been prepared at the time of the audit in view of the scheme administrator maintaining the books of account. We however have extracted the cash books and bank reconciliation and samples attached.

Findings and Observations of the Committee

71. The Committee observed that—

- (i) **Bank certificates for fixed Deposits were not provided for audit verification**
- (ii) **The accuracy and completeness of cash and cash equivalents balance amounting of Kshs. 731,813,479 could not be confirmed.**
- (iii) **The matter is unresolved.**

Recommendations of the Committee

The Committee recommends that—

Within three months of the adoption of this report, the Accounting Officer to submit bank reconciliations, certificate of fixed deposit account and cash books to support the balance amounting to Kshs. 731,813,479 for audit verification.

4. Late Submission of Financial Statements

72. The financial statements for the year ended 30 June, 2015 were submitted for audit on 1 February, 2023. This was contrary to Section 68(2) (k) of the Public Finance Management Act, 2012 which requires accounting officer for a national government entity, Parliamentary Service Commission and the Judiciary to prepare annual financial statements for each financial year within months after the end of the financial year and submit them to the Auditor- General for audit. In the circumstances, Management was in breach of the law.

Submissions of the Accounting Officer

73. The Accounting Officer that—

The observation is correct. We did not prepare the financial accounts and we acknowledge the omission. We shall endeavor to adhere to the statutory timelines for submitting the financial statements for the scheme.

Findings and Observations of the Committee

74. The Committee observed that—

- i. **The Accounting Officer was in breach of Section 68(2)(k) of the PFM Act.**
- ii. **The matter is unresolved**

Recommendations of the Committee

75. The Committee recommended that—

The Accounting Officer should ensure timely submission of accounting documentation required for audit verification during the audit as per the provisions of Section 31(4) of the Public Audit Act, 2015.

5. Lack of Enabling Legislation Establishing the Mortgage Scheme

76. Review of information and documents provided for audit revealed that the Judiciary Mortgage Scheme did not have an enabling legislation establishing the Fund. Management did not provide a satisfactory explanation for the operationalization of the Fund without the enabling legislation. In the circumstances, the legality, name of the fund and its operations could not be confirmed.

Submissions of the Accounting Officer

77. The Accounting Officer submitted that—

It is true that there is no enabling legislation for the scheme which has been operating under a Memorandum of Understanding executed in November 2011 between the Judiciary and the scheme administrator. However, the Judicial Service Commission has now constituted a team to develop a legislative framework for the scheme.

Findings and Observations of the Committee

78. The Committee observed that—

- (i) The Fund operated without regulations**
- (ii) the legality, name of the fund and its operations could not be confirmed.**
- (iii) The matter is unresolved.**

Recommendations of the Committee

79. The Committee recommended that—

Within six months of the adoption of this report, the Accounting Officer must develop regulations to operationalise the Fund and submit the same to the Auditor General for audit verification.

2.5. Examination of the Auditor General reports Judiciary Car loan and Mortgage Scheme Fund for the financial year 2015/2016

1. Inaccuracies in the Financial Statements

80. The statement of financial performance did not disclose operating expenses incurred during the year including bank charges, commissions and expenses paid to the Scheme administrator. In addition, analysis of loan disbursement and repayment over the years was not provided in the notes to the financial statements. In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Submissions of the Accounting Officer

81. The Accounting Officer submitted that—;

It is correct the statement of financial performance did not disclose the figures of bank charges, commissions and expenses paid to the scheme administrator. These were retained by the scheme administrator. The scheme administrator maintains financial records and only discloses the loans disbursed and the bank balances. The MOU provided for a 3% administration fees which the scheme administrator was to charge. We however engaged the scheme administrator who are now disclosing the administration fees and other charges levied on the scheme as evidenced in the Financial Statements of 2022/2023 and annexed. The loan disbursement and repayment schedules are available and were provided to the auditor and annexed

Findings and Observations of the Committee

82. The Committee observed that—

- i. There was no disclosure for scheme administrator expenses & charges for the year 2011/2012 contrary to National Government PFM Regulations 101(4).
- ii. The loan disbursement and repayment schedules submitted were not admissible since they were not certified as true copies.
- iii. The matter is unresolved.

Recommendations of the Committee

83. The Committee recommended that—

- i. Within three months upon the adoption of this report the Accounting Officer must provide certified loan disbursements and repayment schedules to the Auditor General for audit verification.
- ii. The Accounting Officer must ensure that all financial statements comply with the financial reporting guidelines issued by the Public Sector Accounting Standard Board in accordance with Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2015.

2. Undisclosed Interest on Mortgage Loans Disbursed

84. The statement of financial performance and as disclosed in Note 3 to the Financial Statements reflects Interest income amount of Kshs. 27,644,646. The amount was in respect of accrued interest on bank balances. However, interest earned from mortgage loans was not disclosed in the financial statements. Furthermore, amortization schedules for the mortgage loans to confirm interest earned during the year were not provided for audit verification. In the circumstances, the accuracy and completeness of interest income amounting to Kshs. 27,644,646 for the year ended 30 June 2016 could not be confirmed.

Submissions of the Accounting Officer

85. The Accounting Officer submitted that—
Interest on undisbursed funds is Kshs. 27,644,646. This is the amount earned on unutilised funds and the same goes back to the revolving fund. The amortization forms which indicate the interest and other charges are also maintained and provided by the scheme administrator. The charges indicated in the schedules were due to the scheme administrator. Amortization schedules were provided for audit.

Findings and Observations of the Committee

86. The Committee observed that—

- i.** During the financial year there was no disclosure for interest earned on the loans disbursed.
- ii.** The Amortization schedules were not provided for audit verification.
- iii.** The accounting officer was in breach of Section 66 (b) and (g) and Section 68 (1), (2)(c) of the PFM Act,2015.
- iv.** The matter is unresolved.

Recommendations of the Committee

87. The Committee recommended that—

- i.** Within three months upon adoption of this report the Accounting Officer and the Scheme Administrator should disclose the interest earned from the mortgage loans and provide the amortization schedules to the Auditor- General for audit verification.
- ii.** The Accounting Officer ensures that all applicable accounting and financial controls, systems, standards, laws, and procedures are followed in the preparation of Annual Reports and financial statements and in accordance with the standards prescribed by the Public Sector Accounting Standards Board and in compliance with regulation 101 (4) of the public finance management (National Government) Regulations, 2015.

3. Unsupported Cash and Cash Equivalent

88. The Statement of financial position and as disclosed in Note 4 to the financial statements reflects cash and cash equivalents balance of Kshs. 1,066,097,299 as at 30 June 2016. However, the balance reflected in Note 4 includes only fixed deposit account balances of Kshs.

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1,066,097,299 while current account was reflected at nil balance. Further, bank reconciliations, certificates of fixed deposit account and cash books were not provided to support the balance. In the circumstances, the accuracy and completeness of cash and cash equivalents amounting to Kshs. 1,066,097,299 as at 30 June 2016 could not be confirmed.

Submissions of the Accounting Officer

89. The Accounting Officer submitted that—

It is true the Cash book and the bank reconciliation had not been prepared at the time of the audit in view of the scheme administrator maintaining the books of account. We however have extracted the cash books and bank reconciliation and samples attached in the Management responses.

Findings and Observations of the Committee

90. The Committee observed that—

- (i) Bank certificates for fixed Deposits were not provided for audit verification**
- (ii) The accuracy and completeness of cash and cash equivalents balance amounting of Kshs. 1,066,097,299 could not be confirmed.**
- (iii) The matter is unresolved.**

Recommendations of the Committee

The Committee recommends that—

Within three months of the adoption of this report, the Accounting Officer to submit bank reconciliations, certificate of fixed deposit account and cash books to support the balance amounting to Kshs. 1,066,097,299 for audit verification

Late Submission of Financial Statements

91. The financial statements for the year ended 30 June, 2016 were submitted for audit on 1 February, 2023. This was contrary to Section 68(2) (k) of the Public Finance Management Act, 2012 which requires accounting officer for a national government entity, Parliamentary Service Commission and the Judiciary to prepare annual financial statements for each financial year within months after the end of the financial year and submit them to the Auditor- General for audit. In the circumstances, Management was in breach of the law.

Submissions of the Accounting Officer

92. The Accounting Officer submitted the following;

The observation is correct. We did not prepare the financial accounts and we acknowledge the omission. We shall endeavor to adhere to the statutory timelines for submitting the financial statements for the scheme.

Findings and Observations of the Committee

93. The Committee observed that—

- i. The Accounting Officer was in breach of Section 68(2)(k) of the PFM Act.**
- ii. The matter is unresolved**

Recommendations of the Committee

94. The Committee recommended that—

The Accounting Officer should ensure timely submission of accounting documentation required for audit verification during the audit as per the provisions of Section 31(4) of the Public Audit Act, 2015.

4. Lack of Enabling Legislation Establishing the Mortgage Scheme

95. Review of information and documents provided for audit revealed that the Judiciary Mortgage Scheme did not have an enabling legislation establishing the Fund. Management did not provide a satisfactory explanation for the operationalization of the Fund without the enabling legislation. In the circumstances, the legality, name of the fund and its operations could not be confirmed.

Submissions of the Accounting Officer

96. The Accounting Officer submitted that—

It is true that there is no enabling legislation for the scheme which has been operating under a Memorandum of Understanding executed in November 2011 between the Judiciary and the scheme administrator. However, the Judicial Service Commission has now constituted a team to develop a legislative framework for the scheme.

Findings and Observations of the Committee

97. The Committee observed that—

- (i) The Fund operated without regulations**
- (ii) the legality, name of the fund and its operations could not be confirmed.**
- (iii) The matter is unresolved.**

Recommendations of the Committee

98. The Committee recommended that—

Within six months of the adoption of this report, the Accounting Officer must develop regulations to operationalise the Fund and submit the same to the Auditor General for audit verification.

2.6. Examination of the Auditor General reports Judiciary Car loan and Mortgage Scheme Fund for the financial year 2016/2017

1. Inaccuracies in the Financial Statements

99. The statement of financial performance did not disclose operating expenses incurred during the year including bank charges, commissions and expenses paid to the Scheme administrator. In addition, analysis of loan disbursement and repayment over the years was not provided in the notes to the financial statements. In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Submissions of the Accounting Officer

100. The Accounting Officer submitted that—

It is correct the statement of financial performance did not disclose the figures of bank charges, commissions and expenses paid to the scheme administrator. These were retained by the scheme administrator. The scheme administrator maintains financial records and only discloses the loans disbursed and the bank balances. The MOU provided for a 3% administration fees which the scheme administrator was to charge. We however engaged the scheme administrator who are now disclosing the administration fees and other charges levied on the scheme as evidenced in the Financial Statements of 2022/2023 and also annexed. The loan disbursement and repayment schedules are available and were provided to the auditor and annexed.

Findings and Observations of the Committee

101. The Committee observed that—

- i. There was no disclosure for scheme administrator expenses & charges for the year 2011/2012 contrary to National Government PFM Regulations 101(4).
- ii. The loan disbursement and repayment schedules submitted were not admissible since they were not certified as true copies.
- iii. The matter is unresolved.

Recommendations of the Committee

102. The Committee recommended that—

- i. Within three months upon the adoption of this report the Accounting Officer must provide certified loan disbursements and repayment schedules to the Auditor General for audit verification.
- ii. The Accounting Officer must ensure that all financial statements comply with the financial reporting guidelines issued by the Public Sector Accounting Standard Board in accordance with Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2015.

2. Undisclosed Interest on Mortgage Loans Disbursed

103. The statement of financial performance and as disclosed in Note 3 to the Financial Statements reflects Interest income amount of Kshs. 13,025,919. However, interest earned from mortgage loans was not disclosed in the financial statements. Further, amortization schedules for the mortgage loans to confirm interest earned during the year were not provided for audit verification. In the circumstances, the accuracy and completeness of interest income amounting to Kshs. 13,025,919 for the year ended 30 June 2017 could not be confirmed.

Submissions of the Accounting Officer

104. The Accounting Officer submitted that—
Interest on undisbursed funds is correctly disclosed in our financial reports as cited by the audit, an amount of Kshs. 13,025,919. This is the amount earned on unutilised funds and the same goes back to the revolving fund. The amortization forms which indicate the interest and other charges are also maintained and provided by the scheme administrator. The charges indicated in the schedules are due to the scheme administrator. Attached is a sample of the amortization schedules that were provided for audit.

Findings and Observations of the Committee

105. The Committee observed that—

- i.** During the financial year there was no disclosure for interest earned on the loans disbursed.
- ii.** The Amortization schedules were not provided for audit verification.
- iii.** The accounting officer was in breach of Section 66 (b) and (g) and Section 68 (1), (2)(c) of the PFM Act,2015.
- iv.** The matter is unresolved.

Recommendations of the Committee

106. The Committee recommended that—

- i.** Within three months upon adoption of this report the Accounting Officer and the Scheme Administrator should disclose the interest earned from the mortgage loans and provide the amortization schedules to the Auditor- General for audit verification.
- ii.** The Accounting Officer ensures that all applicable accounting and financial controls, systems, standards, laws, and procedures are followed in the preparation of Annual Reports and financial statements and in accordance with the standards prescribed by the Public Sector Accounting Standards Board and in compliance with regulation 101 (4) of the public finance management (National Government) Regulations, 2015.

3. Unsupported Cash and Cash Equivalent

107. The Statement of financial position and as disclosed in Note 4 to the financial statements reflects cash and cash equivalents balance of Kshs.780,463,569 as at 30 June 2017. The balance

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includes current account and fixed deposit account balances of Kshs. 1,944,780 and Kshs. 788,518,789 respectively. However, bank reconciliations, certificates of fixed deposit and cash books were not provided to support the balance. In the circumstances, the accuracy and completeness of cash and cash equivalents amounting to Kshs. 780,463,569 as at 30 June 2017 could not be confirmed.

Submissions of the Accounting Officer

108. The Accounting Officer submitted that—

It is true the Cash book and the bank reconciliation had not been prepared at the time of the audit in view of the scheme administrator maintaining the books of account. We however have extracted the cash books and bank reconciliation and samples attached in the Management response.

Findings and Observations of the Committee

109. The Committee observed that—

- i. Bank certificates for fixed Deposits were not provided for audit verification**
- ii. The accuracy and completeness of cash and cash equivalents balance amounting of Kshs. 780,463,569 could not be confirmed.**
- iii. The matter is unresolved.**

Recommendations of the Committee

110. The Committee recommended that—

Within three months of the adoption of this report, the Accounting Officer to submit bank reconciliations, certificate of fixed deposit account and cash books to support the balance amounting to Kshs. 780,463,569 for audit verification

4. Late Submission of Financial Statements

111. The financial statements for the year ended 30 June, 2017 were submitted for audit on 1 February, 2023. This was contrary to Section 68(2) (k) of the Public Finance Management Act, 2012 which requires accounting officer for a national government entity, Parliamentary Service Commission and the Judiciary to prepare annual financial statements for each financial year within months after the end of the financial year and submit them to the Auditor- General for audit. In the circumstances, Management was in breach of the law.

Submissions of the Accounting Officer

112. The Accounting Officer submitted that—

The observation is correct. We did not prepare the financial accounts and we acknowledge the omission. We shall endeavor to adhere to the statutory timelines for submitting the financial statements for the scheme.

Findings and Observations of the Committee

113. The Committee observed that—

- i. The Accounting Officer was in breach of Section 68(2)(k) of the PFM Act.**
- ii. The matter is unresolved.**

Recommendations of the Committee

114. The Committee recommended that—

The Accounting Officer should ensure timely submission of accounting documentation required for audit verification during the audit as per the provisions of Section 31(4) of the Public Audit Act, 2015.

5. Lack of Enabling Legislation Establishing the Mortgage Scheme

115. Review of information and documents provided for audit revealed that the Judiciary Mortgage Scheme did not have an enabling legislation establishing the Fund. Management did not provide a satisfactory explanation for the operationalization of the Fund without the enabling legislation. In the circumstances, the legality, name of the fund and its operations could not be confirmed.

Submissions of the Accounting Officer

116. The Accounting Officer submitted that—

It is true that there is no enabling legislation for the scheme which has been operating under a Memorandum of Understanding executed in November 2011 between the Judiciary and the scheme administrator. However, the Judicial Service Commission has now constituted a team to develop a legislative framework for the scheme.

Findings and Observations of the Committee

117. The Committee observed that—

- (i) The Fund operated without regulations**
- (ii) the legality, name of the fund and its operations could not be confirmed.**
- (iii) The matter is unresolved.**

Recommendations of the Committee

118. The Committee recommended that—

Within six months of the adoption of this report, the Accounting Officer must develop regulations to operationalise the Fund and submit the same to the Auditor General for audit verification.

2.7. Examination of the Auditor General reports Judiciary Car loan and Mortgage Scheme Fund for the financial year 2017/2018

1. Inaccuracies in the Financial Statements

119. The statement of financial performance did not disclose operating expenses incurred during the year including bank charges, commissions and expenses paid to the Scheme administrator. In addition, analysis of loan disbursement and repayment over the years was not provided in the notes to the financial statements. In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Submissions of the Accounting Officer

120. The Accounting Officer submitted that—

It is correct the statement of financial performance did not disclose the figures of bank charges, commissions and expenses paid to the scheme administrator. These were retained by the scheme administrator. The scheme administrator maintains financial records and only discloses the loans disbursed and the bank balances. The MOU provided for a 3% administration fees which the scheme administrator was to charge. We however engaged the scheme administrator who are now disclosing the administration fees and other charges levied on the scheme as evidenced in the Financial Statements of 2022/2023. The loan disbursement and repayment schedules are available and were provided to the auditor.

Findings and Observations of the Committee

121. The Committee observed that—

- i. There was no disclosure for scheme administrator expenses & charges for the year 2011/2012 contrary to National Government PFM Regulations 101(4).**
- ii. The loan disbursement and repayment schedules submitted were not admissable since they were not certified as true copies.**
- iii. The matter is unresolved.**

Recommendations of the Committee

122. The Committee recommended that—

- i. Within three months upon the adoption of this report the Accounting Officer must provide certified loan disbursements and repayment schedules to the Auditor General for audit verification.**
- ii. The Accounting Officer must ensure that all financial statements comply with the financial reporting guidelines issued by the Public Sector Accounting Standard Board in accordance with Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2015.**

2. Undisclosed Interest on Mortgage Loans Disbursed

123. The statement of financial performance and as disclosed in Note 3 to the Financial Statements reflects Interest income amount of Kshs. 9,611,785. However, interest earned from mortgage loans was not disclosed in the financial statements. Further, amortization schedules for the mortgage loans to confirm interest earned during the year were not provided for audit verification. In the circumstances, the accuracy and completeness of interest income amounting to Kshs. 9,611,785 for the year ended 30 June 2018 could not be confirmed.

Submissions of the Accounting Officer

124. The Accounting Officer submitted that—

Interest on undisbursed funds is correctly disclosed in our financial reports as cited by the audit, an amount of Kshs. 9,611,785. This is the amount earned on unutilised funds and the same goes back to the revolving fund. The amortization forms which indicate the interest and other charges are also maintained and provided by the scheme administrator. The charges indicated in the schedules are due to the scheme administrator. Attached is a sample of the amortization schedules that were provided for audit.

Findings and Observations of the Committee

125. The Committee observed that—

- i. During the financial year there was no disclosure for interest earned on the loans disbursed.**
- ii. The Amortization schedules were not provided for audit verification.**
- iii. The accounting officer was in breach of Section 66 (b) and (g) and Section 68 (1), (2)(c) of the PFM Act,2015.**
- iv. The matter is unresolved.**

Recommendations of the Committee

126. The Committee recommended that—

- i. Within three months upon adoption of this report the Accounting Officer and the Scheme Administrator should disclose the interest earned from the mortgage loans and provide the amortization schedules to the Auditor- General for audit verification.**
- ii. The Accounting Officer ensures that all applicable accounting and financial controls, systems, standards, laws, and procedures are followed in the preparation of Annual Reports and financial statements and in accordance with the standards prescribed by the Public Sector Accounting Standards Board and in compliance with regulation 101 (4) of the public finance management (National Government) Regulations, 2015.**

3. Unsupported Cash and Cash Equivalent

127. The Statement of financial position and as disclosed in Note 4 to the financial statements reflects cash and cash equivalents balance of Kshs.592,992,639 as at 30 June 2018. The balance includes current account and fixed deposit account balances of Kshs. 1,479,236 and Kshs.

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591,513,403 respectively. However, bank reconciliations, certificates of fixed deposit and cash books were not provided to support the balance for an account held at the National Bank of Kenya. In the circumstances, the accuracy and completeness of cash and cash equivalents amounting to Kshs. 592,992,639 as at 30 June 2018 could not be confirmed.

Submissions of the Accounting Officer

128. The Accounting Officer submitted that—

It is true the Cash book and the bank reconciliation had not been prepared at the time of the audit in view of the scheme administrator maintaining the books of account. We however have extracted the cash books and bank reconciliation and samples attached in the Management responses.

Findings and Observations of the Committee

129. The Committee observed that—

- i. Bank certificates for fixed Deposits were not provided for audit verification**
- ii. The accuracy and completeness of cash and cash equivalents balance amounting of Kshs. 592,992,639 could not be confirmed.**
- iii. The matter is unresolved.**

Recommendations of the Committee

The Committee recommended that—

130. Within three months of the adoption of this report, the Accounting Officer to submit bank reconciliations, certificate of fixed deposit account and cash books to support the balance amounting to Kshs. 592,992,639 for audit verification

4. Late Submission of Financial Statements

131. The financial statements for the year ended 30 June, 2018 were submitted for audit on 1 February, 2023. This was contrary to Section 68(2) (k) of the Public Finance Management Act, 2012 which requires accounting officer for a national government entity, Parliamentary Service Commission and the Judiciary to prepare annual financial statements for each financial year within months after the end of the financial year and submit them to the Auditor- General for audit. In the circumstances, Management was in breach of the law.

Submissions of the Accounting Officer

132. The Accounting Officer submitted that—

The observation is correct. We did not prepare the financial accounts and we acknowledge the omission. We shall endeavor to adhere to the statutory timelines for submitting the financial statements for the scheme.

Findings and Observations of the Committee

133. The Committee observed that—

- i. The Accounting Officer was in breach of Section 68(2)(k) of the PFM Act.**
- ii. The matter is unresolved.**

Recommendations of the Committee

134. The Committee recommended that—

The Accounting Officer should ensure timely submission of accounting documentation required for audit verification during the audit as per the provisions of Section 31(4) of the Public Audit Act, 2015.

5. Lack of Enabling Legislation Establishing the Mortgage Scheme

135. Review of information and documents provided for audit revealed that the Judiciary Mortgage Scheme did not have an enabling legislation establishing the Fund. Management did not provide a satisfactory explanation for the operationalization of the Fund without the enabling legislation. In the circumstances, the legality, name of the fund and its operations could not be confirmed.

Submissions of the Accounting Officer

136. The Accounting Officer submitted **that—**

It is true that there is no enabling legislation for the scheme which has been operating under a Memorandum of Understanding executed in November 2011 between the Judiciary and the scheme administrator. However, the Judicial Service Commission has now constituted a team to develop a legislative framework for the scheme.

Findings and Observations of the Committee

137. The Committee observed that—

- (i) The Fund operated without regulations**
- (ii) the legality, name of the fund and its operations could not be confirmed.**
- (iii) The matter is unresolved.**

Recommendations of the Committee

138. The Committee recommended that—

Within six months of the adoption of this report, the Accounting Officer must develop regulations to operationalise the Fund and submit the same to the Auditor General for audit verification.

2.8. Examination of the Auditor General reports Judiciary Car loan and Mortgage Scheme Fund for the financial year 2018/2019

Basis for Disclaimer of Opinion

1. Inaccuracies in the Financial Statements

139. The statement of financial performance did not disclose operating expenses incurred during the year including bank charges, commissions and expenses paid to the Scheme administrator. In addition, analysis of loan disbursement and repayment over the years was not provided in the notes to the financial statements. In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Submissions by the Accounting Officer

140. The Accounting Officer submitted that—

It is correct the statement of financial performance did not disclose the figures of bank charges, commissions and expenses paid to the scheme administrator. These were retained by the scheme administrator. The scheme administrator maintains financial records and only discloses the loans disbursed and the bank balances. The MOU provided for a 3% administration fees which the scheme administrator was to charge. We however engaged the scheme administrator who are now disclosing the administration fees and other charges levied on the scheme as evidenced in the Financial Statements of 2022/2023 and also in **Annex 1**. The loan disbursement and repayment schedules are available and were provided to the auditor as shown in **Annex 2**.

Findings and Observations of the Committee

141. The Committee observed that—

- i. There was no disclosure for scheme administrator expenses & charges for the year 2011/2012 contrary to National Government PFM Regulations 101(4).
- ii. The loan disbursement and repayment schedules submitted were not admissible since they were not certified as true copies.
- iii. The matter is unresolved.

Recommendations of the Committee

142. The Committee recommended that—

- i. Within three months upon the adoption of this report the Accounting Officer must provide certified loan disbursements and repayment schedules to the Auditor General for audit verification.
- ii. The Accounting Officer must ensure that all financial statements comply with the financial reporting guidelines issued by the Public Sector Accounting Standard Board in accordance with Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2015.

2. Undisclosed Interest on Mortgage Loans Disbursed

143. The statement of financial performance and as disclosed in Note 3 to the Financial Statements reflects Interest income amount of Kshs. 8,056,202. The amount was in respect of accrued interest on bank balances. However, interest earned from mortgage loans was not disclosed in the financial statements. Furthermore, amortization schedules for the mortgage loans to confirm interest earned during the year were not provided for audit verification. In the circumstances, the accuracy and completeness of interest income amounting to Kshs. 8,056,202 for the year ended 30 June 2019 could not be confirmed.

Submissions by the Accounting Officer

144. The Accounting Officer submitted that—

Interest on undisbursed funds is correctly disclosed in our financial reports as as cited by the audit, an amount of Kshs. 8,056,202. This is the amount earned on unutilised funds and the same goes back to the revolving fund. The amortization forms which indicate the interest and other charges are also maintained and provided by the scheme administrator. The charges indicated in the schedules are due to the scheme administrator.

Findings and Observations of the Committee

145. The Committee observed that—

- i. During the financial year there was no disclosure for interest earned on the loans disbursed.**
- ii. The Amortization schedules were not provided for audit verification.**
- iii. The accounting officer was in breach of Section 66 (b) and (g) and Section 68 (1), (2)(c) of the PFM Act,2015.**
- iv. The matter is unresolved.**

Recommendations of the Committee

146. The Committee recommended that—

- i. Within three months upon adoption of this report the Accounting Officer and the Scheme Administrator should disclose the interest earned from the mortgage loans and provide the amortization schedules to the Auditor- General for audit verification.**
- ii. The Accounting Officer ensures that all applicable accounting and financial controls, systems, standards, laws, and procedures are followed in the preparation of Annual Reports and financial statements and in accordance with the standards prescribed by the Public Sector Accounting Standards Board and in compliance with regulation 101 (4) of the public finance management (National Government) Regulations, 2015.**

3. Unsupported Cash and Cash Equivalent

147. The Statement of financial position and as disclosed in Note 4 to the financial statements reflects cash and cash equivalents balance of Kshs.712,291,341 as at 30 June 2019.The balance includes current account and fixed deposit account balances of Kshs. 2,345,308 and Kshs.

SPECIAL FUND ACCOUNTS COMMITTEE- JUDICIARY CAR LOAN AND MORTGAGE SCHEME FUND

709,946,033 respectively. However, bank reconciliations, certificates of fixed deposit and cash books were not provided to support the balance. In the circumstances, the accuracy and completeness of cash and cash equivalents amounting to Kshs. 712,291,341 as at 30 June 2019 could not be confirmed.

Submissions by the Accounting Officer

148. The Accounting Officer submitted that—

It is true the Cash book and the bank reconciliation had not been prepared at the time of the audit in view of the scheme administrator maintaining the books of account. We however have extracted the cash books and bank reconciliation and samples attached in the Management response.

Findings and Observations of the Committee

149. The Committee observed that—

- i. Bank certificates for fixed Deposits were not provided for audit verification**
- ii. The accuracy and completeness of cash and cash equivalents balance amounting of Kshs. 712,291,341 could not be confirmed.**
- iii. The matter is unresolved.**

Recommendations of the Committee

150. The Committee recommended that—

Within three months of the adoption of this report, the Accounting Officer to submit bank reconciliations, certificate of fixed deposit account and cash books to support the balance amounting to Kshs. 712,291,341 for audit verification

Late Submission of Financial Statements

151. The financial statements for the year ended 30 June, 2019 were submitted for audit on 1 February, 2023. This was contrary to Section 68(2) (k) of the Public Finance Management Act, 2012 which requires accounting officer for a national government entity, Parliamentary Service Commission and the Judiciary to prepare annual financial statements for each financial year within months after the end of the financial year and submit them to the Auditor- General for audit. In the circumstances, Management was in breach of the law.

Submissions by the Accounting Officer

152. The Accounting Officer submitted that—

The observation is correct. We did not prepare the financial accounts and we acknowledge the omission. We shall endeavor to adhere to the statutory timelines for submitting the financial statements for the scheme.

Findings and Observations of the Committee

153. The Committee observed that—

- i. The Accounting Officer was in breach of Section 68(2)(k) of the PFM Act.**

ii. **The matter is unresolved**

Recommendations of the Committee

154. The Committee recommended that:

The Accounting Officer should ensure timely submission of accounting documentation required for audit verification during the audit as per the provisions of Section 31(4) of the Public Audit Act, 2015.

4. Lack of Enabling Legislation Establishing the Mortgage Scheme

155. Review of information and documents provided for audit revealed that the Judiciary Mortgage Scheme did not have an enabling legislation establishing the Fund. Management did not provide a satisfactory explanation for the operationalization of the Fund without the enabling legislation. In the circumstances, the legality, name of the fund and its operations could not be confirmed.

Submissions by the Accounting Officer

156. The Accounting Officer submitted that—

It is true that there is no enabling legislature for the scheme, but the Judicial Service Commission has constituted a team to review the MOU between the scheme administrator and the Judiciary that has been the guiding policy document. The guiding principle has been the MOU that we have with the administrator, and we note the inadequacies in the MOU that do not provide for financial reporting.

Findings and Observations of the Committee

157. The Committee observed that—

- (i) The Fund operated without regulations**
- (ii) the legality, name of the fund and its operations could not be confirmed.**
- (iii) The matter is unresolved.**

Recommendations of the Committee

158. The Committee recommended that—

Within six months of the adoption of this report, the Accounting Officer must develop regulations to operationalise the Fund and submit the same to the Auditor General for audit verification.

2.9. Examination of the Auditor General reports Judiciary Car loan and Mortgage Scheme Fund for the financial year 2019/2020

Basis for Disclaimer of Opinion

1. Inaccuracies in the Financial Statements

159. The statement of financial performance did not disclose operating expenses incurred during the year including bank charges, commissions and expenses paid to the Scheme administrator. In addition, analysis of loan disbursement and repayment over the years was not provided in the notes to the financial statements. In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Submissions by the Accounting Officer

160. The Accounting Officer submitted that—

It is correct the statement of financial performance did not disclose the figures of bank charges, commissions and expenses paid to the scheme administrator. These were retained by the scheme administrator. The scheme administrator maintains financial records and only discloses the loans disbursed and the bank balances. The MOU provided for a 3% administration fees which the scheme administrator was to charge. We however engaged the scheme administrator who are now disclosing the administration fees and other charges levied on the scheme as evidenced in the Financial Statements of 2022/2023 . The loan disbursement and repayment schedules are available and were provided to the auditor

Findings and Observations of the Committee

161. The Committee observed that—

- i. There was no disclosure for scheme administrator expenses & charges for the year 2011/2012 contrary to National Government PFM Regulations 101(4).**
- ii. The loan disbursement and repayment schedules submitted were not admissible since they were not certified as true copies.**
- iii. The matter is unresolved.**

Recommendations of the Committee

162. The Committee recommended that—

- i. Within three months upon the adoption of this report the Accounting Officer must provide certified loan disbursements and repayment schedules to the Auditor General for audit verification.**
- ii. The Accounting Officer must ensure that all financial statements comply with the financial reporting guidelines issued by the Public Sector Accounting Standard Board in accordance with Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2015.**

2. Undisclosed Interest on Mortgage Loans Disbursed

- 163.** The statement of financial performance and as disclosed in Note 3 to the Financial Statements reflects Interest income amount of Kshs. 12,504,513. However, interest earned from mortgage loans was not disclosed in the financial statements. Further, amortization schedules for the mortgage loans to confirm interest earned during the year were not provided for audit verification. In the circumstances, the accuracy and completeness of interest income amounting to Kshs. 12,504,513 for the year ended 30 June 2020 could not be confirmed.

Submissions by the Accounting Officer

- 164.** The Accounting Officer submitted that—;

Interest on undisbursed funds is correctly disclosed in our financial reports as as cited by the audit, an amount of Kshs. 12,504,513. This is the amount earned on unutilised funds and the same goes back to the revolving fund. The amortization forms which indicate the interest and other charges are also maintained and provided by the scheme administrator. The charges indicated in the schedules are due to the scheme administrator. Sample of the amortization schedules were provided for audit.

Findings and Observations of the Committee

- 165.** The Committee observed that—

- i.** During the financial year there was no disclosure for interest earned on the loans disbursed.
- ii.** The Amortization schedules were not provided for audit verification.
- iii.** The accounting officer was in breach of Section 66 (b) and (g) and Section 68 (1), (2)(c) of the PFM Act,2015.
- iv.** The matter is unresolved.

Recommendations of the Committee

- 166.** The Committee recommended that—

- i.** Within three months upon adoption of this report the Accounting Officer and the Scheme Administrator should disclose the interest earned from the mortgage loans and provide the amortization schedules to the Auditor- General for audit verification.
- ii.** The Accounting Officer ensures that all applicable accounting and financial controls, systems, standards, laws, and procedures are followed in the preparation of Annual Reports and financial statements and in accordance with the standards prescribed by the Public Sector Accounting Standards Board and in compliance with regulation 101 (4) of the public finance management (National Government) Regulations, 2015.

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3. Unsupported Cash and Cash Equivalent

167. The Statement of financial position and as disclosed in Note 4 to the financial statements reflects cash and cash equivalents balance of Kshs.1,020,946,351 as at 30 June 2020. The balance includes current account and fixed deposit account balances of Kshs. 3,206,663 and Kshs. 1,017,739,688 respectively. However, bank reconciliations, certificates of fixed deposit and cash books were not provided to support the balance for an account held at the National Bank of Kenya. In the circumstances, the accuracy and completeness of cash and cash equivalents amounting to Kshs1,020,946,351 as at 30 June 2020 could not be confirmed.

Submissions by the Accounting Officer

168. The Accounting Officer submitted that—

It is true the Cash book and the bank reconciliation had not been prepared at the time of the audit in view of the scheme administrator maintaining the books of account. We however have extracted the cash books and bank reconciliation and samples attached in the Management Responses.

Findings and Observations of the Committee

169. The Committee observed that—

- i. Bank certificates for fixed Deposits were not provided for audit verification
- ii. The accuracy and completeness of cash and cash equivalents balance amounting of Kshs1,020,946,351 could not be confirmed.
- iii. The matter is unresolved.

Recommendations of the Committee

170. The Committee recommended that—

Within three months of the adoption of this report, the Accounting Officer to submit bank reconciliations, certificate of fixed deposit account and cash books to support the balance amounting to Kshs1,020,946,351 audit verification

4. Late Submission of Financial Statements

171. The financial statements for the year ended 30 June, 2020 were submitted for audit on 1 February, 2023. This was contrary to Section 68(2) (k) of the Public Finance Management Act, 2012 which requires accounting officer for a national government entity, Parliamentary Service Commission and the Judiciary to prepare annual financial statements for each financial year within months after the end of the financial year and submit them to the Auditor- General for audit. In the circumstances, Management was in breach of the law.

Submissions by the Accounting Officer

172. The Accounting Officer submitted that—

The observation is correct. We did not prepare the financial accounts and we acknowledge the omission. We shall endeavor to adhere to the statutory timelines for submitting the financial statements for the scheme.

Findings and Observations of the Committee

173. The Committee observed that—

- i. The Accounting Officer was in breach of Section 68(2)(k) of the PFM Act.**
- ii. The matter is unresolved**

Recommendations of the Committee

174. The Committee recommended that—

The Accounting Officer should ensure timely submission of accounting documentation required for audit verification during the audit as per the provisions of Section 31(4) of the Public Audit Act, 2015.

5. Lack of Enabling Legislation Establishing the Mortgage Scheme

175. Review of information and documents provided for audit revealed that the Judiciary Mortgage Scheme did not have an enabling legislation establishing the Fund. Management did not provide a satisfactory explanation for the operationalization of the Fund without the enabling legislation. In the circumstances, the legality, name of the fund and its operations could not be confirmed.

Submissions by the Accounting Officer

176. The Accounting Officer submitted that—

It is true that there is no enabling legislature for the scheme but the Judicial Service Commission has constituted a team to review the MOU between the scheme administrator and the Judiciary that has been the guiding policy document. The guiding principle has been the MOU that we have with the administrator and we note the inadequacies in the MOU that do not provide for financial reporting.

Findings and Observations of the Committee

177. The Committee observed that—

- i. The Fund did not have an operational Legislation but a guiding policy between the scheme administrator and the Judiciary**
- ii. There were on going plans to review the MOU with the bank.**
- iii. The draft regulations of the Judiciary Mortgage Scheme were developed in 2012 but have not been operationalized.**
- iv. The matter is unresolved.**

2.10. Examination of the Auditor General reports Judiciary Car loan and Mortgage Scheme Fund for the financial year 2020/2021

Basis for Disclaimer of Opinion

1. Inaccuracies in the Financial Statements

178. The statement of financial performance did not disclose operating expenses incurred during the year including bank charges, commissions and expenses paid to the Scheme administrator. In addition, analysis of loan disbursement and repayment over the years was not provided in the notes to the financial statements. In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Submissions by the Accounting Officer

179. The Accounting Officer submitted that—

It is correct the statement of financial performance did not disclose the figures of bank charges, commissions and expenses paid to the scheme administrator. These were retained by the scheme administrator. The scheme administrator maintains financial records and only discloses the loans disbursed and the bank balances. The MOU provided for a 3% administration fees which the scheme administrator was to charge. We however engaged the scheme administrator who are now disclosing the administration fees and other charges levied on the scheme as evidenced in the Financial Statements of 2022/2023. The loan disbursement and repayment schedules were provided to the auditor.

Findings and Observations of the Committee

180. The Committee observed as that—

- i. There was no disclosure for scheme administrator expenses & charges for the year 2011/2012 contrary to National Government PFM Regulations 101(4).
- ii. The loan disbursement and repayment schedules submitted were not admissible since they were not certified as true copies.
- iii. The matter is unresolved.

Recommendations of the Committee

181. The Committee recommended that—

- i. Within three months upon the adoption of this report the Accounting Officer must provide certified loan disbursements and repayment schedules to the Auditor General for audit verification.
- ii. The Accounting Officer must ensure that all financial statements comply with the financial reporting guidelines issued by the Public Sector Accounting Standard Board in accordance with Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2015.

2. Undisclosed Interest on Mortgage Loans Disbursed

182. The statement of financial performance and as disclosed in Note 3 to the Financial Statements reflects Interest income amount of Kshs. 19,030,368. However, interest earned from mortgage loans was not disclosed in the financial statements. Further, amortization schedules for the mortgage loans to confirm interest earned during the year were not provided for audit verification. In the circumstances, the accuracy and completeness of interest income amounting to Kshs. 19,030,368 could not be confirmed.

Submissions by the Accounting Officer

183. The Accounting Officer submitted that—

Interest on undisbursed funds is correctly disclosed in our financial reports as cited by the audit, an amount of Kshs. 19,030,368. This is the amount earned on unutilised funds and the same goes back to the revolving fund. The amortization forms which indicate the interest and other charges are also maintained and provided by the scheme administrator. The charges indicated in the schedules are due to the scheme administrator. A sample of the amortization schedules were provided for audit .

Findings and Observations of the Committee

184. The Committee observed that—

- i. During the financial year there was no disclosure for interest earned on the loans disbursed.**
- ii. The Amortization schedules were not provided for audit verification.**
- iii. The accounting officer was in breach of Section 66 (b) and (g) and Section 68 (1),(2)(c)of the PFM Act,2015.**
- iv. The matter is unresolved.**

Recommendations of the Committee

185. The Committee recommended that—

- i. Within three months upon adoption of this report the Accounting Officer and the Scheme Administrator should disclose the interest earned from the mortgage loans and provide the amortization schedules to the Auditor- General for audit verification.**
- ii. The Accounting Officer ensures that all applicable accounting and financial controls, systems, standards, laws, and procedures are followed in the preparation of Annual Reports and financial statements and in accordance with the standards prescribed by the Public Sector Accounting Standards Board and in compliance with regulation 101 (4) of the public finance management (National Government) Regulations, 2015.**

3. Unsupported Cash and Cash Equivalent

186. The Statement of financial position and as disclosed in Note 4 to the financial statements reflects cash and cash equivalents balance of Kshs.1,458,958,842 as at 30 June 2021.The

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balance includes current account and fixed deposit account balances of Kshs. 92,600,716 and Kshs. 1,366,358,126 respectively. However, bank reconciliations, certificates of fixed deposit and cash books were not provided to support the balance for an account held at the National Bank of Kenya. In the circumstances, the accuracy and completeness of cash and cash equivalents amounting to Kshs 1,458,958,842 as at 30 June 2021 could not be confirmed.

Submissions by the Accounting Officer

187. The Accounting Officer submitted that—

It is true the Cash book and the bank reconciliation had not been prepared at the time of the audit in view of the scheme administrator maintaining the books of account. We however have extracted the cash books and bank reconciliation and samples attached in the Management Responses.

Findings and Observations of the Committee

188. The Committee observed that—

- i. Bank certificates for fixed Deposits were not provided for audit verification**
- ii. The accuracy and completeness of cash and cash equivalents balance amounting of Kshs1,458,958,842 could not be confirmed.**
- iii. The matter is unresolved.**

Recommendations of the Committee

189. The Committee recommended that—

Within three months of the adoption of this report, the Accounting Officer to submit bank reconciliations, certificate of fixed deposit account and cash books to support the balance amounting to Kshs 1,458,958,842 audit verification

Late Submission of Financial Statements

190. The financial statements for the year ended 30 June, 2020 were submitted for audit on 1 February, 2023. This was contrary to Section 68(2) (k) of the Public Finance Management Act, 2012 which requires accounting officer for a national government entity, Parliamentary Service Commission and the Judiciary to prepare annual financial statements for each financial year within months after the end of the financial year and submit them to the Auditor- General for audit. In the circumstances, Management was in breach of the law.

Submissions by the Accounting Officer

191. The Accounting Officer submitted that—

The observation is correct. We did not prepare the financial accounts and we acknowledge the omission. We shall endeavor to adhere to the statutory timelines for submitting the financial statements for the scheme.

Findings and Observations of the Committee

192. The Committee observed that—

- i. The Accounting Officer was in breach of Section 68(2)(k) of the PFM Act.**
- ii. The matter is unresolved**

Recommendations of the Committee

193. The Committee recommended that—

The Accounting Officer should ensure timely submission of accounting documentation required for audit verification during the audit as per the provisions of Section 31(4) of the Public Audit Act, 2015.

4. Lack of Enabling Legislation Establishing the Mortgage Scheme

194. Review of information and documents provided for audit revealed that the Judiciary Mortgage Scheme did not have an enabling legislation establishing the Fund. Management did not provide a satisfactory explanation for the operationalization of the Fund without the enabling legislation. In the circumstances, the legality, name of the fund and its operations could not be confirmed.

Submissions by the Accounting Officer

195. The Accounting Officer submitted that—

It is true that there is no enabling legislature for the scheme but the Judicial Service Commission has constituted a team to review the MOU between the scheme administrator and the Judiciary that has been the guiding policy document. The guiding principle has been the MOU that we have with the administrator and we note the inadequacies in the MOU that do not provide for financial reporting.

Findings and Observations of the Committee

196. The Committee observed that—

- (i) The Fund operated without regulations**
- (ii) the legality, name of the fund and its operations could not be confirmed.**
- (iii) The matter is unresolved.**

Recommendations of the Committee

197. The Committee recommended that—

Within six months of the adoption of this report, the Accounting Officer must develop regulations to operationalise the Fund and submit the same to the Auditor General for audit verification.

2.11. Examination of the Auditor General reports Judiciary Car loan and Mortgage Scheme Fund for the financial year 2021/2022

1. Inaccuracies in the Financial Statements

198. The statement of financial performance did not disclose operating expenses incurred during the year including bank charges, commissions and expenses paid to the Scheme administrator. In addition, analysis of loan disbursement and repayment over the years was not provided in the notes to the financial statements. In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Submissions of the Accounting Officer

199. The Accounting Officer submitted that—

It is correct the statement of financial performance did not disclose the figures of bank charges, commissions and expenses paid to the scheme administrator. These were retained by the scheme administrator. The scheme administrator maintains financial records and only discloses the loans disbursed and the bank balances. The MOU provided for a 3% administration fees which the scheme administrator was to charge. We however engaged the scheme administrator who are now disclosing the administration fees and other charges levied on the scheme as evidenced in the Financial Statements of 2022/2023 and also annexed. The loan disbursement and repayment schedules were provided to the auditor.

Findings and Observations of the Committee

200. The Committee observed that—

- i. There was no disclosure for scheme administrator expenses & charges for the year 2011/2012 contrary to National Government PFM Regulations 101(4).**
- ii. The loan disbursement and repayment schedules submitted were not admissible since they were not certified as true copies.**
- iii. The matter is unresolved.**

Recommendations of the Committee

201. The Committee recommended that—

- i. Within three months upon the adoption of this report the Accounting Officer must provide certified loan disbursements and repayment schedules to the Auditor General for audit verification.**
- ii. The Accounting Officer must ensure that all financial statements comply with the financial reporting guidelines issued by the Public Sector Accounting Standard Board in accordance with Regulation 101(4) of the Public Finance Management (National Government) Regulations, 2015.**

202. The statement of financial performance and as disclosed in Note 3 to the Financial Statements reflects Interest income amount of Kshs. 19,884,109. However, interest earned from mortgage loans was not disclosed in the financial statements. Further, amortization schedules for the mortgage loans to confirm interest earned during the year were not provided for audit verification. In the circumstances, the accuracy and completeness of interest income amounting to Kshs. 19,884,109 could not be confirmed.

Submissions of the Accounting Officer

203. The Accounting Officer submitted that—

Interest on undisbursed funds is correctly disclosed in our financial reports as cited by the audit, an amount of Kshs. 19,884,109. This is the amount earned on unutilised funds and the same goes back to the revolving fund. The amortization forms which indicate the interest and other charges are also maintained and provided by the scheme administrator. The charges indicated in the schedules are due to the scheme administrator. A sample of the amortization schedules were provided for audit.

Findings and Observations of the Committee

204. The Committee observed that—

- i. During the financial year there was no disclosure for interest earned on the loans disbursed.**
- ii. The Amortization schedules were not provided for audit verification.**
- iii. The accounting officer was in breach of Section 66 (b) and (g) and Section 68 (1), (2)(c) of the PFM Act,2015.**
- iv. The matter is unresolved.**

Recommendations of the Committee

205. The Committee recommended that—

- i. Within three months upon adoption of this report the Accounting Officer and the Scheme Administrator should disclose the interest earned from the mortgage loans and provide the amortization schedules to the Auditor- General for audit verification.**
- ii. The Accounting Officer ensures that all applicable accounting and financial controls, systems, standards, laws, and procedures are followed in the preparation of Annual Reports and financial statements and in accordance with the standards prescribed by the Public Sector Accounting Standards Board and in compliance with regulation 101 (4) of the public finance management (National Government) Regulations, 2015.**

2. Unsupported Cash and Cash Equivalent

206. The Statement of financial position and as disclosed in Note 4 to the financial statements reflects cash and cash equivalents balance of Kshs.1,203,040,510 as at 30 June 2022.The balance includes current account and fixed deposit account balances of Kshs. 4,968,062 and

SPECIAL FUND ACCOUNTS COMMITTEE- JUDICIARY CAR LOAN AND MORTGAGE SCHEME FUND

Kshs. 1,198,072,448 respectively. However, bank reconciliations, certificates of fixed deposit and cash books were not provided to support the balance for an account held at the National Bank of Kenya. In the circumstances, the accuracy and completeness of cash and cash equivalents amounting to Kshs. 1,203,040,510 as at 30 June 2022 could not be confirmed.

Submissions of the Accounting Officer

207. The Accounting Officer submitted that—

It is true the Cash book and the bank reconciliation had not been prepared at the time of the audit in view of the scheme administrator maintaining the books of account. We however have extracted the cash books and bank reconciliation and samples attached in the Management Response.

Findings and Observations of the Committee

208. The Committee observed that—

- i. Bank certificates for fixed Deposits were not provided for audit verification**
- ii. The accuracy and completeness of cash and cash equivalents balance amounting of Kshs1,203,040,510 could not be confirmed.**
- iii. The matter is unresolved.**

Recommendations of the Committee

209. The Committee recommended that—

Within three months of the adoption of this report, the Accounting Officer to submit bank reconciliations, certificate of fixed deposit account and cash books to support the balance amounting to Kshs 1,203,040,510 audit verification

Lack of Enabling Legislation Establishing the Mortgage Scheme

210. Review of information and documents provided for audit revealed that the Judiciary Mortgage Scheme did not have an enabling legislation establishing the Fund. Management did not provide a satisfactory explanation for the operationalization of the Fund without the enabling legislation. In the circumstances, the legality, name of the fund and its operations could not be confirmed.

Submissions of the Accounting Officer

211. The Accounting Officer submitted that—

It is true that there is no enabling legislature for the scheme but the Judicial Service Commission has constituted a team to review the MOU between the scheme administrator and the Judiciary that has been the guiding policy document. The guiding principle has been the MOU that we have with the administrator and we note the inadequacies in the MOU that do not provide for financial reporting.

Findings and Observations of the Committee

212. The Committee observed that—

- (i) The Fund operated without regulations
- (ii) the legality, name of the fund and its operations could not be confirmed.
- (iii) The matter is unresolved.

Recommendations of the Committee

213. The Committee recommended that—

Within six months of the adoption of this report, the Accounting Officer must develop regulations to operationalise the Fund and submit the same to the Auditor General for audit verification.


Signature



Date:

28/07/25

HON. FATUMA ZAINAB MOHAMMED, M.P.
CHAIRPERSON, SPECIAL FUNDS ACCOUNTS COMMITTEE

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 05 AUG 2025	
DAY: Tuesday	
TABLED BY:	Hon. Fatuma Mohammed, M.P. (Chairperson)
CLERK IN CHARGE:	Lemale

**MINUTES OF THE 2ND SITTING OF SPECIAL FUND ACCOUNTS COMMITTEE
HELD ON TUESDAY, 13TH FEBRUARY 2024, IN COMMITTEE ROOM ON 5TH
FLOOR, CONTINENTAL HOUSE AT 9.30AM.**

PRESENT

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

APOLOGIES

1. Hon. Dawood Abdul Rahim, HSC, MP - Vice Chairperson
2. Hon. Faith Wairimu Gitau, MP
3. Hon. Dr. Christine Ombaka Oduor, MP
4. Hon. Joshua Odongo Oron, MP
5. Hon. Kahugu Erick Mwangi, MP

IN ATTENDANCE

JUDICIARY MORTGAGE SCHEME FUND

1. Mr. Paul Ndemo - Ag. Chief Registrar Judiciary.
2. Mr. Ken Ogutu - legal Counsel.
3. Mr. Wycliffe Wanga - Director.
4. Mr. Moses K. Serem - Judiciary.
5. Ms. Domsiana Onyango - Chief Accountant.

OFFICE OF THE AUDITOR-GENERAL

1. Mr. David Osiemo - liaison Officer.
2. Mr. Gideon Nyamwea - OAG
3. Ms. Josephine Warega - OAG
4. Mr. Andrew Njuguna - Personal Assistant.

NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Erick Nyambati - Clerk Assistant I
2. Ms. Comfort Achieng - Clerk Assistant III
3. Mr. Nimrod Mate - Clerk Assistant III
4. Mr. Robert Ngetich - Fiscal Analyst

5. Mr. Derrick Kathurima - Media Relations Officer
6. Mr. Abdifatah Mahat - Attachee

MIN. NA/AA&GPC-SFAC/2024/005: PRELIMINARIES

The Chairperson called the meeting to order at 10.01am, followed by a word of prayer and introductions. The following agenda was adopted as circulated:

1. Prayers
2. Preliminaries/Introductions
3. **Examination of the Auditor General Reports on Accounts of the Judiciary Mortgage Scheme fund for the Financial Years 2018/2019 to 2021/2022.**
4. Any Other Business
5. Adjournment Date of the next meeting.

After that, the Chief registrar and the Accounting Officer for the **Judiciary Mortgage Scheme fund**, undertook the oath of witness. He tabled the management responses and supporting documents on the audited accounts of **Judiciary Mortgage Scheme fund** for the financial years 2018/2019 to 2021/2022.

MIN. NA/AA&GPC-SFAC/2024/006: CONSIDERATION OF THE AUDITOR GENERAL REPORTS OF JUDICIARY MORTGAGE SCHEME FUND FOR THE FINANCIAL YEARS 2018/2019 to 2021/2022

Brief on the mandate and scope of the Fund

The Accounting officer briefed the Committee on the operations and scope of Judiciary Mortgage Scheme fund for the financial years 2018/2019 to 2021/2022.

- i) The Mortgage scheme came into inception in the year 2012 with funding from exchequer.
- ii) The Scheme Fund received a seed of Ksh.450 Million which has grown and to Ksh.6.8 Million over the years.
- iii) The Fund had an MOU with Kenya Commercial Bank which undertook the administration and processing of loans on behalf of the Management.

Findings and Observations of the Committee

The Committee observed that

- i. The fund Management did not prepare financial statements from the Financial years 2012 - 2022.
- ii. The Fund had never appeared before the Committee to be examined.
- iii. The Financial statements from 2012 to 2017 were not considered and therefore no management responses were provided.

Examination of the Auditor General reports for Judiciary Mortgage Scheme fund for the financial years 2018/2019 to 2021/2022.

The Committee examined the Auditor General's report for the **Judiciary Mortgage Scheme fund** for the financial years 2018/2019 to 2021/2022 as follows:

FINANCIAL YEAR 2018/2019

Basis for Disclaimer of Opinion

1. Inaccuracies in the Financial Statements

The statement of financial performance did not disclose operating expenses incurred during the year including bank charges, commissions and expenses paid to the Scheme administrator. In addition, analysis of loan disbursement and repayment over the years was not provided in the notes to the financial statements.

In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Submissions by the Accounting Officer

The Accounting Officer submitted the following;

It is correct the statement of financial performance did not disclose the figures of bank charges, commissions and expenses paid to the scheme administrator. These were retained by the scheme administrator. The scheme administrator maintains financial records and only discloses the loans disbursed and the bank balances. The MOU provided for a 3% administration fees which the scheme administrator was to charge. We however engaged the scheme administrator who are now disclosing the administration fees and other charges levied on the scheme as evidenced in the Financial Statements of 2022/2023 and also in **Annex 1**. The loan disbursement and repayment schedules are available and were provided to the auditor as shown in **Annex 2**.

Findings and Observations of the Committee

The Committee observed the following;

- i. There was no disclosure for scheme administrator expenses & charges for the year 2018/2019.
- ii. A summary of interest for 2022/2023 was attached as annex1 in the Management responses and not an analysis of loan disbursement in.
- iii. The schedule provided in annex 2 of the Management response "KCB mortgage division judiciary staff housing scheme status report as at 30 June 2019 released facilities" is illegible and the document not certified true copy.
- iv. The disbursement schedule attached for "KCB Bank Ltd Mortgage Centre Salama House for the Judiciary Bank Cash Backed Mortgage Scheme recoveries was legible but not a certified true copy.
- v. The Judiciary had an internal committee and internal secretariat to assist in loan processing, maintaining and evaluating books.
- vi. The scheme had an MOU with KCB which provided for a 3% for administration fees which the scheme administrator was to charge.

- vii. There were on going plans to review the MOU with the bank.
- viii. The draft regulations of the Judiciary Mortgage Scheme were developed in 2012 but have not been operationalized.
- ix. The Accounting Officer had put in place a taskforce to handle legislation of the fund regulations to operationalize the fund regulations.
- x. The matter remained unresolved.

2. Undisclosed Interest on Mortgage Loans Disbursed

The statement of financial performance and as disclosed in Note 3 to the Financial Statements reflects Interest income amount of Kshs. 8,056,202. The amount was in respect of accrued interest on bank balances. However, interest earned from mortgage loans was not disclosed in the financial statements. Furthermore, amortization schedules for the mortgage loans to confirm interest earned during the year were not provided for audit verification. In the circumstances, the accuracy and completeness of interest income amounting to Kshs. 8,056,202 for the year ended 30 June 2019 could not be confirmed.

Submissions by the Accounting Officer

The Accounting Officer submitted the following;

Interest on undisbursed funds is correctly disclosed in our financial reports as as cited by the audit, an amount of Kshs. 8,056,202. This is the amount earned on unutilised funds and the same goes back to the revolving fund. The amortization forms which indicate the interest and other charges are also maintained and provided by the scheme administrator. The charges indicated in the schedules are due to the scheme administrator. Attached is a sample of the amortization schedules that were provided for audit **Annex 3**.

Findings and Observations of the Committee

The Committee observed the following

- i. During the financial year there was no disclosure for interest earned on the loans.
- ii. The Amortization schedules were not provided for audit verification.
- iii. The matter remained unresolved.

3. Unsupported Cash and Cash Equivalent

The Statement of financial position and as disclosed in Note 4 to the financial statements reflects cash and cash equivalents balance of Kshs.712,291,341 as at 30 June 2019.The balance includes current account and fixed deposit account balances of Kshs. 2,345,308 and Kshs. 709,946,033 respectively. However, bank reconciliations, certificates of fixed deposit and cash books were not provided to support the balance. In the circumstances, the accuracy and completeness of cash and cash equivalents amounting to Kshs. 712,291,341 as at 30 June 2019 could not be confirmed.

Submissions by the Accounting Officer

The Accounting Officer submitted the following;

It is true the Cash book and the bank reconciliation had not been prepared at the time of the audit in view of the scheme administrator maintaining the books of account. We however have extracted the cash books and bank reconciliation and samples attached in **Annex 4**.

Findings and Observations of the Committee

The Committee observed the following;

- i. The Fund provided a Cash book with a closing balance of Kshs.509,701 ,080 as per annex 4, while the amount of cash and cash equivalent queried was Kshs.712,291 ,341.
- ii. Bank reconciliation certificates were provided but-Bank certificates were not provided for audit verification
- iii. The Management indicated that the queried cashbooks was arising from having two cashbooks from different banks that is Kenya Commercial Bank and National Bank.
- iv. The matter remained unresolved.

4. Late Submission of Financial Statements

The financial statements for the year ended 30 June, 2019 were submitted for audit on 1 February, 2023.This was contrary to Section 68(2) (k) of the Public Finance Management Act, 2012 which requires accounting officer for a national government entity, Parliamentary Service Commission and the Judiciary to prepare annual financial statements for each financial year within months after the end of the financial year and submit them to the Auditor- General for audit. In the circumstances, Management was in breach of the law.

Submissions by the Accounting Officer

The Accounting Officer submitted the following;

The observation is correct. We did not prepare the financial accounts and we acknowledge the omission. We shall endeavor to adhere to the statutory timelines for submitting the financial statements for the scheme.

Findings and Observations of the Committee

The Committee observed the following;

- i. The financial statements were delayed for submission for 3 years.
- ii. The matter remained unresolved

5. Lack of Enabling Legislation Establishing the Mortgage Scheme

Review of information and documents provided for audit revealed that the Judiciary Mortgage Scheme did not have an enabling legislation establishing the Fund. Management did not provide a satisfactory explanation for the operationalization of the Fund without the enabling legislation. In the circumstances, the legality, name of the fund and its operations could not be confirmed.

Submissions by the Accounting Officer

The Accounting Officer submitted the following;

It is true that there is no enabling legislature for the scheme but the Judicial Service Commission has constituted a team to review the MOU between the scheme administrator and the Judiciary that has been the guiding policy document. The guiding principle has been the MOU that we have with the administrator and we note the inadequacies in the MOU that do not provide for financial reporting.

Findings and Observations of the Committee

The Committee observed the following;

- i. The Fund did not have an operational Legislation but a guiding policy between the scheme administrator and the Judiciary
- ii. There were on going plans to review the MOU with the bank.
- iii. The draft regulations of the Judiciary Mortgage Scheme were developed in 2012 but have not been operationalized.
- iv. The matter remained unresolved

FINANCIAL YEAR 2019/2020

Basis for Disclaimer of Opinion

1. Inaccuracies in the Financial Statements

The statement of financial performance did not disclose operating expenses incurred during the year including bank charges, commissions and expenses paid to the Scheme administrator. In addition, analysis of loan disbursement and repayment over the years was not provided in the notes to the financial statements.

In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Submissions by the Accounting Officer

The Accounting Officer submitted the following;

It is correct the statement of financial performance did not disclose the figures of bank charges, commissions and expenses paid to the scheme administrator. These were retained by the scheme administrator. The scheme administrator maintains financial records and only discloses the loans disbursed and the bank balances. The MOU provided for a 3% administration fees which the scheme administrator was to charge. We however engaged the scheme administrator who are now disclosing the administration fees and other charges levied on the scheme as evidenced in the Financial Statements of 2022/2023 and also in **Annex 1**. The loan disbursement and repayment schedules are available and were provided to the auditor as shown in **Annex 2**.

Findings and Observations of the Committee

The Committee observed that

- i. There was no disclosure for scheme administrator expenses & charges for the year 2018/2019.

- ii. A summary of interest for 2022/2023 was attached as annex 1 in the Management responses and not an analysis of loan disbursement in.
- iii. The schedule provided in annex 2 of the Management response “KCB mortgage division judiciary staff housing scheme status report as at 30 June 2019 released facilities” is ineligible and the document not certified true copy.
- iv. The disbursement schedule attached for “KCB Bank Ltd Mortgage Centre Salama House for the Judiciary Bank Cash Backed Mortgage Scheme recoveries was legible but not a certified true copy.
- v. The Judiciary had an internal committee and internal secretariat to assist in loan processing maintain and evaluate books.
- vi. The scheme had an MOU with KCB which provided for a 3% for administration fees which the scheme administrator was to charge.
- vii. There were on going plans to review the MOU with the bank.
- viii. The draft regulations of the Judiciary Mortgage Scheme were developed in 2012 but have not been operationalized.
- ix. The Accounting Officer had put in place a taskforce to handle legislation of the fund regulations to operationalize the fund regulations.
- x. The matter remained unresolved.

2. Undisclosed Interest on Mortgage Loans Disbursed

The statement of financial performance and as disclosed in Note 3 to the Financial Statements reflects Interest income amount of Kshs. 12,504,513. However, interest earned from mortgage loans was not disclosed in the financial statements. Further, amortization schedules for the mortgage loans to confirm interest earned during the year were not provided for audit verification. In the circumstances, the accuracy and completeness of interest income amounting to Kshs. 12,504,513 for the year ended 30 June 2020 could not be confirmed.

Submissions by the Accounting Officer

The Accounting Officer submitted the following;

Interest on undisbursed funds is correctly disclosed in our financial reports as as cited by the audit, an amount of Kshs. 12,504,513. This is the amount earned on unutilised funds and the same goes back to the revolving fund.

The amortization forms which indicate the interest and other charges are also maintained and provided by the scheme administrator. The charges indicated in the schedules are due to the scheme administrator. Attached is a sample of the amortization schedules that were provided for audit **Annex 3**.

Findings and Observations of the Committee

The Committee observed the following

- i. During the financial year there was no disclosure for interest earned on the loans.
- ii. The Amortization schedules were not provided for audit verification.

- iii. The matter remained unresolved.

3. Unsupported Cash and Cash Equivalent

The Statement of financial position and as disclosed in Note 4 to the financial statements reflects cash and cash equivalents balance of Kshs.1,020,946,351 as at 30 June 2020. The balance includes current account and fixed deposit account balances of Kshs. 3,206,663 and Kshs. 1,017,739,688 respectively. However, bank reconciliations, certificates of fixed deposit and cash books were not provided to support the balance for an account held at the National Bank of Kenya. In the circumstances, the accuracy and completeness of cash and cash equivalents amounting to Kshs1,020,946,351 as at 30 June 2020 could not be confirmed.

Submissions by the Accounting Officer

The Accounting Officer submitted the following;

It is true the Cash book and the bank reconciliation had not been prepared at the time of the audit in view of the scheme administrator maintaining the books of account. We however have extracted the cash books and bank reconciliation and samples attached in **Annex 4**.

Findings and Observations of the Committee

The Committee observed the following;

- i. The Fund provided a Cash book with a closing balance Kshs.813,200,015 as per annex 4, while the amount of cash and cash equivalent queried was Kshs. Kshs.1,017,739,688.
- ii. Bank reconciliation certificates were provided but-Bank certificates were not provided for audit verification.
- iii. The copy of cashbook provided by Management could not be confirmed whether it was a current account deposit cashbook from KCB or NBK.
- iv. The Management indicated that the queried cashbooks was arising from having two cashbooks from different banks that is Kenya Commercial Bank and National Bank.
- v. The matter remained unresolved.

4. Late Submission of Financial Statements

The financial statements for the year ended 30 June, 2020 were submitted for audit on 1 February, 2023. This was contrary to Section 68(2) (k) of the Public Finance Management Act, 2012 which requires accounting officer for a national government entity, Parliamentary Service Commission and the Judiciary to prepare annual financial statements for each financial year within months after the end of the financial year and submit them to the Auditor- General for audit. In the circumstances, Management was in breach of the law.

Submissions by the Accounting Officer

The Accounting Officer submitted the following;

The observation is correct. We did not prepare the financial accounts and we acknowledge the omission. We shall endeavor to adhere to the statutory timelines for submitting the financial statements for the scheme.

Findings and Observations of the Committee

The Committee observed the following;

- i. The financial statements were delayed to be submitted for 3 years.
- ii. The matter remained unresolved.

5. Lack of Enabling Legislation Establishing the Mortgage Scheme

Review of information and documents provided for audit revealed that the Judiciary Mortgage Scheme did not have an enabling legislation establishing the Fund. Management did not provide a satisfactory explanation for the operationalization of the Fund without the enabling legislation. In the circumstances, the legality, name of the fund and its operations could not be confirmed.

Submissions by the Accounting Officer

The Accounting Officer submitted the following;

It is true that there is no enabling legislature for the scheme but the Judicial Service Commission has constituted a team to review the MOU between the scheme administrator and the Judiciary that has been the guiding policy document. The guiding principle has been the MOU that we have with the administrator and we note the inadequacies in the MOU that do not provide for financial reporting.

Findings and Observations of the Committee

The Committee observed the following;

- i. The Fund did not have an operational Legislation but a guiding policy between the scheme administrator and the Judiciary
- ii. There were on going plans to review the MOU with the bank.
- iii. The draft regulations of the Judiciary Mortgage Scheme were developed in 2012 but have not been operationalized.
- iv. The matter remained unresolved.

FINANCIAL YEAR 2020/2021

Basis for Disclaimer of Opinion

1. Inaccuracies in the Financial Statements

The statement of financial performance did not disclose operating expenses incurred during the year including bank charges, commissions and expenses paid to the Scheme administrator. In addition, analysis of loan disbursement and repayment over the years was not provided in the notes to the financial statements.

In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Submissions by the Accounting Officer

The Accounting Officer submitted the following;

It is correct the statement of financial performance did not disclose the figures of bank charges, commissions and expenses paid to the scheme administrator. These were retained by the scheme administrator. The scheme administrator maintains financial records and only discloses the loans disbursed and the bank balances. The MOU provided for a 3% administration fees which the scheme administrator was to charge. We however engaged the scheme administrator who are now disclosing the administration fees and other charges levied on the scheme as evidenced in the Financial Statements of 2022/2023 and also in **Annex 1**. The loan disbursement and repayment schedules are available and were provided to the auditor as shown in **Annex 2**.

Findings and Observations of the Committee

The Committee observed that

- i. There was no disclosure for scheme administrator expenses & charges for the year 2018/2019.
- ii. A summary of interest for 2022/2023 was attached as annex1in the Management responses and not an analysis of loan disbursement in.
- iii. The schedule provided in annex 2 of the Management response “KCB mortgage division judiciary staff housing scheme status report as at 30 June 2019 released facilities” is ineligible and the document not certified true copy.
- iv. The disbursement schedule attached for “KCB Bank Ltd Mortgage Centre Salama House for the Judiciary Bank Cash Backed Mortgage Scheme recoveries was legible but not a certified true copy.
- v. The Judiciary had an internal committee and internal secretariat to assist in loan processing maintain and evaluate books.
- vi. The scheme had an MOU with KCB which provided for a 3% for administration fees which the scheme administrator was to charge.
- vii. There were on going plans to review the MOU with the bank.
- viii. The draft regulations of the Judiciary Mortgage Scheme were developed in 2012 but have not been operationalized.
- ix. The Accounting Officer had put in place a taskforce to handle legislation of the fund regulations to operationalize the fund regulations.
- x. The matter remained unresolved.

2. Undisclosed Interest on Mortgage Loans Disbursed

The statement of financial performance and as disclosed in Note 3 to the Financial Statements reflects Interest income amount of Kshs. 19,030,368. However, interest earned from mortgage loans was not disclosed in the financial statements. Further, amortization schedules for the mortgage loans to confirm interest earned during the year were not

provided for audit verification. In the circumstances, the accuracy and completeness of interest income amounting to Kshs. 19,030,368 could not be confirmed.

Submissions by the Accounting Officer

The Accounting Officer submitted the following;

Interest on undisbursed funds is correctly disclosed in our financial reports as as cited by the audit, an amount of Kshs. 19,030,368. This is the amount earned on unutilised funds and the same goes back to the revolving fund.

The amortization forms which indicate the interest and other charges are also maintained and provided by the scheme administrator. The charges indicated in the schedules are due to the scheme administrator. Attached is a sample of the amortization schedules that were provided for audit **Annex 3**.

Findings and Observations of the Committee

The Committee observed the following

- i. During the financial year there was no disclosure for interest earned on the loans.
- ii. The Amortization schedules were not provided for audit verification.
- iii. The matter remained unresolved.

3. Unsupported Cash and Cash Equivalent

The Statement of financial position and as disclosed in Note 4 to the financial statements reflects cash and cash equivalents balance of Kshs.1,458,958,842 as at 30 June 2021. The balance includes current account and fixed deposit account balances of Kshs. 92,600,716 and Kshs. 1,366,358,126 respectively. However, bank reconciliations, certificates of fixed deposit and cash books were not provided to support the balance for an account held at the National Bank of Kenya. In the circumstances, the accuracy and completeness of cash and cash equivalents amounting to Kshs 1,458,958,842 as at 30 June 2021 could not be confirmed.

Submissions by the Accounting Officer

The Accounting Officer submitted the following;

It is true the Cash book and the bank reconciliation had not been prepared at the time of the audit in view of the scheme administrator maintaining the books of account. We however have extracted the cash books and bank reconciliation and samples attached in **Annex 4**.

Findings and Observations of the Committee

The Committee observed the following;

- i. The Fund provided a Cash book with a closing balance Kshs.1,234,619,613 as per annex 4, while the amount of cash and cash equivalent queried was Kshs. Kshs.1,458,958,842.
- ii. Bank reconciliation certificates were provided but-Bank certificates were not provided for audit verification.

- iii. The copy of cashbook provided by Management could not be confirmed whether it was a current account deposit cashbook from KCB or NBK.
- iv. The Management indicated that the queried cashbooks was arising from having two cashbooks from different banks that is Kenya Commercial Bank and National Bank.
- v. The matter remained unresolved.

Late Submission of Financial Statements

The financial statements for the year ended 30 June, 2020 were submitted for audit on 1 February, 2023. This was contrary to Section 68(2) (k) of the Public Finance Management Act, 2012 which requires accounting officer for a national government entity, Parliamentary Service Commission and the Judiciary to prepare annual financial statements for each financial year within months after the end of the financial year and submit them to the Auditor- General for audit. In the circumstances, Management was in breach of the law.

Submissions by the Accounting Officer

The Accounting Officer submitted the following;

The observation is correct. We did not prepare the financial accounts and we acknowledge the omission. We shall endeavor to adhere to the statutory timelines for submitting the financial statements for the scheme.

Findings and Observations of the Committee

The Committee observed the following;

- i. The financial statements were delayed to be submitted for 3 years.
- ii. The matter remained unresolved.

4. Lack of Enabling Legislation Establishing the Mortgage Scheme

Review of information and documents provided for audit revealed that the Judiciary Mortgage Scheme did not have an enabling legislation establishing the Fund. Management did not provide a satisfactory explanation for the operationalization of the Fund without the enabling legislation. In the circumstances, the legality, name of the fund and its operations could not be confirmed.

Submissions by the Accounting Officer

The Accounting Officer submitted the following;

It is true that there is no enabling legislature for the scheme but the Judicial Service Commission has constituted a team to review the MOU between the scheme administrator and the Judiciary that has been the guiding policy document. The guiding principle has been the MOU that we have with the administrator and we note the inadequacies in the MOU that do not provide for financial reporting.

Findings and Observations of the Committee

The Committee observed the following;

- i. The Fund did not have an operational Legislation but a guiding policy between the scheme administrator and the Judiciary
- ii. There were on going plans to review the MOU with the bank.
- iii. The draft regulations of the Judiciary Mortgage Scheme were developed in 2012 but have not been operationalized.
- iv. The matter remained unresolved.

MIN. NA/AA&GPC-SFAC/2024/007: ANY OTHER BUSINESS

The Committee noted that the financial years 2012/2013 to 2017/2018 and 2021/2022 had not being verified by the Auditor General

The Committee recommended the following;

- i) To hold a retreat with the Fund Management and consider the remaining financial years and pending matters on the Fund.
- ii) Management to avail the following documents within 14 days
 - a) Hard copies and a soft copy in word of Management Responses on the issues raised by the Auditor General for the financial years 2011/2012 to 2017/2018.
 - b) A brief of the Fund’s Annual loan disbursements and loan interests earned since inception in the year 2012 to 2022 with supporting documentation.
 - c) A brief on any other money earned annually other than the interest charged on the loaned amounts from the year 2012 to 2022.
 - d) Annual exchequer allocations received since inception in the year 2012 to 2022.
 - e) A copy of Memorandum of Understanding with Kenya Commercial Bank and National Bank of Kenya.
 - f) Copies of certified Bank Certificates from both Kenya Commercial Bank and National Bank of Kenya and any other relevant supporting documents.

MIN. NA/AA&GPC-SFAC/2024/008: ADJOURNMENT/DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at 12.21 p.m. The next meeting will be held on Thursday 15th February 2024.

SIGNED.....*Fatima*.....DATE.....*5/02/24*.....

HON. FATUMA ZAINAB MOHAMMED, MP

(CHAIRPERSON)

SPECIAL FUNDS ACCOUNTS COMMITTEE

**MINUTES OF THE 19TH SITTING OF SPECIAL FUND ACCOUNTS COMMITTEE
HELD ON TUESDAY, 9TH APRIL 2024, IN PRIDE INN PARADISE HOTEL.**

PRESENT

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

APOLOGIES

1. Hon. Faith Wairimu Gitau, MP
2. Hon. Eve Akinyi Obara, MP
3. Hon. Erick Wamumbi, MP
4. Hon. Joshua Odongo Oron, MP
5. Hon. Joseph Majimbo Kalasinga, MP

IN ATTENDANCE

JUDICIARY MORTGAGE SCHEME FUND

1. Ms. Fridah Mokaya - Deputy Chief Registrar Judiciary
2. Mr. Paul Ndemo - Chief Registrar Judiciary.
3. Mr. Ken Ogutu - legal Counsel.
4. Mr. Wycliffe Wanga - Director.
5. Mr. Moses K. Serem - Judiciary.
6. Ms. Domsiana Onyango - Chief Accountant.

OFFICE OF THE AUDITOR-GENERAL

Mr. David Osiemo - Liaison Officer.

NATIONAL TREASURY

Mr Simon Kiriiba - Liaison Officer

NATIONAL ASSEMBLY SECRETARIAT

1. Ms. Erick Nyambati - Clerk Assistant I
2. Ms. Comfort Achieng - Clerk Assistant III
3. Mr. Nimrod Mate - Clerk Assistant III

- | | |
|--------------------------|-------------------------------------|
| 4. Mr. Robert Ngetich | - Fiscal Analyst II |
| 5. Ms. Judith Kanyoko | - Legal Counsel II |
| 6. Mr. Derrick Kathurima | - Media Relations Officer III |
| 7. Ms. Felistus Muiya | - Public Communications Officer III |
| 8. Mr. Joshua Lenambet | - Sergeant-at-arms |
| 9. Mr. Abdifatah Mahat | - Attachee |

MIN. NA/AA&GPC-SFAC/2024/056

PRELIMINARIES

The Chairperson called the meeting to order at 9.54am, followed by a word of prayer and introductions. The following agenda was adopted as circulated:

1. Prayers
2. Preliminaries/Introductions
3. **Examination of the Auditor General Reports on Accounts of Judiciary Mortgage scheme Fund for the Financial Years 2011/2012 to 2017/2018 and 2021/2022.**
4. Any Other Business
5. Adjournment Date of the next meeting.

The Chief Registrar who is the Accounting Officer for the fund **Ms. Fridah Mokaya** undertook the oath of witness. He tabled the management responses and supporting documents on the audited accounts of **Judiciary Mortgage scheme Fund for the Financial Years 2011/2012 to 2017/2018 and 2021/2022.**

MIN. NA/AA&GPC-SFAC/2024/057 - CONSIDERATION OF THE AUDITOR GENERAL REPORTS ON ACCOUNTS OF JUDICIARY MORTGAGE SCHEME FUND FOR THE FINANCIAL YEARS 2011/2012 TO 2017/2018 AND 2021/2022.

Financial Year 2011/2012

1. Inaccuracies in the Financial Statements

The statement of financial performance did not disclose operating expenses incurred during the year including bank charges, commissions and expenses paid to the Scheme administrator. In addition, analysis of loan disbursement and repayment over the years was not provided in the notes to the financial statements. In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

It is correct that the statement of financial performance did not disclose bank charges, commissions and expenses paid to the scheme administrator. These were retained by the scheme

administrator. The scheme administrator maintains financial records and only discloses the loans disbursed and the bank balances. The MOU provided for a 3% administration fee to be charged by the scheme administrator. However, we engaged the scheme administrator on the disclosure of administration fees and other charges and the scheme administrator is now disclosing the administration fees and other charges levied on the scheme as evidenced in the Financial Statements of 2022/2023 and Annexed. The loan disbursement and repayment schedules are available and were provided to the auditor and annexed in the Management responses.

Findings and Observations of the Committee

The Committee observed the following;

- i. There was no disclosure for scheme administrator expenses & charges for the year 2011/2012.
- ii. A summary of interest for 2022/2023 was attached as annex 1 in the Management responses and not an analysis of loan disbursement in.
- iii. The schedule provided in annex 2 of the Management response “KCB mortgage division judiciary staff housing scheme status report as at 30 June 2019 released facilities” is ineligible and the document not certified true copy.
- iv. The disbursement schedule attached for “KCB Bank Ltd Mortgage Centre Salama House for the Judiciary Bank Cash Backed Mortgage Scheme recoveries was legible but not a certified true copy.
- v. The Judiciary had an internal committee and internal secretariat to assist in loan processing, maintaining and evaluating books.
- vi. The scheme had an MOU with KCB which provided for a 3% for administration fees which the scheme administrator was to charge.
- vii. There were on going plans to review the MOU with the bank.
- viii. The draft regulations of the Judiciary Mortgage Scheme were developed in 2012 but have not been operationalized.
- ix. The Accounting Officer had put in place a taskforce to handle legislation of the fund regulations to operationalize the fund regulations.
- x. The matter remained unresolved.

Undisclosed Interest on Mortgage Loans Disbursed

The statement of financial performance reflects Interest income amount of Kshs. 17,950,106 as disclosed in Note 3 to the financial statements. The amount was in respect of accrued interest on bank balances. However, interest earned from mortgage loans was not disclosed in the financial statements. Furthermore, amortization schedules for the mortgage loans to confirm interest earned during the year were not provided for audit verification. In the circumstances, the accuracy and completeness of interest income amounting to Kshs. 17,950,106 could not be confirmed.

Submissions of the Accounting Officer

The sum of Kshs. 17,950,106, being interest on undisbursed funds, is correctly disclosed in our financial reports as cited by the audit. This is the amount earned on unutilised funds. The interest goes back to the revolving fund. The amortization forms which indicate the interest and other charges are also maintained and provided by the scheme administrator. The charges indicated in the schedules are due to the scheme administrator. Attached is a sample of the amortization schedules that were provided for audit.

Findings and Observations of the Committee

The Committee observed the following

- i. During the financial year there was no disclosure for interest earned on the loans.**
- ii. The Amortization schedules were not provided for audit verification.**
- iii. The matter remained unresolved.**

Unsupported Cash and Cash Equivalent

The Statement of financial position and as disclosed in Note 4 to the financial statements reflects cash and cash equivalents balance of Kshs.380,801,311. The balance includes current account and fixed deposit account balances of Kshs. 16,399,106 and Kshs. 364,402,205 respectively. However, bank reconciliations, certificates of fixed deposit and cash books were not provided to support the balance. In the circumstances, the accuracy and completeness of cash and cash equivalents amounting to Kshs. 380,801,311 could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

It is true that the Cash book and the bank reconciliation had not been prepared at the time of the audit in view of the scheme administrator maintaining the books of account. However, we have extracted the cash books and bank reconciliation and samples annexed in the Management responses.

Findings and Observations of the Committee

The Committee observed the following;

- i. The Fund provided a Cash book with a closing balance of Kshs. 380,801,311 as per annex 4, of the Management Responses while the amount of cash and cash equivalent queried was Kshs. Kshs. 364,402,205.**
- ii. Bank reconciliation certificates were provided but-Bank certificates were not provided for audit verification**
- iii. The Management indicated that the queried cashbooks was arising from having two cashbooks from different banks that is Kenya Commercial Bank and National Bank.**
- iv. The matter remained unresolved.**

Late Submission of Financial Statements

The financial statements for the year ended 30 June, 2012 were submitted for audit on 1 February, 2023. This was contrary to Section 68(2) (k) of the Public Finance Management Act, 2012 which requires accounting officer for a national government entity, Parliamentary Service Commission and the Judiciary to prepare annual financial statements for each financial year within months after the end of the financial year and submit them to the Auditor- General for audit. In the circumstances, Management was in breach of the law.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

The observation is correct. We did not prepare the financial accounts and we acknowledge the omission. We shall endeavor to adhere to the statutory timelines for submitting the financial statements for the scheme for audit.

Findings and Observations of the Committee

The Committee observed the following;

- i. The financial statements were delayed for submission for 3 years.**
- ii. The matter remained unresolved**

Lack of Enabling Legislation Establishing the Mortgage Scheme

Review of information and documents provided for audit revealed that the Judiciary Mortgage Scheme did not have an enabling legislation establishing the Fund. Management did not provide a satisfactory explanation for the operationalization of the Fund without the enabling legislation. In the circumstances, the legality, name of the fund and its operations could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

It is true that there is no enabling legislation for the scheme which has been operating under a Memorandum of Understanding executed in November 2011 between the Judiciary and the scheme administrator. However, the Judicial Service Commission has now constituted a team to develop a legislative framework for the scheme.

Findings and Observations of the Committee

The Committee observed the following;

- I The Fund did not have an operational Legislation but a guiding policy between the scheme administrator and the Judiciary**
- II There were on going plans to review the MOU with the bank.**
- III The draft regulations of the Judiciary Mortgage Scheme were developed in 2012 but have not been operationalized.**

IV The matter remained unresolved

FINANCIAL YEAR 2012/2013

1. Inaccuracies in the Financial Statements

The statement of financial performance did not disclose operating expenses incurred during the year including bank charges, commissions and expenses paid to the Scheme administrator. In addition, analysis of loan disbursement and repayment over the years was not provided in the notes to the financial statements. In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

It is correct the statement of financial performance did not disclose the figures of bank charges, commissions and expenses paid to the scheme administrator. These were retained by the scheme administrator. The scheme administrator maintains financial records and only discloses the loans disbursed and the bank balances. The MOU provided for a 3% administration fees which the scheme administrator was to charge. We however engaged the scheme administrator who are now disclosing the administration fees and other charges levied on the scheme as evidenced in the Financial Statements of 2022/2023 and also in the loan disbursement and repayment schedules are available and were provided to the auditor and annexed in the management responses.

Findings and Observations of the Committee

The Committee observed the following;

- i. There was no disclosure for scheme administrator expenses & charges for the year 2012/2013.**
- ii. A summary of interest for 2022/2023 was attached as annex1 in the Management responses and not an analysis of loan disbursement in.**
- iii. The schedule provided in annex 2 of the Management response “KCB mortgage division judiciary staff housing scheme status report as at 30 June 2019 released facilities” is ineligible and the document not certified true copy.**
- iv. The disbursement schedule attached for “KCB Bank Ltd Mortgage Centre Salama House for the Judiciary Bank Cash Backed Mortgage Scheme recoveries was legible but not a certified true copy.**
- v. The Judiciary had an internal committee and internal secretariat to assist in loan processing, maintaining and evaluating books.**
- vi. The scheme had an MOU with KCB which provided for a 3% for administration fees which the scheme administrator was to charge.**
- vii. There were on going plans to review the MOU with the bank.**

- viii. **The draft regulations of the Judiciary Mortgage Scheme were developed in 2012 but have not been operationalized.**
- ix. **The Accounting Officer had put in place a taskforce to handle legislation of the fund regulations to operationalize the fund regulations.**
- x. **The matter remained unresolved.**

Undisclosed Interest on Mortgage Loans Disbursed

The statement of financial performance reflects interest income of Kshs. 18,308,078 and as disclosed in Note 3 to the Financial Statements. The amount was in respect of accrued interest on bank balances. However, interest earned from mortgage loans was not disclosed in the financial statements. Further, amortization schedules for the mortgage loans to confirm interest earned during the year were not provided for audit verification. In the circumstances, the accuracy and completeness of interest income amounting to Kshs. 18,308,078 could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

Interest on undisbursed funds is correctly disclosed in our financial reports as cited by the audit, an amount of Kshs. 18,308,078. This is the amount earned on unutilised funds and the same goes back to the revolving fund. The amortization forms which indicate the interest and other charges are also maintained and provided by the scheme administrator. The charges indicated in the schedules are due to the scheme administrator. Attached is a sample of the amortization schedules that were provided for audit.

Findings and Observations of the Committee

The Committee observed the following

- i. **During the financial year there was no disclosure for interest earned on the loans.**
- ii. **The Amortization schedules were not provided for audit verification.**
- iii. **The matter remained unresolved.**

Unsupported Cash and Cash Equivalent

The Statement of financial position and as disclosed in Note 4 to the financial statements reflects cash and cash equivalents balance of Kshs.409,685,326. The balance includes current account and fixed deposit account balances of Kshs. 20,881,714 and Kshs. 388,803,612 respectively. However, bank reconciliations, certificate of fixed deposit account and cash books were not provided to support the balance. In the circumstances, the accuracy and completeness of cash and cash equivalents balance amounting of Kshs.409,685,326 could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

It is true the Cash book and the bank reconciliation had not been prepared at the time of the audit in view of the scheme administrator maintaining the books of account. We however have extracted the cash books and bank reconciliation and samples attached in **Annex 4**.

Findings and Observations of the Committee

The Committee observed the following;

- i. The Fund provided a Cash book with a closing balance of Kshs.409,685,326 as per annex 4 of the Management Response however there were inconsistencies on as the cashbook did not indicate the cover page to enable identification on whether it's a current account cashbook or a fixed deposit account cashbook.
- ii. Bank reconciliation certificates were provided but-Bank certificates were not provided for audit verification
- iii. The Management indicated that the queried cashbooks was arising from having two cashbooks from different banks that is Kenya Commercial Bank and National Bank.
- iv. The matter remained unresolved.

Late Submission of Financial Statements

The financial statements for the year ended 30 June, 2013 were submitted for audit on 1 February, 2023. This was contrary to Section 68(2) (k) of the Public Finance Management Act, 2012 which requires accounting officer for a national government entity, Parliamentary Service Commission and the Judiciary to prepare annual financial statements for each financial year within months after the end of the financial year and submit them to the Auditor- General for audit. In the circumstances, Management was in breach of the law.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

The observation is correct. We did not prepare the financial accounts and we acknowledge the omission. We shall endeavor to adhere to the statutory timelines for submitting the financial statements for the scheme.

Findings and Observations of the Committee

The Committee observed the following;

- i. **The financial statements were delayed for submission for 3 years.**
- ii. **The matter remained unresolved**

Lack of Enabling Legislation Establishing the Mortgage Scheme

Review of information and documents provided for audit revealed that the Judiciary Mortgage Scheme did not have an enabling legislation establishing the Fund. Management did not provide a satisfactory explanation for the operationalization of the Fund without the enabling legislation. In the circumstances, the legality, name of the fund and its operations could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

It is true that there is no enabling legislation for the scheme which has been operating under a Memorandum of Understanding executed in November 2011 between the Judiciary and the scheme administrator. However, the Judicial Service Commission has now constituted a team to develop a legislative framework for the scheme.

Findings and Observations of the Committee

The Committee observed the following;

- V The Fund did not have an operational Legislation but a guiding policy between the scheme administrator and the Judiciary**
- VI There were on going plans to review the MOU with the bank.**
- VII The draft regulations of the Judiciary Mortgage Scheme were developed in 2012 but have not been operationalized.**
- VIII The matter remained unresolved**

FINANCIAL YEAR 2013/2014

1. Inaccuracies in the Financial Statements

The statement of financial performance did not disclose operating expenses incurred during the year including bank charges, commissions and expenses paid to the Scheme administrator. In addition, analysis of loan disbursement and repayment over the years was not provided in the notes to the financial statements. In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

It is correct the statement of financial performance did not disclose the figures of bank charges, commissions and expenses paid to the scheme administrator. These were retained by the scheme administrator. The scheme administrator maintains financial records and only discloses the loans disbursed and the bank balances. The MOU provided for a 3% administration fees which the scheme administrator was to charge. We however engaged the scheme administrator who are now disclosing the administration fees and other charges levied on the scheme as evidenced in the Financial Statements of 2022/2023 and also annexed. The loan disbursement and repayment schedules are available and were provided to the auditor and annexed.

Findings and Observations of the Committee

The Committee observed the following;

- i. There was no disclosure for scheme administrator expenses & charges for the year 2013/2014.**

- ii. A summary of interest for 2022/2023 was attached as annex1in the Management responses and not an analysis of loan disbursement in.
- iii. The schedule provided in annex 2 of the Management response “KCB mortgage division judiciary staff housing scheme status report as at 30 June 2019 released facilities” is ineligible and the document not certified true copy.
- iv. The disbursement schedule attached for “KCB Bank Ltd Mortgage Centre Salama House for the Judiciary Bank Cash Backed Mortgage Scheme recoveries was legible but not a certified true copy.
- v. The Judiciary had an internal committee and internal secretariat to assist in loan processing, maintaining and evaluating books.
- vi. The scheme had an MOU with KCB which provided for a 3% for administration fees which the scheme administrator was to charge.
- vii. There were on going plans to review the MOU with the bank.
- viii. The draft regulations of the Judiciary Mortgage Scheme were developed in 2012 but have not been operationalized.
- ix. The Accounting Officer had put in place a taskforce to handle legislation of the fund regulations to operationalize the fund regulations.
- x. The matter remained unresolved.

Undisclosed Interest on Mortgage Loans Disbursed

The statement of financial performance and as disclosed in Note 3 to the Financial Statements reflects Interest income amount of Kshs. 30,501,202. The amount was in respect of accrued interest on balances. However, interest earned from mortgage loans was not disclosed in the financial statements. Further, amortization schedules for the mortgage loans to confirm interest earned during the year were not provided for audit verification. In the circumstances, the accuracy and completeness of interest income amounting to Kshs. 30,501,202 could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following
Interest on undisbursed funds is correctly disclosed in our financial reports as cited by the audit, an amount of Kshs. 30,501,202. This is the amount earned on unutilised funds and the same goes back to the revolving fund. The amortization forms which indicate the interest and other charges are also maintained and provided by the scheme administrator. The charges indicated in the schedules are due to the scheme administrator. Attached is a sample of the amortization schedules that were provided for audit.

Findings and Observations of the Committee

The Committee observed the following

- i. During the financial year there was no disclosure for interest earned on the loans.

- ii. **The Amortization schedules were not provided for audit verification.**
- iii. **The matter remained unresolved.**

Unsupported Cash and Cash Equivalent

The Statement of financial position and as disclosed in Note 4 to the financial statements reflects cash and cash equivalents balance of Kshs.499,423,574 as at 30 June 2014. However, the balance differs with Kshs.512,383,104 reflected in Note 4 to the financial statements which includes current account and fixed deposit account balances of Kshs. 9,084,189 and Kshs.503,298,915 respectively. Further, bank reconciliations, certificates of fixed deposit account and cash books were not provided to support the balance. In the circumstances, the accuracy and completeness of cash and cash equivalents amounting to Kshs. 499,423,574 could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

It is true the Cash book and the bank reconciliation had not been prepared at the time of the audit in view of the scheme administrator maintaining the books of account. We however have extracted the cash books and bank reconciliation and samples attached.

Findings and Observations of the Committee

The Committee observed the following;

- i. **The Fund provided two Cash books with a closing balance of Kshs. 499,423,574 as per annex 4, of the Management Responses while the amount of cash and cash equivalent queried was Kshs. Kshs. 512,383,104.**
- ii. **The Fund provided a Cash book which had inconsistencies as the cashbook did not indicate the cover page to enable identification on whether it's a current account cashbook or a fixed deposit account cashbook.**
- iii. **Bank reconciliation certificates were provided but-Bank certificates were not provided for audit verification**
- iv. **The Management indicated that the queried cashbooks was arising from having two cashbooks from different banks that is Kenya Commercial Bank and National Bank.**
- v. **The matter remained unresolved.**

Late Submission of Financial Statements

The financial statements for the year ended 30 June, 2014 were submitted for audit on 1 February, 2023. This was contrary to Section 68(2) (k) of the Public Finance Management Act, 2012 which requires accounting officer for a national government entity, Parliamentary Service Commission and the Judiciary to prepare annual financial statements for each financial year within months after the end of the financial year and submit them to the Auditor- General for audit. In the circumstances, Management was in breach of the law.

Submissions of the Accounting Officer

The observation is correct. We did not prepare the financial accounts and we acknowledge the omission. We shall endeavor to adhere to the statutory timelines for submitting the financial statements for the scheme.

Findings and Observations of the Committee

The Committee observed the following;

- i. The financial statements were delayed for submission for 3 years.**
- ii. The matter remained unresolved**

Lack of Enabling Legislation Establishing the Mortgage Scheme

Review of information and documents provided for audit revealed that the Judiciary Mortgage Scheme did not have an enabling legislation establishing the Fund. Management did not provide a satisfactory explanation for the operationalization of the Fund without the enabling legislation. In the circumstances, the legality, name of the fund and its operations could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

It is true that there is no enabling legislation for the scheme which has been operating under a Memorandum of Understanding executed in November 2011 between the Judiciary and the scheme administrator. However, the Judicial Service Commission has now constituted a team to develop a legislative framework for the scheme.

Findings and Observations of the Committee

The Committee observed the following;

- i. The Fund did not have an operational Legislation but a guiding policy between the scheme administrator and the Judiciary**
- ii. There were on going plans to review the MOU with the bank.**
- iii. The draft regulations of the Judiciary Mortgage Scheme were developed in 2012 but have not been operationalized.**
- iv. The matter remained unresolved**

FINANCIAL YEAR 2014/2015

1. Inaccuracies in the Financial Statements

The statement of financial performance did not disclose operating expenses incurred during the year including bank charges, commissions and expenses paid to the Scheme administrator. In addition, analysis of loan disbursement and repayment over the years was not provided in the notes to the financial statements. In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

It is correct the statement of financial performance did not disclose the figures of bank charges, commissions and expenses paid to the scheme administrator. These were retained by the scheme administrator. The scheme administrator maintains financial records and only discloses the loans disbursed and the bank balances. The MOU provided for a 3% administration fees which the scheme administrator was to charge. We however engaged the scheme administrator who are now disclosing the administration fees and other charges levied on the scheme as evidenced in the Financial Statements of 2022/2023 and also annexed. The loan disbursement and repayment schedules are available and were provided to the auditor and annexed.

Findings and Observations of the Committee

The Committee observed the following;

- i. There was no disclosure for scheme administrator expenses & charges for the year 2014/2015.
- ii. A summary of interest for 2022/2023 was attached as annex1 in the Management responses and not an analysis of loan disbursement in.
- iii. The schedule provided in annex 2 of the Management response “KCB mortgage division judiciary staff housing scheme status report as at 30 June 2019 released facilities” is ineligible and the document not certified true copy.
- iv. The disbursement schedule attached for “KCB Bank Ltd Mortgage Centre Salama House for the Judiciary Bank Cash Backed Mortgage Scheme recoveries was legible but not a certified true copy.
- v. The Judiciary had an internal committee and internal secretariat to assist in loan processing, maintaining and evaluating books.
- vi. The scheme had an MOU with KCB which provided for a 3% for administration fees which the scheme administrator was to charge.
- vii. There were on going plans to review the MOU with the bank.
- viii. The draft regulations of the Judiciary Mortgage Scheme were developed in 2012 but have not been operationalized.
- ix. The Accounting Officer had put in place a taskforce to handle legislation of the fund regulations to operationalize the fund regulations.
- x. The matter remained unresolved.

2. Undisclosed Interest on Mortgage Loans Disbursed

The statement of financial performance and as disclosed in Note 3 to the Financial Statements reflects Interest income amount of Kshs. 31,686,278. The amount was in respect of accrued interest on bank balances. However, interest earned from mortgage loans was not disclosed in the

financial statements. Further, amortization schedules for the mortgage loans to confirm interest earned during the year were not provided for audit verification. In the circumstances, the accuracy and completeness of interest income amounting to Kshs. 31,686,278 could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following
Interest on undisbursed funds is correctly disclosed in our financial reports as cited by the audit, an amount of Kshs. 31,686,278. This is the amount earned on unutilised funds and the same goes back to the revolving fund. The amortization forms which indicate the interest and other charges are also maintained and provided by the scheme administrator. The charges indicated in the schedules are due to the scheme administrator. Attached is a sample of the amortization schedules that were provided for audit.

Findings and Observations of the Committee

The Committee observed the following

- i. During the financial year there was no disclosure for interest earned on the loans.**
- ii. The Amortization schedules were not provided for audit verification.**
- iii. The matter remained unresolved.**

3. Cash and Cash Equivalent

The Statement of financial position and as disclosed in Note 4 to the financial statements reflects cash and cash equivalents balance of Kshs. 731,813,479 as at 30 June 2015. The balance includes current account and fixed deposit account balances of Kshs. 11,275,458 and Kshs. 720,538,021 respectively. However, bank reconciliations, certificates of fixed deposit account and cash books were not provided to support the balance. In the circumstances, the accuracy and completeness of cash and cash equivalents amounting to Kshs. 731,813,479 could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following
It is true the Cash book and the bank reconciliation had not been prepared at the time of the audit in view of the scheme administrator maintaining the books of account. We however have extracted the cash books and bank reconciliation and samples attached.

Findings and Observations of the Committee

The Committee observed the following; .

- i. The Fund provided a Cash book which had inconsistencies as the cashbook did not indicate the cover page to enable identification on whether it's a current account cashbook or a fixed deposit account cashbook.**
- ii. Only one Cashbook having a balance of Kshs. 529,440,832 was provided the one for the cashbook balance of Kshs. 202373,098.**

- iii. **Bank reconciliation certificates were provided but-Bank certificates were not provided for audit verification**
- iv. **The Management indicated that the queried cashbooks was arising from having two cashbooks from different banks that is Kenya Commercial Bank and National Bank.**
- v. **The matter remained unresolved.**

4. Late Submission of Financial Statements

The financial statements for the year ended 30 June, 2015 were submitted for audit on 1 February, 2023. This was contrary to Section 68(2) (k) of the Public Finance Management Act, 2012 which requires accounting officer for a national government entity, Parliamentary Service Commission and the Judiciary to prepare annual financial statements for each financial year within months after the end of the financial year and submit them to the Auditor- General for audit. In the circumstances, Management was in breach of the law.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

The observation is correct. We did not prepare the financial accounts and we acknowledge the omission. We shall endeavor to adhere to the statutory timelines for submitting the financial statements for the scheme.

Findings and Observations of the Committee

The Committee observed the following;

- i. **The financial statements were delayed for submission for 3 years.**
- ii. **The matter remained unresolved**

5. Lack of Enabling Legislation Establishing the Mortgage Scheme

Review of information and documents provided for audit revealed that the Judiciary Mortgage Scheme did not have an enabling legislation establishing the Fund. Management did not provide a satisfactory explanation for the operationalization of the Fund without the enabling legislation. In the circumstances, the legality, name of the fund and its operations could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

It is true that there is no enabling legislation for the scheme which has been operating under a Memorandum of Understanding executed in November 2011 between the Judiciary and the scheme administrator. However, the Judicial Service Commission has now constituted a team to develop a legislative framework for the scheme.

Findings and Observations of the Committee

The Committee observed the following;

- i. The Fund did not have an operational Legislation but a guiding policy between the scheme administrator and the Judiciary**
- ii. There were on going plans to review the MOU with the bank.**
- iii. The draft regulations of the Judiciary Mortgage Scheme were developed in 2012 but have not been operationalized.**
- iv. The matter remained unresolved**

FINANCIAL YEAR 2015/2016

1. Inaccuracies in the Financial Statements

The statement of financial performance did not disclose operating expenses incurred during the year including bank charges, commissions and expenses paid to the Scheme administrator. In addition, analysis of loan disbursement and repayment over the years was not provided in the notes to the financial statements. In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

It is correct the statement of financial performance did not disclose the figures of bank charges, commissions and expenses paid to the scheme administrator. These were retained by the scheme administrator. The scheme administrator maintains financial records and only discloses the loans disbursed and the bank balances. The MOU provided for a 3% administration fees which the scheme administrator was to charge. We however engaged the scheme administrator who are now disclosing the administration fees and other charges levied on the scheme as evidenced in the Financial Statements of 2022/2023 and annexed. The loan disbursement and repayment schedules are available and were provided to the auditor and annexed

Findings and Observations of the Committee

The Committee observed the following;

- i. There was no disclosure for scheme administrator expenses & charges for the year 2015/2016.**
- ii. A summary of interest for 2022/2023 was attached as annex1in the Management responses and not an analysis of loan disbursement in.**
- iii. The schedule provided in annex 2 of the Management response “KCB mortgage division judiciary staff housing scheme status report as at 30 June 2019 released facilities” is ineligible and the document not certified true copy.**

- iv. **The disbursement schedule attached for “KCB Bank Ltd Mortgage Centre Salama House for the Judiciary Bank Cash Backed Mortgage Scheme recoveries was legible but not a certified true copy.**
- v. **The Judiciary had an internal committee and internal secretariat to assist in loan processing, maintaining and evaluating books.**
- vi. **The scheme had an MOU with KCB which provided for a 3% for administration fees which the scheme administrator was to charge.**
- vii. **There were on going plans to review the MOU with the bank.**
- viii. **The draft regulations of the Judiciary Mortgage Scheme were developed in 2012 but have not been operationalized.**
- ix. **The Accounting Officer had put in place a taskforce to handle legislation of the fund regulations to operationalize the fund regulations.**
- x. **The matter remained unresolved.**

2. Undisclosed Interest on Mortgage Loans Disbursed

The statement of financial performance and as disclosed in Note 3 to the Financial Statements reflects Interest income amount of Kshs. 27,644,646. The amount was in respect of accrued interest on bank balances. However, interest earned from mortgage loans was not disclosed in the financial statements. Furthermore, amortization schedules for the mortgage loans to confirm interest earned during the year were not provided for audit verification. In the circumstances, the accuracy and completeness of interest income amounting to Kshs. 27,644,646 for the year ended 30 June 2016 could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following
Interest on undisbursed funds is Kshs. 27,644,646. This is the amount earned on unutilised funds and the same goes back to the revolving fund. The amortization forms which indicate the interest and other charges are also maintained and provided by the scheme administrator. The charges indicated in the schedules are due to the scheme administrator. Attached is a sample of the amortization schedules that were provided for audit.

Findings and Observations of the Committee

The Committee observed the following

- i. **During the financial year there was no disclosure for interest earned on the loans.**
- ii. **The Amortization schedules were not provided for audit verification.**
- iii. **The matter remained unresolved.**

3. Unsupported Cash and Cash Equivalent

The Statement of financial position and as disclosed in Note 4 to the financial statements reflects cash and cash equivalents balance of Kshs. 1,066,097,299 as at 30 June 2016. However, the balance reflected in Note 4 includes only fixed deposit account balances of Kshs. 1,066,097,299

while current account was reflected at nil balance. Further, bank reconciliations, certificates of fixed deposit account and cash books were not provided to support the balance. In the circumstances, the accuracy and completeness of cash and cash equivalents amounting to Kshs. 1,066,097,299 as at 30 June 2016 could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

It is true the Cash book and the bank reconciliation had not been prepared at the time of the audit in view of the scheme administrator maintaining the books of account. We however have extracted the cash books and bank reconciliation and samples attached in **Annex 4**.

Findings and Observations of the Committee

The Committee observed the following;

- i. The Fund provided a Cash book which had inconsistencies as the cashbook did not indicate the cover page to enable identification on whether it's a current account cashbook or a fixed deposit account cashbook.**
- ii. Only one Cashbook having a balance of Kshs. 863,724,652 was provided the one for the cashbook balance of Kshs. 202, 373,098.**
- iii. Bank reconciliation certificates were provided but-Bank certificates were not provided for audit verification**
- iv. The Management indicated that the queried cashbooks was arising from having two cashbooks from different banks that is Kenya Commercial Bank and National Bank.**
- v. The matter remained unresolved.**

4. Late Submission of Financial Statements

The financial statements for the year ended 30 June, 2016 were submitted for audit on 1 February, 2023. This was contrary to Section 68(2) (k) of the Public Finance Management Act, 2012 which requires accounting officer for a national government entity, Parliamentary Service Commission and the Judiciary to prepare annual financial statements for each financial year within months after the end of the financial year and submit them to the Auditor- General for audit. In the circumstances, Management was in breach of the law.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

The observation is correct. We did not prepare the financial accounts and we acknowledge the omission. We shall endeavor to adhere to the statutory timelines for submitting the financial statements for the scheme.

Findings and Observations of the Committee

The Committee observed the following;

- i. **The financial statements were delayed for submission for 3 years.**
- ii. **The matter remained unresolved**

5. Lack of Enabling Legislation Establishing the Mortgage Scheme

Review of information and documents provided for audit revealed that the Judiciary Mortgage Scheme did not have an enabling legislation establishing the Fund. Management did not provide a satisfactory explanation for the operationalization of the Fund without the enabling legislation. In the circumstances, the legality, name of the fund and its operations could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

It is true that there is no enabling legislation for the scheme which has been operating under a Memorandum of Understanding executed in November 2011 between the Judiciary and the scheme administrator. However, the Judicial Service Commission has now constituted a team to develop a legislative framework for the scheme.

Findings and Observations of the Committee

The Committee observed the following;

- i. **The Fund did not have an operational Legislation but a guiding policy between the scheme administrator and the Judiciary**
- ii. **There were on going plans to review the MOU with the bank.**
- iii. **The draft regulations of the Judiciary Mortgage Scheme were developed in 2012 but have not been operationalized.**
- iv. **The matter remained unresolved**

FINACIAL YEAR 2016/2017

1. Inaccuracies in the Financial Statements

The statement of financial performance did not disclose operating expenses incurred during the year including bank charges, commissions and expenses paid to the Scheme administrator. In addition, analysis of loan disbursement and repayment over the years was not provided in the notes to the financial statements. In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Submissions of the Accounting Officer

It is correct the statement of financial performance did not disclose the figures of bank charges, commissions and expenses paid to the scheme administrator. These were retained by the scheme administrator. The scheme administrator maintains financial records and only discloses the loans disbursed and the bank balances. The MOU provided for a 3% administration fees which the scheme administrator was to charge. We however engaged the scheme administrator who are

now disclosing the administration fees and other charges levied on the scheme as evidenced in the Financial Statements of 2022/2023 and also annexed. The loan disbursement and repayment schedules are available and were provided to the auditor and annexed.

Findings and Observations of the Committee

The Committee observed the following;

- i. There was no disclosure for scheme administrator expenses & charges for the year 2016/2017.**
- ii. A summary of interest for 2022/2023 was attached as annex1in the Management responses and not an analysis of loan disbursement in.**
- iii. The schedule provided in annex 2 of the Management response “KCB mortgage division judiciary staff housing scheme status report as at 30 June 2019 released facilities” is illegible and the document not certified true copy.**
- iv. The disbursement schedule attached for “KCB Bank Ltd Mortgage Centre Salama House for the Judiciary Bank Cash Backed Mortgage Scheme recoveries was legible but not a certified true copy.**
- v. The Judiciary had an internal committee and internal secretariat to assist in loan processing, maintaining and evaluating books.**
- vi. The scheme had an MOU with KCB which provided for a 3% for administration fees which the scheme administrator was to charge.**
- vii. There were on going plans to review the MOU with the bank.**
- viii. The draft regulations of the Judiciary Mortgage Scheme were developed in 2012 but have not been operationalized.**
- ix. The Accounting Officer had put in place a taskforce to handle legislation of the fund regulations to operationalize the fund regulations.**
- x. The matter remained unresolved.**

2. Undisclosed Interest on Mortgage Loans Disbursed

The statement of financial performance and as disclosed in Note 3 to the Financial Statements reflects Interest income amount of Kshs. 13,025,919. However, interest earned from mortgage loans was not disclosed in the financial statements. Further, amortization schedules for the mortgage loans to confirm interest earned during the year were not provided for audit verification. In the circumstances, the accuracy and completeness of interest income amounting to Kshs. 13,025,919 for the year ended 30 June 2017 could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following
Interest on undisbursed funds is correctly disclosed in our financial reports as cited by the audit, an amount of Kshs. 13,025,919. This is the amount earned on unutilised funds and the same goes back to the revolving fund. The amortization forms which indicate the interest and other charges are also maintained and provided by the scheme administrator. The charges indicated in the

schedules are due to the scheme administrator. Attached is a sample of the amortization schedules that were provided for audit.

Findings and Observations of the Committee

The Committee observed the following

- i. During the financial year there was no disclosure for interest earned on the loans.**
- ii. The Amortization schedules were not provided for audit verification.**
- iii. The matter remained unresolved.**

3. Unsupported Cash and Cash Equivalent

The Statement of financial position and as disclosed in Note 4 to the financial statements reflects cash and cash equivalents balance of Kshs.780,463,569 as at 30 June 2017. The balance includes current account and fixed deposit account balances of Kshs. 1,944,780 and Kshs. 788,518,789 respectively. However, bank reconciliations, certificates of fixed deposit and cash books were not provided to support the balance. In the circumstances, the accuracy and completeness of cash and cash equivalents amounting to Kshs. 780,463,569 as at 30 June 2017 could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

It is true the Cash book and the bank reconciliation had not been prepared at the time of the audit in view of the scheme administrator maintaining the books of account. We however have extracted the cash books and bank reconciliation and samples attached.

Findings and Observations of the Committee

The Committee observed the following;

- i. The Fund provided a Cash book which had inconsistencies as the cashbook did not indicate the cover page to enable identification on whether it's a current account cashbook or a fixed deposit account cashbook.**
- ii. Only one Cashbook having a balance of Kshs. 578,090,471 was provided the one for the cashbook balance of Kshs.202,373,098.**
- iii. Bank reconciliation certificates were provided but-Bank certificates were not provided for audit verification**
- iv. The Management indicated that the queried cashbooks was arising from having two cashbooks from different banks that is Kenya Commercial Bank and National Bank.**
- v. The matter remained unresolved.**

4. Late Submission of Financial Statements

The financial statements for the year ended 30 June, 2017 were submitted for audit on 1 February, 2023. This was contrary to Section 68(2) (k) of the Public Finance Management Act, 2012 which requires accounting officer for a national government entity, Parliamentary Service

Commission and the Judiciary to prepare annual financial statements for each financial year within months after the end of the financial year and submit them to the Auditor- General for audit. In the circumstances, Management was in breach of the law.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

The observation is correct. We did not prepare the financial accounts and we acknowledge the omission. We shall endeavor to adhere to the statutory timelines for submitting the financial statements for the scheme.

Findings and Observations of the Committee

The Committee observed the following;

- i. The financial statements were delayed for submission for 3 years.**
- ii. The matter remained unresolved**

5. Lack of Enabling Legislation Establishing the Mortgage Scheme

Review of information and documents provided for audit revealed that the Judiciary Mortgage Scheme did not have an enabling legislation establishing the Fund. Management did not provide a satisfactory explanation for the operationalization of the Fund without the enabling legislation. In the circumstances, the legality, name of the fund and its operations could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

It is true that there is no enabling legislation for the scheme which has been operating under a Memorandum of Understanding executed in November 2011 between the Judiciary and the scheme administrator. However, the Judicial Service Commission has now constituted a team to develop a legislative framework for the scheme.

Findings and Observations of the Committee

The Committee observed the following;

- i. Fund did not have an operational Legislation but a guiding policy between the scheme administrator and the Judiciary**
- ii. There were on going plans to review the MOU with the bank.**
- iii. The draft regulations of the Judiciary Mortgage Scheme were developed in 2012 but have not been operationalized.**
- iv. The matter remained unresolved**

FINANCIAL YEAR 2017/2018

1. Inaccuracies in the Financial Statements

The statement of financial performance did not disclose operating expenses incurred during the year including bank charges, commissions and expenses paid to the Scheme administrator. In addition, analysis of loan disbursement and repayment over the years was not provided in the notes to the financial statements. In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

It is correct the statement of financial performance did not disclose the figures of bank charges, commissions and expenses paid to the scheme administrator. These were retained by the scheme administrator. The scheme administrator maintains financial records and only discloses the loans disbursed and the bank balances. The MOU provided for a 3% administration fees which the scheme administrator was to charge. We however engaged the scheme administrator who are now disclosing the administration fees and other charges levied on the scheme as evidenced in the Financial Statements of 2022/2023 and also in **Annex 1**. The loan disbursement and repayment schedules are available and were provided to the auditor as shown in **Annex 2**.

Findings and Observations of the Committee

The Committee observed the following;

- i. **There was no disclosure for scheme administrator expenses & charges for the year 2017/2018.**
- ii. **A summary of interest for 2022/2023 was attached as annex1in the Management responses and not an analysis of loan disbursement in.**
- iii. **The schedule provided in annex 2 of the Management response “KCB mortgage division judiciary staff housing scheme status report as at 30 June 2019 released facilities” is ineligible and the document not certified true copy.**
- iv. **The disbursement schedule attached for “KCB Bank Ltd Mortgage Centre Salama House for the Judiciary Bank Cash Backed Mortgage Scheme recoveries was legible but not a certified true copy.**
- v. **The Judiciary had an internal committee and internal secretariat to assist in loan processing, maintaining and evaluating books.**
- vi. **The scheme had an MOU with KCB which provided for a 3% for administration fees which the scheme administrator was to charge.**
- vii. **There were on going plans to review the MOU with the bank.**
- viii. **The draft regulations of the Judiciary Mortgage Scheme were developed in 2012 but have not been operationalized.**
- ix. **The Accounting Officer had put in place a taskforce to handle legislation of the fund regulations to operationalize the fund regulations.**
- x. **The matter remained unresolved.**

2. Undisclosed Interest on Mortgage Loans Disbursed

The statement of financial performance and as disclosed in Note 3 to the Financial Statements reflects Interest income amount of Kshs. 9,611,785. However, interest earned from mortgage loans was not disclosed in the financial statements. Further, amortization schedules for the mortgage loans to confirm interest earned during the year were not provided for audit verification. In the circumstances, the accuracy and completeness of interest income amounting to Kshs. 9,611,785 for the year ended 30 June 2018 could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following
Interest on undisbursed funds is correctly disclosed in our financial reports as cited by the audit, an amount of Kshs. 9,611,785. This is the amount earned on unutilised funds and the same goes back to the revolving fund. The amortization forms which indicate the interest and other charges are also maintained and provided by the scheme administrator. The charges indicated in the schedules are due to the scheme administrator. Attached is a sample of the amortization schedules that were provided for audit.

Findings and Observations of the Committee

The Committee observed the following

- i. During the financial year there was no disclosure for interest earned on the loans.**
- ii. The Amortization schedules were not provided for audit verification.**
- iii. The matter remained unresolved.**

3. Unsupported Cash and Cash Equivalent

The Statement of financial position and as disclosed in Note 4 to the financial statements reflects cash and cash equivalents balance of Kshs.592,992,639 as at 30 June 2018. The balance includes current account and fixed deposit account balances of Kshs. 1,479,236 and Kshs. 591,513,403 respectively. However, bank reconciliations, certificates of fixed deposit and cash books were not provided to support the balance for an account held at the National Bank of Kenya. In the circumstances, the accuracy and completeness of cash and cash equivalents amounting to Kshs. 592,992,639 as at 30 June 2018 could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following
It is true the Cash book and the bank reconciliation had not been prepared at the time of the audit in view of the scheme administrator maintaining the books of account. We however have extracted the cash books and bank reconciliation and samples attached.

Findings and Observations of the Committee

The Committee observed the following; .

- i. No cash book, Bank reconciliation or Bank certificates were provided for audit verification**

- ii. **The Management indicated that the queried cashbooks was arising from having two cashbooks from different banks that is Kenya Commercial Bank and National Bank.**
- iii. **The matter remained unresolved.**

4. Late Submission of Financial Statements

The financial statements for the year ended 30 June, 2018 were submitted for audit on 1 February, 2023. This was contrary to Section 68(2) (k) of the Public Finance Management Act, 2012 which requires accounting officer for a national government entity, Parliamentary Service Commission and the Judiciary to prepare annual financial statements for each financial year within months after the end of the financial year and submit them to the Auditor- General for audit. In the circumstances, Management was in breach of the law.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

The observation is correct. We did not prepare the financial accounts and we acknowledge the omission. We shall endeavor to adhere to the statutory timelines for submitting the financial statements for the scheme.

Findings and Observations of the Committee

The Committee observed the following;

- i. **The financial statements were delayed for submission for 3 years.**
- ii. **The matter remained unresolved**

5. Lack of Enabling Legislation Establishing the Mortgage Scheme

Review of information and documents provided for audit revealed that the Judiciary Mortgage Scheme did not have an enabling legislation establishing the Fund. Management did not provide a satisfactory explanation for the operationalization of the Fund without the enabling legislation. In the circumstances, the legality, name of the fund and its operations could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

It is true that there is no enabling legislation for the scheme which has been operating under a Memorandum of Understanding executed in November 2011 between the Judiciary and the scheme administrator. However, the Judicial Service Commission has now constituted a team to develop a legislative framework for the scheme.

Findings and Observations of the Committee

The Committee observed the following;

- v. **The Fund did not have an operational Legislation but a guiding policy between the scheme administrator and the Judiciary**
- vi. **There were on going plans to review the MOU with the bank.**
- vii. **The draft regulations of the Judiciary Mortgage Scheme were developed in 2012 but have not been operationalized.**
- viii. **The matter remained unresolved**

FINANCIAL YEAR 2021/2022

1. Inaccuracies in the Financial Statements

The statement of financial performance did not disclose operating expenses incurred during the year including bank charges, commissions and expenses paid to the Scheme administrator. In addition, analysis of loan disbursement and repayment over the years was not provided in the notes to the financial statements. In the circumstances, the accuracy and completeness of the financial statements could not be confirmed.

Submissions of the Accounting Officer

It is correct the statement of financial performance did not disclose the figures of bank charges, commissions and expenses paid to the scheme administrator. These were retained by the scheme administrator. The scheme administrator maintains financial records and only discloses the loans disbursed and the bank balances. The MOU provided for a 3% administration fees which the scheme administrator was to charge. We however engaged the scheme administrator who are now disclosing the administration fees and other charges levied on the scheme as evidenced in the Financial Statements of 2022/2023 and also annexed. The loan disbursement and repayment schedules are available and were provided to the auditor and annexed

Findings and Observations of the Committee

The Committee observed the following;

- i. **There was no disclosure for scheme administrator expenses & charges for the year 2021/2022.**
- ii. **A summary of interest for 2022/2023 was attached as annex1in the Management responses and not an analysis of loan disbursement in.**
- iii. **The schedule provided in annex 2 of the Management response “KCB mortgage division judiciary staff housing scheme status report as at 30 June 2019 released facilities” is ineligible and the document not certified true copy.**
- iv. **The disbursement schedule attached for “KCB Bank Ltd Mortgage Centre Salama House for the Judiciary Bank Cash Backed Mortgage Scheme recoveries was legible but not a certified true copy.**

- v. **The Judiciary had an internal committee and internal secretariat to assist in loan processing, maintaining and evaluating books.**
- vi. **The scheme had an MOU with KCB which provided for a 3% for administration fees which the scheme administrator was to charge.**
- vii. **There were on going plans to review the MOU with the bank.**
- viii. **The draft regulations of the Judiciary Mortgage Scheme were developed in 2012 but have not been operationalized.**
- ix. **The Accounting Officer had put in place a taskforce to handle legislation of the fund regulations to operationalize the fund regulations.**
- x. **The matter remained unresolved.**

2. Undisclosed Interest on Mortgage Loans Disbursed

The statement of financial performance and as disclosed in Note 3 to the Financial Statements reflects Interest income amount of Kshs. 19,884,109. However, interest earned from mortgage loans was not disclosed in the financial statements. Further, amortization schedules for the mortgage loans to confirm interest earned during the year were not provided for audit verification. In the circumstances, the accuracy and completeness of interest income amounting to Kshs. 19,884.109 could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

Interest on undisbursed funds is correctly disclosed in our financial reports as cited by the audit, an amount of Kshs. 19,884,109. This is the amount earned on unutilised funds and the same goes back to the revolving fund. The amortization forms which indicate the interest and other charges are also maintained and provided by the scheme administrator. The charges indicated in the schedules are due to the scheme administrator. Attached is a sample of the amortization schedules that were provided for audit **Annex**.

Findings and Observations of the Committee

The Committee observed the following

- i. **During the financial year there was no disclosure for interest earned on the loans.**
- ii. **The Amortization schedules were not provided for audit verification.**
- iii. **The matter remained unresolved.**

3. Unsupported Cash and Cash Equivalent

The Statement of financial position and as disclosed in Note 4 to the financial statements reflects cash and cash equivalents balance of Kshs.1,203,040,510 as at 30 June 2022.The balance includes current account and fixed deposit account balances of Kshs. 4,968,062 and Kshs. 1,198,072,448 respectively. However, bank reconciliations, certificates of fixed deposit and cash books were not provided to support the balance for an account held at the National Bank of

Kenya. In the circumstances, the accuracy and completeness of cash and cash equivalents amounting to Kshs. 1,203,040,510 as at 30 June 2022 could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

It is true the Cash book and the bank reconciliation had not been prepared at the time of the audit in view of the scheme administrator maintaining the books of account. We however have extracted the cash books and bank reconciliation and samples attached.

Findings and Observations of the Committee

The Committee observed the following;

- i. The Fund provided a Cash book with a closing balance of Kshs.959, 436, 841 as per annex 4,of the Management responses while the amount of cash and cash equivalent queried was Kshs.1, 203, 040, 510.**
- ii. Bank reconciliation certificates were provided but-Bank certificates were not provided for audit verification**
- iii. The Management indicated that the queried cashbooks was arising from having two cashbooks from different banks that is Kenya Commercial Bank and National Bank.**
- iv. The matter remained unresolved.**

4. Lack of Enabling Legislation Establishing the Mortgage Scheme

Review of information and documents provided for audit revealed that the Judiciary Mortgage Scheme did not have an enabling legislation establishing the Fund. Management did not provide a satisfactory explanation for the operationalization of the Fund without the enabling legislation. In the circumstances, the legality, name of the fund and its operations could not be confirmed.

Submissions of the Accounting Officer

The Accounting Officer submitted the following

It is true that there is no enabling legislature for the scheme but the Judicial Service Commission has constituted a team to review the MOU between the scheme administrator and the Judiciary that has been the guiding policy document. The guiding principle has been the MOU that we have with the administrator and we note the inadequacies in the MOU that do not provide for financial reporting.

Findings and Observations of the Committee

The Committee observed the following;

- ix. The Fund did not have an operational Legislation but a guiding policy between the scheme administrator and the Judiciary**
- x. There were on going plans to review the MOU with the bank.**
- xi. The draft regulations of the Judiciary Mortgage Scheme were developed in 2012 but have not been operationalized.**
- xii. The matter remained unresolved**

MIN. NA/AA&GPC-SFAC/2024/058. ADJOURNMENT/DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at 12.21p.m. The next meeting will be held on notice.

SIGNED.....*Fatima*.....DATE.....*05/05/25*.....






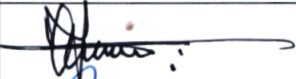

**HON. FATUMA ZAINAB MOHAMMED, MP
(CHAIRPERSON)
SPECIAL FUNDS ACCOUNTS COMMITTEE**

THIRTEENTH PARLIAMENT – SECOND SESSION
THE NATIONAL ASSEMBLY
SPECIAL FUNDS ACCOUNTS COMMITTEE.

ADOPTION LIST FOR THE
REPORT ON AUDITED FINANCIAL STATEMENTS FOR
THE:

Judiciary Mortgage Scheme Fund -

2011/2012 to 2021/22

NO.	NAME	SIGNATURE
1.	Hon. Fatuma Zainab Mohammed, MP - Chairperson	
2.	Hon. Dawood Abdul Rahim, HSC, MP – Vice-Chairperson	
3.	Hon. Otucho Mary Emaase Mp	
4.	Hon. Charles Ngusya Nguna, MP	
5.	Hon. Dr. Christine Ombaka Oduor, MP	
6.	Hon. Erastus Kivasu Nzioka, MP	
7.	Hon. Eve Akinyi Obara, MP	
8.	Hon. Joseph Majimbo Kalasinga, MP	
9.	Hon. Tom Mboya Odege, MP	
10.	Hon. Catherine Nakhabi Omanyoo, MP	
11.	Hon. Cecilia Asinyen Ngigit, MP	
12.	Hon. Erick Kahugu Mwangi MP	
13.	Hon. Joseph Kimutai Cherorot, MP	
14.	Hon. Paul Biego Kibichy, MP	
15.	Hon. Onchoke Charles Mamwacha, MP	