Hon. Speaker, You may approve. arap Kirui DLPS 20.2.23

Approved 21/2/23

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT (SECOND SESSION)

SELECT COMMITTEE ON PUBLIC DEBT AND PRIVATIZATION

REPORT ON THE CONSOLIDATED FUND SERVICES EXPENDITURES FOR SUPPLEMENTARY ESTIMATES NO. 1 OF FY 2022/23

FEBRUARY 2023

TABLE OF CONTENTS

LIST OF ABBREVIATIONS AND ACRONYMS 3
ANNEXURES 4
CHAIRPERSON'S FOREWORD 5
EXAMINATION OF THE CONSOLIDATED FUND SERVICE EXPENDITURES – SUPPLEMENTARY ESTIMATES 1 FY 2022/23 6
ACKNOWLEDGEMENTS 9
PREFACE 10
1.0. Establishment of the Committee 10
1.1. Committee Membership 11
1.2. Committee Secretariat 11
CHAPTER ONE 12
2.0. INTRODUCTION 12
CHAPTER TWO 14
3.0. BRIEFING BY THE PARLIAMENTARY BUDGET OFFICE 14
4.0. SUBMISSION BY THE NATIONAL TREASURY 16
5.0. SUBMISSION BY THE OFFICE OF THE AUDITOR GENERAL 19
6.0. PRESENTATION BY THE GOVERNOR CENTRAL BANK OF KENYA 22
7.0. SUBMISSION BY THE OFFICE OF THE CONTROLLER OF BUDGET 23
CHAPTER THREE 24
8.0. COMMITTEE FINDINGS / OBSERVATIONS 24
9.0. COMMITTEE RECOMMENDATIONS 26

LIST OF ABBREVIATIONS AND ACRONYMS

COB	– Controller of Budget
OAG	– Office of the Auditor General
CBK	– Central Bank of Kenya
NT	– The National Treasury
CFS	– Consolidated Fund Services
PSSS	- Public Service Superannuation Scheme
PIM	- Pensions Management Information System
MTDS	- Medium-Term Debt Strategy
PFM	- Public Finance Management
UK	- United Kingdom
GDP	- Gross Domestic Product
IDA	- International Development Association
IMF	- International Monetary Fund

ANNEXURES

Annexure 1: Adoption Schedule
Annexure 2: Minutes
Annexure 3: Submission from the National Treasury and Economic Planning
Annexure 4: Submission from the Office of the Auditor General
Annexure 5: Submission from the Office of the Controller of Budget
Annexure 6: Presentation by the Central Bank of Kenya

CHAIRPERSON'S FOREWORD

Article 206 of the Constitution establishes the Consolidated Fund into which is paid all money raised or received by or on behalf of the National Government. According to the Article, one of the three ways that money may be withdrawn from the Consolidated Fund, is if it's a charge against the fund as authorized by the Constitution or an act of Parliament, and approved by the Controller of Budget. Consolidated Fund Service (CFS) expenditures therefore is a compilation of these expenditures that are a direct charge to the Consolidated Fund and are not included in the Appropriations Bill (Article 221(7)). These expenditures include: Public debt servicing expenditures, pension's payments, salaries and allowances for constitutional and independent office holders, among other expenditures.

A review of the Supplementation I Estimates FY 2022/23 indicate that the Consolidated Fund Service Expenditures will amount to Kshs. 1.55 trillion, the highest expenditures today. Under the Supplementary Estimates, they equate to 104% of recurrent expenditure (Kshs. 1.496 trillion) and 255% of development expenditure (Kshs. 609.1 billion). The main concern, is that being a charge to the consolidated fund they reduce the resources available to undertake other budgetary activities and a cause of fiscal inflexibility.

The largest expenditures under the Consolidated Fund Services are interest and principal payments of Kenya's public stock of debt that has grown due to sustained fiscal deficits. As of December 2022, public debt stock in Kenya stood at Kshs. 9.15 trillion and will require Kshs. 1.36 trillion to service its interest and redemption payments by June 2023. Of primary concern, is the cost of domestic debt servicing which accounts for 73 percent of the total public debt servicing expenditure.

Consolidated Fund Service expenditures have remained relatively unchecked and have received minimal oversight in the past. This is the first report dedicated to the oversight of Consolidated Fund Services to be tabled in a House of Parliament in Kenya. It points to the existence of critical gaps and concerns which will require multiple oversight reports and pioneering policy proposals to address.

In this regard, the creation of the Public Debt and Privatization committee was well timed and attests to the progressive nature of the National Assembly. It has opened up a new area of financial oversight and will put the National Assembly back in the controlling seat in ensuring all financial resources are regulated, utilized efficiently, and effectively applied in contribution to economic growth.

It is also noted that stakeholders and their technical expertise have been a key factor in the preparation of this report. Their submissions present the benefits and importance of institutionalizing Kenya's financial management sector and reinforce the need for efficient financial policy formulation and coordination. If they work closely with the National Assembly policy formulation, they can become a key facilitator of economic growth.

EXAMINATION OF THE CONSOLIDATED FUND SERVICE EXPENDITURES – SUPPLEMENTARY ESTIMATES 1 FY 2022/23

In consideration of Consolidated Fund Service Expenditures, the Committee held meetings with stakeholders including; The National Treasury, Central Bank of Kenya, Office of the Controller of Budget and Office of the Auditor General in order to develop a comprehensive report and makes the following recommendations that are geared towards enhancing transparency and accountability.

On Public Debt and Consolidated Fund Service Expenditures, the Committee recommends that:

1) Within six Months, the National Treasury to review the standards of accounting by adopting accrual accounting, in order to ensure uniform financial statements across entities that record public debt and other financial commitments such as pending bills that are not captured adequately under the cash accounting system within six months of tabling this report.
2) The National Treasury should submit, alongside the Annual Budget Estimates, a statement indicating all obligations of the National Government, including but not limited to: a) guaranteed loans (b) loans and overdrafts; (c) other government liabilities or obligations such as pending bills/accounts payable, pension arrears and non-performing loans. These h amounted to Kshs. 218.8 billion as of 30th June 2022 and National Assembly should have been notified before the start of FY 2022/23.
3) The National Treasury should within six months, table regulations for the establishment of a sinking fund dedicated to public debt servicing, as provided for under Section 50(8) of the PFM Act, 2012. This is to enable the buildup of savings to meet rising and costly public debt repayment and ease the debt repayment profile.
4) In order to guard against exchange rate fluctuations, the National Treasury should consider hedging mechanisms on foreign exchange risks, negotiating lending agreements in Kenya shillings or fixing the exchange rates at the time of loan negotiation.
5) The National Treasury should table an amendment to the PFM Act, 2012, that will enable the enactment of an Annual Loan Financing Bill within the Public Finance management framework to enable the National Assembly review and approve the debt financing (loans and securities) intended to finance the fiscal deficit of the Annual Budget.
6) The National Treasury, in the preparation of the Medium Term Debt Management Strateg should take into account the increase in cost of domestic debt and provides appropriate policy proposals.

On commitment fees, the Committee recommends that:

7) Implementing Agencies should put proper mechanisms to enable absorption of the committed credit within the agreed time frames and avoid payment of commitment fees.
8) The National Treasury, should ensure that Government Ministries, Departments and Implementing Agencies should undertake project evaluation and appraisal, and are ready to projects/programs before committing the Government with the loan agreements.
9) The National treasury should involve an entity that is intended to benefit from a loan during pre-the loaning stages. This will enable such an entity to be cognizant of the significance of some of the processes and the importance of adhering to the agreed loan conditions.

10) The National Treasury should submit an amendment to the PFM Act, 2012 to ensure that budgeted counterpart funding is ring-fenced by law and to provide appropriate sanctions for its contravention within six months of tabling this report. The latter will guarantee in-year reallocation does not affect counterpart funding to promote full and timely disbursement of loans.

11) The National Treasury should submit an amendment to the PFM Act, 2012 to provide for appropriate sanctions against Accounting Officers whose actions have led to the incurrence of commitment fees

12) The National Treasury should begin to renegotiate the outstanding Kshs. 1.179 trillion with a view of finding alternative use of undisbursed loans and increasing the rate of disbursement of undisbursed loans within thirty days for undisbursed loans and increasing disbursement rate for partially disbursed loans

13) That within two (2) weeks the National Treasury should submit to the House the complete list of loans undisbursed, affected projects, reasons for non-disbursement and the corrective measures to be undertaken.

On pension payments, the committee recommends that:

14) The National Treasury should ensure that the Pensions Department undertakes proof of life certification to identify deceased pensioners and dependants within six months. This is to ensure that payments are made to legitimate persons.

15) The National Treasury should within thirty days take steps to ensure that Pensions Department, collaborates with the Department of Civil Registration to provide monthly data of registered deaths and identify deceased pensioners and defendants and ensure that payments are only made to legitimate persons.

16) The National Treasury should within 6 months, re-engineer the Pensions Management Information System to address the integrity issues raised by the Office of the Auditor General and interface the system with the Government's Integrated Personnel and Payroll Database to ensure tracking of Government employees in the payroll.

17) The National Treasury should authenticate the existence of Asian and European Pensioners who retired due to Africanization of public sector after independence in 1963 who are paid through Crown Agents Organization in the UK. The process of authenticating should be based on information backed by a biometric process and undertaken annually prior to the first payment.

On overall cross cutting matters, the Committee recommends that:

18) The issues raised by the stakeholder submissions (COB, OAG, CBK and NT) in this report disclose that there is need to enact legislation to regulate the management of the Consolidated Fund Services. The Committee recommends the enactment of a Consolidated Fund Services Act, to regulate reporting of CFS expenditures to enhance transparency and accountability.

19) The Committee recommends that within ninety days of the adoption of this report by the House, the National Treasury submits a Bill to regulate the management of the Consolidated Fund Services to the National Assembly. Where the National Treasury does not submit a Bill within ninety days, the Committee shall exercise its legislative mandate and prepare a Bill for consideration by the National Assembly.

20) Appropriate sanctions should be introduced on Accounting Officers who do not implement Parliamentary and Audit resolutions within the required time period.

21) The National Treasury should ensure that future budget estimates, under the Program Based Budget books, contain comprehensive explanatory notes on Consolidated Fund Service Expenditures in promote transparency and accountability. The latter will address the fact that current reporting of CFS accounts in the Budget / supplementary estimates is a compilation of statistics without any explanatory information for Members of Parliament and the Public.

ACKNOWLEDGEMENTS

The Committee thanks the Office of the Speaker and the Clerk of the National Assembly for the support extended in fulfilling its mandate. Sincere gratitude is also extended to the National Treasury, Office of the Controller of Budget, the Office of the Auditor General, and the Central Bank of Kenya, for honoring the invitations and providing critical information.

Finally, the committee would like to appreciate the Parliamentary Budget Office and the Directorate of Appropriations, Audit, and other Select Committees, for the extensive technical assistance provided in the review of the Consolidated Fund Service Expenditures and for finalizing this report.

It is therefore my pleasant undertaking, on behalf of the Public Debt and Privatization Committee, to table this report to this House and recommend it for adoption.

SIGNED

....

HON. ABDI SHURIE, MP.

CHAIRPERSON, PUBLIC DEBT & PRIVATIZATION COMMITTEE

21st Feb 2023
....

DATE

THE NATIONAL ASSEMBLY

DATE: 21 FEB 2023 TUESDAY

TABLED BY:	CHAIR, PUBLIC DEBT & PRIVATIZATION COMMITTEE HON. ABDI SHURIE, MP
CLERK-AT THE-TABLE:	INZOFU MWALE

PREFACE

1.0. Establishment of the Committee

1. The powers of each House of Parliament to establish committees and to make standing orders for the orderly conduct of its proceedings are provided for under Article 124 of the Constitution of Kenya, 2010.
2. The mandate of the Public Debt & Privatization Committee covers matters related to public debt, credit guarantees, privatization, and public-private partnerships. The Committee will play a critical role in ensuring that the country's public debt remains within sustainable levels.
3. Specifically, Standing Order 207A establishes the Public Debt and Privatization Committee with a mandate to oversight Public Debt. Importantly, the Committee oversights:

   i. *Public debt and guarantees, pursuant to Article 214 of the Constitution;*

   ii. *Matters relating to debt guarantees by the National government;*

   iii. *Consolidated Fund Services excluding audited accounts;*

   iv. *Status of the economy with respect to the public debt;*

   v. *Public-private partnership programs by the national government in respect to the public debt; and,*

   vi. *Privatization of national assets*

1.1. Committee Membership

The Committee membership comprises: -

CHAIRPERSON
Hon. Abdi Shurie, M.P.
Balambala Constituency
Jubilee Party

VICE-CHAIRPERSON
Hon. (Dr.) Makali Mulu M.P
Kitui Central
Wiper Party

Hon. Junet, Mohamed S.N, CBS. M.P
Suna East Constituency
ODM Party

Hon. Omboko Milemba, M.P.
Emuhaya Constituency
ANC Party

Hon. (DR.) Irene Kasalu, M.P
Kitui County
Wiper Party

Hon. Kwenya, Thuku Zachary, M.P
Kinangop Constituency
Jubilee Party

Hon. Kipkoros, Joseph Makilap, MP
Baringo North Constituency
UDA Party

Hon. Aden Daud, EBS, MP
Wajir East Constituency
Jubilee Party

Hon. (DR.) Daniel Manduku , MP
Nyaribari Masaba
ODM Party

Hon. Mohamed, Abdikadir Hussein, MP
Lagdera Constituency
ODM Party

Hon. Suleka, H. Harun, MP
Nominated
UDM Party

Hon. Kahugu, Eric Mwangi, MP
Mathira Constituency
UDA Party

Hon. Abdi, Abdi Ali, MP
Ijara Constituency
NAP-K

Hon. Letipila, Dominic Eli, MP
Samburu North Constituency
UDA Party

Hon. Kirwa, Abraham Kipsang, MP
Mosop Constituency
UDA Party

1.2. Committee Secretariat

The following members of the secretariat facilitate the Committee: -

Dr. Martin Masinde
A.g. Director, Parliamentary Budget Office (PBO)

Mr. Chacha Machage
Fiscal Analyst I /Lead Clerk

Mr. Job Mugalavai
Fiscal Analyst III/ Assistant Clerk

Mr. Sidney Lugaga
Senior Legal Counsel

Ms. Yasmin Hassan
Assistant SerJeant-At-Arms

Mr. Robert Nyaga
Deputy Director (PBO)

Ms. Julie Mwithiga
Fiscal Analyst I

Mr. Eugine Luteshi
Audio Officer

CHAPTER ONE

2.0. INTRODUCTION

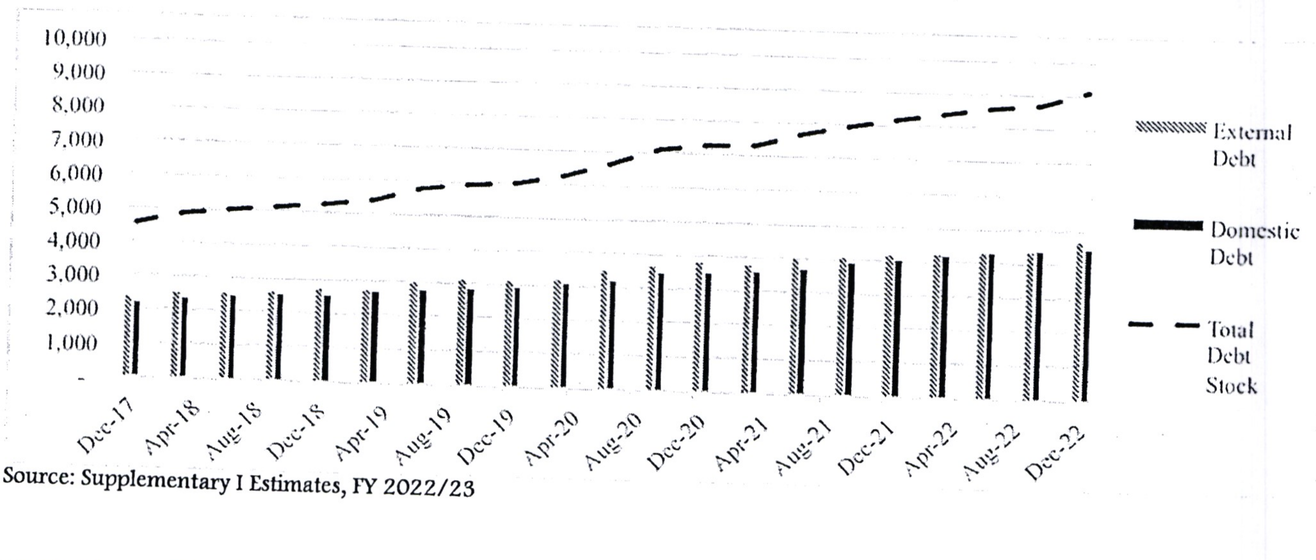
1) Supplementary I Estimates FY 2022/23 were submitted to the National Assembly on 31st January 2023 and according to Standing Order 42 committed to the Public Debt & Privatization Committee to consider the Consolidated Fund Service (CFS) Expenditures. Consolidated Fund Service (CFS) expenditures constitute mandatory expenditures that form a first charge to the Consolidated Fund and hence are not part of annual Appropriations. These expenses include; Public debt servicing expenditures, Pension payments, salary and allowances for independent offices, and constitutional commissions, among others.

2) The Supplementary I Estimates for FY 2022/23 indicate that the CFS expenditures are set to decline by Kshs. 18.789 billion (from Kshs. 1.57 trillion to Kshs. 1.55 trillion). This 1.2% reduction is primarily on account of a reduction in Public Debt Servicing Expenses by Kshs. 32 billion, against the increase in Guaranteed debt payments and pension expenditures, worth Kshs. 12.4 billion and Kshs. 811 million, respectively.

3) Without any adjustments in the financial year, the reduction of CFS may translate to the creation of fiscal flexibility (worth Kshs. 18.789 billion) in FY 2022/23. However, a medium term review indicates that this may be a short-lived opportunity as CFS expenditures are projected to reach Kshs. 1.89 trillion in FY 2023/24. This calls for the need to practically implement fiscal consolidation targeting the reduction of debt servicing expenditures in the long term.

4) Public debt1 stock amounted to Kshs. 9.15 trillion as of December 2022 (composed of External Debt Kshs. 4.67 trillion – 5.1% and Domestic debt Kshs. 4.47 trillion- 49%), and accounts for 91.5% of the Kshs. 10 trillion debt ceiling. It is estimated that the Public Debt Stock will reach Kshs. 9.413 trillion by June 2023[2], in the event the debt ceiling is not revised, and therefore, the rate of debt accumulation may negatively impact the borrowing space available to finance the budget in 2023/24 or the next fiscal year, under the debt ceiling.

Figure 1: Public Debt Stock, December 2017 – December 2022 (Kshs. Billions)



Source: Supplementary I Estimates, FY 2022/23

[1] Defined under Article 214 of the Constitution as "all obligations attendant to loans raised or guaranteed and securities issued or guaranteed by the national government

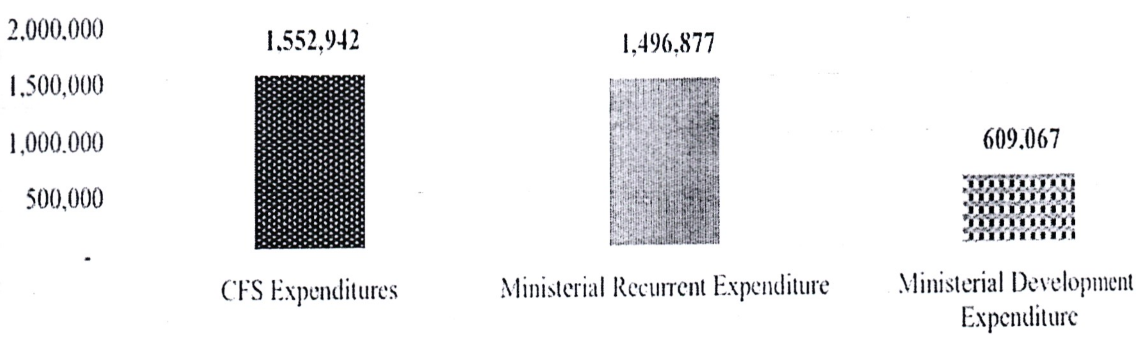
[2] As contained in the National Treasury Submission to the committee

5) As a share of the Gross Domestic Product (GDP), the Kshs. 9.15 trillion stock of public debt is estimated to equate to 68% of GDP, in nominal terms (against the World Banks Debt/GDP threshold of 55%), indicating the amount of economic effort required to fulfill public debt obligations. The public stock of debt has increased by 99.9 percent since December 2017 indicating an increase in the intergenerational transfer of Public Debt, an increase in debt repayment burden, and vulnerability to economic shocks and high-risk exposure3.

6) In a review of Supplementary I Estimates, it was noted that the largest CFS components included; a) Public Debt Servicing Expenditures amounting to Kshs. 1.36 trillion and therefore accounting for 88% of total expenses, b) Pension payments amounting to Kshs. 172.6 billion, accounting for 11% of CFS expenditures.

7) CFS expenditure, amounting to Kshs. 1.55 trillion is the largest expenditure item under the FY 2022/23 fiscal framework. It equates to 104% of recurrent expenditure budget and 255% of development expenditure budget, indicating the increasing level of non-discretionary expenditure component of the FY 2022/23 budget.

Figure 2: Consolidated Fund Service Expenditures and other Budgetary Outlays (Kshs. Millions)



Source: Supplementary I Estimates, FY 2022/23

[3] Exchange rate risk, interest rate risk, and refinancing risk.

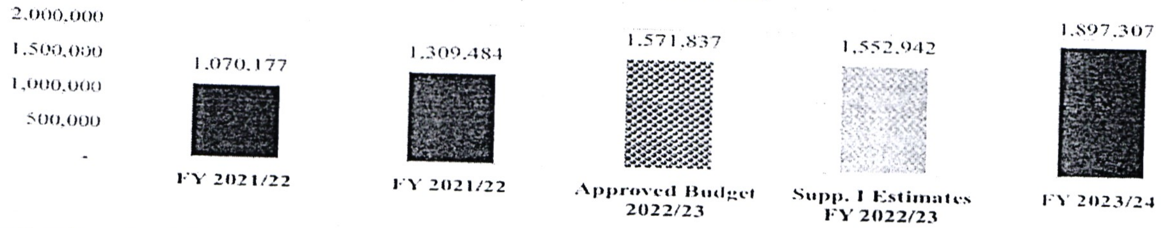
CHAPTER TWO

3.0. BRIEFING BY THE PARLIAMENTARY BUDGET OFFICE

During the briefing, it was indicated that:

8) The Supplementary I Estimates for FY 2022/23 indicated that CFS expenditures were to decline by Kshs. 18.9 billion, from Kshs. 1.57 trillion to Kshs. 1.55 trillion. The 1.2% reduction was on account of a reduction in Public Debt Servicing Expenses by Kshs. 32 billion, against the increase in Guaranteed debt payments and pension expenditures, worth Kshs. 12.4 billion and Kshs. 811 million respectively. Given that CFS expenditures are a charge to the Consolidated Fund; this could translate to the creation of fiscal flexibility in FY 2022/23. This however, could be short-lived as CFS expenditures were projected to increase to Kshs. 1.89 trillion in FY 2023/24.

Figure 3: Consolidated Fund Service Expenditures (Kshs. Millions)



rce: Supplementary I Estimates, FY 2022/23 Sou

On Public Debt Servicing Expenditures, it was indicated that:

9) The Kshs. 32.1 billion reduction in Public Debt Servicing Expenditure related to; a) reduction in External Debt Redemption payment by Kshs. 17.3 billion and b) reduction in Domestic Debt Interest payments by Kshs. 16.1 billion. That despite this reduction, Public Debt Servicing Expenditures amounted to Kshs. 1.36 trillion and accounted for the largest share (88 percent) of total CFS expenses. It was recommended that addressing public debt servicing expenditures should be prioritized as this would yield larger fiscal room.

10) Domestic debt had a high-cost implication than external debt. Domestic debt stock, while accounting for 49 percent of total public debt stock, accounted for 73 percent (Kshs 1.01 trillion) of the Public Debt Service Expenditures (Kshs. 1.36 trillion); while external debt stock, despite accounting for 51 percent of total debt stock, accounted for only 27 percei (Kshs. 362 billion) of debt servicing expenditures, due to concessional characteristics of the external debt portfolio.

Table 1: Summary Public Debt Servicing Expenditure (Kshs. Million)

	Approved Budget 2022/23	*Supp. Est. FY 2022/23*	*Change*	FY 2023/24
External Debt Interest	137,241	*138,441*	*1,200*	146,875
External Debt Redemption	241,060	*223,757*	*(17,304)*	475,596
External Debt Servicing	**378,302**	***362,198***	***(16,104)***	**622,471**
Domestic Debt Interest	553,407	*537,380*	*(16,027)*	572,338
Domestic Debt Redemption	461,408	*461,408*	-	477,845
Domestic Debt Servicing	**1,014,815**	***998,788***	*(16,027)*	**1,050,182**
Public Debt Service	1,393,116	*1,360,986*	*(32,130)*	1,672,653

Source: Supplementary I Estimates, FY 2022/23

11) Domestic interest expenses were to decline by Kshs. 16 billion, from Kshs. 553.4 billion to Kshs. 537.4 billion. Items affected included; a) increase of domestic debt interest expenditure on account of reopened domestic debt bonds worth Kshs. 3.7 billion, b) reduction of planned expenditure on short-term borrowing (declined by 15 billion), c) reduction on new loan interest expenditure from Kshs. 50.7 billion to Kshs. 11.5 billion. The changes we in response to market liquidity capacity and the continued strategy of reducing domestic short-term borrowing in favor of medium-term to long-term domestic bond issuance aimed at reducing refinancing risk.

12) The estimates also indicated that Kshs. 1.2 billion would be incurred to meet Interest Payments of IMFs' Special Drawing Rights, which had been recognized as a liability. There were no other adjustments under external interest expenditure. As such commercial financing was expected to continue to account for Kshs. 73 billion (or 53 percent) of total interest expenses., followed by the Exim Bank of China and the World Bank's IDA, at Kshs. 23.6 billion and Kshs. 16.8 billion, respectively.

13) A review of Public Debt Redemption Expenditures indicated that there were no changes instituted on domestic debt redemption, which were to remain at Kshs. 461 billion for FY 2022/23. The External debt redemption profile, on the other hand, was anticipated to have a net decline by Kshs. 21.25 billion as a result of cross-board reduction and it was noted that there were no explanatory notes available to explain the changes. The largest loan reduction touched on credit from the Exim Bank of China (Kshs. 8.24 billion), Italy (Kshs. 4.96 billion), and IDA (Ksh. 2.6 billion).

On Pension Expenditures, it was indicated that:

14) Pension payments amounted to Ksh. 172.6 billion accounting for 11 percent of CFS expenditures. According to the Supplementary I Estimates, changes in pension expenditure would result in an overall net increase of expenses of Kshs. 811 million. The reductions included; a) ordinary pension by Kshs. 2.8 billion, following cuts on pensions to the Military (down to Kshs. 11.4 billion), and b) commuted pension by Kshs. 2 billion based on gratuity to Military cuts (down to Kshs. 16 billion). These were balanced out by an increase in allocations to the Public Service Superannuation Scheme[4] by Kshs. 6 billion.

Table 2: Summary Changes in Pension Expenditures (Kshs. Millions)

Item	FY 2021/22	*Approved Budget 2022/23*	*Supp. I Est. FY 2022/23*	*Change*	% Change
Ordinary Pension	64,099	*69,549*	*66,654*	*(2,895)*	-4%
Commuted Pension	68,469	*76,160*	*73,848*	*(2,312)*	-3%
Other Pension	242	*242*	*242*	-	0%
Public Service Superannuation Scheme	20,830	*25,877*	*31,895*	*6,018*	23%
Total	153,640	*171,828*	*172,640*	*811*	0%

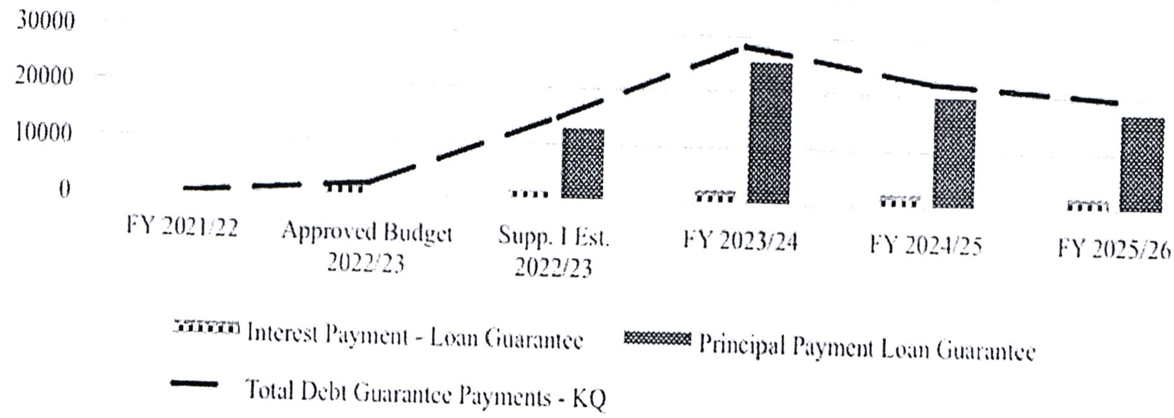
Source: Supplementary I Estimates, FY 2022/23

[4] The Scheme commenced on 1st January 2021 as a contributory pension scheme for workers in public service. Under the scheme, an employee contributes 7.5% of their basic salary and the employer matches with 15%. The contribution pension scheme is expected to ease payment pressure from the exchequer in the long–term.

On Guaranteed Debt Payments, the committee was informed that;

15) In the Supplementary I Estimates, debt guarantees were to increase by Kshs. 12.4 billion, from Kshs. 2.3 billion to reach Kshs. 14.7 billion. The increase related to the introduction of Principal payments for the Kenya Airways Loan Guarantee[5] to the interest payments earlier provided for in the Approved FY 2022/23 budget – in addition to the Kshs. 20 billion provided for under Vote 1071 – The National Treasury. This indicated a change of financing strategy based on providing both financial support (toward keeping the company operational while meeting debt servicing repayment. It was recommended that there was the need to check whether value for money had been applied and how these resources would be recovered.

Figure 4: Kenya Airways Guaranteed Debt Payments, (Kshs. Millions)



4.0. SUBMISSION BY THE NATIONAL TREASURY

The National Treasury, through their submission indicated that:

16) The gross public debt as of 31st December 2022, had increased by Kshs. 939.2 billion to Ksh. 9,146.0 billion (67 percent of GDP in nominal terms) compared to Kshs. 8,206.7 billion (66 percent of GDP in nominal terms) as of the end of December 2021. The gross public debt comprised of Kshs. 4,673 billion (51.1 percent of total debt) external debt and Kshs. 4,472 billion (48.9 percent of total debt) domestic debt.

17) The Consolidated Fund Services constituted expenditure components such as; Public dei (Domestic Debt and External Debt Services), Pensions, Salaries and Allowances to Constitutional Offices, Guaranteed Debt and Miscellaneous, and Subscriptions to International Organizations.

---

[5] This guarantee was based on Sessional Paper No. 3 of 2017, through which the National Government undertook to guarantee loan facilities to the Kenya Airways PLC as follows: i) Guarantee of $525 million (Long Term Loan) to US Exim bank (Export-Import Bank of the US) in order to deliver liquidity savings to KQ over five (5) years, and ii) Guarantee of $225 million (Short Term Loan) to local Kenya banks, primary to support working capital requirements.

Table 3: Summary of Consolidated Fund Service projections (Kshs. Millions)

	Approved Budget FY 2022/23	Revised I FY 2022/23	Deviations
Domestic Debt Servicing Expenditure			
Interest	553,407	537,380	-16,027
Redemptions	461,408	461,408	0
Sub-total	**1,014,815**	**998,788**	**-16,027**
External Debt Servicing Expenditure			
Interest	137,241s	138,441	1,200
Redemptions	241,060	223,757	-17,304
Sub-total	**378,302**	**362,198**	**-16,104**
Pensions	171,828	172,640	958
Salaries of Constitutional Office Holders	4,628	4,639	11
Miscellaneous Services	0	0	0
Guaranteed debts (KQ)	2,265	14,678	12,413
Subscription to International organizations	0.5	0	-0.5
Sub-total	**178,721**	**191,956**	**13,382**
Total	**1,571,837**	**1,552,942**	**-18,896**

Source: National Treasury

On Domestic debt service expenditure, the committee was informed that:

18) The overall interest payment on domestic debt had reduced by Ksh 16.0 billion due to underperformance in domestic borrowing against the approved target as a result of tight liquidity. Domestic debt service related to payments of Interest and redemptions for the following items:

i. Treasury bonds and bills interest payments were based on actual issuances outstanding as at end of September 2022, at the prevailing market coupon rates.

ii. The domestic debt borrowing target for the FY 2022/23 had been revised from Ksh 589.5 billion to Ksh 435 billion.

iii. New Loans related to interest payments of new bonds that were issued in October and December 2022, whose 1st installments were to fall due in May and June 2023.

iv. The interest rates for the issuances of Treasury bonds had been placed at an average of 15 percent p.a while the Interest rates on Treasury bills for 91 days, 182 days, and 364 days average of 11 percent p.a. were based on the prevailing market conditions and expectations on inflation rates.

v. Interest on Pre-1997 Overdraft Loan was based on an outstanding amount as at end of June 2022 of 3 percent p.a as per the Deed of Guarantee in respect to the Pre-1997 Outstanding loan between the Government of Kenya and CBK.

vi. On Government Overdraft facility at CBK - Interest Charges were based on 100 percent utilization of the facility of Ksh 80.05 billion as per the latest Audited accounts at CBR rate as per the CBK Act.

On External debt service assumptions, the Committee was informed that:

19) When preparing the external debt service projections for both interest and principal, the National Treasury relied on the Debt Management System (CS-DRMS) to extract the debt service flows in foreign currencies for each loan. These projections from the system are then converted into Kenya Shillings using a quarterly depreciating currency and then aggregated by country.

20) On principal payments, the National Treasury had ensured that any amortizations of debts that had not been disbursed, were removed from the forecast. Interest on new commercial loans was taken care of as new loans and the interest rates assumed were the prevailing market rates indicated by Commercial Banks for syndicated loans, while the secondary market yields were utilized for the International Sovereign Bonds.

On guaranteed public debt, the committee was informed that:

21) Guaranteed debt expenditures related to Kenya Airways Ltd for which the government had a 48.9 percent shareholding in KQ. The amount of Kshs. 12.4 billion increase under Supplementary I Estimates (FY 2022/23), related to principal and interest payments. T salient points on KQ guaranteed debt included:

i. The original Loan before the guarantee was US$842 million (Kshs. 74 billion exchange rate of 88) of which the GoK guaranteed portion to Exim Bank USA was US$525 million. This guarantee was approved by Parliament in the year 2017.
ii. The outstanding loan balance as of December 2022 is US$462.5 million (Kshs.56.3 billion)
iii. A default notice had been issued by the guaranteed lender, US Exim Bank, who called on the GoK Guarantee.
iv. In FY 2022-2023, a total of US$ 118.1 million (Kshs. 14.8 billion) was due for payment, of which US$22.9 million (Kshs. 2.8 billion) had already been paid by the guarantor.
v. The loan was expected to be fully serviced by the end of FY 2026/27, after which the Government as per section 61 of the PFM Act would recover the sums of money paid, as shareholder loans.

Table 4: KQ Guaranteed Debt Service Payments (Millions)

	Approved Budget FY 2022-23	Supp. I Estimates FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26
Interest	2,265	1,708	2,535	2,373	2,287
Principal	0	12,969	25,725	19,787	17,268
Total	2,265	14,678	28,259	22,160	19,555

Source: National Treasury

On subscriptions to International Organizations, the committee was informed that:

22) Until 2017, the Government through the National Treasury had been paying share subscriptions to international organizations under various pieces of legislation namely; International Finance Corporation Act, Cap. 466; International Development Association Act, Cap 465; Bretton Woods Agreements Act, Cap 464; the African Development Bank Act, Cap 492 and Multilateral Investment Guarantee Agency Convention, 1988 (Revised 2010).

23) The Public Finance Management (African Union and Other International Organization Subscription Fund) Regulations, 2017, established the "African Union and Other International Organization Subscription Fund", through which Kenya`s contributions to African Union and other International Organizations across all Government Agencies were to be paid and thus rendered all the other individual provisions to be budgeted under one umbrella body.

24) Since the management had not caused the revocation or repealing of the other laws to be in tandem with the current legislation, the CFS had been budgeting the token amounts under each organization, but the amounts had not been utilized. These amounts had raised an audit query and the legal advice received was to let the "African Union and Other International Organization Subscription Fund" meet the expenditures, as the management sought to repeal or realign the above legislations to the Public Finance Management (African Union and Other International Organization Subscription Fund) Regulations, 2017.

On Pensions Expenditures, the committee was informed that:

25) The budget for FY 2022/23 had revised ordinary and commuted pensions, downwards to accommodate the required adjustment in the budget while taking into account the expenditure trend and disbursement of the exchequer for the first half of FY 2022/23. Subject to the full disbursement of the budget, the reduction is not anticipated to have adverse effects on the operations of the pensions administration.

26) The increase in GOK contributions towards Public Service Superannuation Scheme (PSSS) was due to unfunded amounts that were unfunded due to the exchequer for the period between March 2022 and June 2022. Other reasons included:

   i. An increase in the number of claims processed and paid, arising from deliberate efforts at enhancing service delivery.
   ii. Following the onset of the unprecedented Covid 19 in early 2020, the Pensions Department put in place a night and day shift that upscaled the gear of clearing an outstanding backlog of claims processing, particularly those arising from the revised pensions for teachers.
   iii. In May 2022, the Pensions Department successfully procured a support contract that ensured the stability of the Pensions Management Information System, sustaining the pace of processing claims.
   iv. Since basic salary was a factor in pension calculation, improvement in the remuneration (annual salary increase) of the employee increased gratuities.
   v. The number of persons retiring each subsequent year had been on an upward trend.

5.0. SUBMISSION BY THE OFFICE OF THE AUDITOR GENERAL

The through their submission, the Office of the Auditor General indicated that:

27) The Consolidated Fund Services (CFS) expenses were one of the major expenditure lines in the whole-of-government budget. In terms of actual expenditure, data for the period 2017/2018 to 2021/2022 indicated that the expenditure had grown from Kshs. 583.45 billion in 2017/2018 to Kshs. 1.197 trillion in 2021/2022 (a 105 percent increase in the last five years).

28) The data for the total government net actual expenditures for the period 2017/2018 to 2020/2021 showed that the rate of growth of the development expenditure had not grown in tandem with the Consolidated Fund Services expenditure.

29) The Office of the Auditor General had raised concern over the growing level of public debt in Kenya. The outstanding amount of public debt of Kshs. 8.48 trillion (FY 2021/22) represented 84.8 percent of the maximum ceiling of Kshs.10 trillion[6].

30) The CFS expenditures were primarily driven by debt servicing expenditures that had increased from Kshs. 516.94 billion in FY 2017/18 to Kshs.1.04 trillion incurred in FY 2021/22, an increase of Kshs. 524.37 billion (or 101 percent) over a five (5) year period. The growth was attributed to an increase in public debt interest payments and public debt redemptions, which over the years accounted for over 85 percent of the Consolidated Fund Services' total expenditure.

31) The Government continued to pay commitment fees incurred on undrawn amounts in respect of loans signed between the Government of Kenya and foreign lenders. In 2021/2022, a total of Kshs. 1,486,813,083 were paid as commitment fees for undrawn amounts.

32) There were dormant/ non-performing loans where the recipients had defaulted on the repayment obligations. Default on debt repayment exposed the Government to risks of legal suits that could lead to punitive penalties and subsequent loss of public resources. As of 30th June 2022, the portfolio of non-performing loans amounted to Kshs. 218.8 billion.

Policy Recommendations proposed by the Auditor General on Public Debt included, that:

33) There was a need to address the fact that there were no specific financial statements prepared to show the debt position (Debt stock) as the status of public debt was only included as an annexure in the Consolidated Fund Statement of Expenditure. Consequently, it was not possible to ascertain the amount redeemed and current value and therefore the validity of the public debt expenditure.

34) There was a need to address non-disclosure of; a) all obligations guaranteed by GoK in the Statement of Obligations guaranteed by the National Government, b) loans and overdrafts, if any, held by other National and County Government entities, and c) other government liabilities or obligations such as pending bills/accounts payable, pension arrears.

35) On commitment fees, it was recommended that:

    i. Implementing Agencies should put proper mechanisms to enable absorption of the committed credit within the agreed time frames and avoid payment of commitment fees.

    ii. The National Treasury, being the overall supervisor of Government Ministries, Departments, and Implementing Agencies, should ensure that programs and projects are ready for execution before committing the Government with the credits.

    iii. Key stakeholders are involved during a pre-loaning engagement. This would enable stakeholders to be cognizant of the significance of some of the processes and the importance of adhering to the agreed loan conditions.

36) The National Treasury should put in place measures to guard against excessive internal borrowing which could have a negative impact on the country's interest rates and inflation rates and could lead to crowding out of private investors due to reduced loanable funds in the market.

[6] Approved by Parliament through Legal Notice No. 89 of 26 May 2022

37) The Government should consider hedging mechanisms on foreign exchange risks. This would help in reducing the risk associated with fluctuation in the exchange rates between the Kenyan shilling and lenders' currencies. Debt servicing was prone to foreign exchange loss and exposure on payment of external debt.

In addressing Pensions and Gratuity payments, the committee was informed that:

38) Pensions and Gratuity had increased from Kshs. 63.1 billion in 2017/2018 to Kshs.152.98 billion in 2021/2022, representing an increase of Kshs. 89.8 billion (or 142%) over a five-year period. In 2021/2022, the government introduced the Public Service Superannuation Scheme which contributed to the increase in pensions and gratuity expenditure and the overall growth in CFS payments over the period.

39) The office undertakes annual financial audits on pensions and gratuities. In April 2019, a Performance Audit Report on the Administration of the Public Service Pensions Scheme was submitted to Parliament. The audit covered a period of five financial years, from 2012/2013 to February 2018.

40) One of the major issues raised in the financial audits of pension and gratuities was the pension paid to Asian and European Pensioners who retired due to the Africanization of the public sector after independence in 1963. These were paid through Crown Agents, a United Kingdom-based organization. However, no returns had been submitted to authenticate the existence of the pensioners.

41) In addition, the Performance Audit Report of 2019 revealed a lack of procedures to identify deceased pensioners and dependants. The audit revealed that the Pensions Department continued to pay into the accounts of deceased pensioners and dependants for a period ranging from one month to seven years. Therefore, the Government may have been losing money sent to bank accounts of deceased pensioners and dependants due to a lack of proof of life processes at the Pensions Department.

42) There was non-implementation of Parliamentary resolutions and audit recommendations and there was a need for a legal framework applying sanctions for the non-implementation of audit recommendations.

On Pensions and Gratuity payments, the Auditor General recommended to the Committee, that:

43) The National Treasury should enforce follow-ups by the Pensions Department on the filing of life certificates to identify deceased pensioners and dependants and hence ensure that payment is only made to legitimate persons.

44) The Pensions Department should collaborate with the Civil Registration Department as they could provide monthly data on registered deaths, identify deceased pensioners and dependants, and ensure payments are only made to legitimate persons.

45) The Pensions Management Information System (PMIS) should be re-engineered to address integrity concerns such as:

   a) irregular enrollment of pensioners;
   b) payment of lump sum before officers' date of exit;
   c) shared Identification Numbers;
   d) irregular IDs and Tax Personal Identification Numbers;
   e) shared Bank Account numbers; and,

f) officers not in Permanent and Pensionable Terms of service being enrolled into the Pensions Management Information System for payment of pension.

46) The PMI System should also interface with the Government's Integrated Personnel and Payroll Database to ensure tracking of Government employees in the payroll.

6.0. PRESENTATION BY THE GOVERNOR CENTRAL BANK OF KENYA

On broad macroeconomic performance, the committee was informed that:

47) Revenue enhancement was feasible so long as there were no pending bills in the year as pending bills harm both the private sector and the public sector and affect the fiscal framework further when revenue targets are missed.

48) The Kenya currency depreciated against the dollar given the strengthening of the dollar against most currencies in 2022. The Kenyan currency depreciated by approximately 9 percent, which was compared favorably against other countries that depreciated faster than the Kenyan shilling e.g., Yen depreciated by 16 percent, Swedish Krona by 18 percent.

49) Despite the depreciation of the shilling, diaspora remittances improved and outperformed every other sector. Tourism sector performance had also picked up but returns for certain agricultural products did not improve due to commodity prices and production.

50) The exchange rate market in Kenya was a broad market with many buyers and sellers, therefore, the CBK prices only acted as a benchmark point. It was further noted that a floating exchange rate regime had its benefits to a management one and that the exchange rate would be managed for the benefit of all, corporate and non-corporate.

51) The reserves at the Central Bank were in an adequate position. This was because the Central Bank took a more cautious stand by stating its net reserve position i.e., gross reserves net of commitments. As of Thursday, 9th 2022, reserves amounted to Kshs. 7 billion or 3.9 months of import cover.

On public debt, the Committee was informed that:

52) The timeliness of external financing mattered in the financial year as it enabled the timely injection of liquidity into the domestic market, which eased acquiring, and payment of T-bills and the capacity of the government to make payments.

53) On the cost of borrowing, it was noted that external debt is mostly concessional in nature which charges lower interest rates and has a longer repayment period, therefore making external borrowing favorable compared to domestic borrowing. Locally, interest rates were mainly market-determined and therefore not controlled.

54) Redemption of T-bills-shortfall that had been allocated Kshs. 200 billion each year as it was the amount that facilitated the payment of T-Bill redemption when the borrowed amount was insufficient to cover both the net borrowing and the rollover amount.

55) In minimizing commitment fees, there was a need to improve the process of negotiating with lenders for loan terms in order to get better terms and better clauses. That commitment fees arose as a result of:

a. lack of absorption rate by implementing agencies,
b. poor fiscal planning that did not involve implementing agencies at the early stages of acquiring a loan,
c. disbursement of foreign financing at the end of the fiscal year,

d. lack of capacity to negotiate better terms for the country's loans in addition to some creditors placing unfair provisions within the loan contracts.

56) Reducing CFS expenditures was a long-term task and could be achieved through reducing deficit financing or by looking at existing debt and trying to restructure payment of expensive debts.

57) In order to borrow cheaply, there was a need to work on reducing the sense of Kenya's risk profiling/rating by having better macroeconomic outcomes that can influence creditor perception through credit rating agencies.

58) Hedging against currency risk could be undertaken as insurance but could be an expensive option should markets improve unexpectedly.

59) On privatization of State-Owned Corporations, it was noted that this could be undertaken on a case-by-case basis in addition to addressing governance issues arising from publicly owned entities. This was to ensure that entities' shareholdings fetch the right price and do not waste private sector resources.

7.0. SUBMISSION BY THE OFFICE OF THE CONTROLLER OF BUDGET

Through their submission, the Office of the Controller of Budget indicated that:

60) Between July 2022 and January 2023, the Controller of Budget authorized a total withdrawal of Kshs. 684.7 billion from the Consolidated Fund to meet Consolidated Fund Services (CFS) expenditures. These accounted for 41.6 percent of the Kshs. 1.65 trillion total exchequer releases from the Consolidated Fund over the same period. Significant CFS funding was towards repayment of public debt, constituted 45 percent and 91.6 percent, of the Original Budget Estimates and total exchequer issues to CFS, respectively.

61) Apart from the Salaries, Allowances & Miscellaneous (SAM), no other category of CFS funding had achieved the 50 percent threshold for the 7 months period (approximately 58.3 percent of the annual target) out of the full year, 12 months (100 percent target). The significant funding towards SAM was driven by retirement packages for retired state officers, which were funded during the period.

62) During the first half of FY 2022/23, the Controller of Budget authorized the withdrawal of Kshs. 627.33 billion towards public debt payment. This was primarily composed of Foreign Payments (Kshs. 246.86 billion), T-Bond Redemptions (Kshs. 154.27 billion), T. Bond Interest (Kshs. 223.28 billion), and Interest on Overdraft facility at CBK (Kshs. 2.04 billion).

63) The shorter repayment period of Treasury Bills implied higher interest rate risk. It was noted that there was an investor preference for the shorter 91-day paper. Shorter maturity periods of loans meant more debt servicing at higher rates would occur thus piling pressure on revenue to meet debt servicing.

64) Due to liquidity constraints, some cash call-ups for Treasury Bonds and disbursement of funds towards pension expenditure (monthly and lump sum) had not been funded on time. The delay in disbursement of pensions and gratuities was noted as a recipe for social economic predicament for the senior citizens.

65) On the other hand, the exchequer issues towards public debt repayment had continuously crowded out exchequer issues towards recurrent, development, pensions, and County

Governments. This situation presented dual risks; a) that of not raising enough revenue to finance the budget and b) the risk of inadequate funds to settle the public debt when due.

Policy recommendations by the Office of the Controller of Budget included:

66) That a Sinking Fund should be established comprising sums of money to be set aside or saved to pay off debt or bonds and would help soften the hardship of meeting large debt repayment through the use of revenues. Section 50(8) of the PFM Act, 2012 provided provisions for the creation of a sinking fund.

67) However, there is a need to put in place measures to reduce the current account deficit so as to avoid overreliance on IMF Extended Credit Facility. Even though the IMF Extended Credit Facility had been a necessity as a result of the prolonged balance of payment shortfall it had become come with certain minimum conditions which impact fiscal policy.

CHAPTER THREE

8.0. COMMITTEE FINDINGS / OBSERVATIONS

The Committee having considered the submissions tabled before it from the stakeholders and made the following observations.

On Public Debt Servicing expenditures, it was observed that:

68) Government transactions continued to take place under cash accounting system. The weaknesses of this system is that it records income and expenses only when cash is actually received or paid as such it does not record items such as pending bills or undisbursed borrowed funds, and entities can have variations in financial statistics during the same time period. This could be solved with the adoption of accrual accounting which records income and expenses at the point of transaction.

69) The status of public debt is only included as an annexure in the Consolidated Fund Statement of Expenditure. Consequently, it is not possible to ascertain the amount redeemed and current value and therefore the validity of the public debt expenditure.

70) The domestic debt portfolio had a higher interest rate risk compared to the external debt portfolio due to a high average interest rate charge of 13 percent (on average) and as a result, domestic debt payments servicing accounted for 80 percent of total interest payments. Since the yield on bonds was market-determined, it signified the probability of sustained high interest rates, especially if the government continued to borrow during a low liquidity period.

71) The creation of a sinking fund might act to pre-empt debt servicing and smoothen out debt servicing expenditures. A sinking fund comprises money set aside or saved to pay off a debt or bond, which can be a critical alternative to use over the Overdraft Facility which charges interest.

72) There is a general proposal for the securitization of pending bills; however, these do not fall under the definition of Public Debt under Article 214 of the Constitution. Nevertheless, pending bills and other financial obligations have the potential of increasing public debt if they increase expenditures. Furthermore, securitization is not a solution for addressing pending bills.

73) The Government continues to pay commitment fees on undrawn amounts in respect of loans signed between the Government of Kenya and foreign lenders amounting to Kshs. 1.179

billion. In 2021/2022, a total of Kshs. 1.49 billion was paid as commitment fees for undrawn amounts and in the current FY 2022/23, Kshs. 680.03 million had been expended to meet commitment fee requirements. These were avoidable expenditures and point to weak debt management policy, poor public finance management, and weak institutional framework.

74) There were non-performing loans worth Kshs. 218.8 billion as of 30th June 2022, where the recipients defaulted on the repayment obligations. Default on debt repayment exposed the Government to the risk of legal suits that could lead to punitive penalties and subsequent loss of public resources.

75) External debt servicing was prone to foreign exchange loss exposure. It was recommended that the Government considers hedging mechanisms on foreign exchange risks. This could help in reducing the risk associated with fluctuation in the exchange rates between the Kenyan shilling and lenders' currencies.

76) Pensions and Gratuity had increased from Kshs. 63.1 billion in 2017/2018 to Kshs.152.98 billion in 2021/2022 representing an increase of Kshs. 89.8 billion (or 142%) over a five-year period.

77) The Public Service Superannuation Scheme contributed to the increase in pension expenditure and the overall growth in CFS payments. It was introduced in FY 2021/22 and increased pension payments by Kshs. 20.83 billion and will require Kshs 31.9 billion in FY 2022/23. Despite being critical, the timing for its introduction should have been considered as the scheme has been introduced during a period of fiscal constraint, while the benefits are estimated to occur 12 – 15 years from today.

78) There is a need to address the fact that there is the non-disclosure of; a) all obligations guaranteed by GoK in the Statement of Obligations guaranteed by the National Government, b) loans and overdrafts, if any, held by other National and County Government entities, and c) other government liabilities or obligations such as pending bills/accounts payable, and pension arrears.

79) The CFS expenditures were the largest and unregulated expenditure item, coupled with the issues raised by the stakeholders (COB, OAG, CBK, and NT) it was noted that there is a need to enact legislation to regulate the management of the Consolidated Fund Services in order to promote sustainability, transparency, and accountability.

On Pension and gratuity payments, the Committee observed that:

80) One of the major issues raised in the financial audits of pensions and gratuities was the authentication of the existence of Asian and European Pensioners who retired due to the Africanization of the public sector after independence in 1963. These were paid through Crown Agents, a United Kingdom-based organization. Furthermore, despite retiring in 1963 and involving persons, born between 1930 and 1940, the pension line allocation increased from Kshs. 100 million to 150 million in FY 2021/22 and remained at Kshs. 150 million over the medium term, indicating that no natural attrition was expected up to FY 2025/26.

81) The Performance Audit Report of 2019 also revealed a lack of procedures to identify deceased pensioners and dependants, resulting in payment into the accounts of deceased pensioners and dependants for a period ranging from one month to seven years, leading to loss of government money. Without appropriate measures of proof of life, it was noted that the Pensions Department might continue to pay deceased pensioners indefinitely.

82) There was non-implementation of Parliamentary financial resolutions and audit recommendations related to public debt (and servicing) and pension management. This information was contained in the Annual Auditor General's Reports and indicated the possibility that resolutions do not contribute to addressing recurring audit issues such as lack of adherence to Finance Management Law, Procurement Law, and the Audit Act.

83) The rising cost of domestic debt servicing expenditure indicated that previous Medium-Term Debt Management Strategies had not promoted sustainability in debt servicing, whose cost of servicing now accounts for 73 percent of debt service expenditures, and that external debt, despite an additional exchange rate risk, accounts for only 27 percent of the total finance costs.

9.0. COMMITTEE RECOMMENDATIONS

a) On Public Debt and Consolidated Fund Service Expenditures, the committee recommends that:

84) The National Treasury to review the standards of accounting by adopting accrual accounting, in order to ensure uniform financial statements across entities that record public debt and other financial commitments such as pending bills that are not captured adequately und the cash accounting system within six months of tabling this report.

85) The National Treasury should submit, alongside the Annual Budget Estimates, a statement indicating all obligations of the National Government, including but not limited to: a) guaranteed loans (b) loans and overdrafts; (c) other government liabilities or obligations such as pending bills/accounts payable, pension arrears, non-performing loans court awards and litigation costs. The non-performing loans amounted to Kshs. 218.8 billion as of 30th June 2022 and National Assembly should have been notified before the start of FY 2022/23.

86) The National Treasury should within six months, table regulations for the establishment of a sinking fund dedicated to public debt servicing, as provided for under Section 50(8) of the PFM Act, 2012. This is to enable the buildup of savings to meet rising and costly public debt repayment and ease the debt repayment profile.

87) In order to guard against exchange rate fluctuations, the National Treasury should consider hedging mechanisms on foreign exchange risks, negotiating lending agreements in Kenya shillings or fixing the exchange rates at the time of loan negotiation.

88) The National Treasury should table an amendment to the PFM Act, 2012, that will enable th enactment of an Annual Loan Financing Bill within the Public Finance management framework to enable the National Assembly review and approve the debt financing (loans and securities) intended to finance the fiscal deficit of the Annual Budget.

89) The National Treasury, in the preparation of the Medium Term Debt Management Strategy should take into account the increase in cost of domestic debt and provide appropriate policy proposals.

b) On commitment fees, the Committee recommends that:

90) Implementing Agencies should put proper mechanisms to enable absorption of the committed credit within the agreed time frames and avoid payment of commitment fees.

91) The National Treasury, should ensure that Government Ministries, Departments and Implementing Agencies undertake project evaluation and appraisal, and are ready to projects/programs before committing the Government with the loan agreements.

92) The National treasury should involve an entity that is intended to benefit from a loan during pre- loaning stages. This will enable such an entity to be cognizant of the significance of some of the processes and the importance of compliance to the agreed loan conditions.

93) The National Treasury should submit an amendment to the PFM Act, 2012 to ensure that budgeted counterpart funding is ring-fenced by law and to provide appropriate sanctions for its contravention within six months of tabling this report. The latter will guarantee in-year reallocation does not affect counterpart funding to promote full and timely disbursement of loans.

94) The National Treasury should submit an amendment to the PFM Act, 2012 to provide for appropriate sanctions against Accounting Officers whose actions have led to the incurrence of commitment fees

95) The National Treasury should begin to renegotiate the outstanding Kshs. 1.179 trillion with a view of finding alternative use of undisbursed loans and increasing the rate of disbursement of undisbursed loans within thirty days for undisbursed loans and increasing disbursement rate for partially disbursed loans

96) That within two (2) weeks the National Treasury should submit to the House the complete list of loans undisbursed, affected projects, reasons for non-disbursement and the corrective measures being undertaken.

c) On pension payments, the Committee recommends that:

97) The National Treasury should ensure that the Pensions Department undertakes proof of life certification to identify deceased pensioners and dependants within six months. This is to ensure that payments are made to legitimate persons.

98) The National Treasury should within thirty days take steps to ensure that Pensions Department, collaborates with the Department of Civil Registration to provide monthly data of registered deaths and identify deceased pensioners and defendants and ensure that payments are only made to legitimate persons.

99) The National Treasury should within 6 months, re-engineer the Pensions Management Information System to address the integrity issues raised by the Office of the Auditor General and interface the system with the Government's Integrated Personnel and Payroll Database to ensure tracking of Government employees in the payroll.

100) The National Treasury should authenticate the existence of Asian and European Pensioners who retired due to Africanization of public sector after independence in 1963 who are paid through Crown Agents Organization in the UK. The process of authenticating should be based on information backed by a biometric process and undertaken annually prior to the first payment.

d) On overall cross cutting matters, the Committee recommends that:

101) The issues raised by the stakeholder submissions (COB, OAG, CBK and NT) in this report disclose that there is need to enact legislation to regulate the management of the Consolidated

Fund Services. The Committee recommends the enactment of a Consolidated Fund Services Act, to regulate reporting of CFS expenditures to enhance transparency and accountability.

102) The Committee recommends that within ninety days of the adoption of this report by the House, the National Treasury submits a Bill to regulate the management of the Consolidated Fund Services to the National Assembly. Where the National Treasury does not submit a Bill within ninety days, the Committee shall exercise its legislative mandate and prepare a Bill for consideration by the National Assembly.

103) Appropriate sanctions should be introduced on Accounting Officers who do not implement Parliamentary and Audit resolutions within the required time period.

104) The National Treasury should ensure that future budget estimates, under the Program Based Budget books, contain comprehensive explanatory notes on Consolidated Fund Service Expenditures to promote transparency and accountability. The latter will address the fact that current reporting of CFS accounts in the Budget / supplementary estimates is a compilation of statistics without any explanatory information for Members of Parliament and the Public.