

**SPECIAL ISSUE**



THE NATIONAL ASSEMBLY  
PAPERS LAID

DATE: 08 JUN 2021

DAY:  
TUESDAY

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# THE KENYA GAZETTE

Published by Authority of the Republic of Kenya

(Registered as a Newspaper at the G.P.O.)

Vol. CXXIII—No. 117

NAIROBI, 25th May, 2021

Price Sh. 60

GAZETTE NOTICE NO. 5085

## THE PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

## THE PUBLIC FINANCE MANAGEMENT (NATIONAL GOVERNMENT) REGULATIONS, 2015

(LN. No. 34/2015)

## THE PUBLIC FINANCE MANAGEMENT (SINKING FUND) GUIDELINES, 2021

### STATEMENT OF INTENT

The Public Finance Management (Sinking Fund) Guidelines are made by the Cabinet Secretary pursuant to regulation 206(3) of the Public Finance Management (National Government) Regulations, 2015 and are intended to be applied to the management of the Sinking Fund established under regulation 206(1) of the Regulations.

### Citation

1. These Guidelines may be cited as the Public Finance Management (Sinking Fund) Guidelines, 2021.

2. In these Guidelines, unless the context otherwise requires—

“Act” means the Public Finance Management Act, 2012;

“Administrator of the Fund” means the Head of the Public Debt Management Office as assigned under regulation 206 (1);

“Committee” means the Sinking Fund Advisory Committee established under paragraph 7 of these Guidelines;

“Cabinet Secretary” has the meaning assigned under section 2 of the Act;

“Fund” means the Sinking Fund established under regulation 206(1) of the Regulations;

“loan” has the meaning assigned to it under Article 260 of the Constitution; and

“Regulations” means the Public Finance Management (National Government) Regulations, 2015.

### Objects and Purposes of the Fund

3. (1) The objects and purpose of the Fund is to provide funding for the redemption of Government loans, and payment of expenses of, or incidental to, redemption of an issue of national government loans.

(2) Notwithstanding the generality of sub-paragraph (1), the Fund shall be used to—

- (a) cushion for amortization of liabilities arising from national government loans;
- (b) facilitate debt restructuring and smoothening of maturity profile;
- (c) redeem maturing national government loans to alleviate rollover risks;
- (d) build up resources for meeting maturities of loans and securities issued in the domestic and international debt capital markets;
- (e) correct any perceived mispricing along the yield curve;
- (f) buy back of a national government loan obligations in the debt market;
- (g) meet the cost of switches and early redemption of national government loan obligations; and
- (h) meet costs incidental to the loans.

### Capital of the Fund

4. The capital of the Fund shall be as appropriated by Parliament from time to time.

### Source of the Fund

5. The source of the Fund shall consist of—

- (a) Consolidated Fund Budget Vote for redemption of debts and other debt related expenses from the Exchequer and shall be remitted to the Fund continuously;
- (b) monies appropriated by Parliament for the purposes of the Fund;
- (c) fees and commissions earned by the Public Debt Management Office in execution of its mandate;
- (d) income invested from the balances of the Fund;

- (e) foreign exchange gains from external loans to the National Government;
- (f) any moneys accruing to or received by the Fund from any other lawful source, with the approval of the Cabinet Secretary; and
- (g) any other source to the Fund provided for by an Act of Parliament

#### *Expenditures of the Fund*

6. (1) Payments out of the Sinking Fund shall be for the purposes specified in paragraph 3 of these Guidelines.

(2) The expenditure incurred on the Fund shall be on the basis of the annual work plans and cost estimates which shall be prepared by the Administrator of the Fund, recommended by the Committee and approved by the Cabinet Secretary at the beginning of the financial year to which they relate.

(3) Any revision of the approved annual work plans and of any cost estimate shall be recommended by the Committee and approved by the Cabinet Secretary.

#### *Establishment of the Committee*

7. There is to be established a committee known as Sinking Fund Advisory Committee.

(2) The Committee shall consist of—

- (a) the Principal Secretary in charge of finance as the Chairperson;
- (b) the Director-General, Public Debt Management Office as the Secretary;
- (c) the Director-General, Accounting Services and Quality Assurance; and
- (d) the Director-General Public Investment and Portfolio Management.

#### *Functions of the Advisory Committee*

8. The functions of the Committee shall be to—

- (a) provide advice on the administration of the Fund;
- (b) provide policy linkages between the Fund and other public finance management functions including the linkage into the National Government's budget estimates;
- (c) review and recommend for approval of statutory and management reports of the Fund before submission to the Cabinet Secretary for approval and onward transmission to the Auditor-General with a copy to the Controller of Budget;
- (d) review and recommend the annual work plans, annual securities issuance plan, and investment plans to the Cabinet Secretary for approval; and
- (e) review and recommend for approval the revenue and expenditure estimates of the Fund to the Cabinet Secretary in each financial year.

#### *Fund Administrator*

9. The head of Public Debt Management Office shall be the Administrator of the Fund in accordance with regulation 206 (1).

10. The functions of the Administrator of the Fund shall be to—

- (a) undertake day-to-day operations of the Fund;
- (b) supervise and control the administration and management of the Fund;
- (c) prepare the Fund's work plan including, annual securities issuance and redemption plan and investment schedule and submits to the Committee for consideration and recommendation by the Cabinet Secretary;
- (d) borrow and deposit monies into the Fund for the purposes of debt redemption on approval by the Cabinet Secretary;
- (e) formulate policies to achieve the objects and purpose of the Fund and submit to the Committee for consideration and recommendation for approval by the Cabinet Secretary;

(f) prepare the estimates of revenue and expenditure of the Fund for each financial year and submit to the Committee for consideration and recommendation for approval by the Cabinet Secretary;

(g) prepare quarterly management reports for review and recommendation by the Committee to the Cabinet Secretary for further necessary actions;

(h) open any bank account of the Fund in accordance with section 28 of the Act with approval of the Cabinet Secretary;

(i) prepare statutory reports in accordance with the provisions of the Act, submit them to the Committee for review and recommendation to the Cabinet Secretary for approval before transmission to the Auditor General with a copy to the National Treasury, Controller of Budget and Commission on Revenue Allocation; and

(j) perform such other duties as may be considered necessary by the Cabinet Secretary from time to time for the proper administration and management of the Fund and such a duty shall be assigned in writing.

#### *Secretariat to the Fund*

11. The Cabinet Secretary shall appoint the secretariat to the Fund and ensure that the Fund has the resources and skills to manage the day-to-day operations of the Fund.

#### *Meetings*

12. (1) In the absence of the Chairperson in any meeting of the Committee, any member appointed in writing by the Principal Secretary in charge of finance shall chair the meeting.

(2) The Secretary to the Committee may delegate the functions of the Secretary to the Director Debt Recording and Settlement from time to time.

(3) The Committee may, from time to time, co-opt other members as it may deem necessary, for the proper and efficient discharge of its functions.

(4) The Committee shall meet not less than four times in every financial year and not more than three months shall elapse between the date of one meeting and the next.

(5) The quorum for the conduct of meetings of the Committee shall be three members.

(6) The Committee shall regulate its own procedure.

#### *Financial Year*

13. The financial year of the Fund shall run from the 1st July to the 30th June.

#### *Investment*

14. Monies received in the Sinking Fund, may be invested in Government securities in accordance with the approved cash flow plan.

#### *Audit of the Fund*

15. The Fund shall be audited in accordance with the provisions of Constitution, the Act and the Public Audit Act, 2015.

#### *Reporting Framework*

16. (1) The Administrator of the Fund shall prepare the annual financial and non-financial reports in accordance with the Act and the Public Audit Act, 2015 and submitted to the Accounting Officer for approval before submission to the Auditor-General for audit.

(2) The annual financial and non-financial statements shall be submitted to the Auditor-General for audit within three months after the end of the financial year in accordance with the Public Audit Act, 2015 and as may be prescribed by the Public Sector Accounting Standards Board and a copy submitted to the Controller of Budget.

(3) In addition, the Administrator of the Fund shall prepare an annual general performance report of the Fund to be submitted with the report under subparagraph (1).

## 17. In the event of winding-up of the Fund—

- (a) the Administrator of the Fund shall pay any credit balance in the Fund into the National Exchequer Account to the credit of the National Government while other assets of the Fund shall be transferred to the Ministry for the time being responsible for matters relating to finance;
- (b) the Cabinet Secretary shall pay any deficit in the Fund from the Funds of the National Government in the National Exchequer Account upon approval of Parliament;
- (c) the Committee shall prepare the final winding up report not later than six months from the date of the decision to wind up

the Fund and submit the financial and non-financial reports to the Auditor-General for audit with a copy to the Cabinet Secretary; and

- (d) the Cabinet Secretary shall submit a final statement of accounts of the Fund to Parliament.

Dated the 11th May, 2021.

UKUR YATANI,  
Cabinet Secretary, The National Treasury

GAZETTE NOTICE NO. 5086

## THE CONSTITUTION OF KENYA

## THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION ACT

(No. 9 of 2011)

## SELECTION PANEL FOR THE APPOINTMENT OF COMMISSIONERS OF THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (2021)

## NAMES AND QUALIFICATIONS OF ALL APPLICANTS FOR THE POSITION OF MEMBER OF THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION VACANCY NO. SP/IEBC/2021

WHEREAS Articles 88 and 250 of the Constitution of Kenya, 2010, sections 5 and 6 of the Independent Electoral and Boundaries Commission Act, 2011, and the First Schedule thereto, as amended by the Independent Electoral and Boundaries Commission (Amendment) Act, 2020, provide for the membership of the Independent Electoral and Boundaries Commission and the process of appointment of Commissioners of the Independent Electoral and Boundaries Commission;

And whereas by *Gazette* Notice No. 3522 of 14th April, 2021, His Excellency the President declared four (4) vacancies in the position of Member of the Independent Electoral and Boundaries Commission;

And further whereas on 1st May, 2021, the Selection Panel for the Appointment of Commissioners of the Independent Electoral and Boundaries Commission (2021) invited applications from suitably qualified persons who satisfy the provisions of the Constitution and the Independent Electoral and Boundaries Commission Act, 2011, by advertisement in the *Kenya Gazette*, two newspapers of national circulation and on the website of the Parliamentary Service Commission;

Now therefore pursuant to paragraph 3(1) of the First Schedule to the Independent Electoral and Boundaries Commission Act 2011, the Selection Panel for the Appointment of Commissioners of the Independent Electoral and Boundaries Commission (2021) hereby publishes the names of all persons who applied for the four (4) vacancies in the position of Member of the Independent Electoral and Boundaries Commission and their qualifications, by the deadline of Monday, 17th May, 2021 at 5.00 p.m. (East African Time)

## APPLICATIONS FOR MEMBER OF THE IEBC (Ref. SP/IEBC/2021)

Name	Gender	I.D/PP No.	County	Qualifications
Abdalla Mohamed	M	16009517	Nairobi City	Master of Education and Leadership Management, KEMU BBA (Human Resource Management), KEMU (2007) Diploma in Education, KU
Abdallah Kassim	M	B158202	Kisumu	MA (Communication Studies), UoN BSc (Mass Communication), Islamic University, Uganda
Abdirizak Arale Nunow (Dr.)	M	7226752	Garissa	PhD (Environmental Science), University of Amsterdam, Netherlands Masters (Philosophy in Environmental Studies) (Environmental Planning and Management), Moi University Bachelor of Arts, KU
Abdulaziz Ali Khamis	M	2271162	Mombasa	MBA, UoN BSc, (Business Administration), USIU
Abdulghani Sheikh Hassan	M	24737241	Garissa	Master of Education (Leadership and Management, MKU BED, Islamic University in Uganda
Abert Lotuk Adome	M	4801512	Turkana	Masters of Philosophy in Educational Communication and Technology, Moi University Postgraduate Diploma (HRM), Moi University Bachelor of Education Diploma in Education, Kisii Teachers
Abigael Mbagaya Mukolwe	F	7129443	Kakamega	Master of Urban Management, UoN BA (Land Economics), UoN
Abishag Wanjeru Ngoci	F	22516792	Embu	Bachelor of Education (Science), Egerton University
Abraham Wawire	M	10454234	Trans Nzoia	MSc (Development Finance), KCA University BCom (Finance), KCA University
Adan Wario Kabelo	M	9854124	Isiolo	MA (Sociology), UoN BEd (Economics and Business Studies), KU
Agnes Nafula Kisaka	F	9238148	Bungoma	MBA, UoN Post Graduate Diploma (Planning and Management of Development) BCom (Accounting), Catholic University
Ahmed Abdi Noor	M	0192429	Garissa	BA (Business Administration), Kampala University



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“Committee” means the Sinking Fund Advisory Committee established under paragraph 7 of these Guidelines;

“Cabinet Secretary” has the meaning assigned under section 2 of the Act;

“Fund” means the Sinking Fund established under regulation 206(1) of the Regulations;

“loan” has the meaning assigned to it under Article 260 of the Constitution; and

“Regulations” means the Public Finance Management (National Government) Regulations, 2015.

#### Objects and Purposes of the Fund

3. (1) The objects and purpose of the Fund is to provide funding for the redemption of Government loans, and payment of expenses of, or incidental to, redemption of an issue of national government loans.

(2) Notwithstanding the generality of sub-paragraph (1), the Fund shall be used to—

- (a) cushion for amortization of liabilities arising from national government loans;
- (b) facilitate debt restructuring and smoothening of maturity profile;
- (c) redeem maturing national government loans to alleviate rollover risks;
- (d) build up resources for meeting maturities of loans and securities issued in the domestic and international debt capital markets;
- (e) correct any perceived mispricing along the yield curve;
- (f) buy back of a national government loan obligations in the debt market;
- (g) meet the cost of switches and early redemption of national government loan obligations; and
- (h) meet costs incidental to the loans.

#### Capital of the Fund

4. The capital of the Fund shall be as appropriated by Parliament from time to time.

#### Source of the Fund

5. The source of the Fund shall consist of—

- (a) Consolidated Fund Budget Vote for redemption of debts and other debt related expenses from the Exchequer and shall be remitted to the Fund continuously;
- (b) monies appropriated by Parliament for the purposes of the Fund;
- (c) fees and commissions earned by the Public Debt Management Office in execution of its mandate;
- (d) income invested from the balances of the Fund;

- (e) foreign exchange gains from external loans to the National Government;
- (f) any moneys accruing to or received by the Fund from any other lawful source, with the approval of the Cabinet Secretary; and
- (g) any other source to the Fund provided for by an Act of Parliament

#### *Expenditures of the Fund*

6. (1) Payments out of the Sinking Fund shall be for the purposes specified in paragraph 3 of these Guidelines.

(2) The expenditure incurred on the Fund shall be on the basis of the annual work plans and cost estimates which shall be prepared by the Administrator of the Fund, recommended by the Committee and approved by the Cabinet Secretary at the beginning of the financial year to which they relate.

(3) Any revision of the approved annual work plans and of any cost estimate shall be recommended by the Committee and approved by the Cabinet Secretary.

#### *Establishment of the Committee*

7. There is to be established a committee known as Sinking Fund Advisory Committee.

(2) The Committee shall consist of—

- (a) the Principal Secretary in charge of finance as the Chairperson;
- (b) the Director-General, Public Debt Management Office as the Secretary;
- (c) the Director-General, Accounting Services and Quality Assurance; and
- (d) the Director-General Public Investment and Portfolio Management.

#### *Functions of the Advisory Committee*

8. The functions of the Committee shall be to—

- (a) provide advice on the administration of the Fund;
- (b) provide policy linkages between the Fund and other public finance management functions including the linkage into the National Government's budget estimates;
- (c) review and recommend for approval of statutory and management reports of the Fund before submission to the Cabinet Secretary for approval and onward transmission to the Auditor-General with a copy to the Controller of Budget;
- (d) review and recommend the annual work plans, annual securities issuance plan, and investment plans to the Cabinet Secretary for approval; and
- (e) review and recommend for approval the revenue and expenditure estimates of the Fund to the Cabinet Secretary in each financial year.

#### *Fund Administrator*

9. The head of Public Debt Management Office shall be the Administrator of the Fund in accordance with regulation 206 (1).

10. The functions of the Administrator of the Fund shall be to—

- (a) undertake day-to-day operations of the Fund;
- (b) supervise and control the administration and management of the Fund;
- (c) prepare the Fund's work plan including, annual securities issuance and redemption plan and investment schedule and submits to the Committee for consideration and recommendation by the Cabinet Secretary;
- (d) borrow and deposit monies into the Fund for the purposes of debt redemption on approval by the Cabinet Secretary;
- (e) formulate policies to achieve the objects and purpose of the Fund and submit to the Committee for consideration and recommendation for approval by the Cabinet Secretary;

(f) prepare the estimates of revenue and expenditure of the Fund for each financial year and submit to the Committee for consideration and recommendation for approval by the Cabinet Secretary;

(g) prepare quarterly management reports for review and recommendation by the Committee to the Cabinet Secretary for further necessary actions;

(h) open any bank account of the Fund in accordance with section 28 of the Act with approval of the Cabinet Secretary;

(i) prepare statutory reports in accordance with the provisions of the Act, submit them to the Committee for review and recommendation to the Cabinet Secretary for approval before transmission to the Auditor General with a copy to the National Treasury, Controller of Budget and Commission on Revenue Allocation; and

(j) perform such other duties as may be considered necessary by the Cabinet Secretary from time to time for the proper administration and management of the Fund and such a duty shall be assigned in writing.

#### *Secretariat to the Fund*

11. The Cabinet Secretary shall appoint the secretariat to the Fund and ensure that the Fund has the resources and skills to manage the day-to-day operations of the Fund.

#### *Meetings*

12. (1) In the absence of the Chairperson in any meeting of the Committee, any member appointed in writing by the Principal Secretary in charge of finance shall chair the meeting.

(2) The Secretary to the Committee may delegate the functions of the Secretary to the Director Debt Recording and Settlement from time to time.

(3) The Committee may, from time to time, co-opt other members as it may deem necessary, for the proper and efficient discharge of its functions.

(4) The Committee shall meet not less than four times in every financial year and not more than three months shall elapse between the date of one meeting and the next.

(5) The quorum for the conduct of meetings of the Committee shall be three members.

(6) The Committee shall regulate its own procedure.

#### *Financial Year*

13. The financial year of the Fund shall run from the 1st July to the 30th June.

#### *Investment*

14. Monies received in the Sinking Fund, may be invested in Government securities in accordance with the approved cash flow plan.

#### *Audit of the Fund*

15. The Fund shall be audited in accordance with the provisions of Constitution, the Act and the Public Audit Act, 2015.

#### *Reporting Framework*

16. (1) The Administrator of the Fund shall prepare the annual financial and non-financial reports in accordance with the Act and the Public Audit Act, 2015 and submitted to the Accounting Officer for approval before submission to the Auditor-General for audit.

(2) The annual financial and non-financial statements shall be submitted to the Auditor-General for audit within three months after the end of the financial year in accordance with the Public Audit Act, 2015 and as may be prescribed by the Public Sector Accounting Standards Board and a copy submitted to the Controller of Budget.

(3) In addition, the Administrator of the Fund shall prepare an annual general performance report of the Fund to be submitted with the report under subparagraph (1).

## 17. In the event of winding-up of the Fund—

- (a) the Administrator of the Fund shall pay any credit balance in the Fund into the National Exchequer Account to the credit of the National Government while other assets of the Fund shall be transferred to the Ministry for the time being responsible for matters relating to finance;
- (b) the Cabinet Secretary shall pay any deficit in the Fund from the Funds of the National Government in the National Exchequer Account upon approval of Parliament;
- (c) the Committee shall prepare the final winding up report not later than six months from the date of the decision to wind up

the Fund and submit the financial and non-financial reports to the Auditor-General for audit with a copy to the Cabinet Secretary; and

- (d) the Cabinet Secretary shall submit a final statement of accounts of the Fund to Parliament.

Dated the 11th May, 2021.

UKUR YATANI,  
Cabinet Secretary, The National Treasury

GAZETTE NOTICE NO. 5086

## THE CONSTITUTION OF KENYA

## THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION ACT

(No. 9 of 2011)

## SELECTION PANEL FOR THE APPOINTMENT OF COMMISSIONERS OF THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (2021)

## NAMES AND QUALIFICATIONS OF ALL APPLICANTS FOR THE POSITION OF MEMBER OF THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION VACANCY NO. SP/IEBC/2021

WHEREAS Articles 88 and 250 of the Constitution of Kenya, 2010, sections 5 and 6 of the Independent Electoral and Boundaries Commission Act, 2011, and the First Schedule thereto, as amended by the Independent Electoral and Boundaries Commission (Amendment) Act, 2020, provide for the membership of the Independent Electoral and Boundaries Commission and the process of appointment of Commissioners of the Independent Electoral and Boundaries Commission;

And whereas by *Gazette* Notice No. 3522 of 14th April, 2021, His Excellency the President declared four (4) vacancies in the position of Member of the Independent Electoral and Boundaries Commission;

And further whereas on 1st May, 2021, the Selection Panel for the Appointment of Commissioners of the Independent Electoral and Boundaries Commission (2021) invited applications from suitably qualified persons who satisfy the provisions of the Constitution and the Independent Electoral and Boundaries Commission Act, 2011, by advertisement in the *Kenya Gazette*, two newspapers of national circulation and on the website of the Parliamentary Service Commission;

Now therefore pursuant to paragraph 3(1) of the First Schedule to the Independent Electoral and Boundaries Commission Act 2011, the Selection Panel for the Appointment of Commissioners of the Independent Electoral and Boundaries Commission (2021) hereby publishes the names of all persons who applied for the four (4) vacancies in the position of Member of the Independent Electoral and Boundaries Commission and their qualifications, by the deadline of Monday, 17th May, 2021 at 5.00 p.m. (East African Time)

## APPLICATIONS FOR MEMBER OF THE IEBC (Ref. SP/IEBC/2021)

Name	Gender	I.D/PP No.	County	Qualifications
Abdalla Mohamed	M	16009517	Nairobi City	Master of Education and Leadership Management, KEMU BBA (Human Resource Management), KEMU (2007) Diploma in Education, KU
Abdallah Kassim	M	B158202	Kisumu	MA (Communication Studies), UoN BSc (Mass Communication), Islamic University, Uganda
Abdirizak Arale Nunow (Dr.)	M	7226752	Garissa	PhD (Environmental Science), University of Amsterdam, Netherlands Masters (Philosophy in Environmental Studies) (Environmental Planning and Management), Moi University Bachelor of Arts, KU
Abdulaziz Ali Khamis	M	2271162	Mombasa	MBA, UoN BSc, (Business Administration), USIU
Abdulghani Sheikh Hassan	M	24737241	Garissa	Master of Education (Leadership and Management, MKU BEd, Islamic University in Uganda
Abert Lotuk Adome	M	4801512	Turkana	Masters of Philosophy in Educational Communication and Technology, Moi University Postgraduate Diploma (HRM), Moi University Bachelor of Education Diploma in Education, Kisii Teachers
Abigael Mbagaya Mukolwe	F	7129443	Kakamega	Master of Urban Management, UoN BA (Land Economics), UoN
Abishag Wanjeru Ngoci	F	22516792	Embu	Bachelor of Education (Science), Egerton University
Abraham Wawire	M	10454234	Trans Nzoia	MSc (Development Finance), KCA University BCom (Finance), KCA University
Adan Wario Kabelo	M	9854124	Isiolo	MA (Sociology), UoN BEd (Economics and Business Studies), KU
Agnes Nafula Kisaka	F	9238148	Bungoma	MBA, UoN Post Graduate Diploma (Planning and Management of Development) BCom (Accounting), Catholic University
Ahmed Abdi Noor	M	0192429	Garissa	BA (Business Administration), Kampala University

**REPUBLIC OF KENYA**



**NATIONAL TREASURY & PLANNING**

**EXPLANATORY NOTES ON THE PUBLIC FINANCE MANAGEMENT  
(NATIONAL GOVERNMENT SINKING FUND) GUIDELINES**

**MAY 2021**

## **I. OBJECTIVES OF THE EXPLANATORY NOTES**

1. The main objectives of these notes are to:
  - a) To apprise Parliament and the Attorney General of the developed sinking fund guidelines; and
  - b) Request Parliament to adopt the sinking fund guidelines proposed herein that will guide payment of expenses of, or incidental to, redemption of an issue of Government bond/loan; and the redemption of an issue of government bond.

## **II. LEGAL BACKGROUND**

2. The National Treasury has developed the National Government (Sinking Fund) Guidelines, in line with requirements of Section 50(8) of the Public Finance Management Act, 2012 and Regulation 206 (3) of the PFM (National Government) Regulations, 2015
3. Pursuant to Sections 4 (a) and 5 (3) (a) and (b) of the Statutory Instruments Act, 2013, the National Treasury invited interested members of the general public to submit written comments and or inputs/memoranda on the draft Public Finance Management (Sinking Fund) Guidelines, 2021. The comments have been considered and incorporated into the Guidelines.

## **III. RATIONALE FOR THE SINKING FUND GUIDELINES**

4. Government debt instruments issued with a sinking fund carry a lower cost and risk as they are collateralized consequently reducing the cost of debt. The establishment of the fund is a strong indicator of Government commitment to meeting its debt obligations as they fall due leading to significant reduction of default risk.
5. The sinking fund will be used as a flow of funds channel in managing debt maturities.

6. The Sinking Fund will be used to retire debt early or at maturity as a portion or in full thereby saving the government interest expenses putting the government on a firmer financial footing.

#### **IV. PURPOSE OF THE SINKING FUND**

7. The objects and purpose of the Fund is solely to provide funding for the redemption of Government bonds, and in particular–
  - a. Payment of expenses of, or incidental to, redemption of an issue of Government bond; and
  - b. The redemption of stock of Government debt
  - c. Cushion for amortization of liabilities arising from debt
  - d. Facilitate debt restructuring and smoothening of maturity profile
  - e. Build up resources for meeting maturities of loans and securities issued in the international debt capital markets, by ensuring resources are available for redemption of maturing debts to alleviate rollover risks
  - f. Buyback of a debt obligations in the debt market saves the public expenses.

#### **V. SALIENT FEATURES OF THE GUIDELINES**

The Guidelines makes provisions for:

- i) the definitions, objects and purpose of the Fund;
- ii) the capitalization of the Fund which shall be appropriated by Parliament from time to time;
- iii) the advisory and supervision of the Fund to be done by an Advisory Committee
- iv) the Administration of the Fund is delegated to the Head of Public Debt Management Office
- v) investment of the fund to be on Government securities and object of the fund to be for redemption of loans.
- vi) the Regulations also provide for advisory through annual reporting on financial and non-financial activities by the Fund to the Auditor General in accordance with the Public Audit Act and to the Controller of Budget;

- vii) the guidelines require maintenance of proper records in the management and administration of the Fund including reporting requirements to comply with the provisions of the Public Finance Management Act, 2012;
- viii) the guidelines provide for reporting framework and disclosure of the fund;
- ix) Regulations provide for the procedure for winding-up of the fund.
- x) The day-to-day operation of the fund shall be through a secretariat headed by the administrator of the Fund.
- xi) All the operations of the fund shall be approved by the Advisory Committee and implemented by the secretariat. The secretariat shall develop annual workplans approved by the board to guide the day-to-day operations of the fund.

## **VI. FINANCIAL IMPLICATIONS**

The Guidelines have no financial implications on any level of government as it serves only as a flow of funds framework.

<b>COMMENTS /SUBMISSIONS TO THE DRAFT PUBLIC FINANCE MANAGEMENT (SINKING FUND) GUIDELINES</b>				
<b>CLAUSE</b>	<b>REGULATION</b>	<b>PROPOSED AMENDMENT</b>	<b>RATIONALE FOR RECOMMENDATIONS</b>	<b>COMMENT</b>
1	Preliminary	<ul style="list-style-type: none"> <li>❖ Substitute “2020” with “2021” immediately after the word Guidelines</li> <li>❖ Include “and regulation 206 (3) of the Public Finance Management (National Government) regulations,2015” immediately after 2012</li> </ul>	<p>To align with the title of the regulations and the current year</p> <p>Regulations 206(3) of the Public Finance Management (National Government) Regulations 2015 confers powers to the Cabinet Secretary to develop guidelines for the management of the fund</p>	Incorporated
2	Preliminary	<ul style="list-style-type: none"> <li>❖ Define Sinking Fund as defined under Regulation 2 of the Public Finance Management (National Government) Regulation ,2015</li> </ul>	This definition will provide legislative harmony and define the scope of application of the guidelines	Incorporated
		<ul style="list-style-type: none"> <li>❖ Delete the definition of “Loans” and replace with “National Government Securities”</li> </ul>	In accordance with Regulation 206 of the Public Finance Management (National Government) Regulations,2015, the fund is applicable to National Government Securities and not loans	Not incorporated. Debt is more than just Government securities

3(1)	Administration of the Funds	❖ Amend the objectives of the Fund to align with the objective of the Fund provided for under Regulation 206(2) of the Public Finance Management (National Government) Regulations,2015	The objective of the Fund as stated is <i>ultra vires</i> . it goes beyond the purpose and objective of the Fund provided for under Regulation 2 and 206 of the Public Finance Management (National Government) Regulation 2015	Noted. Incorporated
3(2)a, c, d, f, g and h		❖ Delete the word “loans” and replace with “securities”	The Fund deal with securities and not “loans”	Not incorporated. Debt is more than just Government securities
5(a)	Capital /source of Funds	❖ Provide the definition of “CFS” ❖ Delete the word Debt and replace with the “National Government Securities”	CFS is an initial which has not been defined in the Preliminary Section The Fund objective deals with securities and not debt	Not incorporated. Attorney General to advice
5(e)		❖ Delete the word “external loans”	The fund objective deals with securities and not loans	Not incorporated. Attorney General to advice
5(d)	Source of the Fund	❖ Delete paragraph “d” Income invested from the balances of the fund	The Fund/Administrator has no powers to invest. The guidelines should be precise on risk free investments. It should be noted that it may not be prudent for the government to purchase its own securities.	Not incorporated. Attorney General to advice
6(1)a, b and c	Expenditures of the Fund	❖ Delete the word “loans “and replace with “National Government Securities”	The fund objective deals with securities and not loans	Not incorporated. Attorney General to advice

6(1)b	Expenditures of the Fund	❖ Delete the word “Debt “and replace with “National Government Securities”	The Funds objective deals with national government securities. Debt has a wider meaning (refer to Article 214(20) of the Constitution).	Not incorporated. Attorney General to advise
6(2)	Expenditures of the Fund	❖ The annual work plan should be aligned to the Debt Strategy Paper  ❖ Include a Regulation to limit the level of expenditure	To ensure harmony in the management of public debt  To comply with Regulation 207(d) of the Public Finance Management (National Government) Regulations, 2015 which sets limit to Administrative cost of Fund.	Not incorporated. Attorney General to advise
7(1)	Composition of the Sinking Fund Advisory Committee	❖ Expand the Advisory Committee to include other key players e.g., consider including representative from the Central Bank of Kenya and KIPPRA	To ensure proper formulation of monetary policy and for good governance, the Advisory committee should include other key stakeholders outside the National Treasury	Debt payment is an accountable action and staff should only be those under the accounting office
10(c)	Function of the Fund Administrator	❖ Delete the word “debt” and replace with “National Government Securities	The Funds objective deals with national government securities. Debt has a wider meaning refer to article 214(2) of the Constitution.	Not incorporated. Attorney General to advise
11(1)	Secretariat to the Fund	❖ Delete “secretariat staff” and replace with the “public Debt Management Officer”	The Fund should be assisted by the Public Debt Management Officer	Incorporated

			established under Section 62 of the Public Finance Management Act.	
Paragraph 5	<b>sources of funds:</b> Foreign Exchange gains from external loans to the National Government	<ul style="list-style-type: none"> <li>❖ It is not clear at what point should the gain/loss be recognized considering that disbursements and repayments take place over a period of time, in most cases, over multiple periods</li> <li>❖ Does the determination of the gain/ loss take into consideration the time value for money from the disbursement date to full repayment of the loans?</li> </ul>		Incorporated
	<b>Investment Income generated from the fund</b>	<ul style="list-style-type: none"> <li>❖ The primary purpose of the Fund is to provide funds for the redemption of Government loans which may include securities. Therefore, investing in its 'own' securities may result in conflicting interests. Please clarify</li> </ul>		Incorporated
Paragraph 6	<b>Expenditures of the sinking fund:3)</b> Notwithstanding the provision of paragraph 3 above, the Administrator of the fund with the approval of the Cabinet	<ul style="list-style-type: none"> <li>❖ The expenses chargeable to the Sinking Fund shall be limited to those incurred in pursuance of the objects and purposes for which the Fund is established</li> </ul>		Incorporated

	Secretary may incur any expenditure from the fund which is not included in the expenditure estimates			
Paragraph 16	<b>The annual financial and non-financial statements shall:</b> be submitted to the Auditor General within three months after the end of the financial year in accordance with the Public Audit Act 2015 and a copy thereof submitted to the National Treasury and the controller of Budget.	<ul style="list-style-type: none"> <li>❖ The above paragraph may be amended to read as follows;</li> <li>❖ The annual financial and non-financial statements shall be submitted to the Auditor General within three months after the end of the financial year in accordance with the provisions of the PFM Act 2012, Public Audit Act 2015 and as may be prescribed by the Public Sector Accounting Standards Board. A copy thereof submitted to the National Treasury and the controller of Budget.</li> <li>❖ Finally, what would be the operational relationship between the Sinking Fund and the Public Debt as a vote? Let it be clear what can and cannot be paid from the Sinking Fund.</li> </ul>		Incorporated

Paragraph 5(e)	Sources of fund into the Sinking Fund	❖ Foreign Exchange gains from external loans has been a contested issue between accountants and auditors and it could be important for these guidelines to speak to the issue. we propose that for determining gains and losses to the CBK spot exchange rate when the corresponding budget is approved by parliament to be compared with the CBK spot exchange rate for the loan currency on the day this disbursement or repayment take place to determine the net gain or loss		Incorporated
Paragraph 5(d)	Sources of funds into the Sinking Fund	❖ The primary purpose of the fund for is to provide funds redemption of the public debt which may include domestic securities. It is difficult to envision a situation where idle funds are invested in government paper without a “conflict” occurring. propose that the option to invest idle be varied.		Incorporated
Paragraph 6(3)	Expenditures of the Sinking Fund	❖ This paragraph should be deleted. the expenditure chargeable to the Sinking Fund should be limited to those incurred in pursuance of the objects and purpose for which the fund is established and in line with		Incorporated

		regulation 206(2) of the Public Finance Management Act (National Government Regulations, 2015)		
Paragraph 16	The Annual Financial and Non-Financial Statements	<ul style="list-style-type: none"> <li>❖ Delete reference to Public Audit Act and re-align wording to this reporting requirement for funds as per Section 84 and 85 of the Public Finance Management Act (2012).</li> <li>❖ The guidelines should also speak to the operational relationship between the Sinking Fund and the Public Debt as a Vote. There should be a clarity on what is payable by the Vote and what is payable by the Fund. We propose we stop using the Vote and the Overdraft so that all Public Debt to be paid during the year are planned for and budgeted and exchequer remitted to the Fund on replenishment basis.</li> <li>❖ There is also need to format the Guidelines on a prose format rather than as currently presented.</li> </ul>		Incorporated