

Approved for tabling

REPUBLIC OF KENYA



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19/11/19

TWELFTH PARLIAMENT

NATIONAL ASSEMBLY – THIRD SESSION

THE PUBLIC INVESTMENTS COMMITTEE

REPORT ON THE EXTENSION OF TIME LIMIT TO SUBMIT AND PUBLISH  
CENTRAL BANK OF KENYA ANNUAL REPORT FOR FINANCIAL YEAR 2018/19

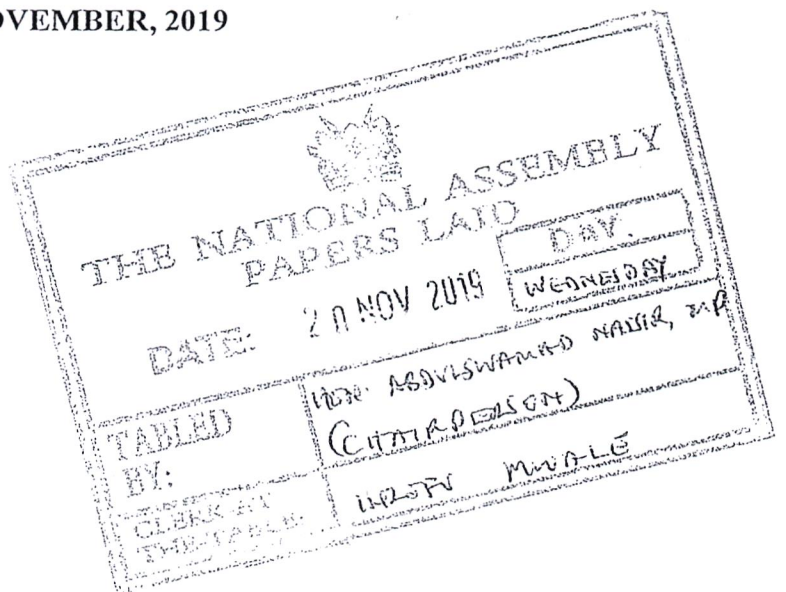
NOVEMBER, 2019

Directorate of Committee Services

The National Assembly,

Parliament Buildings,

Nairobi



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## LIST OF ABBREVIATIONS /ACRONYMS

CBK	-	Central Bank of Kenya
ToRs	-	Terms of Reference
JP	-	Jubilee Party
ODM	-	Orange Democratic Movement
Bank	-	Central Bank of Kenya
AG	-	Attorney General

## CHAIRPERSON'S FOREWORD

Pursuant to Section 54 of the Central Bank of Kenya Act, Cap 491, the Central Bank of Kenya (Bank) is obligated to submit audited financial statements of the Bank to the Cabinet Secretary for the National Treasury within three months after the close of the financial year. These reports should be published after their submission to the Cabinet Secretary in accordance with the provisions of Section 55 of the Central Bank Act. The accounts of the Central Bank of Kenya are audited by the Office of the Auditor General pursuant to Article 229 of the Constitution.

The Bank's financial statements for 2018/2019 have since been audited but not yet signed and certified by the Auditor General as is required by law due to the existence of vacancy in the Office of the Auditor-General. As a result of this, the Bank was unable to submit its Audited Accounts to the Cabinet Secretary for the National Treasury and subsequently publish them as is required in law. It is on this premise that the Cabinet Secretary for the National Treasury requested the National Assembly to extend the time limit within which the Bank was to submit its annual report for Financial Year 2018/2019 to his Office and also publication of the said report pursuant to the provisions of Section 90 of the Public Finance Management Act of 2012.

The Public Investments Committee got seized of this matter following the Speaker's Communication from the floor of the House on 5<sup>th</sup> November, 2019. In his communication, the Speaker directed the Committee to consider the matter and report to the House by 20<sup>th</sup> November 2019.

In considering the matter, the Committee invited the Governor of the Central Bank of Kenya, the acting Cabinet Secretary for the National Treasury, the Attorney-General, the Deputy Auditor-General and the Chairman of the Selection Panel, required to appoint a new Auditor-General. Due to exigencies of duty and pre-arranged meetings, only the officers from the office of the Auditor-General were able to appear before the Committee. The Committee therefore relied on the written submissions of the Ag. Governor of the Central Bank of Kenya; the Ag. Cabinet Secretary for the National Treasury; the representation from Office of the Auditor-General and its own analysis in arriving at its decision.

One of the most critical issues that came out while considering the matter was the need to ensure succession planning in critical government offices whose powers and functions are not delegable such as that of the Auditor-General. This will call for both administrative and legislative

interventions to ensure substantive holders of such important offices are in place before any transition.

It is imperative to note that Parliament can only extend statutory timelines pursuant to Section 90 of the Public Finance Act of 2012. This However does not apply to Constitutional timelines provided for under Article 229(4) of the Constitution regarding the obligation of the Auditor-General to audit government entities and report on the same within six months after the end of the financial year.

The Committee finally found merit in the request emanating from the Central Bank of Kenya and proposes that the National Assembly concurs with the Committee besides putting in legislative measures to ensure smooth operations of both the Government and the Office of the Auditor-General in the event of a vacancy.

On behalf of the Committee, I wish to thank all the witnesses who made a representations to the Committee that enabled us to produce this report.

The Committee appreciates the assistance provided by the Office of the Speaker and the Clerk of the National Assembly that enabled it to discharge its functions while considering the matter.

Finally, I also wish to thank my Committee colleagues who participated in the Committee proceedings with enthusiasm and in bipartisanship.

**Hon. Abdullswamad Shariff Nassir, MP**

### 1.3 COMMITTEE SECRETARIAT

#### 4. The secretariat facilitating the Committee comprises of -

Evans Oanda	-	Senior Clerk Assistant
Mohamed Boru	-	Clerk Assistant II
Marlene Ayiro	-	Senior Legal Counsel
Thomas Ogwel	-	Fiscal Analyst II
Sharon Rotino	-	Research Officer II
Noelle Chelagat	-	Media Relations Officer III
Winnie Atieno	-	Audio Recording Officer
Alex Mutuku	-	Senior Sergeant-at-Arms

### 2.0 INTRODUCTION

#### 2.1 Referral of the Request and the Terms of Reference

5. In his communication from the Chair on 5<sup>th</sup> November 2019, the Speaker of the National Assembly informed the House that he was in receipt of a letter from the Ag. Cabinet Secretary for the National Treasury dated 24<sup>th</sup> October, 2019 requesting the National Assembly to extend the time limit to submit and publish Central Bank of Kenya's Annual Report for the Financial Year 2018/2019. He referred the request to the Public Investment Committee for consideration and report to the House by **20<sup>th</sup> November, 2019.**
6. The Cabinet Secretary's request was premised on the fact that Central Bank of Kenya's audited Financial Statements could not be certified and published by 30<sup>th</sup> September 2019 as required under Sections 54 and 55 of the Central Bank Act Cap 491 Laws of Kenya due to the existence of a vacancy in the Office of the Auditor General.
7. The National Assembly was therefore called upon to exercise its power under Section 90 of the Public Finance Management Act of 2012 by extending the timelines within which the

Central Bank of Kenya could submit its audit reports to the Cabinet Secretary for the National Treasury and also the publication period of the CBK's Annual report.

## **2.2 Committee Proceedings**

8. In considering the matter, the Committee held three sittings in which it got representation the Deputy Auditor-General and also considered the written submission by the acting Cabinet Secretary for the National Treasury and the Governor of the Central Bank of Kenya.

## **3.0 SUBMISSIONS**

### **3.1 SUBMISSIONS BY THE AG. CABINET SECRETARY FOR THE NATIONAL TREASURY AND THE GOVERNOR OF THE CENTRAL BANK OF KENYA**

9. Through its letter dated 12<sup>th</sup> November 2019, the Committee invited the Ag. Cabinet Secretary to the National Treasury and the Governor of the Central Bank of Kenya to its meeting scheduled for Monday 18<sup>th</sup> November, 2019 to apprise the Committee on the contents of their request to the National Assembly.
10. The Cabinet Secretary and the Governor could not make it to the meeting and therefore the Committee relied on the written submissions.
11. Through his letter to the Ag. Cabinet Secretary for the National Treasury dated 30<sup>th</sup> September 2019; which letter the Cabinet Secretary for the National Treasury forwarded to the Clerk of the National Assembly on 24<sup>th</sup> October 2019, Dr. Patrick Njoroge (Governor of the Central Bank of Kenya) outlined grounds for requesting for extension of time limit for submission and publication of audit reports.

The highlight of the Governors' request to the National Assembly provided thus:

12. The Office of the Auditor General was the officially appointed auditors of the Central Bank of Kenya pursuant to Section 54 of the Central Bank Act Cap 491 Laws of Kenya. The same section obligates the Bank to submit its annual report and certified Financial Statements to the Cabinet Secretary for the National Treasury and publish its annual report within three months at the end of each Financial Year.
13. Prior to the expiry of his term, the immediate former auditor General had appointed his officers to audit the financial statements of the Bank; which assignment they had since

concluded. The audited financial statements could not however be published as they had not been authenticated and signed by the substantive office holder of the Office of the Auditor-General. The Office of the Auditor General remains vacant since 26<sup>th</sup> August, 2019.

14. The Bank therefore requested the National Assembly to extend the time line for submission of the required report and certified Financial Statements for financial year 2018/2019 until an Auditor General is appointed in office to certify the authenticity of the audited accounts.

### **3.2 SUBMISSIONS BY THE ATTORNEY GENERAL**

15. Through a letter dated 12<sup>th</sup> November 2019, the Committee invited the Hon. Justice Paul Kihara Kariuki, Attorney General of the Republic of Kenya to its meeting scheduled for Monday 18<sup>th</sup> November, 2019. The Attorney General was required to address issues relating to succession planning at the Office of the Auditor-General and the legal implications of High Court Petition No. 388 of 2016 that invalidated the position of acting Auditor-General.
16. In his letter to the Committee dated 15<sup>th</sup> November, 2019, the Solicitor General expressed regret that the Hon. Attorney-General could not attend the Committee's meetings as he would be attending a pre-arranged Cabinet meeting.
17. As at the time of compiling this report, there was no written submission from the Attorney-General.

### **3.3 SUBMISSIONS BY THE DEPUTY AUDITOR-GENERALS**

18. On 18<sup>th</sup> November, 2019, CPA Edwin Kamar (Deputy Auditor-General); Mrs. Joyce Karwitha Mbaabu (Deputy Auditor General – Corporate Services) accompanied by George Nashon Otieno (Director, Parliamentary Liaison Office) and Mr. Joshiah Oyuko (Manager of Audit and liaison officer attached to the Public Investments Committee) appeared before the Committee to apprise it on the operational status of the Office of the Auditor-General considering that the term of the former office holder had not been filled.

The Deputy Auditor-Generals submitted thus:

19. The Office of the Auditor-General has been vacant since 27<sup>th</sup> August, 2019 when its substantive office holder's tenure expired.

20. Prior to expiry of his term and to ensure smooth operations of the work in the Office of the Auditor- General, the former Auditor General had delegated authority to incur expenses to various officers in his memo dated 9<sup>th</sup> July, 2018. The table below summarises the expenditure that can be approved by specific officers.

	ITEM AND AMOUNT	AUTHORITY
1.	Expenditure of Kshs. 100M and above	Auditor-General
2.	Expenditure Between Kshs. 1M and 100M	Deputy -Auditor General – Corporate Services
3.	All Imprests issues and surrenders with a net claimable amount	Deputy -Auditor General – Corporate Services
4.	Nil Claim Imprests Surrenders	Director of Finance
5.	Drivers Imprests	Director of Finance
6.	Medical Expenditure	Director of Finance
7.	Other expenditure below Kshs. 1M	Director of Finance
8.	Approvals for low value purchases	Director of Finance
9.	Approvals for payment of low value items	Director of Finance

21. On 3<sup>rd</sup> June 2019, the former Auditor – General appointed Mrs. Joyce Karwitha Mbaabu as the Deputy Auditor General – Corporate Services following the retirement Mrs. Agnes C. Mita. She is therefore competent to approve expenditure up to Kshs. 100M only.

22. Vide letter Ref. No.OP/CAB 1/25A dated 13<sup>th</sup> September 2019, the Head of the Public Service (Joseph K. Kinyua, EGH) wrote to Mrs. Joyce Mbaabu (Deputy Auditor-General) advising that all the matters requiring attention of the holder of the Office of the Auditor-General in person be held in abeyance pending conclusion of the recruitment of the new Auditor-General.

23. The following can only be done by the substantive Auditor-General:

- (i) Authentication and signing of audit reports;
- (ii) Initiation of new procurement activities: Professional opinions can only be signed by the accounting officer or his delegatee pursuant to Section 69(4) of the Public Procurement and Asset Disposal Act of 2015;
- (iii) Renewal of operational leases for nine office motor vehicles that expired on 20<sup>th</sup> September and 31<sup>st</sup> October 2019. Since leases could not be renewed, they vehicles reverted to the lessor creating serious shortages in the regional offices.
- (iv) Representation in Accounting Officer's monthly meetings;
- (v) Approval of payments to contractors of regional offices once they present certificates worth more than Kshs. 100M;
- (vi) Action of internal audit reports; and
- (vii) Decisions from Parliament that require action by the Auditor-General especially on the reports.

24. Notwithstanding the provisions of Article 229(4) of the Constitution that requires the Auditor-General to audit financial statements of public entities within six months at the end of the financial year, the following entities have a statutory timeline of 30<sup>th</sup> September, 2019 to submit audited reports:

- (i) The Central Bank of Kenya;
- (ii) Capital Markets Authority;
- (iii) Ethics and Anti-Corruption Commission;
- (iv) Kenya Power PLC;
- (v) KenGen;
- (vi) East African Portland Cement Plc.

25. The above entities' accounts have not been signed due to the vacancy in the Office of the Auditor-General.

26. For the listed entities (KPLC, KenGen and East African Portland Cement, the Capital Markets Authority did grant them extension of publication of their audited financial statements until 31<sup>st</sup> November, 2019.

27. The Judgement rendered on Petition No. 366 of 2016 was appealed and the office of the Auditor-General was enjoined as an interested party. There matter is still pending in Court.

28. The recruitment of the Substantive Office holder of the Office of the Auditor General should be expedited to avoid paralysis of the operations that require his/her person touch.

### **3.4 SUBMISSION FROM THE CHAIRPERSON OF THE SELECTION PANEL**

29. Through its letter dated 12<sup>th</sup> November 2019, the Committee invited Mr. Sammy Onyango (Chairperson of the Selection Panel of the Auditor-General) to its meeting scheduled for Monday 18<sup>th</sup> November, 2019. He was meant to apprise the Committee on the status of the recruitment process of the Auditor-General.

30. Mr. Onyango did not appear before the Committee as requested and therefore his views on the appointment process of the Auditor-General were not taken.

## **4.0 COMMITTEE OBSERVATIONS**

### **4.1 TENURE AND FUNCTIONS OF THE AUDITOR GENERAL**

31. The Office of the Auditor General is one of the independent Offices provided for under Article 248 (3) of the Constitution with the substantive office holder's tenure in office capped at a non-renewable term of eight years.

32. The Auditor General is obligated under Article 229 of the Constitution as read with Section 7 of the Public Audit Act, 2015 to audit government entities and report to Parliament and the County Assemblies within six months after the end of each financial year.

33. The inaugural Auditor General under the 2010 Constitution's term expired on 26<sup>th</sup> August, 2019 and left office without handing over to his successor. As at the time of his exit from office, the former Auditor General's successor had not been appointed.

34. Section 12 of the Public Audit Act contemplated a transition period from whence the Auditor General vacates office up to the period when a substantive office holder is appointed. That would allow for continuity of the work of the Office of the Auditor General in the absence of the substantive office holder by providing as follows—

*12(1) 12. (1) Where-*

*(a) the office of the Auditor-General becomes vacant;*

*(b) the Auditor-General has been suspended in accordance with the Constitution;*

*(c) the appointment of a person as Auditor General is pending; or*

*(d) the Auditor-General is for any reason unable to perform the function of his or her office,*

*then until a person is appointed to and has assumed the functions of that office in accordance with section 11, or until the Auditor-General has resumed the performance of those functions, the Public Service Commission shall recommend the **most senior officer** in the office of the Auditor-General to the President to designate such a person as the acting Auditor-General.*

*(2) A person designated under subsection (1) shall meet the minimum qualifications for appointment to the office of the Auditor-General and shall serve for a period not exceeding ninety days.*

*(3) When acting in terms of subsection (1), the acting Auditor-General shall have all the powers of the Auditor General.*

35. However, *High Court Petition No 388 of 2016, Transparency International Vs. the Attorney General and 2 others* impugned Section 12 of the Public Audit Act together with other sections of the Act for being in contravention of the Constitution.

36. In this Case, the Petitioner argued that Section 12 of the Act was unconstitutional for creating the position of Acting Auditor General, a position not contemplated in the Constitution. He contended that the Auditor General is an independent office holder and is not subject to the Public Service Commission when it comes to his appointment or that of his staff. The learned Judge, Justice E.C Mwitwa in **agreeing** with the petitioner stated that in his view, there cannot be an Acting Auditor General appointed in the manner suggested by section 12 of the Public Audit Act, the Constitution only recognizes the Auditor General appointed in accordance with *Article 229(1)*. Any attempt to create a substantive position of Acting Auditor General by statute otherwise than contemplated by the Constitution amounts to an unconstitutional office and unconstitutional exercise of functions and powers of the constitutional independent office.

37. The learned Judge subsequently declared Section 12 of the Public Audit Act unconstitutional. There being no appeal on the petition, the position of an acting Auditor General is therefore inexistent in law and illegal.

38. From the foregoing therefore, there is a lacuna in law which lacuna has also failed to guide the transition process of the Auditor General. Without a substantive successor, or an elaborate process for recruiting the next Auditor general three months before the expiry of the term of the serving Auditor-General was bound to hold back crucial reports that require to be tabled in Parliament as the reports cannot be forwarded to Parliament owing to the fact that the law requires them to be signed by the Auditor General.

39. It is important to note that entities with statutory timelines to submit audit reports remain in breach of the law due to the existence of vacancy in the Office of the Auditor-General. Some of the entities with statutory timelines of 30<sup>th</sup> September, 2019 include:

- (i) The Central Bank of Kenya
- (ii) Capital Markets Authority
- (iii) Ethics and Anti-Corruption Commission
- (iv) Kenya Power PLC
- (v) KenGen
- (vi) East African Portland Cement Plc

40. The Capital Markets Authority (CMA) has powers to grant extension of timeline for publication of audit reports for those entities listed in the stock exchange. Towards this end and pursuant to 18J of the Capital Markets Authority Act, the CMA granted the Kenya Power Plc, KenGen and East African Portland Cement extension for publication until 31<sup>st</sup> November 2019.

41. As at the time of compiling this report, the Committee could not confirm whether or not the Ethics and Anti-Corruption Commission (EACC) had placed a request of extending its time limit for submission of audit reports to the National Assembly in line with Section 27(2) of the Ethics and Anti-Corruption Commission Act of 2011.

#### **4.2 POWER OF PARLIAMENT TO EXTEND STATUTORY TIME LIMIT**

42. Parliament has the powers under Section 90 of the Public Finance Management Act, 2012 to extend statutory timelines required of anybody to submit information or a document required.

It states thus:

*90. Any House of Parliament may, by resolution, extend the time limit, other than a time limit set in the Constitution, for submitting a statement or other document required to be submitted to it under this Act.*

43. The power given to Parliament to extend time limit to address the exigencies of the day under Section 90 of the Public Finance Management Act, 2012 does not apply to those mandatory timelines provided for under the Constitution. The implication of this is therefore that the extension granted by Parliament with regard to auditing, certification and authentication of financial statements should be within the six months period provided for under Article 229(4) of the Constitution which states thus:

*229(4) Within six months after the end of each financial year, the Auditor-General shall audit and report...*

44. Considering that Kenya's Fiscal year ends on 30<sup>th</sup> June, the Auditor General has up to 31<sup>st</sup> of December to conclude his/her audit and submit audit reports to Parliament or the County Assemblies. There are however, those entities that have statutory timelines within which their accounts should be audited and published earlier than the timelines given under Article 229 of the Constitution. Examples of such include the Central Bank of Kenya, and the Ethics and Anti-Corruption Commission, KeGen, PLC, and East African Portland Cement. The continued existence of a vacancy in the office of the Auditor-General would therefore negatively affect these institutions with regard to compliance with the law on publication of financial statements.

45. The Capital Markets Authority has powers to extend the time limit for publication of audited financial statements for the listed companies. Towards this end, it extended the time limit of KenGen, KPLC, and East African Portland Cement from 30<sup>th</sup> September to 31<sup>st</sup> November, 2019.

#### **4.3 CENTRAL BANK OF KENYA'S REQUEST FOR EXTENSION OF TIME LIMIT**

46. Sections 54 and 55 of the Central Bank Act Cap 491 provides thus:

54. *Annual reports*

*Within three months after the close of each financial year the Bank shall submit to the Minister a report on the Bank's operations throughout that year, together with the balance sheet and the profit and loss account as certified by auditors appointed by the Bank and approved by the Minister.*

55. *Publication of reports, etc*

*(1) After submission to the Minister the Bank shall publish the annual report referred to in section 54.*

47. The request by Governor of the Central Bank Kenya to the National Assembly for extension of time limit for submission and publication of its annual report for financial year 2018/19 was occasioned by absence of a substantive Auditor General to authenticate the Bank's audited financial statements for 2018/2019.

48. The Governor's request to the Cabinet Secretary of the National Treasury was made on 30<sup>th</sup> September, 2019 (the deadline day of submission and publication of the audited financial statements).

49. On 24<sup>th</sup> October 2019, acting Cabinet Secretary for the National Treasury communicated the Governor's request to the National Assembly for consideration. It was not clarified to the Committee, as to the reasons, why the Cabinet Secretary delayed communicating the request by the Governor Central Bank to the National Assembly in time.

50. Notwithstanding the delay in transmission of the request to the National Assembly, the Committee found the Governor's request justifiable.

## **5.0 COMMITTEE RECOMMENDATIONS**

51. Having considered the request from the Ag. Cabinet Secretary for the National Treasury and had representations from various institutions, the Committee recommends the following, THAT:

- (i) The National Assembly, pursuant to Section 90 of the Public Finance Management Act of 2012, approves extension of time limit within which the Central Bank of Kenya is required to submit its annual reports for the Financial Year 2018/2019 to the Cabinet Secretary for the National Treasury and their subsequent publication pursuant to Sections 54 and 55 of the Central Bank of Kenya Act, Cap 491 from three months to six months.

(ii) The National Assembly, through the Departmental Committee on Finance and National Planning, amends the Public Audit Act of 2015 to provide for:

- a) succession management in instances where there is a vacancy in the office of the Auditor-General. Such an amendment should tacitly provide that the recruitment of the Auditor General should be concluded within three months of the expiry of the term of his/her predecessor.
- b) uninterrupted operations of the Office of the Auditor-General in case of a vacancy arising from death, in capacity, expiry of the term of the office of the Auditor General or any other unforeseen circumstances.

(iii) The Auditor General should be *appointed* expeditiously to allow for continuity of the work of this independent office and to forestall any further crisis that may occur as a result of the existence of a vacancy in the office of the Auditor General.

(iv) Going forward, the Governor of the Central Bank of Kenya should adhere to statutory timelines in submission of requested documents including placing requests to Parliament for extension of time limit for submission of such requests as provided in Section 90 of the Public Finance Management Act 2012.

(v) The Attorney General should always provide legal advice to government entities to avoid being in breach of the law.

Signed .....

date .....

19/11/2019

**(HON. ABDULLSWAMAD SHARIFF NASSIR, MP)**

**CHAIRPERSON,**

**PUBLIC INVESTMENTS COMMITTEE**

## 6.0 LIST OF ANNEXES

- Annex1 - Committee minutes
- Annex2 - Letter from the Ag. Cabinet Secretary for the National Treasury
- Annex3: - Presentation from the Office of the Auditor General
- Annex4: - Committee correspondences
- Annex5: - Communication by the Solicitor General
- Annex6: - Adoption list

# ANNEX 1: COMMITTEE MINUTES

**MINUTES OF THE 84<sup>TH</sup> SITTING OF THE PUBLIC INVESTMENTS COMMITTEE  
HELD ON TUESDAY 19<sup>TH</sup> NOVEMBER 2019 IN THE COMMITTEE ROOM, MAIN  
PARLIAMENT BUILDINGS AT 10.30 A.M.**

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**PRESENT**

1. The Hon. Abdullswamad Sharrif Nassir, MP (**Chairman**)
2. The Hon. Joash Nyamache Nyamoko, MP
3. The Hon. Omar Mohamed Maalim Hassan, MP.
4. The Hon. Paul Kahindi Katana, MP
5. The Hon. Purity Wangui Ngirici, MP
6. The Hon. Thuku Zachary Kwenya, M.P
7. The Hon. Babu Owino Paul Ongili, MP
8. The Hon. (Prof.) Mohamud Sheikh Mohammed, MP
9. The Hon. Dr. Chrisantus Wamalwa Wakhungu, CBS, MP
10. The Hon. Mohamed Hire Garane, M.P.
11. The Hon. Rashid Kassim Amin, MP
12. The Hon. John Muchiri Nyaga, M.P

**ABSENT WITH APOLOGY**

1. The Hon. Ahmed Abdisalan Ibrahim, MP (**Vice chairman**)
2. The Hon. Mary Wamau Njoroge, MP
3. The Hon. James Kamau Githua Wamacukuru, M.P
4. The Hon. Raphael Bitta Sauti Wanjala, MP
5. The Hon. Justus Kizito Mugali, MP
6. The Hon. Gladys Wanga, MP

**IN ATTENDANCE**

**NATIONAL ASSEMBLY SECRETARIAT**

- |                        |   |                         |
|------------------------|---|-------------------------|
| 1. Mr. Evans Oanda     | - | Senior Clerk Assistant  |
| 2. Mr. Marlene Ayiro   | - | Senior Legal Counsel    |
| 3. Mr. Mohamed Boru    | - | Third Clerk Assistant   |
| 4. Ms. Noelle Chelagat | - | Media Relations Officer |
| 5. Ms. Winfred Atieno  | - | Audio Recording Officer |

**IN ATTENDANCE**

- |                      |   |                     |
|----------------------|---|---------------------|
| 1. Mr. Leonard Opar  | - | Ag. Director, Audit |
| 2. Mr. John Wakaba   | - | Manger, Audit       |
| 3. Mr. Joshiah Oyuko | - | Manager, Audit      |

**MIN/PIC/2019/637: PRELIMINARIES**

The Chairperson called the meeting to order at thirty minutes past ten O'clock and prayed.

**MIN/PIC/2019/638:**

**CONFIRMATION OF MINUTES**

1. The minutes of the 74<sup>th</sup> Sitting held on 29<sup>th</sup> October 2019 were confirmed as a true record of the proceedings after being proposed by the Hon. Paul Katana, MP and Seconded by the Hon. Prof. Mohamud Sheikh, MP.
2. The minutes of the 75<sup>th</sup> Sitting held on 2<sup>nd</sup> November 2019 were confirmed as a true record of the proceedings after being proposed by the Hon. Dr. Chrisantus Wamalwa, MP and Seconded by the Hon. Paul Katana, MP.
3. The minutes of the 76<sup>th</sup> Sitting held on 2<sup>nd</sup> November 2019 were confirmed as a true record of the proceedings after being proposed by the Hon. Paul Katana, MP and Seconded by the Hon. Dr. Chrisantus Wamalwa, MP.
4. The minutes of the 77<sup>th</sup> Sitting held on 2<sup>nd</sup> November 2019 were confirmed as a true record of the proceedings after being proposed by the Hon. Dr. Chrisantus Wamalwa, MP and Seconded by the Hon. Paul Katana, MP.
5. The minutes of the 78<sup>th</sup> Sitting held on 5<sup>th</sup> November 2019 were confirmed as a true record of the proceedings after being proposed by the Hon. Prof. Mohamud Sheikh, MP and Seconded by the Hon. Paul Katana, MP.
6. The minutes of the 79<sup>th</sup> Sitting held on 7<sup>th</sup> November 2019 were confirmed as a true record of the proceedings after being proposed by the Hon. Dr. Chrisantus Wamalwa, MP and Seconded by the Hon. Paul Katana, MP.
7. The minutes of the 80<sup>th</sup> Sitting held on 7<sup>th</sup> November 2019 were confirmed as a true record of the proceedings after being proposed by the Hon. Paul Katana, MP and Seconded by the Hon. Omar Mohamed, MP.
8. The minutes of the 81<sup>st</sup> Sitting held on 14<sup>th</sup> November 2019 were confirmed as a true record of the proceedings after being proposed by the Hon. Prof. Mohamud Omar, MP and Seconded by the Hon. Paul Katana, MP.
9. The minutes of the 82<sup>nd</sup> Sitting held on 18<sup>th</sup> November 2019 were confirmed as a true record of the proceedings after being proposed by the Hon. Prof. Mohamud Sheikh, MP and Seconded by the Hon. Omar Mohamed, MP.
10. The minutes of the 83<sup>rd</sup> Sitting held on 18<sup>th</sup> November 2019 were confirmed as a true record of the proceedings after being proposed by the Hon. Paul Katana, MP and Seconded by the Hon. Omar Mohamed, MP.

**MIN/PIC/2019/639:**

**CONSIDERATION OF A DRAFT REPORT ON THE  
REQUEST OF EXTENSION OF TIME LIMIT FOR  
SUBMISSION AND PUBLICATION OF AUDITED  
FINANCIAL STATEMENTS BY THE CENTRAL BANK OF  
KENYA**

The Committee went through a draft report unanimously adopted it with the following recommendation:

- (i) Pursuant to Section 90 of the Public Finance Management Act of 2012, the National Assembly approves extension of time limit within which the Central Bank of Kenya is required to submit its annual reports for the Financial Year 2018/2019 to the Cabinet

Secretary for the National Treasury and their subsequent publication pursuant to Sections 54 and 55 of the Central Bank of Kenya Act Cap 491 from three months to six months.

(ii) The National Assembly, through the Departmental Committee on Finance and National Planning, amends the Public Audit Act of 2015 to provide for:

a) succession management in instances where there is a vacancy in the office of the Auditor-General. Such an amendment should tacitly provide that the recruitment of the Auditor General should be concluded within three months of the expiry of the term of his/her predecessor.

b) uninterrupted operations of the Office of the Auditor-General in case of a vacancy arising from death, in capacity, expiry of the term of the office of the Auditor General or any other unforeseen circumstances.

(iii) The Auditor General should be *appointed* expeditiously to allow for continuity of the work of this independent office and to forestall any further crisis that may occur as a result of the existence of a vacancy in the office of the Auditor General.

(iv) Going forward, the Governor of the Central Bank of Kenya should adhere to statutory timelines in submission of requested documents including placing requests to Parliament for extension of time limit for submission of such requests as provided in Section 90 of the Public Finance Management Act 2012.

(v) The Attorney General should always provide legal advice to government entities to avoid being in breach of the law.

#### **MIN/PIC/2019/640: MEETING WITH THE NSSF BOARD OF TRUSTEES**

**Mr. J W Karangi, the Chairman of the Board of Trustees of the NSSF accompanied by Hon. Joseph Lekuton (Board Member); Prof. Dulacha Barallo (Trustee NSSF), and Dr. Antony Omerikwa (Ag. Managing Trustee of the NSSF) appeared before the Committee to adduce evidence on why a lot of audit queries have been recurring year in year out including many officers in acting capacity.**

#### **MIN/PIC/2019/641: PRELIMINARY OBSERVATIONS**

The Committee noted with concern that only three Board members appeared before the Committee and as such did not quorate.

Indicating that he had capacity to deal with all the issues that may be raised by the Committee despite his Board not quorating, Mr. Karangi informed the Committee that notices were sent to all its Members but only two sent apologies.

Considering the Board decisions are collegiate, the Committee could not proceed with the meeting in the circumstances. The date for the next meeting was set as Tuesday 26<sup>th</sup> November 2019 at 10:00am.

**MIN/PIC/2019/642: ADJOURNMENT**

The meeting was adjourned at thirty minutes past twelve O'clock.

**Signed** .....

**Date**.....

**The Hon. Abdullswamad Sharrif Nassir, MP**

**(Chairperson)**

**MINUTES OF THE 83<sup>RD</sup> SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD ON MONDAY 18<sup>TH</sup> NOVEMBER 2019 IN THE COMMITTEE ROOM, MAIN PARLIAMENT BUILDINGS AT 2.00 P.M.**

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**PRESENT**

1. The Hon. Abdullswamad Sharrif Nassir, MP (Chairman)
2. The Hon. Joash Nyamache Nyamoko, MP
3. The Hon. Omar Mohamed Maalim Hassan, MP.
4. The Hon. Paul Kahindi Katana, MP
5. The Hon. Thuku Zachary Kwenya, M.P
6. The Hon. Babu Owino Paul Ongili, MP
7. The Hon. (Prof.) Mohamud Sheikh Mohammed, MP
8. The Hon. Dr. Chrisantus Wamalwa Wakhungu, CBS, MP
9. The Hon. Mohamed Hire Garane, M.P.
10. The Hon. Rashid Kassim Amin, MP
11. The Hon. John Muchiri Nyaga, M.P
12. The Hon. Purity Wangui Ngirici, MP

**ABSENT WITH APOLOGY**

1. The Hon. Ahmed Abdisalan Ibrahim, MP (Vice chairman)
2. The Hon. Gladys Wanga, MP
3. The Hon. Mary Wamaua Njoroge, MP
4. The Hon. James Kamau Githua Wamacukuru, M.P
5. The Hon. Raphael Bitta Sauti Wanjala, MP
6. The Hon. Justus Kizito Mugali, MP

**IN ATTENDANCE**

**NATIONAL ASSEMBLY SECRETARIAT**

- |                        |   |                         |
|------------------------|---|-------------------------|
| 1. Mr. Evans Oanda     | - | Senior Clerk Assistant  |
| 2. Mr. Marlene Ayiro   | - | Senior Legal Counsel    |
| 3. Mr. Mohamed Boru    | - | Second Clerk Assistant  |
| 4. Ms. Noelle Chelagat | - | Media Relations Officer |
| 5. Ms. Winfred Atieno  | - | Audio Recording Officer |

**IN ATTENDANCE**

- |                          |   |                                    |
|--------------------------|---|------------------------------------|
| 1. Mr. Leonard Opar      | - | Director, Audit                    |
| 2. Mr. John Wakaba Kuria | - | Manager, Audit                     |
| 3. Mr. Joshiah Oyuko     | - | Manager, Audit                     |
| 4. Mr. James Sitienei    | - | Inspectorate of State Corporations |

**MIN/PIC/630/2019: PRELIMINARIES**

The Chairperson called the meeting to order at thirty minutes past two O'clock and prayed.

**MIN/PIC/631/2019: CONFIRMATION OF MINUTES**

Confirmation of minutes was rescheduled to a late date.

**MIN/PIC/632/2019: EXAMINATION OF AUDITED ACCOUNTS OF NATIONAL SOCIAL SECURITY FUND**

Mr. Anthony Omerikwa, the Ag. Managing Trustee of the National Social Security Fund accompanied by Mr. Austin Ouko (Ag. Corporation Secretary), Mr. Moses Chesoto (Ag. General Manager, Investment), Mr. Evans Ombui (Ag. Manager, Registration and Collection), Mr. Peter Muriuki (Manager, Property Development), Mr. Stephen Obare (Manager, ICT) and Ms. Millicent Awiti (Manager, Strategy and Change) appeared before the Committee to adduce evidence on the report of the Auditor General on the financial statements of the Fund for the financial year 2017/18.

He briefed the Committee as follows:

**MIN/PIC/633/2019: EXAMINATION OF AUDITED ACCOUNTS OF NATIONAL SOCIAL SECURITY FUND**

**1.0 Unaccounted for Members Contributions**

**1.1 Unremitted Members Contributions**

As previously reported contributions totalling Kshs. 754,995,367 had not been remitted in stipulated time period according to twenty (20) sampled employer files maintained in nine (9) NSSF branches. This was contrary to Section 8(a) of the NSSF Act, 2013 which required employers to remit into the Fund contributions deducted from members in full and in time.

Although management took action by issuing demand letters and also made alternative payment arrangements with employers such as instalment payments before considering legal action, it has not been established whether any amounts have been realized from these arrangements.

As a result, recoverability of the unremitted members' contributions of Kshs. 754,995,367 remains doubtful for over two years.

**Management Response**

The outstanding arrears as at 30<sup>th</sup> June 2018 stood at Kshs.6,349,517,582 comprising of contributions and penalties. A total of Kshs. 771,225,862 had been recovered as at 31<sup>st</sup> March 2019 leaving a balance of Kshs. 5,578,291,720.

The analysis of the arrears and penalties including action taken by management is as follows;

<b>CONTRIBUTION ARREARS</b>	<b>AMOUNT</b>	<b>ACTION TAKEN</b>
---------------------------------	---------------	---------------------

<i>Instalment undertaking</i>	328,709,939	<i>Being recovered through instalment undertakings and the repayment plans are closely monitored and evaluated on a quarterly basis.</i>
<i>Court actions</i>	209,204,279	<i>Pursued through court action by the Fund's Prosecutors across the branch offices.</i>
<i>Demand notices/ADRs</i>	682,893,896	<i>Pursued through formal demand notices and Alternative Dispute Resolutions (ADRs). Follow-ups for payments by the branch offices are continuously being undertaken.</i>
<i>Defunct Authority</i>	241,679,597	<i>Efforts to recover the outstanding obligations through court have been unsuccessful through court rulings such as the Judicial Review No. 81 of 2013 at the High Court of Nairobi and the Application 24 of case number 240 of 2012. The matter has been referred to the Intergovernmental Relations Technical Committee (IGTC) and the Council of Governors for direction on recovery</i>
<i>Closed and receivership businesses</i>	10,276,387	<i>Employers closed down</i>
<b>Sub Total</b>	<b>1,472,764,098</b>	

<b>OUTSTANDING PENALTIES</b>	<b>AMOUNT</b>	<b>ACTION TAKEN</b>
<i>Instalment undertaking</i>	87,408,704	<i>Being recovered through instalment undertakings and the repayment plans are closely monitored and evaluated on a quarterly basis.</i>
<i>Court actions</i>	99,557,572	<i>Pursued through court action by the Fund's Prosecutors across the branch offices.</i>
<i>Disputed</i>	38,452,508	<i>Resolutions (ADRs) Follow-ups for reconciliation with employers</i>
<i>Demand notices/ADRs</i>	3,036,725,161	<i>Pursued through formal demand notices and Alternative Dispute Resolutions (ADRs). Follow-ups for payments by the branch offices are continuously being undertaken.</i>

<i>Defunct Authority</i>	828,272,664	<i>Efforts to recover the outstanding obligations through court have been unsuccessful through court rulings such as the Judicial Review No. 81 of 2013 at the High Court of Nairobi and the Application 24 of case number 240 of 2012. The matter has been referred to the Intergovernmental Relations Technical Committee (IGTC) and the Council of Governors for direction on recovery</i>
<i>Closed and receivership businesses</i>	15,111,013	<i>Employers closed down</i>
<b>Sub Total</b>	<b>4,105,527,622</b>	
<b>Total</b>	<b>5,578,291,720</b>	

## 1.2 Unidentified and Unposted Members Contributions

The financial statements under statement of changes in net assets available for benefits reflects a net surplus from dealings with members of Kshs. 9,885,860,827 for the year under review. In compliance with Retirement Benefits Act, 1997, NSSF maintains employer contribution clearing accounts for benefit payment upon qualification as per the Act. During the year under review, the contributions in transit balance changed marginally from Kshs.754 million as at 30 June 2016 to Kshs. 762 million as at 30 June 2017.

No reasons have been provided for not posting the Kshs. 762 million which has accumulated over the years to the respective member's accounts despite the Fund having acquired a Social Security Pension Administration System (SSPAS) and compliance officers to assist safeguard member's funds.

Consequently, the Fund may not have gotten value for money for SSPAS procured in the year 2011/2012 at a cost of Kshs. 300,000,000 and members risk loss of accrued interest especially those claiming benefits in the intervening period.

### Management Response

The contributions in transit amount of **Kshs. 762 Million** is under reconciliation. This is a continuous process and there is a team updating member's balances on a regular basis, as at 30<sup>th</sup> June 2019 the balance stood at **Kshs. 290 Million**. The contributions in transit relates to historical records where NSSF member numbers were not provided by employers. The other measures management has implemented include:

- a) Implementation of SSPAS system where tolerance rate of receiving contributions without member numbers has been fixed at 2% and;

- b) The introduction of Eservice which require employers to confirm the accuracy of their member return on-line before paying contributions for respective Months.

The amount in contribution in transit account accrues interest as any other contribution. See the report giving position as at 30 June 2019 attached. **Appendix III**

### Committee Observations

The Committee made the following observations:

1. The matter had been considered in the 22<sup>nd</sup> PIC Report on the audited accounts of State Corporations.
2. The unclaimed funds were not taken to the Unclaimed Financial Assets Authority as the NSSF was re-investing using these amounts.

### MIN/PIC/634/2019: INVESTMENTS IN IMPERIAL BANK AND CHASE BANK FY 2016/17 & FY 2017/18

#### 2.1 Fixed Deposits (Held to Maturity).

Note 17(b) to the financial statements as at 30 June 2017 reflects fixed deposits (held to Maturity) totalling Kshs. 7,729,907,953 which included deposits in Chase Bank of Kshs.70,000,000 and Imperial Bank of Kshs. 259,500,000. These fixed deposits were invested between 8 September 2015 and 3 March 2016 and were to mature between December, 2015 and May 2016. The deposits did not mature nor have they been recovered as at 30 June 2017.

#### Management Response

To date, the Fund has recovered Kshs. 123,373,740 from both Imperial and Chase bank. The Kshs. 70,000,000 deposited in Chase bank has been recovered in full. Regarding the balance of Kshs. 206,126,260 in Imperial bank, the Fund received a positive indication on the prospect of recovery of the amount, from Kenya Deposit Insurance Corporation (KDIC), following the takeover of 7.5% of deposits in Imperial bank by KCB in August 2018. The Fund has instructed its Fund Managers to pursue full recovery of the outstanding amounts.

<i>Bank</i>	<i>Deposits</i>	<i>Recovered</i>	<i>Balance</i>
<i>Imperial Bank</i>	<i>259,500,000</i>	<i>53,373,740</i>	<i>206,126,260</i>
<i>Chase Bank</i>	<i>70,000,000</i>	<i>70,000,000</i>	<i>-</i>
<b><i>Total</i></b>	<b><i>329,500,000</i></b>	<b><i>123,373,740</i></b>	<b><i>206,126,260</i></b>

### Committee Observations

The Committee made the following observations:

1. The Fund has recovered Kshs. 123,373,740 from both Imperial and Chase bank.
2. The Kshs. 70,000,000 deposited in Chase bank has been recovered in full.
3. The Fund is following up on the balance of Kshs. 206,126,260 in Imperial bank, and has received positive indication on the prospect of recovery of the amount, from Kenya Deposit Insurance Corporation (KDIC), following the takeover of 7.5% of deposits in Imperial bank by KCB in August 2018.
4. The Fund was investing based on investment advice given by their Fund Managers
5. The Fund was only investing in Tier 1 banks at present.

### Committee Resolution

The Committee made the following resolutions:

1. Management was asked to provide documentations showing how NSSF makes a determination on which banks to invest fixed deposits.
2. The Management was further asked to provide details of its engagement with Fund Managers including details of their contract agreement with the Fund Managers.

### 2.2 Corporate Bonds

Note 20 to the financial statements as at 30 June 2017 reflects corporate bonds balance of Kshs. 9,222,122,293 which includes Kshs. 132,200,000 invested in Imperial Bank and Kshs. 534,700,000 invested in Chase Bank which were invested between 28 September 2015 and 6 October 2015 to mature within February 2022 and September 2022 as tabulated below:

Bank	Fund Manager	Nominal Amount	Investment Date	Maturity Date	Recovery
<b>Fixed Deposits</b>					
Imperial Bank	GenAfrica Asset Managers Ltd	30,000,000	9/22/2015	12/21/2015	3,070,194.40
	GenAfrica Asset Managers Ltd	20,000,000	09/08/2015	01/04/2016	2,131,730.55
	GenAfrica Asset Managers Ltd	8,500,000	09/11/2015	01/04/2016	907,260.60
	Old Mutual Investment Group	201,000,000	9/30/2015	11/30/2015	20,570,302.50
Chase Bank	Britam Asset Managers Ltd	70,000,000	03/03/2016	05/09/2016	

<b>Sub Total</b>			<b>329,500,000</b>			<b>26,679,488.05</b>
<b>Corporate Bonds</b>						
Imperial Bank	Britam Asset Managers Ltd		90,000,000	9/28/2015	9/22/2020	-
	Old Mutual Investment Group		42,200,000	9/28/2015	9/22/2020	-
Chase Bank	GenAfrica Asset Managers Ltd		160,000,000	10/06/2015	02/06/2022	-
	Old Mutual Investment Group		174,700,000	10/06/2015	02/06/2022	-
	Britam Asset Managers Ltd		100,000,000	10/06/2015	02/06/2022	-
	Stanlib Kenya Ltd		100,000,000	10/06/2015	02/06/2022	-
<b>Sub Total</b>			<b>666,900,000</b>			-
<b>Total</b>			<b>996,400,000</b>			<b>26,679,488.05</b>

Recovery of interest on the corporate bonds for the period upto 30 June 2017 remains outstanding save for the paltry Kshs. 26,682,488 from Chase bank.

#### Management Response

The Fund has partnered with other note holders through the Fund Managers association to push for the recovery of the money from Kenya Deposit Insurance Corporation.

Bank	Investment	Recovery	Amount
Imperial Bank	132,200,000	-	132,200,000
Chase Bank	534,700,000	-	534,700,000
<b>Total</b>	<b>666,900,000</b>	-	<b>666,900,000</b>

#### Committee Observations

The Committee made the following observations:

1. The Fund had invested corporate bonds worth Kshs. 132,200,000 in Imperial Bank and Kshs. 534,700,000 invested in Chase Bank. The investments between 28 September 2015 and 6 October 2015

2. No recovery has been made as yet.

### **Committee Resolution**

Management was asked to provide details of the Fund Managers who advised on investment in the corporate bonds in questions.

#### **2.3 Banks Holding Deposits placed under Receivership by the Central Bank of Kenya**

Available information confirmed that the Central Bank of Kenya (CBK) placed Imperial Bank Ltd under receivership on 13<sup>th</sup> October, 2015 and immediately appointed the Kenya Deposit Insurance Corporation as receiver. The main reasons being irregularities and malpractices in the bank's management.

The CBK also placed Chase Bank under receivership on 7<sup>th</sup> April and appointed the Kenya Deposit Insurance Corporation as receiver the main reasons being liquidity problems. At the time banks were placed under receivership by CBK, the Fund, through appointed Fund managers had invested a total of Kshs. 391,700,000 in Imperial Bank and Kshs. 604,700,000 in Chase bank all totalling Kshs. 996,400,000.

According to documents availed for audit, out of the total investments of Kshs. 996,400,000, the Fund managers have been able to recover only Kshs.26,682,487 from Imperial Bank leaving a total balance of Kshs. 969,717,513 outstanding and in addition, no disclosure note was made in the financial statements as required.

In the circumstances, the safety of deposits totalling Kshs. 969,717,513 made by the Fund managers could not be confirmed. The Fund does not appear to have received value for money from the Kshs. 181, 518,979 paid to the Fund managers during the year under review. It is also not clear whether the deposits were insured.

The three year (3) contracts of the current Fund managers were renewed in the year 2014/2015 and it is recommended that the Fund managers be changed on expiry of their contracts.

The Fund has however, indicated the likelihood of recovering most of the investments after CBK carried out an expression of interest and received bids to sell Imperial Bank to pay off depositors while Chase Bank was reopened and was reportedly acquired by SBM Kenya Limited, a subsidiary of SBM Holdings Limited of Mauritius.

### **Management Response**

All Fund investments are done in conformity with the Fund's Investment Policy and RBA Guidelines. All Fund managers have indemnity cover which covers negligence in decision making and not loss.

The procurement of Fund managers is done through an open and competitive process and the Fund has engaged top Fund managers in the Country.

### **Committee Observations**

**The Committee made the following observations:**

1. At the time banks were placed under receivership by CBK, the Fund, through appointed Fund managers had invested a total of Kshs. 391,700,000 in Imperial Bank and Kshs. 604,700,000 in Chase bank all totalling Kshs. 996,400,000.
2. Out of the total investments of Kshs. 996,400,000, the Fund managers have been able to recover only Kshs.26,682,487 from Imperial Bank leaving a total balance of Kshs. 969,717,513 outstanding and in addition, no disclosure note was made in the financial statements as required.
3. The three year (3) contracts of the current Fund managers were renewed in the year 2014/2015 and it is recommended that the Fund managers be changed on expiry of their contracts.

**MIN/PIC/635/2019: STALLED PROJECT - HAZINA TRADE CENTRE NAIROBI FY 2016/17**

The statement of net assets available for benefits as at 30 June 2017 reflects a balance of Kshs. 20,777,695,787 under Developed Investment Property. Included in this figure is Kshs. 1,500,000,000 in respect to fair value of the Hazina Trade Centre, Nairobi.

As previously reported, the construction of Hazina Trade Centre, Nairobi commenced on 17 June 2013 and was to be undertaken in 155 weeks with an expected completion date of July 2016. However, as at 14 March 2018 the building was still incomplete and builders work had stalled after reaching 15<sup>th</sup> floor or 38% and Kshs. 1,887,744,544 spent on the project out of the total contract cost of Kshs. 6,715,218,188. All efforts should be made to ensure completion of the building to safeguard member's contributions.

**Management Response**

The major structural works is completed with major outstanding items are (i) roofing (ii) internal fittings and finishes (iii) installation of lifts and (iv) external finishes (curtain walling). The contractor has since fully mobilized and is progressing.

The completion date was extended from 30<sup>th</sup> June 2019 to 31<sup>st</sup> of December 2019 at the same Contract Sum of Kes 4,095,862,434 owing to delayed approvals. (Appendix XIII)

**Committee Observations**

**The Committee made the following observations:**

1. The total contract cost of the project had been reduced from Kshs. 6,715,218,188 to Kshs. 4,095,862,434 following revision of the project scope to 15 floors.

2. The Fund had not yet paid the agreed interest amount to the contractor following the stalling of the project due to the court case between NSSF and Nakumatt.
3. The NSSF Board had resolved to pay the interest accumulated following the stalling of the project together with the last certificate for the project. This had raised a claim of a further Kshs. 220,000,000 from the contractor for delayed payment of the initial interest amount.
4. A total of Kshs. 2,456,000,000 had been paid to the contractor for the project.

### Committee Resolutions

The Committee made the following resolutions:

1. The Office of the Auditor General was asked to provide a status update on the Special Audit requested by Committee for the construction of Hazina Trade Center.
2. NSSF Management was asked to provide Board resolution on payment of the contractor's interest payment with the last certificate for the project.

**MIN/PIC/636/2019: ANY OTHER BUSINESS**

No other business arose.

**MIN/PIC/637/2019: ADJOURNMENT**

The meeting was adjourned at fifty three minutes past four O'clock.

Signed .....

The Hon. Abdullswamad Sharrif Nassir, MP  
(Chairperson)

Date.....19/11/2019.....

**MINUTES OF THE 83<sup>RD</sup> SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD ON MONDAY 18<sup>TH</sup> NOVEMBER 2019 IN THE COMMITTEE ROOM, MAIN PARLIAMENT BUILDINGS AT 2.00 P.M.**

---

**PRESENT**

1. The Hon. Abdullswamad Sharrif Nassir, MP (Chairman)
2. The Hon. Joash Nyamache Nyamoko, MP
3. The Hon. Omar Mohamed Maalim Hassan, MP.
4. The Hon. Paul Kahindi Katana, MP
5. The Hon. Thuku Zachary Kwenya, M.P
6. The Hon. Babu Owino Paul Ongili, MP
7. The Hon. (Prof.) Mohamud Sheikh Mohammed, MP
8. The Hon. Dr. Chrisantus Wamalwa Wakhungu, CBS, MP
9. The Hon. Mohamed Hire Garane, M.P.
10. The Hon. Rashid Kassim Amin, MP
11. The Hon. John Muchiri Nyaga, M.P
12. The Hon. Purity Wangui Ngirici, MP

**ABSENT WITH APOLOGY**

1. The Hon. Ahmed Abdisalan Ibrahim, MP (Vice chairman)
2. The Hon. Gladys Wanga, MP
3. The Hon. Mary Wamaua Njoroge, MP
4. The Hon. James Kamau Githua Wamacukuru, M.P
5. The Hon. Raphael Bitta Sauti Wanjala, MP
6. The Hon. Justus Kizito Mugali, MP

**IN ATTENDANCE**

**NATIONAL ASSEMBLY SECRETARIAT**

- |                        |   |                         |
|------------------------|---|-------------------------|
| 1. Mr. Evans Oanda     | - | Senior Clerk Assistant  |
| 2. Mr. Marlene Ayiro   | - | Senior Legal Counsel    |
| 3. Mr. Mohamed Boru    | - | Second Clerk Assistant  |
| 4. Ms. Noelle Chelagat | - | Media Relations Officer |
| 5. Ms. Winfred Atieno  | - | Audio Recording Officer |

**IN ATTENDANCE**

- |                          |   |                                    |
|--------------------------|---|------------------------------------|
| 1. Mr. Leonard Opar      | - | Director, Audit                    |
| 2. Mr. John Wakaba Kuria | - | Manager, Audit                     |
| 3. Mr. Joshiah Oyuko     | - | Manager, Audit                     |
| 4. Mr. James Sitienei    | - | Inspectorate of State Corporations |

**MIN/PIC/630/2019: PRELIMINARIES**

The Chairperson called the meeting to order at thirty minutes past two O'clock and prayed.

**MIN/PIC/631/2019: CONFIRMATION OF MINUTES**

Confirmation of minutes was rescheduled to a later date.

**MIN/PIC/632/2019: EXAMINATION OF AUDITED ACCOUNTS OF NATIONAL SOCIAL SECURITY FUND**

Mr. Anthony Omerikwa, the Ag. Managing Trustee of the National Social Security Fund accompanied by Mr. Austin Ouko (Ag. Corporation Secretary), Mr. Moses Chesoto (Ag. General Manager, Investment), Mr. Evans Ombui (Ag. Manager, Registration and Collection), Mr. Peter Muriuki (Manager, Property Development), Mr. Stephen Obare (Manager, ICT) and Ms. Millicent Awiti (Manager, Strategy and Change) appeared before the Committee to adduce evidence on the report of the Auditor General on the financial statements of the Fund for the financial year 2017/18.

He briefed the Committee as follows:

**MIN/PIC/633/2019: EXAMINATION OF AUDITED ACCOUNTS OF NATIONAL SOCIAL SECURITY FUND**

**1.0 Unaccounted for Members Contributions**

**1.1 Unremitted Members Contributions**

As previously reported contributions totalling Kshs. 754,995,367 had not been remitted in stipulated time period according to twenty (20) sampled employer files maintained in nine (9) NSSF branches. This was contrary to Section 8(a) of the NSSF Act, 2013 which required employers to remit into the Fund contributions deducted from members in full and in time.

Although management took action by issuing demand letters and also made alternative payment arrangements with employers such as instalment payments before considering legal action, it has not been established whether any amounts have been realized from these arrangements.

As a result, recoverability of the unremitted members' contributions of Kshs. 754,995,367 remains doubtful for over two years.

**Management Response**

The outstanding arrears as at 30<sup>th</sup> June 2018 stood at Kshs. 6,349,517,582 comprising of contributions and penalties. A total of Kshs. 771,225,862 had been recovered as at 31<sup>st</sup> March 2019 leaving a balance of Kshs. 5,578,291,720.

The analysis of the arrears and penalties including action taken by management is as follows;

<b>CONTRIBUTION ARREARS</b>	<b>AMOUNT</b>	<b>ACTION TAKEN</b>
---------------------------------	---------------	---------------------

<i>Instalment undertaking</i>	328,709,939	<i>Being recovered through instalment undertakings and the repayment plans are closely monitored and evaluated on a quarterly basis.</i>
<i>Court actions</i>	209,204,279	<i>Pursued through court action by the Fund's Prosecutors across the branch offices.</i>
<i>Demand notices/ADRs</i>	682,893,896	<i>Pursued through formal demand notices and Alternative Dispute Resolutions (ADRs). Follow-ups for payments by the branch offices are continuously being undertaken.</i>
<i>Defunct Authority</i>	241,679,597	<i>Efforts to recover the outstanding obligations through court have been unsuccessful through court rulings such as the Judicial Review No. 81 of 2013 at the High Court of Nairobi and the Application 24 of case number 240 of 2012. The matter has been referred to the Intergovernmental Relations Technical Committee (IGTC) and the Council of Governors for direction on recovery</i>
<i>Closed and receivership businesses</i>	10,276,387	<i>Employers closed down</i>
<b>Sub Total</b>	<b>1,472,764,098</b>	

<b>OUTSTANDING PENALTIES</b>	<b>AMOUNT</b>	<b>ACTION TAKEN</b>
<i>Instalment undertaking</i>	87,408,704	<i>Being recovered through instalment undertakings and the repayment plans are closely monitored and evaluated on a quarterly basis.</i>
<i>Court actions</i>	99,557,572	<i>Pursued through court action by the Fund's Prosecutors across the branch offices.</i>
<i>Disputed</i>	38,452,508	<i>Resolutions (ADRs) Follow-ups for reconciliation with employers</i>
<i>Demand notices/ADRs</i>	3,036,725,161	<i>Pursued through formal demand notices and Alternative Dispute Resolutions (ADRs). Follow-ups for payments by the branch offices are continuously being undertaken.</i>

<i>Defunct Authority</i>	828,272,664	<i>Efforts to recover the outstanding obligations through court have been unsuccessful through court rulings such as the Judicial Review No. 81 of 2013 at the High Court of Nairobi and the Application 24 of case number 240 of 2012. The matter has been referred to the Intergovernmental Relations Technical Committee (IGTC) and the Council of Governors for direction on recovery</i>
<i>Closed and receivership businesses</i>	15,111,013	<i>Employers closed down</i>
<b>Sub Total</b>	<b>4,105,527,622</b>	
<b>Total</b>	<b>5,578,291,720</b>	

## 1.2 Unidentified and Unposted Members Contributions

The financial statements under statement of changes in net assets available for benefits reflects a net surplus from dealings with members of Kshs. 9,885,860,827 for the year under review. In compliance with Retirement Benefits Act, 1997, NSSF maintains employer contribution clearing accounts for benefit payment upon qualification as per the Act. During the year under review, the contributions in transit balance changed marginally from Kshs.754 million as at 30 June 2016 to Kshs. 762 million as at 30 June 2017.

No reasons have been provided for not posting the Kshs. 762 million which has accumulated over the years to the respective member's accounts despite the Fund having acquired a Social Security Pension Administration System (SSPAS) and compliance officers to assist safeguard member's funds.

Consequently, the Fund may not have gotten value for money for SSPAS procured in the year 2011/2012 at a cost of Kshs. 300,000,000 and members risk loss of accrued interest especially those claiming benefits in the intervening period.

### Management Response

The contributions in transit amount of **Kshs. 762 Million** is under reconciliation. This is a continuous process and there is a team updating member's balances on a regular basis, as at 30<sup>th</sup> June 2019 the balance stood at **Kshs. 290 Million**. The contributions in transit relates to historical records where NSSF member numbers were not provided by employers. The other measures management has implemented include:

- a) Implementation of SSPAS system where tolerance rate of receiving contributions without member numbers has been fixed at 2% and;

- b) The introduction of Eservice which require employers to confirm the accuracy of their member return on-line before paying contributions for respective Months.

The amount in contribution in transit account accrues interest as any other contribution. See the report giving position as at 30 June 2019 attached. **Appendix III**

### Committee Observations

The Committee made the following observations:

1. The matter had been considered in the 22<sup>nd</sup> PIC Report on the audited accounts of State Corporations.
2. The unclaimed funds were not taken to the Unclaimed Financial Assets Authority as the NSSF was re-investing using these amounts.

### MIN/PIC/634/2019: INVESTMENTS IN IMPERIAL BANK AND CHASE BANK FY 2016/17 & FY 2017/18

#### 2.1 Fixed Deposits (Held to Maturity)

Note 17(b) to the financial statements as at 30 June 2017 reflects fixed deposits (held to Maturity) totalling Kshs. 7,729,907,953 which included deposits in Chase Bank of Kshs.70,000,000 and Imperial Bank of Kshs. 259,500,000. These fixed deposits were invested between 8 September 2015 and 3 March 2016 and were to mature between December, 2015 and May 2016. The deposits did not mature nor have they been recovered as at 30 June 2017.

#### Management Response

To date, the Fund has recovered Kshs. 123,373,740 from both Imperial and Chase bank. The Kshs. 70,000,000 deposited in Chase bank has been recovered in full. Regarding the balance of Kshs. 206,126,260 in Imperial bank, the Fund received a positive indication on the prospect of recovery of the amount, from Kenya Deposit Insurance Corporation (KDIC), following the takeover of 7.5% of deposits in Imperial bank by KCB in August 2018. The Fund has instructed its Fund Managers to pursue full recovery of the outstanding amounts.

<i>Bank</i>	<i>Deposits</i>	<i>Recovered</i>	<i>Balance</i>
<i>Imperial Bank</i>	<i>259,500,000</i>	<i>53,373,740</i>	<i>206,126,260</i>
<i>Chase Bank</i>	<i>70,000,000</i>	<i>70,000,000</i>	<i>-</i>
<b><i>Total</i></b>	<b><i>329,500,000</i></b>	<b><i>123,373,740</i></b>	<b><i>206,126,260</i></b>

### Committee Observations

The Committee made the following observations:

1. The Fund has recovered Kshs. 123,373,740 from both Imperial and Chase bank.
2. The Kshs. 70,000,000 deposited in Chase bank has been recovered in full.
3. The Fund is following up on the balance of Kshs. 206,126,260 in Imperial bank, and has received positive indication on the prospect of recovery of the amount, from Kenya Deposit Insurance Corporation (KDIC), following the takeover of 7.5% of deposits in Imperial bank by KCB in August 2018.
4. The Fund was investing based on investment advice given by their Fund Managers
5. The Fund was only investing in Tier 1 banks at present.

### Committee Resolution

The Committee made the following resolutions:

1. Management was asked to provide documentations showing how NSSF makes a determination on which banks to invest fixed deposits.
2. The Management was further asked to provide details of its engagement with Fund Managers including details of their contract agreement with the Fund Managers.

### 2.2 Corporate Bonds

Note 20 to the financial statements as at 30 June 2017 reflects corporate bonds balance of Kshs. 9,222,122,293 which includes Kshs. 132,200,000 invested in Imperial Bank and Kshs. 534,700,000 invested in Chase Bank which were invested between 28 September 2015 and 6 October 2015 to mature within February 2022 and September 2022 as tabulated below:

Bank	Fund Manager	Nominal Amount	Investment Date	Maturity Date	Recovery
<b>Fixed Deposits</b>					
Imperial Bank	GenAfrica Asset Managers Ltd	30,000,000	9/22/2015	12/21/2015	3,070,194.40
	GenAfrica Asset Managers Ltd	20,000,000	09/08/2015	01/04/2016	2,131,730.55
	GenAfrica Asset Managers Ltd	8,500,000	09/11/2015	01/04/2016	907,260.60
	Old Mutual Investment Group	201,000,000	9/30/2015	11/30/2015	20,570,302.50
Chase Bank	Britam Asset Managers Ltd	70,000,000	03/03/2016	05/09/2016	

Sub Total		329,500,000			26,679,488.05
<b>Corporate Bonds</b>					
Imperial Bank	Britam Asset Managers Ltd	90,000,000	9/28/2015	9/22/2020	-
	Old Mutual Investment Group	42,200,000	9/28/2015	9/22/2020	-
Chase Bank	GenAfrica Asset Managers Ltd	160,000,000	10/06/2015	02/06/2022	-
	Old Mutual Investment Group	174,700,000	10/06/2015	02/06/2022	-
	Britam Asset Managers Ltd	100,000,000	10/06/2015	02/06/2022	-
	Stanlib Kenya Ltd	100,000,000	10/06/2015	02/06/2022	-
Sub Total		666,900,000			-
<b>Total</b>		<b>996,400,000</b>			<b>26,679,488.05</b>

Recovery of interest on the corporate bonds for the period upto 30 June 2017 remains outstanding safe for the paltry Kshs. 26,682,488 from Chase bank.

#### Management Response

The Fund has partnered with other note holders through the Fund Managers association to push for the recovery of the money from Kenya Deposit Insurance Corporation.

Bank	Investment	Recovery	Amount
Imperial Bank	132,200,000	-	132,200,000
Chase Bank	534,700,000	-	534,700,000
<b>Total</b>	<b>666,900,000</b>	<b>-</b>	<b>666,900,000</b>

#### Committee Observations

The Committee made the following observations:

1. The Fund had invested corporate bonds worth Kshs. 132,200,000 in Imperial Bank and Kshs. 534,700,000 invested in Chase Bank. The investments between 28 September 2015 and 6 October 2015

2. No recovery has been made as yet.

### **Committee Resolution**

Management was asked to provide details of the Fund Managers who advised on investment in the corporate bonds in questions.

#### **2.3 Banks Holding Deposits placed under Receivership by the Central Bank of Kenya**

Available information confirmed that the Central Bank of Kenya (CBK) placed Imperial Bank Ltd under receivership on 13<sup>th</sup> October, 2015 and immediately appointed the Kenya Deposit Insurance Corporation as receiver. The main reasons being irregularities and malpractices in the bank's management.

The CBK also placed Chase Bank under receivership on 7<sup>th</sup> April and appointed the Kenya Deposit Insurance Corporation as receiver the main reasons being liquidity problems. At the time banks were placed under receivership by CBK, the Fund, through appointed Fund managers had invested a total of Kshs. 391,700,000 in Imperial Bank and Kshs. 604,700,000 in Chase bank all totalling Kshs. 996,400,000.

According to documents availed for audit, out of the total investments of Kshs. 996,400,000, the Fund managers have been able to recover only Kshs. 26,682,487 from Imperial Bank leaving a total balance of Kshs. 969,717,513 outstanding and in addition, no disclosure note was made in the financial statements as required.

In the circumstances, the safety of deposits totalling Kshs. 969,717,513 made by the Fund managers could not be confirmed. The Fund does not appear to have received value for money from the Kshs. 181, 518,979 paid to the Fund managers during the year under review. It is also not clear whether the deposits were insured.

The three year (3) contracts of the current Fund managers were renewed in the year 2014/2015 and it is recommended that the Fund managers be changed on expiry of their contracts.

The Fund has however, indicated the likelihood of recovering most of the investments after CBK carried out an expression of interest and received bids to sell Imperial Bank to pay off depositors while Chase Bank was reopened and was reportedly acquired by SBM Kenya Limited, a subsidiary of SBM Holdings Limited of Mauritius.

### **Management Response**

All Fund investments are done in conformity with the Fund's Investment Policy and RBA Guidelines. All Fund managers have indemnity cover which covers negligence in decision making and not loss.

The procurement of Fund managers is done through an open and competitive process and the Fund has engaged top Fund managers in the Country.

### **Committee Observations**

**The Committee made the following observations:**

1. At the time banks were placed under receivership by CBK, the Fund, through appointed Fund managers had invested a total of Kshs. 391,700,000 in Imperial Bank and Kshs. 604,700,000 in Chase bank all totalling Kshs. 996,400,000.
2. Out of the total investments of Kshs. 996,400,000, the Fund managers have been able to recover only Kshs.26,682,487 from Imperial Bank leaving a total balance of Kshs. 969,717,513 outstanding and in addition, no disclosure note was made in the financial statements as required.
3. The three year (3) contracts of the current Fund managers were renewed in the year 2014/2015 and it is recommended that the Fund managers be changed on expiry of their contracts.

**MIN/PIC/635/2019: STALLED PROJECT - HAZINA TRADE CENTRE NAIROBI FY 2016/17**

The statement of net assets available for benefits as at 30 June 2017 reflects a balance of Kshs. 20,777,695,787 under Developed Investment Property. Included in this figure is Kshs. 1,500,000,000 in respect to fair value of the Hazina Trade Centre, Nairobi.

As previously reported, the construction of Hazina Trade Centre, Nairobi commenced on 17 June 2013 and was to be undertaken in 155 weeks with an expected completion date of July 2016. However, as at 14 March 2018 the building was still incomplete and builders work had stalled after reaching 15<sup>th</sup> floor or 38% and Kshs. 1,887,744,544 spent on the project out of the total contract cost of Kshs. 6,715,218,188. All efforts should be made to ensure completion of the building to safeguard member's contributions.

**Management Response**

The major structural works is completed with major outstanding items are (i) roofing (ii) internal fittings and finishes (iii) installation of lifts and (iv) external finishes (curtain walling). The contractor has since fully mobilized and is progressing.

The completion date was extended from 30<sup>th</sup> June 2019 to 31<sup>st</sup> of December 2019 at the same Contract Sum of Kes 4,095,862,434 owing to delayed approvals. (Appendix XIII)

**Committee Observations**

**The Committee made the following observations:**

1. The total contract cost of the project had been reduced from Kshs. 6,715,218,188 to Kshs. 4,095,862,434 following revision of the project scope to 15 floors.

2. The Fund had not yet paid the agreed interest amount to the contractor following the stalling of the project due to the court case between NSSF and Nakumatt.
3. The NSSF Board had resolved to pay the interest accumulated following the stalling of the project together with the last certificate for the project. This had raised a claim of a further Kshs. 220,000,000 from the contractor for delayed payment of the initial interest amount.
4. A total of Kshs. 2,456,000,000 had been paid to the contractor for the project.

### Committee Resolutions

The Committee made the following resolutions:

1. The Office of the Auditor General was asked to provide a status update on the Special Audit requested by Committee for the construction of Hazina Trade Center.
2. NSSF Management was asked to provide Board resolution on payment of the contractor's interest payment with the last certificate for the project.

**MIN/PIC/636/2019: ANY OTHER BUSINESS**

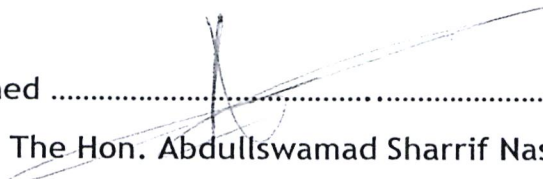
No other business arose.

**MIN/PIC/637/2019: ADJOURNMENT**

The meeting was adjourned at fifty three minutes past four O'clock.

Signed .....

Date.....

  
The Hon. Abdullswamad Sharrif Nassir, MP  
(Chairperson)

19/11/2019

**MINUTES OF THE 80<sup>TH</sup> SITTING OF THE PUBLIC INVESTMENTS COMMITTEE HELD ON TUESDAY 12<sup>TH</sup> NOVEMBER 2019 IN COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDINGS AT 10.00 A.M.**

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**PRESENT**

1. The Hon. Abdullswamad Sharrif Nassir, MP (Chairman)
2. The Hon. Dr. Chrisantus Wamalwa Wakhungu, CBS, MP
3. The Hon. Joash Nyamache Nyamoko, HSC, MP
4. The Hon. Gladys Wanga, MP
5. The Hon. Mohamed Hire Garane, M.P.
6. The Hon. Mary Wamaua Njoroge, MP
7. The Hon. Omar Mohamed Maalim Hassan, MP
8. The Hon. Babu Owino Paul Ongili, MP
9. The Hon. Justus Kizito Mugali, MP
10. The Hon. Paul Kahindi Katana, MP
11. The Hon. Raphael Bitta Sauti Wanjala, MP
12. The Hon. John Muchiri Nyaga, M.P
13. The Hon. Rashid Kassim Amin, MP
14. The Hon. Purity Wangui Ngirici, MP
15. The Hon. James Kamau Githua Wamacukuru, M.P

**ABSENT WITH APOLOGY**

1. The Hon. Ahmed Abdisalan Ibrahim, MP (Vice chairman)
2. The Hon. Thuku Zachary Kwenya, M.P
3. The Hon. (Prof.) Mohamud Sheikh Mohammed, MP

**IN ATTENDANCE**

**NATIONAL ASSEMBLY SECRETARIAT**

- |                        |   |                         |
|------------------------|---|-------------------------|
| 1. Mr. Evans Oanda     | - | Senior Clerk Assistant  |
| 2. Mr. Mohamed Boru    | - | Third Clerk Assistant   |
| 3. Ms. Marlene Ayiro   | - | Legal Counsel           |
| 4. Ms. Noelle Chelagat | - | Media Relations Officer |
| 5. Ms. Winfred Atieno  | - | Audio Recording Officer |

**IN ATTENDANCE**

- |                        |   |                        |
|------------------------|---|------------------------|
| 1. Mr. Daniel Ndungu   | - | Deputy Director, Audit |
| 2. Mr. Anthony Muriuki | - | Manager, Audit         |
| 3. Ms. Joshiah Oyuko   | - | Manager, Audit         |
| 4. Mr. John Wagura     | - | Manager, Audit         |

**MIN/PIC/607/2019: PRELIMINARIES**

The Chairperson called the meeting to order at seven minutes past ten O'clock followed by a word of prayer.

**MIN/PIC/608/2019: BRIEF ON THE REQUEST TO EXTEND TIMELINE FOR SUBMISSION OF AUDITED ACCOUNTS OF CENTRAL BANK OF KENYA**

The Committee was informed that Pursuant to Section 54 of the Central Bank of Kenya Act, Cap 491, the Central Bank of Kenya is obligated to submit audited financial statements of the Bank to the Cabinet Secretary for the National Treasury within three months after the close of the financial year. These reports should be published after their submission to the Cabinet Secretary by in accordance with the provisions of Section 55 of the Central Bank Act.

The accounts of the Central Bank of Kenya are audited by the Office of the Auditor General pursuant to Article 229 of the Constitution. The Bank's financial statements for 2018/2019 have since been audited but not yet signed and certified by the Auditor General as is required by law due to the existence of a vacancy in the Office of the Auditor-General. As a result of this, the Bank was unable to submit its Audited Accounts to the Cabinet Secretary for the National Treasury and subsequently publish them as is required in law.

It is on this premise that the Cabinet Secretary for the National Treasury requested the National Assembly to extend the time limit within which to submit the Bank was to submit its annual report for 2018/2019 to his Office and also publication of the said report pursuant to the provisions of Section 90 of the Public Finance Management Act of 2012.

**Committee Resolutions**

The Committee made the following resolutions:

1. The Cabinet Secretary for National Treasury accompanied by the Attorney General and the Central Bank of Kenya Governor should appear before the Committee to provide a brief on the matter and a status update on the court case regarding the appointment of an Auditor General.
2. The Office of the Auditor General and the Chairperson of the selection should appear before the Committee to provide an update on the recruitment of a new Auditor General.
3. The Office of the Auditor General should further provide a list of State Corporations which have a statutory timeline on publishing of audited accounts.

**MIN/PIC/609/2019: EXAMINATION OF AUDITED ACCOUNTS OF KENYATTA NATIONAL HOSPITAL**

Dr. Evanson Kamuri, the Ag. Chief Executive Officer of the Kenyatta National Hospital accompanied by Mr. Michael Kihuga (Deputy Director, Finance), Mr. Calvin Nyachoti (Corporation Secretary), Mr. Job Makara (Deputy Director, Planning and Strategy)) and Ms. Rose Mutembea (Chief Accountant) appeared before the Committee to adduce evidence on the audited accounts of Kenyatta National Hospital for the financial year 2013/14 to financial year 2016/17.

**MIN/PIC/610/2019: BORROWINGS FY 2014/15**

As previously reported, the borrowings balance of Kshs.1,199,863,000 as at 30 June, 2015 relates to a loan received in 2007/2008 from the Kingdom of Spain, in form of medical equipment. Available information indicate that the loan was payable by the Hospital at an interest rate 3% per annum on a reducing balance for the first six (6) years and thereafter, the interest plus principal for the next nine(9) years with effect from 1 July, 2008. However,

and according to records availed for audit review, no interest has been paid or accrued in the seven financial years 2008/2009, 2009/2010, 2010/2011, 2011/2012, 2012/2013, 2013/2014 and 2014/2015. Although indications are that the management has sought assistance from the Ministry of Health towards settlement of the loan, response from the ministry was not availed for audit review. As a result, it has not been possible to confirm the accuracy of the loan and that the long term liability balance of Kshs.1,199,863,000 as at 30 June, 2015 is fairly stated.

### **Management Response**

The Government of the republic of Kenya and the Kingdom of Spain signed a loan agreement on 29<sup>th</sup> July 2005 for a loan of Euros 14 million (Kshs. 1,199,862,823) in form of medical equipment for KNH.

There was no formal subsidiary agreement executed between National Treasury (NT) and KNH detailing how KNH was to service the Spanish loan though the Hospital recognized the assets (medical equipment) and the Spanish loan in its books (principal amount).

The Hospital through various correspondences to The National Treasury, has since January 2008 been expressing its inability to service the loan due to its poor financial performance over the years. The Hospital management has been consistent in their request for the Government to take over the loan and convert it into a grant. The latest request was dated 5<sup>th</sup> April 2017, Ref: KNH/ADM/CR/138 (appendix C1).

Further, the Hospital vide letter Ref: KNH/FIN/278/VOL.1/40 dated 5<sup>th</sup> March 2019 (appendix C1) requested National Treasury for confirmation of the loan balance to the Office of the Auditor General balance as at 30<sup>th</sup> June 2018. Subsequently, the National Treasury responded with a confirmation that the loan is being serviced (principal & interest) vide letter Ref: DMD 4/78 dated 20<sup>th</sup> March 2019 (appendix C2).

The Hospital request to convert the loan to grant has not been granted so far and the loan remains outstanding in the books.

### **Committee Observations**

The Committee made the following observations:

1. Kenyatta National Hospital indicated that they requested for the equipment procured under the loan. However, Management failed to provide copies of the letter requesting for the equipment from the Ministry of Health.
2. There was no evidence of a needs assessment carried out by KNH to advise the procurement of the medical equipment.
3. The Ministry of Finance signed the loan agreement with the Spanish government. The Ministry of Finance was referred to as the 'Borrower' on behalf of the Government of Kenya in clause one of the definition of terms of the contract.
4. The Ministry then wrote to KNH on 24<sup>th</sup> October, 2007 proposing a subsidiary credit agreement with KNH that would place the responsibility of servicing the loan on the Hospital.
5. There was no involvement of the Hospital's parent Ministry, the Ministry of Health, in the loan agreement.

### **Committee Resolutions**

The Committee made the following resolutions:

1. Management should provide a brief on the loan agreement with the Spanish government to include the conceptualization of the project, the involvement of the KNH Board and parent ministry in the loan agreement, details of the subsidiary agreement between the Ministry of Finance and KNH, the inventory of the medical equipment procured and the current status of the equipment.
2. Management was further asked to provide copies of correspondence with the Ministry of Finance on the matter.
3. The Committee also resolved to carry out an inspection visit to Kenyatta National Hospital to verify the status of the equipment procured under the loan agreement.

MIN/PIC/611/2019: UNSUPPORTED COSTS FY 2014/15

## 6.2 Restated Expenditure

The statement of changes in net assets accumulated deficit fund balance of Kshs. 684,734,000 includes restated accumulated deficit fund balance of Kshs.479,125,000 as at 30 June, 2013. Further, the restated accumulated deficit fund balance of Kshs.479,125,000 includes unsupported restated expenditure of Kshs.18,436,000 for the year ended 30 June, 2013. Consequently, the restated accumulated deficit fund balance of Kshs.684,734,000 for the year ended 30 June, 2015 could not be confirmed.

### Management Response

The supporting journal vouchers with related explanations for the restatement of Kshs.18,436,458 were availed for verification to the auditor. These adjustments related to corrections of prior years' postings as summarized below:

No.	Details	Amount (Kshs)
1.	Expensing of Theatre loose tools Net book value	10,179,083
2.	Correction of Motor Vehicles accumulated depreciation	412,064
3.	Recognition of gain on disposal of motor vehicle	483,568
4.	Correction of Motor Vehicle sales proceeds	997,560
5.	Recognition of repairs and maintenance expense	8,155,447
	Overall effected on accumulated fund	18,436,458

### Expensing of Theatre loose tools Net book value

This relates to correction of theatre tools which were recognized as assets in prior years instead of being expensed in the respective year of purchase.

### Correction of Motor Vehicle accumulated depreciation

This relates to correction of erroneous depreciation of motor vehicle that had been disposed.

### Recognition of gain on disposal of motor vehicle

This relates to recognition of the correct prior years disposal gain on motor vehicle.

#### **Correction of Motor Vehicle sales proceeds**

This relates to correction of misposted sales proceeds from sale of motor vehicles.

#### **Recognition of repairs and maintenance expense**

This relates to repairs and maintenance expenditure for prior year restated to the year the service was provided.

#### **Committee Observation**

The Committee made the following observations:

1. The supporting journal vouchers with related explanations for the restatement of Kshs.18,436,458 were availed for verification to the auditor.
2. The audit issue was resolved.

#### **MIN/PIC/612/2019: TRADE AND OTHER PAYABLES FROM EXCHANGE TRANSACTIONS FY 2014/15**

The trade and other payables from exchange transactions balance of Kshs. 954,975,000 includes long outstanding accounts payables of Kshs.76,298,473. No explanation has been provided for failing to clear these long outstanding account payables. Consequently it has not been possible to ascertain whether the trade and other payables from exchange transaction balance of Kshs.954,975,000 as at 30 June, 2015 is fairly stated.

#### **Management Response**

During FY 2017/18, suppliers whose accounts reflect long outstanding invoices were circularized. The hospital is in the process of reconciling suppliers' balances for the statement of accounts that have been received. For claimed invoices, the hospital will settle those which supporting documents are availed. Investigations are also being conducted for all long outstanding invoices and those that cannot be supported and/or paid, appropriate adjustments in the books will be done in FY 2018/19.

#### **Committee Observations**

The Committee made the following observations:

1. The outstanding payments are allegedly owed to suppliers who have not claimed their money or failed to provide requisite support documentation.
2. The figure of outstanding payment was Kshs. 104,781,898.60 as a June 2019.

#### **Committee Resolution**

Management was asked to provide a breakdown of the outstanding payments to include amounts not claimed as well as those lacking requisite support documents.

#### **MIN/PIC/613/2019: ANY OTHER BUSINESS**

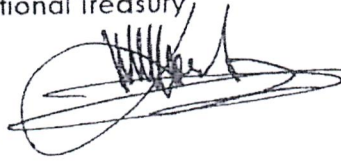
No other business arose.

#### **MIN/PIC/614/2019: ADJOURNMENT**



Copy to: **Principal Secretary/National Treasury**

**Dr. Patrick Njoroge**  
The Governor  
Central Bank of Kenya  
**NAIROBI**

A handwritten signature in black ink, appearing to be 'Dr. Patrick Njoroge', written over a horizontal line. The signature is stylized with several vertical strokes.

**Hon. Justice Paul Kihara Kariuki, CBS**  
Attorney General/Sheria House  
**NAIROBI**

**CPA Edwin Kamar**  
Deputy-Auditor-General (DAG4)  
Office of Auditor-General  
**NAIROBI**

PRINCIPAL SECRETARY  
 NATIONAL TREASURY  
 448 30 SEP 2019  
 Governor  
 RECEIVED  
 P.O. Box 20087 - 00100, NAIROBI

BANKI  
 KUU YA  
 KENYA



VERY  
 URGENT  
 CENTRAL  
 BANK OF  
 KENYA

Haile Selassie Avenue  
 P.O. Box 60000 - 00200 Nairobi, Kenya  
 Telephone: 254-20-2716556  
 01 JUL 2019

RECEIVED  
 30 SEP 2019  
 Principal Secretary  
 National Treasury

PS TREASURY OFFICE	
Take Necessary Action	<input checked="" type="checkbox"/>
Please See Me	<input type="checkbox"/>
Meet Review and Discuss	<input type="checkbox"/>
Wait	<input type="checkbox"/>
Be kept in view	<input type="checkbox"/>
Noted / Appreciated	<input type="checkbox"/>
Please Let's Discuss	<input type="checkbox"/>

September 30, 2019

Hon. (Amb.) Ukur Yatani  
 Ag. Cabinet Secretary  
 The National Treasury  
 NAIROBI

Dear

**THE CENTRAL BANK OF KENYA ANNUAL REPORT FOR FINANCIAL YEAR 2018/19**

Section 54 of the Central Bank of Kenya (CBK) Act requires CBK to submit to the Cabinet Secretary National Treasury within three months after the close of each financial year, a Report on the Bank's operations together with the Financial Statements that have been certified by the Bank's auditors. As you are aware, the Constitution provides that CBK's books are audited by the Auditor-General, supported by an authorized audit agent.

While we strived to meet the submission deadlines set in the CBK Act, we are facing a unique difficulty as the position of the Auditor-General is currently vacant. The audit process for FY 2018/19 has been completed in all respects except for signing of the Audit Report. However, the Office of the Auditor-General has advised that only the person of the Auditor-General can sign the Audit Report to authenticate the Audit Opinion, certifying the Financial Statements (see attachment).

In the circumstances, we have no choice but to delay submission of the required Report and certified Financial Statements for FY 2018/19, until an Auditor-General is appointed and has certified the audited accounts.

Given the requirement in Section 55 of the CBK Act to publish the Annual Report (i.e., the Report on the operations and the certified Financial Accounts), we will be issuing a Gazette Notice advising the public on the status of the Annual Report.

Sincerely,

Dr. Patrick Njoroge

*Attachment*

- cc Hon. Justice Paul Kihara Kariuki, CBS  
 Attorney General/Sheria House  
 NAIROBI
- Julius Muia, PhD, EBS *PM*  
 Principal Secretary/The National Treasury  
 NAIROBI
- CPA Edwin Kamar  
 Deputy Auditor-General (DAG4)/Office of the Auditor-General  
 NAIROBI

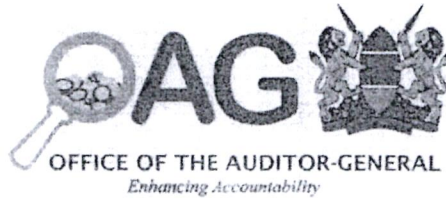
Annex 3

DEPUTY AUDITOR GENERAL'S

DOCUMENTS

REPUBLIC OF KENYA

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



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

Ref.OAG/PIC/2018/Vol.2/(144)

15<sup>th</sup> November, 2019

The Clerk  
National Assembly  
Parliament Buildings  
P.O Box 41842 - 00100  
**NAIROBI - KENYA**

*Attn:* Mr. Jeremiah W. Ndombi

Dear Sir,

**REF: - EXTENSION OF TIME LIMIT TO SUBMIT AND PUBLISH  
CENTRAL BANK OF KENYA (CBK) ANNUAL REPORT FOR THE  
FINANCIAL YEAR 2018/2019**

We make reference to your letter Ref.NA/DCS/PIC/2019/148 dated 12<sup>th</sup> November 2019 addressed to the undersigned and copy attached for ease of reference.

We wish to apprise the Committee on the matters raised in the letter as follows: -

**Matter (i) - Breakdown of all the audit reports that have been completed but have not been signed due to vacancy in the Office of the Auditor-General**

**Response**

The reports for the following public entities are complete and are awaiting the signoff of the Auditor-General.

- (a) Central Bank of Kenya;
- (b) Capital Markets Authority;
- (c) Ethics and Anti-Corruption Commission;
- (d) Kenya Power Plc;
- (e) KenGen Plc; and
- (f) East African Portland Cement Plc

**Matter (ii) - Breakdown of all the audit reports that have been completed but have not been signed due to vacancy in the Office of the Auditor-General**

**Response**

The following public entities have statutory deadline of 30 September 2019 to submit audited reports:-

- (a) Central Bank of Kenya;
- (b) Capital Markets Authority;
- (c) Ethics and Anti-Corruption Commission;
- (d) Kenya Power Plc;
- (e) KenGen Plc; and
- (f) East African Portland Cement Plc.

**Matter (iii) - Operational challenges experienced by the Office of the Auditor-General due to continued vacancy in the substantive office holder**

**Response**

As a result of the vacancy in the Office of the Auditor-General effective 27<sup>th</sup> August 2019, there is no accounting officer. The following are the operational challenges the Office has continue to face as a result:-

- (a) Initiation of new procurement activities cannot be done as the professional opinions can only be signed by the accounting officer or his/her delegated person in accordance with section 69 (4) of the Public Procurement and Asset Disposal Act, 2015;
- (b) Renewal of operational leases for nine Office motor vehicles that expired on 20 September and 31 October, 2019 could not be done. Consequently, the vehicles reverted to the lessor creating serious shortages in the regional offices. Delivery of audits has been affected due to logistical challenges;
- (c) The Office is not being represented in Accounting Officers' monthly meetings;
- (d) Whereas the Office continues to undertake constructing of a number of regional offices, if contractors were to present certificates whose value exceeds Kshs.100 million, it will not be paid as it requires the approval of the Auditor-General;

- (e) No action has been taken on internal audit reports that have been completed;  
and
- (f) Decisions of the Parliamentary and Senate Committees that require action of the Auditor- General cannot be concluded on.

**Matter (iv) - Suggestions on how to effectively improve the situation**

**Response**

The recruitment process of the Auditor-General should be expedited.

Yours Sincerely,



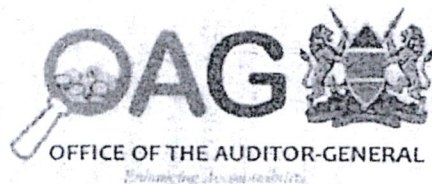
**CPA Edwin Kamar**  
**DEPUTY AUDITOR-GENERAL**

*Encls*

- Delegation of Approval to DAG CS
- Authority to Incur Expenditure (AIE)
- Delegation of Authority
- Expiry of Tenure of Service for the Auditor-General

REPUBLIC OF KENYA

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



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

INTERNAL MEMO

REF : AG/CIRCULAR NO.  
FROM : THE AUDITOR-GENERAL  
TO : DEPUTY AUDITOR-GENERAL (CS)  
DATE : 3<sup>rd</sup> JUNE, 2019

SUBJECT : DELEGATION OF APPROVAL ROLE BY THE AUDITOR-GENERAL

The above subject refers.

Section 69 (4) of the Public Procurement and Asset Disposal Act, 2015 stipulates that no procurement approval shall be made by a person exercising delegated authority as an accounting officer or head of the procurement function unless such delegation has been approved by writing by the accounting officer or the head of the procurement unit, respectively.

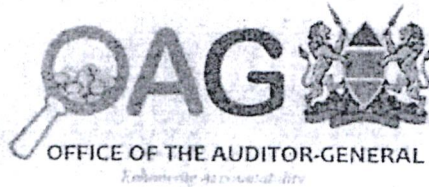
In this regard, I hereby delegate the responsibility relating to the function of Accounting Officer including making approvals to the Deputy Auditor-General - Corporate Services (DAG-CS) or any such person who shall be acting in the position of the head of Corporate Services Department. The delegation shall be effective on all procurement matters.

FCPA Edward R. O. Ouko, CBS  
AUDITOR-GENERAL



REPUBLIC OF KENYA

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



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

Ref. P. No 19890577369

3<sup>rd</sup> June, 2019

Joyce Karwitha Mbaabu  
Deputy Auditor-General

DELEGATION OF AUTHORITY

Following the retirement of M/s Agnes C. Mita, DAG-CS, you have been appointed the DAG-CS and this is to advise that you take over all the Corporate Services Department activities with immediate effect.

I would like to congratulate you for this appointment and wish you success in your new roles.

FCPA EDWARD R. O. OUKO, CBS  
AUDITOR – GENERAL



**THE PRESIDENCY  
EXECUTIVE OFFICE OF THE PRESIDENT  
HEAD OF THE PUBLIC SERVICE**

Telegraphic Address  
Telephone: +254-20-2227436  
When replying please quote

STATE HOUSE  
P.O. Box 40530-00100  
Nairobi, Kenya

Ref. No. **OP/CAB 1/25A** and date

**13<sup>th</sup> September 2019** ... 20.....

**Mrs. Joyce Mbaabu**  
Deputy Auditor- General  
Office of The Auditor-General  
Anniversary Towers  
**NAIROBI.**

Dear

*Mrs Mbaabu,*

**EXPIRY OF TENURE OF SERVICE FOR THE AUDITOR –GENERAL**

Reference is made to letter Ref. No. C.923/ (56) of 3<sup>rd</sup> September 2019 on the above subject.

In view of the fact that recruitment of the Auditor-General is already under way, it is imperative that all matters requiring attention of the holder of the office in person are held in abeyance, pending conclusion of the exercise.

Yours

*Joseph K. Kinyua*

**JOSEPH K. KINYUA, EGH  
HEAD OF THE PUBLIC SERVICE**

**Copy to: Hon. (Amb.) Ukur K. Yatani**  
Cabinet Secretary,  
Ministry of Labour and Social Protection and Ag. Cabinet Secretary,  
National Treasury  
Treasury Building  
**NAIROBI**

X  
ANNEX A

COMMITTEE CORRESPONDENTS

REPUBLIC OF KENYA

Telegraphic Address  
'Bunge', Nairobi  
Tel. +254-020-2221291  
Fax: +254-020-22243694  
E-mail: [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)  
When replying please quote



NATIONAL ASSEMBLY

Clerk's Chambers  
National Assembly  
Parliament Buildings  
P. O. Box 41842 -00100  
NAIROBI, Kenya

Ref.NA/DCS/PIC/2019/149

12<sup>th</sup> November, 2019

Hon. Justice Paul Kihara Kariuki, CBS  
Attorney General,  
State Law Office,  
NAIROBI

Dear Sir,

RE: EXTENSION OF TIME LIMIT TO SUBMIT AND PUBLISH CENTRAL BANK OF KENYA ANNUAL REPORT FOR FINANCIAL YEAR 2018/2019

Reference is made to a letter from the Ag. Cabinet Secretary for the National Treasury dated 24<sup>th</sup> October 2019 to the Clerk of the National Assembly on the above subject.

In his communication to the House, the Speaker referred the request to the Public Investments Committee for consideration and report back to the House by **Wednesday 20<sup>th</sup> November, 2019**. At its meeting held on 12<sup>th</sup> November 2019, the Committee deliberated on the matter and resolved to invite you to its meeting to apprise it on the following:-

- (i) Any legal advice that the Cabinet Secretary for the National Treasury may have sought from your office regarding extension of time of submission and publication of audit reports;
- (ii) Any legal advice your office may have given the appointing authority with regard to succession planning in the office of the Auditor-General; and
- (iii) Legal implications of Petition No. 388 of 2016.

You are requested to prepare a comprehensive report on the above issues and share the same with the Committee in both soft and hard (twenty) copies by Friday, 15<sup>th</sup> November, 2019.

The meeting will be held on Monday, 18<sup>th</sup> November, 2019 in Committee Room 7, Main Parliament Buildings at 10:00 am.

The officers responsible for facilitating this Committee are Mr. Evans Oanda, Tel. No. 0720264642 or email address [evansoanda@gmail.com](mailto:evansoanda@gmail.com) and Mr. Mohamed Boru, Tel. No. 0726476687 or email address [mnboru@gmail.com](mailto:mnboru@gmail.com).

Yours

JEREMIAH W. NDOMBI  
For: CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA

Telegraphic Address  
'Bunge', Nairobi  
Tel. +254-020-2221291  
Fax. +254-020-22243694  
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When replying please quote



NATIONAL ASSEMBLY

Clerk's Chambers  
National Assembly  
Parliament Building  
P. O. Box 41842 -00100  
NAIROBI, Kenya

Ref.NA/DCS/PIC/2019/150

12<sup>th</sup> November, 2019

Sammy Onyango  
Chairperson,  
Selection Panel for the Auditor,  
Commission House, PSC,  
Harambee Avenue,  
**NAIROBI**

Dear Sir,

**RE: EXTENSION OF TIME LIMIT TO SUBMIT AND PUBLISH CENTRAL BANK OF KENYA ANNUAL REPORT FOR FINANCIAL YEAR 2018/2019**

Reference is made to a letter from the Ag. Cabinet Secretary for the National Treasury dated 24<sup>th</sup> October, 2019 to the Clerk of the National Assembly on the above subject. In his communication to the House, the Speaker, referred the request to the Public Investments Committee for consideration and report back to the House by Wednesday 20<sup>th</sup> November, 2019.

At its meeting held on 12<sup>th</sup> November, 2019 the Committee deliberated on the matter and resolved to invite you to its meeting to apprise the Committee on the status of the selection process of the Auditor-General.

You are requested to prepare a comprehensive report and share the same to the Committee in both soft and hard (twenty) copies by Friday, 15<sup>th</sup> November, 2019.

The meeting will be held on Monday, 18<sup>th</sup> November, 2019 in the Committee Room 7, Main Parliament Buildings at 12:00 pm.

The officers responsible for facilitating this Committee are Mr. Evans Oanda, Tel. No. 0720264642 or email address [evansoanda@gmail.com](mailto:evansoanda@gmail.com) and Mr. Mohamed Boru, Tel. No. 0726476687 or email address [mnboru@gmail.com](mailto:mnboru@gmail.com).

Yours

A handwritten signature in black ink, appearing to be 'J. Ndombi'.

JEREMIAH W. NDOMBI  
For: CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA

Telegraphic Address  
'Bunge', Nairobi  
Tel: +254-020-2221291  
Fax: +254-020-22243694  
E-mail: [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)  
When replying please quote



NATIONAL ASSEMBLY

Clerk's Chambers  
National Assembly  
Parliament Buildings  
P. O. Box 41842 -00100  
NAIROBI, Kenya

Ref.NA/DCS/PIC/2019/148

12<sup>th</sup> November, 2019

CPA Edwin Kamar  
Deputy Auditor-General,  
Anniversary Towers,  
**NAIROBI**

Dear Sir,

**RE: EXTENSION OF TIME LIMIT TO SUBMIT AND PUBLISH CENTRAL BANK OF KENYA ANNUAL REPORT FOR FINANCIAL YEAR 2018/2019**

Reference is made to a letter from the Ag. Cabinet Secretary for the National Treasury dated 24<sup>th</sup> October, 2019 to the Clerk of the National Assembly on the above subject.

In his communication to the House, the Speaker referred the request to the Public Investments Committee for consideration and report back to the House by Wednesday 20<sup>th</sup> November, 2019. At its meeting held on 12<sup>th</sup> November 2019, the Committee deliberated on the matter and resolved to invite you to its meeting to apprise it on the following:-

- (i) A breakdown of all the audit reports that have been completed but have not been signed due to a vacancy in the Office of the Auditor General;
- (ii) A breakdown of public bodies that have statutory times for submission of audit reports;
- (iii) Operational challenges experienced by the Office of the Auditor-General due to continued vacancy in the substantive office holder; and
- (iv) Suggestions on how to effectively improve the situation.

You are requested to prepare a comprehensive report on the above issues and share the same with the Committee in both soft and hard (twenty) copies by 15<sup>th</sup> November, 2019.

The meeting will be held on Monday, 18<sup>th</sup> November, 2019 in Committee Room 7, Main Parliament Buildings at 10:00 am.

The officers responsible for facilitating this Committee are Mr. Evans Oanda, Tel. No. 0720264642 or email address [evansoanda@gmail.com](mailto:evansoanda@gmail.com) and Mr. Mohamed Boru, Tel. No. 0726476687 or email address [mnboru@gmail.com](mailto:mnboru@gmail.com).

Yours

A handwritten signature in black ink, appearing to read 'Jeremiah W. Ndombi'.

**JEREMIAH W. NDOMBI**  
For: CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA

Telegraphic Address  
'Bunge', Nairobi  
Tel. +254-020-2221291  
Fax: +254-020-22243694  
E-mail: [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)  
When replying please quote



NATIONAL ASSEMBLY

Clerk's Chambers  
National Assembly  
Parliament Buildings  
P. O. Box 41842-00100  
NAIROBI, Kenya

Ref.NA/DCS/PIC/2019/147

12<sup>th</sup> November, 2019

Dr. Julius Muia, PhD, EBS  
Principal Secretary,  
The National Treasury,  
NAIROBI

Dear Sir,

**RE: EXTENSION OF TIME LIMIT TO SUBMIT AND PUBLISH CENTRAL BANK OF KENYA ANNUAL REPORT FOR FINANCIAL YEAR 2018/2019**

Reference is made to the letter by the Ag. Cabinet Secretary for the National Treasury to the Clerk of the National Assembly dated 24<sup>th</sup> October 2019 on the above subject.

In his communication to the House, the Speaker referred the request to the Public Investments Committee for consideration and report back to the House by Wednesday, 20<sup>th</sup> November, 2019.

At its meeting held on 12<sup>th</sup> November, 2019, the Committee deliberated on the matter and resolved to invite the Ag. Cabinet Secretary for the National Treasury for a meeting on the above captioned subject. The meeting will be held on Monday, 18<sup>th</sup> November, 2019 in the Committee Room 7, Main Parliament Buildings at 10:00 am.

The officers responsible for facilitating this Committee are Mr. Evans Oanda, Tel. No. 0720264642 or email address [evansoanda@gmail.com](mailto:evansoanda@gmail.com) and Mr. Mohamed Boru, Tel. No. 0726476687 or email address [mnboru@gmail.com](mailto:mnboru@gmail.com).

Yours

JEREMIAH W. NDOMBI  
For: CLERK OF THE NATIONAL ASSEMBLY

Copy to:- Hon. (Amb.) Ukur Yatani  
Ag. Cabinet Secretary,  
National Treasury,  
NAIROBI

The Auditor General,  
National Audit Office,  
NAIROBI

Mr. Titus Muriithi,  
Ag. Inspector General,  
Inspectorate of State Corporations,  
NAIROBI

REPUBLIC OF KENYA

Telegraphic Address  
'Bunge', Nairobi  
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NATIONAL ASSEMBLY

Clerk's Chambers  
National Assembly  
Parliament Buildings  
P. O. Box 41842 - 00100  
NAIROBI, Kenya

Ref.NA/DCS/PIC/2019/146

12<sup>th</sup> November, 2019

Dr. Patrick Njoroge  
Governor,  
Central Bank of Kenya,  
**NAIROBI**

Dear *Dr Njoroge*

RE: EXTENSION OF TIME LIMIT TO SUBMIT AND PUBLISH CENTRAL BANK OF KENYA ANNUAL REPORT FOR FINANCIAL YEAR 2018/2019

Reference is made to your letter dated 30<sup>th</sup> September 2019 to the Cabinet Secretary for the National Treasury and his letter to the Clerk of the National Assembly dated 24<sup>th</sup> October 2019 on the above subject.

In his communication to the House, the Speaker referred the request to the Public Investments Committee to consider and report back to the House by Wednesday, 20<sup>th</sup> November, 2019. It is against this background that the Committee has deemed it necessary to invite you for a meeting on the above captioned subject.

The meeting will be held on Monday, 18<sup>th</sup> November, 2019 in Committee Room 7, Main Parliament Buildings at 10:00 am.

The officers responsible for facilitating this Committee are Mr. Evans Oanda, Tel. No. 0720264642 or email address [evansoanda@gmail.com](mailto:evansoanda@gmail.com) and Mr. Mohamed Boru, Tel. No. 0726476687 or email address [mnboru@gmail.com](mailto:mnboru@gmail.com).

Yours

JEREMIAH W. NDOMBI

For: CLERK OF THE NATIONAL ASSEMBLY

Copy to:- The Auditor General  
National Audit Office  
**NAIROBI**

Dr. Julius Muia, PhD, EBS  
Principal Secretary,  
The National Treasury,  
**NAIROBI**

Mr. Titus Muriithi,  
Ag. Inspector General,  
Inspectorate of State Corporations,  
**NAIROBI**

② EVANS  
Please deaf  
FA  
19/11/19



REPUBLIC OF KENYA

③  
EUNJON  
Please note  
FA  
19/11/19



OFFICE OF THE ATTORNEY GENERAL  
&  
DEPARTMENT OF JUSTICE

Our Ref: AG/SEC/21/6/14 VOL. III  
Your Ref: NA/DCS/PIC/2019/149

15<sup>th</sup> November 2019

Mr. Michael Sialai, EBS  
Clerk of the National Assembly  
Parliament Buildings  
NAIROBI

① DLOUNT  
18/11/19

RE: EXTENSION OF TIME LIMIT TO SUBMIT AND PUBLISH CENTRAL BANK OF  
KENYA ANNUAL REPORT FOR FINANCIAL YEAR 2018/2019

We refer to the above-captioned subject matter and to your letter dated 12<sup>th</sup> November 2019, which we received on 14<sup>th</sup> November 2019, requesting this Office to prepare a comprehensive report on specified issues for submission by 15<sup>th</sup> November 2019 and inviting the Hon. the Attorney General to attend a meeting of the Public Investments Committee on Monday, 18<sup>th</sup> November 2019, at 10 am.

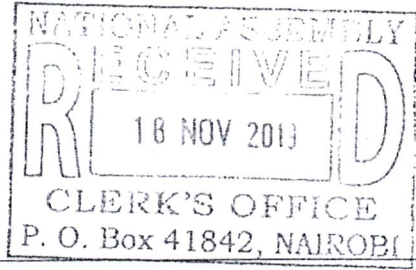
Regrettably, the Hon. the Attorney General will be unable to attend the said meeting as he would be engaged in a pre-arranged Cabinet meeting. The Solicitor General, on the other hand, would be appearing before the Departmental Committee on Justice and Legal Affairs pursuant to an earlier invitation.

In this regard, this Office seeks your indulgence to reschedule the meeting to a mutually agreed convenient date. In the meantime, this Office is working on a comprehensive report as requested and shall submit the same by Tuesday, 19<sup>th</sup> November 2019.

We crave that you will accord this request your most favourable consideration.



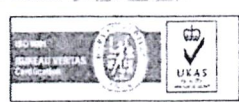
Kennedy Ogeto EBS  
SOLICITOR GENERAL



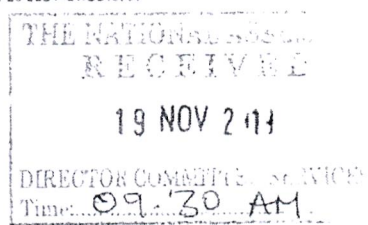
SHERIA HOUSE, HARAMBEE AVENUE  
P.O. Box 40112-00100, Nairobi, Kenya. Tel: +254 20 2227461/2251355/07119145555/0732529995  
E-mail: info.st@lawoffice@kenya.go.ke Website: www.attorneygeneral.go.ke

DEPARTMENT OF JUSTICE  
CO-OPERATIVE BANK HOUSE, HAILE SELASSIE AVENUE P.O. Box 56057-00200, Nairobi, Kenya Tel: +254 20 2224029 2240537  
E-mail: legal@justice.go.ke Website: www.justice.go.ke

ISO 9001:2008 Certified



Received  
on 19/11/19  
at 9:45 am  
P.O.



# ANNEX 5: CMMUNICATION FROM THE SOLICITOR GENERAL

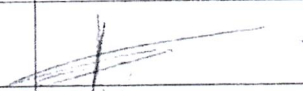
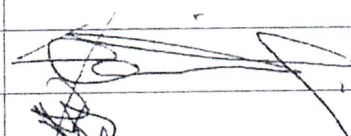
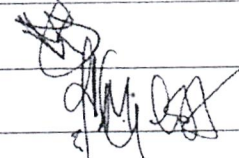
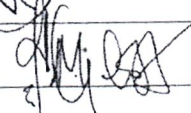
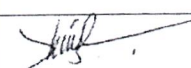
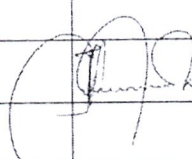
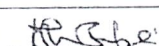
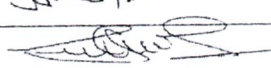
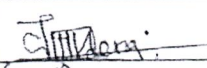
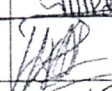
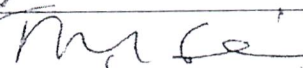
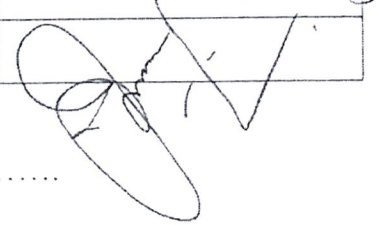
KENYA NATIONAL ASSEMBLY

PUBLIC INVESTMENTS COMMITTEE

ADOPTION LIST FOR THE REPORT ON THE EXTENSION OF THE  
TIME LIMIT TO SUBMIT AND PUBLISH CENTRAL BANK OF KENYA  
ANNUAL REPORT FOR FINANCIAL YEAR 2018/2019

DATE: 19/11/2019

TIME \_\_\_\_\_

	NAME	SIGNATURE
1.	The Hon. Abdullswamad Shariff Nassir, MP ( <i>Chairman</i> )	
2.	The Hon. Ahmed Abdisalan Ibrahim, MP ( <i>Vice-Chairman</i> )	
3.	The Hon. Dr. Chrisantus Wamalwa Wakhungu, CBS, MP	
4.	The Hon. Gladys Nyasuna Wanga, MP	
5.	The Hon. John Muchiri Nyaga, M.P	
6.	The Hon. Justus Gesito Mugali, MP	
7.	The Hon. Raphael Bitta Sauti Wanjala, MP	
8.	The Hon. (Prof.) Mohamud Sheikh Mohammed, MP	
9.	The Hon. Babu Owino Paul Ongili, MP	
10.	The Hon. James Kamau Githua Wamacukuru, M.P	
11.	The Hon. Joash Nyamache Nyamoko, HSC, MP	
12.	The Hon. Mary Wamaua Waithira Njoroge, MP	
13.	The Hon. Mohamed Hire Garane, M.P.	
14.	The Hon. Omar Mohamed Maalim Hassan, MP	
15.	The Hon. Paul Kahindi Katana, MP	
16.	The Hon. Purity Wangui Ngitici, MP	
17.	The Hon. Rashid Kassim Amin, MP	
18.	The Hon. Thuku Zachary Kwenya, M.P	

Committee Clerk ..... Evans Oandya .....