

REPUBLIC OF KENYA



THE NATIONAL TREASURY AND PLANNING

PUBLIC DEBT MANAGEMENT OFFICE

DEBT POLICY AND BORROWING FRAMEWORK

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Legal Basis for Publication of the Debt Policy and Borrowing Framework

The Debt Policy and Borrowing Framework is published in accordance with section 12(1) (b) of the Public Finance Management Act, 2012.

The law states that:

12. (1) Subject to the Constitution and this Act, the National Treasury shall-

(b) Manage the level and composition of national public debt, national guarantees and other financial obligations of national government within the framework of this Act and **develop a framework for sustainable debt control.**

ABBREVIATIONS AND ACRONYMS

CBK	Central Bank of Kenya
CMA	Capital Markets Authority
DPSRM	Debt Policy, Strategy and Risk Management
DRS	Debt Recording and Settlement
DSA	Debt Sustainability Analysis
GDP	Gross Domestic Product
GoK	Government of Kenya
IBEC	Intergovernmental Budget and Economic Council
MTDS	Medium Term Debt Management Strategy
NT	National Treasury
OTC	Over the Counter
PAC	Public Accounts Committee
PDMO	Public Debt Management Office
PFM	Public Finance Management
PPP	Public Private Partnership
RMD	Resource Mobilization Department
SOE	State Owned Enterprise

FOREWORD

Public debt management forms an integral part of macroeconomic environment in any economy. It has implications on public expenditure and also has a direct bearing on macroeconomic stability.

Kenya's debt sources include external creditors (multilateral, bilateral and commercial lenders) and domestic market through loans and issuance of debt securities, respectively. The debt stock has been growing over time, in nominal terms due to fiscal deficit incurred to support expenditure on development projects.

The cost and risk characteristics of the debt portfolio has also evolved over time, driven mainly by the diversification of funding sources and declining financing from the concessional sources following the reclassification of the country into lower middle-income category coupled with the changing landscape in the international capital markets.

Kenya's debt stock remains sustainable as gauged against the sustainability thresholds prescribed by the World Bank. Since 2009, Kenya has been formulating the Medium-Term Debt Management Strategy (MTDS) every year to guide on the instruments mix for financing fiscal deficits, and the issuance scenarios.

In the pursuit of reducing vulnerabilities to risks of public debt, the National Treasury has formulated this Debt Policy and Borrowing Framework (hereafter simply referred as 'the Debt Policy').

The policy is meant to act as a guideline for debt management practices of the National government including the issuance process, management of the debt portfolio, and adherence to various laws and Regulations governing debt contracting and management. With this policy, there will be improvement in the quality of decisions, better articulation of policy goals, clearer guidelines for the structure of debt issuance, and a demonstration of commitment to long-term capital and financial planning.

The policy emphasizes the need to adhere to the laws and Regulations governing public debt management. This is a good signal to the credit/debt rating agencies and capital markets that the government is committed to ensuring debt sustainability and therefore is likely to meet its debt obligations in a timely manner. However, there are both legislative and procedural gaps that

need to be addressed to guide debt management in Kenya in a way that reduces risks and cost of public debt.

The policy, prepared in line with the best practices will serve as a guide to all parties involved in public debt management in an endeavour to effectively guide public borrowing practices and laws and coordinate decisions in debt management. The target institutions include National government, County governments, Public investments, the Central Bank of Kenya (CBK) and any other public institution or agency undertaking borrowing.

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THE NATIONAL TREASURY AND PLANNING

PREFACE

Formulation of a comprehensive Debt Policy and Borrowing Framework has come at the right time for Kenya when public debt has been in public debate and the debt stock has become a matter of concern to fiscal sustainability. The policy will play a major role in guiding on the optimal process of procuring debts/loans and management of the same in a way that optimizes benefits and minimizes costs and risks.

Preparation of the Debt Policy and Borrowing Framework lead work was by the Public Debt Management Office (PDMO) and involved collaborative efforts and inputs from other directorates of the National Treasury. I thank the team for their tireless work and thorough research in coming up with this policy document that will take our country forward in matters concerning public debt.

JULIUS MUIA, PhD, EBS
PRINCIPAL SECRETARY
NATIONAL TREASURY

1. INTRODUCTION

1. A debt policy enables a country to determine, establish and uphold the legal and institutional frameworks that are in place to guide its borrowing programme. Such a framework helps to ensure that the relevant bodies and personnel are in place to steer on the strategies to be adopted when deciding on contracting debt, negotiating with creditors and managing debt. This debt policy addresses both the external and domestic public debt management in Kenya.
2. In line with the Constitution of Kenya and relevant laws, the authority for all Government of Kenya borrowing rests with the Cabinet Secretary, National Treasury and such borrowings are subject to Parliament approval.
3. Using this public debt policy, the Government of Kenya aims at improving the quality of debt management decisions, debt statistics, analysis, reporting and dissemination and commitment to financial planning. This policy will be reviewed from time to time in line with fiscal and economic developments. The policy plus the relevant laws will form the basis for borrowing, conducting Debt Sustainability Analysis (DSA), formulation and implementation of the Medium-Term Debt Management Strategy (MTDS) and the annual borrowing plans.
4. With regard to institutional capacity for public debt management, the following are required:
 - i) Clearly defined roles, responsibilities and individual job descriptions;
 - ii) Clearly defined processes and procedures;
 - iii) Code of conducts/ethics and conflict of interest guidelines;
 - iv) Sound legal framework; and
 - v) Conducive working environment including necessary equipment and trained staff in order to ensure that PDMO has the resources and skills to manage the debt and borrowing according to international best practices for liability management.

2. BACKGROUND

5. The Government of Kenya has a considerable portfolio of public debt dating back to the 1960s. This debt has been contracted from external creditors (multilateral, bilateral and commercial) and domestic market through loans and issuance of debt securities, respectively. The debt has been growing over time, in

nominal terms, due to fiscal deficits incurred to support expenditure on development projects. Furthermore, cost and risk characteristics of the portfolio evolved during the same period, driven mainly by the diversification of funding sources and declining financing from the concessional sources following the reclassification of the country into lower middle-income category coupled with the changing landscape in the international capital markets.

6. The increase in debt stock strains public service delivery, as resources available for financing other social and development needs are limited. The need to adequately coordinate borrowing activity and establish guidelines to monitor debt levels is crucial in debt management. Due attention is required in assessing implications of total debt on Government of Kenya fiscal and monetary policies.
7. Sustained fiscal deficits have led to the increase in domestic and external debt stock accumulated through issuance of Government debt securities and disbursement of external loans. This has exposed public debt to risk of seriously constrained budget resources, making it imperative that the appropriate structures are put in place to monitor and manage debt obligations and related contingent liabilities. Maintaining vigilance over the debt portfolio, new borrowing commitments and terms of new borrowings to limit the associated fiscal and foreign exchange implications is key to effective debt management.
8. It is against this background that the Government of Kenya has developed this debt policy in its endeavour to effectively guide debt contracting and to coordinate public debt management in Kenya.

3. DEFINITION OF PUBLIC DEBT

9. The constitution of Kenya defines public debt as all financial obligations attendant to loans raised or guaranteed and securities issued or guaranteed by the national government.

4. OBJECTIVES OF DEBT POLICY AND COORDINATION WITH FISCAL AND MONETARY POLICIES

4.0 Objectives

10. The objectives of the debt policy and borrowing framework:

- a) The primary objective is to ensure that the government financing needs and its payment obligations are met at the lowest possible cost over the medium to long run, consistent with a prudent degree of risk;
- b) The secondary objectives are to:
 - i) Promote the development of domestic debt market for Government debt securities; and
 - ii) Ensure the sharing of the benefits and costs of public debt between the current and future generations.

4.1 Scope of the Policy

- 11. The scope of the debt policy is **public debt** as defined in the Constitution: “all financial obligations attendant to loans raised or guaranteed and securities issues or guaranteed by the national government” (Art. 214). The policy will therefore apply to debt management activities where national government exercises control. The policy will also cover implicit contingent liabilities to ensure that they do not negatively affect financial stability of the economy.
- 12. The policy does not cover grants and donations, which are comprehensively covered elsewhere in laws and Regulations.

4.2 Coordination with Fiscal and Monetary Policies

- 13. Due to their interdependencies, there is need to coordinate debt, fiscal and monetary policies. While it is important to separate objectives and accountabilities of debt management from those of monetary policies, it is critical that mechanisms are developed to share information between the National Treasury as implementer of fiscal, debt, borrowing policy, and Central bank as implementer of monetary policy as well as fiscal agent of the National Treasury. Coordination of these policies is also necessary in the use of monetary instruments to ensure the National Treasury and Central Bank are not working at cross-purposes.
- 14. Regular meetings, at both technical and executive levels are recommended between debt, fiscal and monetary authorities to share information on government deficit levels, current and future liquidity requirements, implications

of borrowing programmes, current monetary conditions and developments in financial markets.

5. TRANSPARENCY AND ACCOUNTABILITY

5.0 The Legal Basis for Borrowing

15. Subject to the provisions of the Constitution and the relevant laws, Government of Kenya through the Cabinet Secretary, may borrow or raise money from any reputable source for purposes of economic management and development of the country. The Cabinet Secretary guarantees or raises a loan on behalf of Government or any other public institution, authority or person as authorised by or under an Act of Parliament.

5.1 Principles of Public Finance

16. Article 201 of the Constitution stipulates the following principles to guide all aspects of public finance in the Republic of Kenya. These principles will apply to all public borrowing and debt management.
 - a) There shall be openness and accountability, including public participation in financial matters;
 - b) The public finance system shall promote an equitable society;
 - c) The burdens and benefits of the use of resources and public borrowing shall be shared equitably between present and future generations;
 - d) Public money shall be used in a prudent and responsible way; and
 - e) Financial management shall be responsible and fiscal reporting shall be clear.

5.2 Principles of Government Borrowing

17. In addition to the principles of public finance, public borrowing shall be guided by the following principles:-
 - a) Need to ensure stability of domestic financial markets;
 - b) Promotion of inter-generational equity in the sharing of burdens and benefits of public borrowing;
 - c) Determination of thresholds of borrowing rights for both levels of government;

- d) Use of objective criteria for evaluating national government entities or county government eligibility for national government debt guarantee; and
- e) Prudence and equity in setting limits for debt stock levels for each county government

5.3 Decision Making Process

18. The decision to borrow on behalf of the Government of Kenya rests with the Cabinet Secretary, National Treasury. To assist the Cabinet Secretary in this function the Cabinet Secretary will make use of:-
- a) Relevant laws and Regulations;
 - b) PDMO to which the Cabinet Secretary will delegate the operational decisions on borrowing and debt management and the day-to-day management of the office;
 - c) Government Securities Auction Committee to review and approve auction results;
 - d) External Loans Contracting and Disbursement Manual; *(to be finalized)*
 - e) Loan Guarantee Procedures Guidelines *(to be drafted)*
19. The mandate and membership of the Government Securities Auction committee will be set out in **Government Securities Market Rules.** *(to be drafted)*

5.4 Audit of Debt Management activities

20. The office of the Auditor General will audit all public debt management activities annually in accordance with the Public Audit Act and the Public Finance Management Act, with the aim of promoting value for money and accountability of public funds. The entities to be covered by the audit are the national government, county governments and National government entities.

5.5 Control of borrowed funds

21. The Controller of Budget will oversee the utilization of budgeted borrowed funds for the national and county governments by authorising withdrawals from public funds, as provided under relevant laws and Regulations.

5.6 Commitment of Loan Contractual Obligations

22. Government of Kenya undertakes to timely honour all public debt obligations entered into directly and all loan guarantees with the aim to minimize fiscal cost and risks that may arise out of undue defaults.
23. Government of Kenya commits to ensuring that all laws governing public debt management are honoured.

6. PRINCIPLES AND GUIDELINES FOR PUBLIC DEBT MANAGEMENT

24. The following principles and guidelines aim to ensure that Government of Kenya debt is sustainable, does not constrain the country's aspirations for growth and development, and reflects best practice in managing the public debt. All borrowings by National and County governments, public entities and Government enterprises shall be subject to the provisions of the relevant laws.

6.0 Purpose for Borrowing

25. All borrowings, through the Cabinet Secretary, will be for the following purposes:
 - a) Financing government budget deficits;
 - b) Honoring obligations under national government guarantees;
 - c) Refinancing and pre-financing existing debts;
 - d) For cash management;
 - e) To finance development projects including on-lending to approved entities;
 - f) To mitigate against adverse effects caused by an urgent and unforeseen event in cases where the contingency fund is depleted;
 - g) Mitigation against significant balance of payment imbalances;
 - h) Meeting any other development policy objectives that the Cabinet Secretary shall deem necessary, consistent with the law and as Parliament may approve; and
 - i) Financing goods and services provided by a supplier outside Kenya.
26. In both domestic and external borrowing, the Cabinet Secretary shall ensure that such terms and conditions do not conflict with:
 - i) The fiscal responsibility requirements under the relevant laws
 - ii) The Medium Term Debt Management Strategy
 - iii) The fiscal objectives in the Budget Policy Statement; or

- iv) Any limits on borrowing set out in the relevant laws and Regulations and in the annual budget.

6.1 Costs and Benefits of Public Borrowing

- 27. The Medium-Term Debt Management Strategy (MTDS) will guide Government of Kenya borrowing taking into account the cost and risks associated with the various borrowing options. Borrowing decisions will be taken after a critical and comprehensive cost benefit analysis of the debt involved, its purpose, amount, repayment terms, currency of contract, and any other risks, have been evaluated.
- 28. To the extent possible, the guiding principle for efficient Government borrowing will be evidenced by the lowest cost and minimum risk considerations over the long term.
- 29. Government will maximise borrowing from concessional sources unless the project to be implemented cannot be funded from concessional sources. (E.g. military projects). Borrowing will also be subject to prioritization based upon analysis of the cost and risk associated with the existing debt and those of the acceptable sources of financing.
- 30. As a guiding principle, borrowing decisions will implement the constitution, which provides that public money shall be used in a prudent and responsible way. In this regard, borrowed funds will be used for the purpose of financing development expenditures and not for recurrent expenditures.
- 31. Short term borrowings will be generally restricted to management of cash flows and bank overdraft facilities will not exceed the limit set in the relevant law. In addition, borrowings for purposes of cash management will be limited to twelve months.
- 32. Government of Kenya will also, in addition to financing the budget deficit, borrow from the domestic market for liability management and to support development of domestic debt market.
- 33. Irrespective of the source, the Government of Kenya will maximise borrowing loans whose benefits have a potential for self-liquidating i.e. where the use of loan funds will generate proceeds that directly or indirectly repay the loan. This implies that the social and economic returns on borrowed funds exceed the cost

of such capital. In this regard, a cost benefit analysis will be undertaken for all projects before a loan is accepted.

34. In order to ensure sustainability of loan repayment, the following guidelines will generally be applied:
- a) Commercial borrowing will not be used to finance social projects;
 - b) The social internal rate of return of loan funded projects should be high enough to justify the cost of the loan; and effort should be made to objectively quantify this measure);
 - c) The gestation period of the candidate project – i.e. the time it takes for the project to start producing its outputs, outcome, or impact – should be shorter than or equal to the grace period of the loan; and
 - d) Short-term loans should be limited to commercial or revenue generating projects as well as for financing projects of strategic value.

6.2 Sustaining Kenya's Public Debt

35. In deciding whether or not to contract new debt, emphasis will always be placed on monitoring the level of total public debt, and to assess the potential new debt's cost and risk measured against the available fiscal space and the vitality of the economy in order to ensure that the future borrowing will maintain outstanding debt within sustainable levels. The ratios to be monitored include liquidity indicators that assesses whether the liquid assets and the available financing are sufficient to repay or roll over the debt service. These ratios include:-

- a) Debt service to GDP,
- b) Debt service to revenues and exports;
- c) External debt service to foreign reserves;
- d) Interest payments to GDP,
- e) Interest payments to revenues and exports.

In addition, solvency indicators (Present Value (PV)) of debt to GDP, exports and revenues will also be monitored.

6.3 Borrowing Limits

36. Public borrowing limits will be set out in the relevant laws and Regulations. The limits will be guided by:
 - (i) country's current and future capacity to service the debt; and
 - (ii) The need to optimise demand for resources.
37. Accordingly, the National Treasury and Planning, will, prior to the Budget speech, each year, establish such annual debt ceilings for the subsequent financial year in consideration of the cumulative debt limits. This will be articulated in the Medium-Term Debt Management Strategy.
38. For purposes of monitoring compliance with the borrowing limits, the amount of government debt and government guarantees that are not denominated in shillings will be calculated at the prevailing exchange rate of the Central bank of Kenya.

6.4 Absorption Capacity

39. To ensure optimal absorption of borrowed funds, Official Development Assistance (ODA) resources will be utilized in accordance with the Kenya External Resource Policy (KERP).
40. For a project to be financed, it should support the achievement and meet the objectives of stated Government agenda, be included the Medium Term Debt Strategy, and is in the Annual Borrowing Plan.
41. The following checklist of mandatory requirements must be provided to the National Treasury by line ministries, National government entities and county governments before seeking external financial support:
 - a) Feasibility study report inspected and approved by the relevant government entity informing the project economic viability, costing and design;
 - b) Confirmation of the land and wayleave acquisition for the project. The Resettlement Action Plan(RAP) report should be provided, if necessary;

- c) Commitment to relocate public utilities;
 - d) Confirmation of adequate human resources capacity for project implementation. Where there is a shortfall, the Implementing Ministries, Departments, Agencies (MDAs) and county governments must commit to develop a strategy to fill the gap;
 - e) Prioritization and commitment of the counterpart funding by all MDAs/county governments where necessary;
 - f) Due diligence report to ascertain the financial, technical and legal competency for the firm procured competitively to undertake the project implementation. This will mainly apply to the projects that are undertaken under Engineering, Procurement, Construction and Financing (EPCF) Model;
 - g) Any other requirements depending on either Bilateral or Multilateral framework Agreement with the respective Development Partner; and
 - h) Funding, including but not limited to land and wayleave compensations among others that from part of counterpart funding must be prioritized under the MDA's Sector allocation through the normal Medium Term Expenditure Framework(MTEF) budgeting process in accordance with the requirements of the loan agreement.
42. All project proposals should be forwarded to National Treasury through the line ministries and not through financiers and/or contractors. The PDMO will review all documents and independently assess the cost/benefits analysis submitted and evaluate the sources of financing.
43. Project completion rates in relevant entities will determine the level of borrowing for subsequent periods. The absorption capacity should match the disbursement profile of the loan to minimize commitment charges that accrue on undisbursed loan balances. It is therefore mandatory that implementation of projects is closely monitored by the implementing agencies. Loan facilities of non-performing projects will be reviewed accordingly on a regular basis to allow modification of project implementation or loan cancellation if necessary, as well as to revise the level of new borrowings to be approved in subsequent periods.
44. The implementing units shall work with National Treasury to ensure Conditions Precedent (CPs) are met first or done in parallel before signing of the financing agreements. During the project implementation period line ministries will provide

a quarterly project implementation status report to the PDMO of all existing projects financed by loans.

45. To enhance absorption of funds by the line ministries the PDMO will conduct completion rate analysis from time to time and recommend to the Cabinet Secretary to take certain measures for project loans that are not being absorbed due to action or inaction of the line ministry or SOE.

6.5 Sources of Loans

a) External sources

46. As a matter of policy, Kenya will procure most of its external development assistance from Official Development Assistance (ODA) as guided by the ***Kenya External Resources Policy (KERP)***. The following statements in the KERP will guide Kenya's external borrowing:-
47. *“Kenya’s engagement with development partners and the rest of the global community is guided by her foreign policy. Kenya’s Foreign Policy has set out to pursue, promote and protect national interests and project national values. With the advent of rapid globalization and increased competition among states for scarce resources, a re-orientation of Kenya’s foreign policy has become necessary”*
48. *“As a result, Kenya has sought to strengthen traditional ties while deepening cooperation with new emerging economies. In particular, Kenya’s Foreign Policy is designed to increase capital in-flow through harnessing and retaining existing sources of development assistance and foreign direct investment while attracting new sources. The Policy aims to strengthen existing engagements as well as seek new development partners bearing in mind the need to mould relationships within guidelines that guarantee Kenya’s national interests, in accordance with international laws and practices”*
49. The ODA loans include both multilateral and bilateral sources.
50. The other source of financing will be external commercial borrowing; through commercial loans and issuance of external government securities. However, the amount of commercial borrowing will be limited due to their high cost and risk implications. This form of financing should only be used within the limits of

debt repayment capacity, for revenue-generating projects and for projects of high national interest.

b) Domestic sources

Domestic borrowing may be in the form of term loans from a single lender or multiple lenders (syndicate); government debt securities (Treasury Bonds, Treasury Bills or stock); bank overdraft on Exchequer Account or any other public account; and advances from Central Bank of Kenya.

6.5 Transparency in selecting financing source

51. When contracting loans, Government of Kenya will consider the terms and conditions offered by different creditors in selecting sources of loans.

52. To ensure competitiveness in securing financing, there is need to demonstrate competitiveness on identifying financiers. External market debt and domestic commercial bank debt will be secured through competitive Requests for Proposals (RFP) tendering process and evaluated by a properly constituted procurement team.

53. Domestic marketable debt will be issued via transparent auctions conducted by the Central Bank of Kenya (CBK), as fiscal agent for the NT. Auction results will be published on the NT website and the CBK website. The auction process and procedures, along with the operation of the secondary market, will be governed by Market Rules. These Market Rules, once approved by both the NT and CBK, will be published on their websites.

7. INSTITUTIONAL FRAMEWORK

7.0 Public Debt Management Office (PDMO)

7.1 Establishment of the PDMO

54. A PDMO will be set up within the National Treasury.

7.2 Objectives of PDMO

55. The objectives of the PDMO will be to:-

- a) minimise the cost of debt management and borrowing over the long term taking account of risk;
- b) promote the development of the market for Government debt securities; and
- c) ensure the sharing of the benefits and costs of public debt between the current and future generations.

7.3 Functions of PDMO

56. The functions of the PDMO include the following:-

- a) carrying out the government's debt management policy of minimizing cost taking account of risk;
- b) maintaining debt data base for all loans taken by the national government, loans guaranteed by the national government, county governments and their entities;
- c) prepare and update the annual medium term debt strategy and debt sustainability analysis;
- d) prepare and implement the national government borrowing plan including servicing of outstanding debts;
- e) acting as the principal in the issuance of government debt securities on behalf of the National Treasury;
- f) monitor and evaluate all borrowing and debt related transactions to ensure that they are within the guidelines and risk parameters of the debt management strategy;
- g) process the issuance of loan guarantees including assessment and management of risks in national government guarantees;

- h) transact in derivative financial instruments in accordance with best practices benchmarked to the debt management offices of other governments that are internationally respected for their practices.
- i) appoint agents to provide technical advice or undertake administrative functions for the management of debts provided that control and accountability for these functions remain with the Cabinet Secretary;
- j) Competitively recruit and appoint Registrar of the National Government Securities;
- k) Prepare, update and execute the annual medium-term debt management strategy including debt sustainability analysis in accordance with Regulations;
- l) Prepare and review an annual borrowing programme as appropriate including the auction calendar to facilitate auction of government debt securities;
- m) Participate in negotiation meetings with government creditors, and provide technical support to the Cabinet Secretary on public debt operations;
- n) Assess the risks in issuing any guarantees including contingent liabilities inherent in public private partnership projects, and prepare reports on the method used for assessment and the results thereof for the attention of the Cabinet Secretary;
- o) Facilitate the recovery of any payments including interest and other costs incurred by Government due to the honoring of outstanding guarantees;
- p) Prepare annual debt management report which shall include outstanding guarantees, outstanding lending and government on-lending by Government;
- q) Monitor and keep track of debt levels;
- r) To keep timely, comprehensive and accurate records of outstanding Government debt, guarantees and lending in an appropriate database;
- s) Advise on all debt servicing obligations of Government;
- t) Prepare and publish debt statistical bulletins regularly;
- u) Prepare forecasts on Government debt servicing and disbursements as part of the yearly budget preparation;
- v) Compile, verify and report on all Government debt arrears and design a strategy for the settlement of those arrears;
- w) Monitor that the disbursements of loans raised by Government are in accordance with agreed disbursement schedules;
- x) Formulate External Resources Policy;
- y) Assess, mobilize, negotiate and allocate all external resources including the consolidation of the donor commitment register in the annual national budget;

- z) Examine and scrutinize proposals for financing projects of a national government entity from an accounting officer;
- aa) Formulate and harmonize policies and coordinate matters relating to employment of Kenyan nationals and appointment of expatriate consultants and technical assistance as experts and consultants in projects supported by development partners;
- bb) Ensure adherence to the accepted guidelines and procedures for procurement involving funds provided under foreign aid;
- cc) Coordinate, review and monitor the utilization of external resources including joint programming, joint work plans, joint visits, joint implementation, and monitoring and evaluation;
- dd) Profile external resources and maintain the accounts thereof;
- ee) Formulate an external resource mobilization strategy to guide the national and county governments in external resource mobilization including monitoring;
- ff) Liaise for external economic relations with international development agencies;
- gg) Coordinate all international agreements involving financial, economic and technical cooperation dealing predominantly with economic and financial issues;
- hh) Programme and manage financing of fellowships, scholarships and foreign training offers from bilateral and multilateral sources;
- ii) Ensure harmonization, alignment and coordination of external resources in line with international conventions of which Kenya is a member state thereof;
- jj) Monitor disbursement and absorption of external resources including reporting of the same by both national and county governments;
- kk) Formulate guidelines and procedures for reporting and recording budget estimates and expenditure for external resource;
- ll) Provide guidance and capacity development to county governments in the assessment, mobilization, negotiation and allocation of all multilateral and bilateral external resources for implementation of developments partners;
- mm) Support aid effectiveness initiatives and use country systems in the management of external resources and where there is need, support in strengthening them rather than avoiding them;
- nn) Ensure linkages of the National Treasury with NGOs and coordination of NGOs through the formation of a National Consultative Forum;
- oo) Perform such other functions as may be determined by the Cabinet Secretary.

7.5 Role of Cabinet Secretary in PDMO

57. The role of the Cabinet Secretary in the efficient functioning of the PDMO will be to:-

- a) develop the policy and financial framework in accordance with Constitutional principles within which the PDMO operates;
- b) raise loans for national government;
- c) issue national government securities and external national government securities
- d) enter into derivative financial transactions on behalf of national government
- e) guarantee a loan of a county government or any other borrower;
- f) delegate to the head of PDMO the operational decisions on borrowing and debt management and the day-to-day management of the Office;
- g) ensure the PDMO has the resources and skills to manage the debt and borrowing according to international best practices for liability management;
- h) be accountable to Parliament for the work of the PDMO.
- i) establish office of Registrar of the National Government Securities:-
The Cabinet Secretary shall establish an office of Registrar of National Government Securities under the PDMO.
- j) appoint advisers, agents and underwriters the Cabinet Secretary may appoint advisers, agents and underwriters for the purpose of raising loans and issuing, managing or redeeming national government securities; and
- k) enter into agreements with the advisers, agents and underwriters appointed on the role to be undertaken by them and remuneration to be paid.
- l) issue guidelines on amendment of national government securities register;
- m) submit MTDS to Parliament;
- n) make Regulations; and
- o) approve government entity's intended borrowing programme.

7.6 Enhanced capacity of PDMO

58. Adequate capacity (human and institutional) is key for the effective discharge of all debt management functions. The Cabinet Secretary National Treasury shall ensure that sufficient resources are availed to the PDMO so as to ensure the PDMO is able to carry out its mandate under the relevant laws and sufficient to safeguard the PDMO's ability to provide independent policy advice and maintain

the integrity of public debt management. These resources are required in order to ensure that:

- a) Adequate personnel in the institutions responsible for public debt management are in place and there is staff continuity;
- b) Adequate skills on computer-based debt management systems are in place;
- c) Accurate, comprehensive debt database system is maintained;
- d) Cost and risk analysis is conducted to facilitate evaluation of various funding options available and assessment of the associated cost and risk;
- e) Financial agreement negotiation skills are available;
- f) Debt statistics analysis is conducted in relation to other macroeconomic variables;
- g) Management of fiscal risks in the area of public debt including fiscal commitments and contingent liabilities in PPPs; and
- h) Independent expertise essential for developing sound debt management policies, providing advice and accurate debt reporting and monitoring, as well as a high standard of integrity in issuance of all government debt is uniformly provided.

7.7 Outputs from PDMO

59. The PDMO is charged with preparing and submitting to the Cabinet Secretary for submission to Parliament Commission on Revenue Allocation the following:-

- a) the Medium Term Debt Strategy consistent with the Budget Policy Statement; (once a year – 15th February)
 - b) the government borrowing plan for the approved Annual Budget;
 - c) statistical and analytical reports on debt and borrowing;
 - d) the annual performance reports of the PDMO;
 - e) Report of all loans made to the national government, national government entities and county governments; (every 4 months)
 - f) Report on loan balances, drawings and amortization on new loans obtained outside Kenya or denominated in foreign currency; (every 4 months)
 - g) Report of all guarantees given by the national government; (on request)
 - h) Report of all guarantees given by the national government in a financial year (2 months after end of financial year)
- All these reports will be published and publicised.

7.8 Relationship of PDMO with other agencies

a) County governments

- i) County government's authority to borrow under guarantee is permitted under the Constitution. County governments may also issue securities, subject to regulation by the National Treasury. County Governments are also permitted to seek a loan guarantee from the Cabinet Secretary and to lend their funds to county entities. All requirements and procedures for borrowing, issuing County government debt securities and obtaining a guarantee by County Governments will be set out in relevant laws and Regulations and the Loan Guarantee Procedure Guidelines (to be drafted).
- ii) It is the responsibility of the PDMO to monitor County Government debt, maintain a debt database and report on all outstanding County Government guarantees.
- iii) The PDMO will assist a County Treasury, at its request in its debt management and borrowing.
- iv) The PDMO will request a County Treasury, and be supplied with any information that will enable it to execute its mandate efficiently.

b) Central Bank of Kenya (CBK)

60. In relation to public debt management, the CBK performs the following functions:
 - a) Makes external debt service payments on behalf of National Treasury;
 - b) Acts as Fiscal Agent for the National Treasury and issues government domestic debt instruments on behalf of Government at the primary level;
 - c) Maintains accounts of the borrowed proceeds;
 - d) Advises the Government on debt related issues;
 - e) Acts as custodian of the domestic debt register;
 - f) Provides depository facilities for government domestic debt,
 - g) Provides clearing and settlement arrangements for trade in government domestic debt instruments; and,
 - h) Provide bank overdraft on Exchequer Account or any other public account;
 - i) Make **cash** advances to national (and county) governments; and

j) Any other function as may be delegated by the Government.

c) Attorney General's Office

61. In the management of public debt, the National Treasury will seek the advice of the Attorney General:

- a) Regarding negotiating, drafting, vetting and interpreting local and international documents, agreements and treaties; and
- b) Where a legal opinion is required by a creditor on the validity of loan documents.

62. In performing its duties on debt management, the Attorney General's Office, at its discretion, may either:

- a) Assign public debt related functions to appropriate office/unit in the office of the Attorney General and provide sufficient dedicated staff; or
- b) Deploy state counsel(s) to PDMO legal unit at the National Treasury.

Such officers handling public debt related issues will be sufficiently trained in public finance laws, loan negotiations, issuance of domestic debt and external debt and preparing international and commercial financing documents.

d) Line Ministries and Government Agencies

63. In relation to public debt management, the line ministries and Government agencies will perform the following duties:

- i) Comply with provisions of section 6.4 paragraph 40 (*Checklist of mandatory requirements for projects*)
- ii) Participate in the loan negotiation process;
- iii) Execute implementation of the projects in their respective sectors;
- iv) Report on project implementation to the relevant stakeholders;
- v) Ensure adequate budgetary allocations for servicing on-lent funds by entities under their oversight; and
- vi) Comply with all relevant laws and Regulations governing procurement and utilization of borrowed funds.

e) Parliament

64. The major roles played by Parliament in the public debt management are:
- i) Enact the laws governing public debt management;
 - ii) Approve annual Government borrowing, provide for thresholds for the borrowing entitlements of the national government and county governments and their entities, as well as approve the debt limit in the annual budget;
 - iii) Approve guarantees to county governments and Public investments;
 - iv) Authorize payment out of the Consolidated Fund or any other public fund;
 - v) Approve declaration of national government entities; and
 - vi) Provide oversight role by holding the Executive accountable.

f) Public Private Partnership (PPP) unit

65. In cases where PPP financing arrangement requires support by the national government, the Cabinet Secretary, in consultation with PDMO and PPP unit, may give a project support deemed necessary. Such support will be prescribed in the relevant laws and Regulations.
66. The PDMO will participate in the assessment and approval of fiscal risks and contingent liabilities associated with a project based on project feasibility studies submitted by the PPP unit.

8. MEDIUM TERM DEBT MANAGEMENT STRATEGY (MTDS)

8.0 Objective of the Strategy

67. The MTDS will be prepared by the National Treasury and county treasuries. Its objective is to guide the overall debt management strategy of the national and county governments over the medium term with respect to their actual and potential liabilities in respect of loans and guarantees and their plans for dealing with those liabilities.
68. Any borrowing by the national and county governments will be informed by the MTDS, which will be formulated annually on three-year rolling basis.
69. The MTDS will be prepared include and take into account —

- (a) The broad strategic priorities and policy goals set out in the Budget Policy Statement;
 - (b) Total stock of debt
 - (c) Sources of loans and guarantees given;
 - (d) Principal risks associated with the loans;
 - (e) Assumptions underlying the MTDS, including macro-economic environment, borrowing needs, and prevailing market conditions; and
 - (f) Analysis of sustainability of the amount of actual and potential debt.
70. The debt limits set out in the relevant laws and Regulations will be specified in the MTDS. Annual new government debt and guarantees will be consistent with the debt limits.
71. The public debt management strategy shall entail minimising borrowing costs with a prudent degree of risks.
72. The MTDS will guide the cost and risk characteristics of the public debt and the borrowing mix on a rolling forward yearly basis. Ceilings for different borrowing instruments shall be set in the MTDS and the Annual Borrowing Plan.
73. The Government will develop on a yearly basis a Borrowing Plan for both domestic and external debt, which will indicate planned issuances of Government securities and disbursement of external loans for each fiscal year and show indicative dates of such issuance and disbursements.
74. The Borrowing Plans will take into account;
- a) The maturity profile of the existing debt to avoid bunching up of maturities;
 - b) An assessment of the ability to refinance debt at lower cost and risks;
 - c) The prevailing secondary market conditions within the financial year;
 - d) The need to lengthen the maturity structure of the existing public debt;
 - e) The need to develop liquid benchmark bonds;
 - f) The prevailing currency composition of existing debt;
 - g) The prevailing interest rate composition and any recommendations on interest rate composition for entering into future debt; and
 - h) The need to diversify sources of borrowing and diversify creditor base.
75. Government of Kenya will also conduct an annual debt sustainability analysis (DSA) and update the debt management strategy annually to ensure the overall

borrowing is within sustainable limits. While the primary responsibility of conducting DSA belongs to the department responsible for macro-fiscal affairs, the PDMO will provide support through provision of the debt data.

76. The Public Debt Management Office will conduct an analysis on the effect of each new loan on the total debt stock and the ability of the country to service the debt, to ensure that it does not affect negatively on the country's debt servicing capacity and debt stock.

8.1 Risk Management Framework

77. The National Treasury will develop a risk management framework to enable identification and management of the trade-offs between expected cost and risk in the government debt portfolio.
78. To assess risk, National Treasury will regularly conduct stress tests of the debt portfolio to determine the impact of economic and financial shocks the government/country is potentially exposed to. These shocks include, among others exchange rates and interest rates.
79. In the effort to manage cost and risks, the National Treasury shall employ the use of various liability management tools. The use of these tools shall be dependent on the level of development of the Government debt securities market, as well as appropriate analysis that demonstrates either actual cost savings, or improved cash flows so that the timing and/or amount of debt service is moderated, smoothing the maturity profile, or that such other specific debt management goal will be achieved. These tools may include;
 - a) debt restructuring including debt securities buy backs, switches and exchanges,
 - b) transforming fixed rate debt into floating rate debt and vice versa
 - c) changing or swapping the currency denomination of old debt
 - d) use of a sinking fund to retire expensive debt
80. In addition, in the endeavour to implement the above-mentioned liability management tools, the National Treasury may transact in derivative transactions as prescribed in the relevant laws and Regulations and in accordance with best

practices benchmarked to the debt management offices of other governments that are internationally respected for their practices.

9. MARKET DEVELOPMENT

9.0 Market for Government securities

81. One of the principal objectives of the National Treasury is to promote the development of the market institutions for Government debt securities. The PDMO will implement initiatives to ensure the promotion and development of government securities markets. The initiatives will aim at ensuring a liquid, deeper and vibrant Government securities debt market.
82. In order to minimize cost and risk over the medium term, the National Treasury will implement policies and operations that are consistent with the development of efficient government securities market.

9.1 Portfolio diversification

83. The National Treasury will strive to achieve a broad investor base for its domestic and foreign borrowings with regard to cost and risk.

9.2 Primary Market

84. The National Treasury in liaison with Central Bank of Kenya will conduct debt management operations in the primary market transparently and predictably. Debt issuance will use market-based mechanisms, including competitive auctions and syndication.

9.3 Secondary Market

85. The National Treasury in liaison with Central Bank of Kenya will promote the development of robust secondary markets that can function effectively under a wide range of market conditions

10. EXTENAL AND DOMESTIC BORROWING PROCEDURES

86. Subject to relevant laws and Regulations the Cabinet Secretary may, on behalf of the national government raise a loan within or outside Kenya.

10.1 External Borrowing

10.1.1 Process and controls

87. Processes and Controls for external borrowing by the national and county Governments and their agencies must conform to the Statutes and Guidelines governing external borrowing, and in particular:

- a) The Constitution of Kenya 2010;
- b) The relevant laws and Regulations;
- c) External Resource Policy;
- d) The External Borrowing and Disbursement Guidelines;
- e) County Government Borrowing Guidelines; and
- f) Central Bank of Kenya Act, Cap 491.

10.1.2 Parliamentary Approval

88. The following approvals (*as also set out in section 7.8(e)*) must be obtained from Parliament, prior to any consideration of requests for external borrowing by the Government of Kenya and its agencies:

- a) Approval of the Medium Term Debt Management Strategy.
- b) Approval of the terms and conditions of external loans as contained in the Medium Term Debt Management Strategy.
- c) Approval of overall limits, for the amounts of consolidated debt of the Government of Kenya, County Governments, set in the relevant laws and Regulations.
- d) Prior authorization in the Appropriation or other Act or Law for the purpose for which the borrowing is to be utilized.

10.1.3 Documentation/Procedural Requirements by the Government of Kenya

89. Having obtained the approvals above, the Government of Kenya through the National Treasury will further comply with the following documentation and procedural requirements:

- a) Preparation of the Annual Borrowing Plan, which contains: Terms and Conditions of the external loans; Overall limits for the amounts of consolidated debt, including domestic debt, of the Government of Kenya, County Governments and National Governments entities; 3 Year Medium Term Borrowing Plan with loan

repayment schedules and demonstrated to be within the overall Government borrowing limit set in the MTDS and the fiscal framework.

- b) The Annual Borrowing Plan for external concessional and commercial loans should indicate the expected disbursement profiles.
- c) The National Treasury will prepare the Annual Borrowing Plan for external concessional and commercial loans. Inputs for loan negotiations will be sought from various National Treasury units and line ministries.
- d) Commercial loans will be used only to finance projects with expected revenue streams/infrastructure projects and not socio-economic projects. Socio-economic projects will be funded by concessional loans. This guideline will be waived only after obtaining the approval of the Cabinet Secretary and the Principal secretary
- e) Creditors dealing with all levels of Government for the very first time will be required to fill Know Your Customer (KYC) and Due Diligence form to be issued by the PDMO.
- f) A checklist (to be developed) of conditions precedent to signing any financing agreements by the Cabinet Secretary will be filled by the project implementing agency. This will go a long way in determining if the implementing agencies are ready to undertake the project to completion within the set timelines.
- g) The PDMO shall appraise county governments and national government entities borrowing proposals and project documents to ascertain conformity with borrowing guidelines and national developmental priorities and submit appropriate recommendation to the Cabinet Secretary for approval.

10.1.4 Documentation Requirement for County Government Borrowing

- 90. All County Governments and their Agencies can only obtain loans with the approval of the Cabinet Secretary and such loans must be supported by National Government's Guarantee in accordance with Article 212 of the Constitution and the relevant laws and Regulations.
- 91. The relevant laws and Regulations shall stipulate terms and conditions for county borrowing and guarantees provided by the national government, including:-
 - a) Obligations and restrictions on national government guarantees;
 - b) Power of Cabinet Secretary to guarantee loans;
 - c) Submission of statement on guarantees to Parliament;
 - d) Recovery of amounts paid on a guarantee;

- e) Establishment of PDMO and its role on assessing risks and issuing guarantees, including contingent liabilities inherent in PPPs;
 - f) Guiding principles for county government borrowing;
 - g) Borrowing powers for county governments;
 - h) Eligibility and evaluation criteria for guarantee request by county governments;
 - i) Borrowing purposes;
 - j) County total public debt threshold;
 - k) Debt limits in county MTDS;
 - l) Criteria for issuance of county government securities;
 - m) Process of issuance of treasury Bonds on behalf of county governments;
and
 - n) Process for applying for national government guarantee for external borrowing.
92. In making borrowing decisions and processing loan requests, therefore, counties are required to comply with the relevant laws and Regulations as outlined in the foregoing paragraph and any other laws applicable to county borrowing.

10.1.5 External Loan Negotiation, Guarantee issuance and Signing of Agreement

93. No ministry or government agency is authorised to negotiate any financing agreement from any creditor without prior consultation with the National Treasury.
94. The Cabinet Secretary or his appointee will lead the loan negotiations:
- a) Upon Parliament approval of the Annual Budget, a Negotiation Team for each new loan proposal led by Cabinet Secretary or his appointee shall be formally constituted, comprising representatives from the PDMO, Office of the Attorney General and the beneficiary line ministry or SOE, to mutually agree with the prospective creditor(s) on the financing terms of the loan(s).
 - b) Before submission to Parliament, the Cabinet Secretary will prepare a Cabinet Memorandum and subsequently a Sessional Paper in liaison with the line ministry and SOE as an instrument of guarantee for both external and domestic borrowing.
 - c) The Cabinet Memorandum is forwarded to the Cabinet for information and

acceptance through the Cabinet Secretary responsible before converting it into a Sessional Paper for tabling in Parliament.

- d) The Sessional Paper outlines the issues to be addressed, the term and conditions of the loan(s) and resource implications of the guarantee.
- e) Parliament considers/debates the Sessional Paper and issues a guarantee.
- f) The following areas should be covered in a Sessional Paper:
 - i. Objective of the Sessional Paper
 - ii. The background of the subject matter
 - iii. Analysis of the problem
 - iv. Options on the way forward
 - v. Financial implications
 - vi. Recommendations to Parliament

- 95. Upon approval of the terms and conditions of the loan by Parliament, the Cabinet Secretary shall communicate to the SOE to execute the Loan Agreement(s).
- 96. National government entities are expected to execute a Subsidiary Loan Guarantee Agreement with the National Government (*see also chapter 14: Guarantees & On-lending*).

10.2 Procedural Requirements for County Government Borrowing

- 97. After the Cabinet Secretary forwards such borrowing proposals to the PDMO, the PDMO shall ascertain the County Governments debt sustainability levels, to ensure that they have not over-borrowed.
 - a) The PDMO shall subject all borrowing proposals to the Loan Guarantee Procedures Guidelines *(to be drafted)*
 - b) Based on the recommendation of the PDMO, and subject to Cabinet Secretary's final approval, such proposal is then incorporated into the Annual Borrowing Plan for Cabinet Secretary's approval.
 - c) Following Cabinet Secretary's approval, the Annual Borrowing Plan containing the details of the Borrowing Plan for Counties requesting to borrow is subsequently forwarded to IBEC for approval.
 - d) Following IBEC's approval, the Annual Borrowing Plan containing the details of the Borrowing Plan for Counties requesting to borrow is subsequently forwarded to Parliament for guarantee approval.

10.3 Domestic Borrowing

98. The relevant laws and Regulations will govern domestic borrowing.
99. All domestic borrowing by National and County Governments will be issued/contracted by the Cabinet Secretary/county CECs in accordance with the relevant laws and Regulations. Issuance/contracting will be through transparent, accountable process with clear Market Rules, at the lowest cost with a prudent degree of risk, and in accordance with the Annual Borrowing Plan.
100. The Annual Borrowing Plan for domestic debt will be prepared by the National Treasury in liaison with Central Bank of Kenya acting as the fiscal agent of Government of Kenya. The plan will be approved by the Cabinet Secretary for implementation by the Central Bank of Kenya.
101. The issuance of domestic government securities will take into account:-
 - a) Pricing of the securities;
 - b) Refinancing risks of the securities;
 - c) Market stability when taking up the securities;
 - d) The borrowing programme, which is consistent with the MTDS and Budget Policy Statement.

11. PUBLIC GUARANTEES AND ON-LENDING

102. The Government of Kenya may consider guaranteeing borrowings of national government entities and County Governments in line with the Constitution Section 212 and relevant laws and Regulations, if it is convinced that the project to be financed for development is viable and/or of national interest. The analysis for the issuance of such guarantees shall be in accordance with the approved Loan Guarantee Procedures Guidelines *(to be drafted)*. The Guidelines specifies the criteria, pre-conditions as well as the applicable charges.
103. No guarantee will be issued to a private entity. **(However, section 58 says it is counties or any other borrower).**

104. The entity seeking guarantees shall submit to the National Treasury their financial statements. The PDMO shall review the financial standings and issue a recommendation for the guarantee approval to be submitted to Parliament after financial analysis of the entity. The PDMO may also recommend that a fee or additional funds be required to be paid into a contingency reserve fund, or require other types of additional collateral as security for the loan in order to enhance credit of the loan request. The PDMO may also recommend to the Cabinet Secretary to issue a partial guarantee or refuse to issue a guarantee depending on the findings concerning the entity after analysis as per foregoing paragraph. Upon refusal of a guarantee, the NT shall give reasons for the refusal to the entity and give the entity an opportunity to remedy their application for a guarantee. All guarantees and On-Lending Agreements must be in writing and issued in accordance with the Loan Guarantee Procedures Guidelines.
105. The Government may, as and when requested and depending on the availability of resources, lend to public investments, the County government and any other public governmental entity. Such lending will be directly from the consolidated fund or be on lent from borrowed proceeds. Nonetheless, any lending by the Government should be subject to the provisions of the relevant laws, Regulations and guidelines.

12. CONTINGENT LIABILITIES

106. The relevant National Treasury unit will be responsible for providing current information on outstanding contingent liabilities of all state-owned enterprises that includes both implicit and explicit obligations, as well as on-lending arrangements. Other contingent liabilities to be reported include those liabilities that are not yet recognized, which include obligations to pay that were incurred, but may not have been explicitly agreed to and were subsequently suppressed, so that payment was delayed indefinitely and continues to remain outstanding and past due. The report will include all contingent liabilities for each SOE, the amounts, date incurred, type of obligation, and total outstanding for each SOE and shall be made available on a semi-annual basis to PDMO.
107. On an annual basis, the National Treasury shall provide in the budget a line to cater for contingent liabilities materialising. The Treasury will prepare an Annual Credit Risk Weighted Analysis that provides a quantitative analysis of the risk for materialization for all guarantees and on-ending agreements as well as

contingent liabilities of National government entities, so that the guarantees and contingent liabilities considered most likely to materialise during the fiscal year will be included in the budget line.

108. The PDMO will submit an annual report to the Principal and Cabinet Secretaries, which identifies the explicit and implicit guarantees, quantifies the risks and makes recommendations for the provision to cater for any materializing of explicit and implicit guarantees.

13. PUBLIC DEBT MANAGEMENT FUNCTIONS

109. The public debt management function will be executed/organized in accordance with international best practices of front, middle and back office functions.

13.1 Front Office functions

- a) Resource Mobilization (domestic and foreign);
- b) Formulating annual borrowing plan and, with the consultation of the fiscal agent, prepare the annual domestic debt issuance calendar, to be updated quarterly;
- c) Coordination with creditors;
- d) Loan negotiations and fulfilment of loan conditions;
- e) Processing of Government Guarantees;
- f) Attend all meetings, including parliament committees, auction, cash flow and task teams and committees;
- g) Coordinate missions and technical assistance from cooperating partners; and
- h) Report of new loans to Parliament including guarantees.

13.2 Middle Office functions

- a) Prepare the Medium-Term Debt Management Strategy (MTDS)
- b) Undertake periodical portfolio analysis for policy decisions;
- c) Monitor compliance with the Operational Risk Management Framework;
- d) Participate in Debt Sustainability Analysis to be conducted by the department responsible for macroeconomic projections
- e) Develop and update public debt management policy;
- f) Analyse fiscal risks associated with Government Guarantees, On-lending and Public Private Partnerships (PPP);
- g) Generate analytical reports, including weekly, monthly, quarterly and annual reports;
- h) Contribute to the quarterly and annual National Treasury performance reports submitted to Parliament;
- i) Prepare regular debt related reports for the senior management – Director General, Principal and Cabinet Secretary;
- j) Contribute to the reports by the NT to Public Accounts Committee (PAC) and other committees of Parliament; and
- k) Establish and operationalise AN Investor Relations Office (IRO)

13.3 Back Office functions

- a) Maintain a credible debt database and contingent liabilities, that include all outstanding guarantees and fiscal commitments;
- b) Meet all the reporting needs including preparation of regular debt register;
- c) Prepare debt service forecasts;
- d) Initiate debt service payments;
- e) Manage computer-based debt management system;
- f) Monitor loan utilization; and
- g) Undertake debt data reconciliation with creditors.

14. DISCLOSURES AND COMPLIANCE TO FISCAL TRANSPARENCY

110. The National Treasury shall conduct all debt and borrowing processes in a transparent and open manner. Towards achieving the objective of compliance to fiscal transparency, the NT will:-

- a) Publish and publicize debt reports and information as guided by the relevant laws and Regulations;
- b) Post all relevant documents on the National Treasury and Investor Relations websites;
- c) Be responsive to pertinent public debt issues;
- d) Engage as needed with the media; and
- e) Undertake any other necessary measures to achieve this objective.

15. LIST OF KEY DOCUMENTS IN MANAGING PUBLIC DEBT

111. In order to undertake effective public debt management, the following key documents should be prepared and made readily available:

- a) Legal framework governing public debt management;
- b) Debt Policy and Borrowing Framework;
- c) Medium Term Debt Management Strategy – reviewed annually;
- d) Budget Policy Statement;
- e) Annual borrowing plan and Issuance Calendar;
- f) Procedure manuals covering all debt management operations;
- g) Regular debt statistics bulletins;
- h) Risk Management Framework;
- i) Code of conduct and conflict of interest manual;

- j) Government Securities Market Rules;
- k) Debt Sustainability Reports – regularly reviewed.
- l) Public Debt Management Reports specifically including an annual report on guarantees (and fiscal commitments), which includes the credit risk weighted analysis and evaluation of all outstanding guarantees.
- m) Fiscal Agency Agreement between the NT and CBK to be reviewed and updated on a regular basis.

16. DEBT DATABASE SYSTEM

112. The PDMO will set up and maintain an accurate and comprehensive debt database with proper safeguards for: (i) all loans taken by the national government; (ii) loans guaranteed by the national government; (iii) loans taken by county governments and their entities; (iv) loans lent and on lent by the national government.

17. CODE OF CONDUCT AND CONFLICT OF INTEREST GUIDELINES

113. All staff involved in debt management will be subjected to code-of-conduct and conflict-of-interest guidelines regarding the management of their personal financial affairs.

18. BUSINESS RECOVERY PROCEDURES

114. The PDMO will put in place sound business recovery procedures to mitigate debt management activities against the risk of natural disasters, terrorism or social unrest.

19. IMPLEMENTATION OF THE DEBT POLICY AND BORROWING FRAMEWORK

115. To achieve the outcomes set out in this policy the National Treasury will take a leadership role and oversee its implementation in collaboration with relevant ministries, Public investments, County governments and other key stakeholders.
116. The Kenya External Resource Policy (*KERP*) and its Operational Manual will form an integral part of the debt policy.
117. Operational Manuals of the Front, Middle and Back Offices, Loan Guarantee Procedures Manual and areas covered under domestic borrowing in the Front Office Manual will also guide implementation of the debt policy by providing

clear guidance on the responsibilities of different government actors at each stage of the implementation.

GLOSSARY OF TERMS (TO BE EDITED)

- **Concessionalality**

A measure of the softness of a credit reflecting the benefit to the borrower compared to a loan at market rate. Technically, it is calculated as the difference between the nominal value and the present value of the debt service as of the date of disbursement, calculated at a discount rate applicable to the currency of the transaction and expressed as a percentage of the nominal value.

- **Debt Service**

The amount of funds used for repayment of principal and interest of a debt.

- **Debt Sustainability**

Sustainable debt is the level of debt that allows a debtor country to meet its current and future debt service obligations in full, without recourse to further debt relief or rescheduling, avoiding accumulation of arrears, while allowing an acceptable level of economic growth.

- **Debt Sustainability Analysis**

This is conducted in the context of medium-term scenarios. These scenarios are numerical evaluations that take account of expectations of the behaviour of economic variables and other factors to determine the conditions under which debt and other indicators would stabilize at reasonable levels, the major risks to the economy, and the need and scope for policy adjustment. In this analysis, macroeconomic uncertainties, such as the outlook for the current account, and policy uncertainties, such as for fiscal policy, tend to dominate the medium term outlook.

- **Disbursement**

The actual transfer of financial resources or of goods or services by the lender to the borrower.

- **Domestic Borrowing**

Government borrowing through issuance of local Government securities and direct borrowing from the Central Bank.

- **External Borrowing**

Government borrowing from both official (Government or Government agencies) and private institutions domiciled outside the country.

- **Government Securities**

Financial instruments used by the Government to raise funds from the primary market.

- **Present Value**

The present value (PV) is defined as the sum of all future cash flows (interest and principal) discounted at the appropriate market rate. For a loan, whenever the interest rate on a loan is lower than the market rate, the resulting PV is lower than its face value.

- **Primary Market**

This is a market where financial instruments are originated through initial issuance.

- **Public Debt**

This refers to outstanding financial obligations of the Government arising from past borrowing. It includes Government guaranteed debts to State Corporations and Local Authorities.

- **Domestic Debt**

Part of the overall debt owed by the Government to creditors domiciled in the economy. The debt includes money owed to commercial banks, non-bank financial institutions, individuals among others. The term domestic debt is used in relation to government obligation.

- **External Debt**

Part of the overall debt owed by the Government to creditors domiciled outside the economy. The debt includes money owed to private commercial banks, other governments, or international financial institutions such as the IMF and World Bank. The term external debt is used in relation to government obligation.

- **Secondary Market**

This is a market where already issued financial instruments are traded.

- **Sovereign/Euro Bond**

A debt security issued by a national government within a given country and denominated in a foreign currency. The foreign currency used will most likely be a hard currency.

- **Suppliers' Credit**

An arrangement under which a supplier or exporter agrees to allow the customer to defer payment under a sales contract.

- **Treasury Bills**

It is a short-term borrowing instrument issued by the Government to finance the budget.

- **Treasury Bond**

This is a medium to long-term term debt instrument issued by the Government to finance the budget.

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