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ANALYSIS OF THE FINANCE BILL, 2020

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Contents

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INTRODUCTION

The Finance Bill is prepared in accordance with Sections 40 and 41 of the public Finance Management Act, 2012. Principally, the Bill is intended to introduce amendments to the existing tax laws in a bid to raise additional revenue to finance the budget in a fiscal year and subsequent ones. The Finance Bill also proposes to grant various tax incentives targeted to spur economic growth so as to yield increased revenue in future. Finally, the Bill introduces miscellaneous amendments to various financial sector statutes to enhance enforcement and streamline administrative measures.

It should be noted that the Finance Bill, 2020 comes a month after the House passed the Tax Laws (Amendment) Bill, 2020 which provided a host of tax waivers to individuals and businesses, but also removed unnecessary and inequitable tax expenditures (income and value added tax exemptions). The full impact of those measures on tax collections and on achieving their targeted goals is yet to be ascertained fully. Further, it is worth noting that this year, the Finance Bill was submitted and is expected to be considered alongside the expenditure estimates. This ensures that any mismatch between projected revenue and expenditure is detected and addressed at the same.

THE BUDGET FOR 2020/21 AND THE MAIN THRUST OF THE FINANCE BILL, 2020

The projected total revenue for 2020/21 is KSh. 1.87 trillion, which is a slight decline by KSh. 22.3 billion from the 2019/20 budget. This comprises the ordinary revenue of KSh. 1.621 trillion and KSh. 249 billion in Appropriations-in-Aid. The overall deficit is KSh. 823.3 billion which, according to the estimates of revenue, grants and loans, will be financed through foreign borrowing amounting to KSh. 349.7 billion and domestic borrowing amounting to KSh. 473.6 billion. It is noted that there is a shift in the composition of borrowing whereby foreign borrowing will decline by KSh. 140.2 billion while domestic borrowing rises by KSh. 123 billion. Crucially, it is noted that the overall projected deficit in the approved 2020 Budget Policy Statement was KSh. 571.2 billion. Therefore, the deficit has shifted upwards by about KSh. 252 billion just under two months.

It is noted that the policy stance adopted in the Finance Bill, 2020 is that of seeking to raise additional revenue through new tax measures and removal of existing tax expenditures and for the first time in a long time, there has been no introduction of major tax incentives in the taxation system. Therefore, given that the National Treasury has provided that the overall impact of revenue measures in this Finance Bill is about KSh. 38.5 billion in additional revenue, the assumption is that the revenue gains on account of these measures in the Bill have already been factored in the overall projected Ordinary

Revenue of KSh. 1.621 trillion. Consequently, it is then expected that the consideration of the Bill will take into account this fact to ensure safeguards against any potential fiscal framework distortions.

This Bill proposes to amend some sections of the Income Tax Act, Value Added Tax Act, Excise Duty Act, Miscellaneous Fees and Levies Act, Tax Appeals Tribunal Act and the Tax Procedures Act. Also, there are proposed amendments to eight (8) financial sector statutes to address varied aspects in relation to the policies underpinning the budget in medium term. The statutes are: the Public Roads Tolls Act, the Capital Markets Act, the Insurance Act, The Standards Act, the Retirement Benefits Act, the Kenya Revenue Authority Act, the Roads Maintenance Levy Act and the Insolvency Act.

PROPOSED AMENDMENTS TO THE INCOME TAX ACT

The proposed amendments to the Income Tax Act are covered in clauses 2 – 9. The following are key highlights contained therein.

1. **Extending the upper limit of the Residential Rental Income Tax** (clause 2): - the current residential rental income tax is applicable for annual rental income of between KSh. 144,000 to KSh. 10 million. The amendment shifts the upper limit from KSh. 10 million to KSh. 15 million.

   The aim of this proposed amendment is to extend the upper limit so as to grant landlords with rental income of between KSh. 10 million and KSh. 15 million the more concessional tax rate of 10% of gross income, and reduce administrative costs of ascertaining profit for such landlords. This is likely to increase that tax base but on condition that enforcement is robust.

2. **Introduction of Minimum Tax** (clause 3, 4, 7 and 9): - a new tax to be known as minimum tax is proposed to be introduced at the rate of 1% of the gross turnover. This new tax is intended to enhance tax fairness, promote equity and also facilitate the raising of additional revenue by targeting a portion of gross turnover of businesses since the loss making position does not attract corporation income tax.

   This new tax captures the taxation neither of an income that is exempt nor from employment, residential rental, turnover, gains from property and extractives. This will occasion an expansion of the tax base and facilitating the enhancement of revenue yield. This is because businesses will pay the higher of either minimum tax or installment tax.

3. **Introduction of Digital Service Tax** (clauses 4, 7 and 9):- a new tax known as digital service tax is proposed to be introduced at the rate of 1.5% of the gross transaction value. It shall be payable by

persons who derive income from provision of services through the digital market place. This tax targets non-residents without permanent establishment in Kenya. This is because for both resident and non-resident persons with permanent establishment in Kenya, this tax shall be offset from the tax payable for the year of income. Nonetheless, it is a considered view that the base of tax should be clarified as to whether it is charged on fees for the service or the gross transaction value.

4. **Removal of existing allowable deductions** (clauses 5 and 6): - the Bill proposes to remove seven types of allowable deductions from the income tax law, and which are estimated to yield additional revenue amounting to **KSh. 3 billion**. This would help align the Income Tax statute with the Constitution and the Public Finance Management Act, with regard to the principles of public finance. The Bill proposes to remove:
   i) Entrance fee or annual subscription paid during that year of income to a trade association which has made an election under Section 21(2) of this Act.
   ii) Expenditure of capital nature incurred in that year of income by a person, on legal costs and other incidental expenses, relating to authorization and issue of shares, debentures and similar securities offered for purchase by the general public.
   iii) Expenditure of capital nature incurred in that year of income by a person, on legal costs and other incidental expenses, for purposes of listing on any securities exchange operating in Kenya, without raising additional capital
   iv) Expenditure of capital nature incurred in that year of income by a person on rating for the purpose of listing on any securities exchange operating in Kenya
   v) Club subscription paid by an employer on behalf of an employee
   vi) Expenditure of capital nature incurred in that year of income with prior approval by the Cabinet Secretary, by a person on the construction of a public school, hospital, road or any similar kind of social infrastructure
   vii) Registered home ownership savings plan.
5. **Removal of existing tax incentive, that is, income exempt from tax** (clause 8): - several types of existing income that is exempt from tax are proposed to be removed, with the effect of making a tax saving of about **KSh. 1.5 billion.** They are:
   i) Income of a registered home ownership savings plan
   ii) Income of NSSF
   iii) Bonus, overtime and retirement benefits not exceeding 10%

It is noted all the proposed amendments in the Income Tax Act are either introducing new taxes or abolishing the currently existing tax expenditures in the tax law. This would ultimately occasion enhanced revenue yield to finance the budget.

PROPOSED AMENDMENTS TO THE VALUE ADDED TAX (VAT)

The proposed amendments to the VAT are covered in clauses 10 - 12 of the Finance Bill, 2020. In summary, the key proposed amendments include:

1. **A new condition for claiming input VAT** (clause 10): - the proposed amendment introduces a new condition (requiring taxpayers to ensure their suppliers declare their invoices in the tax return) for them to qualify to claim the input VAT. This measure is likely to enhance compliance. Nonetheless, it may also be cumbersome for taxpayers due to logistics and the associated compliance cost, considering that the burden is being transferred from KRA to taxpayers.
2. **Items to be removed from VAT exemption list** (clause 11): - several items that are currently in the VAT exemption list have been proposed to be removed so as to apply the standard rate of 14%. This measure is likely to yield about **KSh. 4 billion**. These items include:
   i. Some helicopters and aeroplanes not exceeding 2,000 kg
   ii. Tractors, other than road tractors for semi-trailers
   iii. Aircraft pneumatic tires
   iv. Goods for clean cooking stoves
   v. Stoves, cookers, barbecues
   vi. One motor vehicle imported by a returning public officers from foreign posting
   vii. Plant, machinery and equipment for the construction of plastic recycle plant
   viii. Services such as hiring of helicopters

However, some tax incentives have been introduced. They are such as the VAT exemption on maize (corn) seeds as well as ambulance services. The VAT exemption on maize seeds is likely to disadvantage local producers of such seeds.

3. **Removal of some items from VAT Zero rated category** (clause 12): - It is also noted that some two items have been proposed to be removed from VAT zero rate list. They are the liquefied petroleum gas and materials for the manufacture of automotive and solar batteries.

PROPOSED AMENDMENT TO THE EXCISE DUTY

The proposed amendments to the Excise Duty are covered in clauses 13 - 14 of the Finance Bill. In summary, the key proposed amendments include:

1. **Reduction of threshold for alcohol strength from over 10% to 8% for tax purposes** (clause 14): - the amendment proposes to reduce the threshold of alcohol strength in beer and spirits from the current exceeding 10% to exceeding 8%. This implies that more alcoholic drinks of these categories will be covered, thereby expanding the tax base and raising additional revenue.

AMENDMENTS TO THE TAX PROCEDURES ACT

The proposed amendments to the Tax procedures Act are covered in clauses 15 - 16 of the Finance Bill. In summary, the key proposed amendments include:

1. **Introduction of voluntary tax disclosure programme** (clause 15): - this clause seeks to introduce this programme as a form of amnesty for taxpayers who may choose to disclose the tax liability from July 2015 to July 2020 for the purpose of being granted relief from paying penalty and interest. The amnesty will be granted at 100% waiver of penalty and interest if payment of assessed or disclosed tax is paid in the first year of being granted relief, 50% in the second year and 25% in the third year. Finally, this amnesty shall not apply to ongoing process such as audit, investigation of litigation.

2. **Provides for appointment of digital tax service agent** (clause 16): - the proposed amendment seeks to provide for the appointment of digital tax service agent, a new tax that is proposed to be introduced under clause 4. It also provides for revocation of the appointment.

AMENDMENTS TO THE MISCELLANEOUS FEES AND LEVIES ACT

The proposed amendments to the Miscellaneous Fees & Levies Act are covered in clauses 17 - 19 of the Finance Bill, 2020. The key proposed amendments include:

1. **Change of Import Declaration Fee for goods imported under EAC Duty Remission Scheme** (clause 17): - the Import Declaration Fee (IDF) for goods imported under the East African Community Duty Remission Scheme is proposed to be increased from the current KSh. 10,000 at point of entry for home use to 1.5% of the customs value.

   It is noted that this shift is likely to increase the revenue yield since the proposed ad valorem rate is progressive and proportional compared to a flat specific rate. Nonetheless, consideration should be made with regard to the fact that this duty may increase the cost of importation of goods through the Kenyan Ports compared to neighbouring countries. Secondly, the existing duty of KSh. 10,000 only applies in Kenya since it specifies the point of levying it as being the point of entering the goods for home use. Meaning imports by other countries that use the Kenyan ports need not pay, whereas the proposed rate shall apply to all imports though the Kenyan ports.

2. **New duty on goods for home use from EPZ** (clause 18): - a new duty has been proposed to be introduced at the rate of 2.5% of the customs value on goods entered for home use from an Export Processing Zones Enterprise. This is meant to raise additional revenue, and may also help cushion firms that make related items outside the EPZ from unfair pricing. Kenyans will also enjoy accessing high quality EPZ goods which are ordinarily made for the export markets.

3. **Removal of tax incentives** (clause 19): - helicopters and small aircrafts of unladen weight not exceeding 2,000 kg have been proposed to be removed from Import Declaration Fees exemption. The other one is the removal of exemption for goods under the implementation of Special Operating Framework Arrangement with government (SOFA)

4. Introduction of Import Declaration Fees exemption on all goods imported for official use by the Kenya Defense Forces and the National Police Service. The other one is the introduction of Railway Development Levy exemption on currency and coins imported by the Central Bank of Kenya and all goods imported for official use by the Kenya Defense Forces and the National Police Service. On overall, the goods imported for official use by the said security organs may be addressed through expenditure provisions rather that the distortionary tax expenditure.

PROPOSED AMENDMENT TO THE TAX APPEALS TRIBUNAL

The proposed amendment is a cleanup such that it clarifies under the procedure for appeal that it is the appeal or the documents.

MISCELLANEOUS AMENDMENTS TO OTHER FINANCIAL SECTOR STATUTES

A. PUBLIC ROADS TOLL ACT, CAP. 407 – CLAUSES 21 TO 26

i. In clause 21, the proposal seeks to amend the definition of toll collector to mean that s/he can be either private or public. This implies that agreements can be signed with public or private persons for the purpose of collecting the toll charges.

ii. The proposal in clause 23 seeks to remove the requirement for the laying the agreements for road management, toll regime in agreement to the National Assembly for approval. These are major policy decisions that need to be approved by the legislature. Therefore, the status quo needs to be retained.

iii. Clause 24 introduces a proviso under the Section that deals with levying of tolls pursuant to agreement to provide for an alternative arrangement for levying, collection and management of toll infrastructure.

iv. Clause 25 establishes a public fund to be known as the National Roads Toll Fund that shall be established in accordance with Section 24 of the Public Finance Management Act, 2012. However, it is noted that clause 24 seems to make a provision for an alternative arrangement for levying, collection and administration of tolls and attendant infrastructure. Thus, a need for harmonization of these to ensure efficiency in the management of tolls.

B. CAPITAL MARKETS ACT, CAP. 485A – CLAUSES 27 - 28

i. The Bill, in clause 27 introduces an additional function to the Capital Markets Authority (CMA) which is the regulation and oversight of private equity and venture capital firms (pension scheme funds) that have access to public funds.

ii. Clause 28 proposes to amend the Act to remove the function of payment of beneficiaries from unclaimed dividends, from the Investor Compensation Fund (ICF). This is because unclaimed dividends are currently handled under the Unclaimed Financial Assets Authority (UFAA).

C. INSURANCE ACT, CAP. 487– CLAUSE 29

This amendment proposes to amend Section 204A of the Act so as to provide a timeline of 30 days within which any appeal against a decision by the Commissioner of Insurance may be lodged at the Tribunal. This is a good provision since it introduces a sunset date with regard to filing appeal unlike currently where there is no time frame given in the law.

D. STANDARDS ACT, CAP. 496 – CLAUSE 30

The Bill amends the definition of consolidator to change the current scenario where consolidated goods from the origin are declared and cleared at the destination by one person, still consolidated, to a new shift where goods are deconsolidated for individual consignees to carry out their own declaration for customs purposes. This is likely to be extremely cumbersome despite that the intention is to ensure visibility of the individual consignees. The status quo may be maintained, albeit with application of technology for verification at origin and destination, for efficient and seamless conduct of cargo consolidation business.

E. THE ROAD MAINTENANCE LEVY FUND – CLAUSE 31

The Act is amended to remove the proceeds of the transit tolls from being paid into the Road Maintenance Levy Fund. This is because clause 25 is seeking to establish a National Roads Toll Fund into which proceeds of tolls shall be paid.

F. KENYA REVENUE AUTHORITY ACT – CLAUSES 32 TO 35

i. Clause 32 introduces a new function to the Kenya Revenue Authority, which is the authority to establish an institution for the purpose of providing capacity building and training for the better carrying out of its functions. This is, in effect, intended to institutionalize the existing Kenya School of Revenue Administration (KESRA) which provides training and capacity building on tax policy and revenue administration matters.

   Whereas this measure is likely to give KESRA legal backing and impetus to even extend its tentacles beyond KRA, care should be taken to ensure KRA does not digress from its core mandate, which is the revenue collection for the government. Also, the role of the Kenya School of Government may be considered in providing training and capacity building on these aspects.

ii. Clause 33 proposes to introduce a new source of funds to KRA as being the agency fees paid for collecting revenue on behalf of a county government of government agency, provided it does not exceed 2% of the total revenue collected. This may imply that KRA may retain up to 2% of the revenue they collect. As the revenue increases, they may end up retaining amounts that may not be needed considering that revenue administration cost does not proportionately increase with revenue yield.

iii. Clause 35 of this Bill gives the Kenya Revenue Authority powers to make regulations with respect to capacity building and training, a role is proposed to be introduced under clause 32 of the Bill.

G. RETIREMENT BENEFITS ACT, 1997 – CLAUSE 36

The amendment seeks to provide for the penalty of KSh. 100,000 for scheme trustees who may fail to submit actuarial reports to the Retirement Benefits Authority. There shall also be additional KSh. 1,000 for each day the actuarial report is not submitted. This would enhance compliance for efficient management of the retirement benefits schemes.

H. THE INSOLVENCY ACT, 2015 – CLAUSE 37

The proposed amendment seeks to introduce tax revenue by the Kenya Revenue Authority held in a bank is under receivership or liquidation, as second preferential claim. This is meant to reduce the risk exposure of the government revenue, collected by KRA and held in banks.

POLICY OPTIONS

Going into the future, it will be imperative to consider some options regarding the most feasible way of processing the budget which constitutes both revenue and expenditure, in a manner that enhances efficiency and predictability. As noted above, the Finance Bill, 2020 comes a month after the House passed the Tax Laws (Amendment) Bill, 2020 which provided a host of tax waivers to individuals and businesses, but also removed unnecessary and inequitable tax expenditures. The full impact of those measures on tax collections and on achieving their targeted goals is yet to be ascertained fully. The following options may be explored and considered.

1. **Medium term taxation measures: -** in order to enhance the stability of the taxation system in the country, consideration should be done on the possibility of approving taxation measures (revenue raising measures and tax incentives) to operate for three financial years. This will ensure certainty and enhance business and investment planning, as well as allowing sufficient time to fully assess the implications of various taxation measures. This will guard against constant policy reversals that have become common in recent times, thus, occasioning unpredictability in the taxation system.

2. **Approve the taxation measures same time with the estimates: -** during the processing of the budget, the submitted estimates of revenue and expenditure ought to be approved at the same time in such that any proposed new revenue measure is linked to the proposed expenditure estimates. Similarly, any new tax incentive should consider the negative revenue impact and its relation to the financing of estimates of expenditure. This, alongside credible borrowing estimates, will help ensure that the budget estimates are approved without a financing gap.

ANNEX 1: DETAILED ANALYSIS OF THE CLAUSES

Clause	Section & Provision	Proposal & Implication	PBO Remarks
PRELIMINARY			
1.	Short title and commencement.	The proposed amendment on Income Tax Act and Tax procedures Act shall take effect on 1st January, 2021. The rest of the provisions shall take effect on assent.	The two provisions will be deferred to the beginning of the new calendar year owing to administrative conveniences. The rest will be effective on assent in compliance with the Constitution and the Public Finance Management Act, 2012.
INCOME TAX ACT			
2.	Proposes to amend Section 6A on the Residential Rental Income Tax.	The proposed amendment is to expand the upper limit of the Residential Rental Income Tax from the current KSh. 10 million to KSh. 15 million while keeping the minimum threshold at KSh. 144,000 annual residential rental income.	This is meant to capture into the tax net more landlords who are supposed to pay this tax. The measure is likely to enhance revenue yield.
3.	Proposes to amend Section 12 which provides for Installment Tax.	The proposed amendment seeks to introduce a new provision that installment tax shall be liable to be paid in the event that newly proposed to be introduced minimum tax is less than installment tax.	For harmonization of the provision on installment tax with the proposed minimum tax.
4.	Introduces two new taxes called minimum tax and digital service	The proposed minimum tax shall be paid by a person whose income is not exempt and is not	The introduction of these new taxes is meant to enhance the revenue yield and also

	tax.	Residential Rental Income tax. The digital service tax shall be paid by persons whose income is derived from provision of services through digital market place in Kenya	cushion businesses.
5.	Amends Section 15 on deductions allowed.	The proposed amendment seeks to remove several items which are currently covered under allowable deductions.	This measure is meant to remove the existing tax expenditures so as to enhance revenue collection to finance the budget.
6.	Repeals Section 22C on the allowable deduction.	The proposed repeal removes the registered home ownership savings plan from allowable deduction.	This tax measure of expanding the tax base.
7.	Amends Section 34 on rates of tax	The amendment introduces the two new taxes, the minimum tax and digital service tax into the tax system.	The new inclusion is intended to expand the tax base and yield additional revenue to the government.
8.	Amends Part I of the First Schedule of the Act which provides for income exempt from tax.	The amendment seeks to remove from exempt income, income of a registered home ownership savings plan; income of NSSF and bonus, overtime and retirement benefits if less than 10%.	The removal is intended to introduce fairness in tax system and raising additional revenue.
9.	Amends the Third Schedule which provides for rates of tax.	This introduces the rates for the proposed taxes as: minimum tax is at 1% of the gross turnover and digital service tax is at 1.5% of the transaction value	The introduction of the new taxes even though at 1% and 1.5% respectively, would yield enhanced revenue.
VALUE ADDED TAX (VAT) ACT			

10.	Amends Section 17 which provides for credit for input against output tax.	The proposed amendment introduces a new provision to provide limitation of offsetting the input VAT from output VAT in the event that a registered supplier has not declared the sales invoice in a return.	This is to enhance compliance. However, the cost of such compliance may be considered.
11.	Amends the First Schedule on VAT exemptions.	The proposed amendment seeks to remove several items from the VAT exemption list.	This proposal is meant to reduce the tax exemptions so as enhance revenue.
12.	Amends the Second Schedule on VAT zero rate.	This amendment seeks to remove two items from the VAT zero list. They are: liquefies petroleum gas and material for manufacture of automotive and solar batteries.	This proposal is meant to reduce the tax expenditures so as enhance revenue
EXCISE DUTY ACT			
13.	Amends Section 2 of the Act under definitions.	Amends the definition of "licence" to clarify on the referencing to the relevant Sections of the Act.	This is for clarity
14.	Amends the First Schedule under rates of Excise Duty.	The amendment proposes to reduce the threshold of alcohol strength in beer and spirits from the current exceeding 10% to exceeding 8%.	This implies that more alcoholic drinks of these categories will be covered, thereby expanding the tax base and raining additional revenue.
TAX PROCEDURES ACT			
15.	Amendment introduces a new Section after Section 37C which provides for relief out difficulty to assess or recover tax.	The amendment seeks to introduce programme called voluntary tax disclosure programme which is an amnesty for taxpayers who may choose to disclose the tax liability from July	The amnesty will be granted at 100% waiver of penalty and interest if payment of assessed or disclosed tax is paid in the first year of being granted relief, 50% in the

		2015 to July 2020 for the purpose of being granted relief from paying penalty and interest.	second year and 25% in the third year. Finally, this amnesty shall not apply to ongoing process such as audit, investigation of litigation.
16.	Introduces a new provision on the appointment of digital service tax agent.	The introduced provision is meant to implement the proposed new tax called digital service tax.	The procedure for appointment and revocation ought to be specified in the statute or regulations.
MISCELLANEAOUS FEES AND LEVIES ACT			
17.	Amends Section 7 of the Act	Changes the excise duty for items under EAC Duty Remission Scheme from KSh. 10, 000 at the point of entering goods for home use to 1.5% of customs value.	The shift is likely to increase the revenue yield since the proposed ad valorem rate is progressive and proportional compared to a flat specific rate. Nonetheless, consideration should be made with regard to the fact that this duty may increase the cost of importation of goods through the Kenyan Ports compared to neighbouring countries.
18.	Introduction of a new duty on Export Processing Zone enterprise.	A new duty has been proposed to be introduced at the rate of 2.5% of the customs value on goods entered for home use from an Export Processing Zones EPZ) enterprise.	This is meant to raise additional revenue but may be considered on the aspects of promoting movement of goods from EPZ for home use.
19.	Amends Second Schedule on goods exempt from tax.	Helicopters and small aircrafts of unladen weight not exceeding 2,000 kg have been proposed to be removed from Import Declaration Fees exemption. The	Enhancement of fairness in taxation as well as raising additional revenue. The amendment also introduces IDF exemption on

		other one is the removal of exemption for goods under the implementation of Special Operating Framework Arrangement with government (SOFA)	all goods imported for official use by the Kenya Defense Forces and the National Police Service. The other one is the introduction of Railway Development Levy exemption on currency and coins imported by the Central Bank of Kenya and all goods imported for official use by the Kenya Defense Forces and the National Police Service
		TAX APPEALS TRIBUNAL	
20.	Amends Section 13 which provides for the procedure for appeals.	the amendment is a cleanup such that it clarifies under the procedure for appeal that it is the appeal or the documents	Clean up for clarity.
		<u>MISCELLANEOUS</u> **1. PUBLIC ROADS TOLL ACT**	
21.	Amends Section 2 on definitions	Proposes to amend the definition or toll collector to provide that s/he can either ne public or private.	The amendment introduces a possibility of appointing private toll collectors for the purpose of maintaining an infrastructure, under the agreement.
22.	Amends Section 3 which provides for toll stations.	The amendment is a clean-up for clarity	Clarity.
23.	Amends Section 4A which provides for agreements for road management.	The amendment seeks to remove the requirement for the laying the agreements for road management, toll regime in	These are major policy decisions that need to be approved by the legislature. Therefore, the status quo

		agreement to the National Assembly for approval.	needs to be retained.
24.	Amends Section 4B under levying of tolls pursuant to agreement.	Introduces a proviso under the Section that deals with levying of tolls pursuant to agreement to provide for an alternative arrangement for levying, collection and management of toll infrastructure.	Need to be harmonized with clause 24.
25.	Proposes the establishment of the National Roads Toll Fund.	Proceeds of roads toll shall be paint into this fund.	The establishment of the National Roads Toll Fund may be considered for harmonization with the existing Roads Maintenance Levy Fund and the provision in clause 24 of providing alternative mode of toll management.
26.	Amends Section 8 which provides for offenses and penalties.	Provides for recovery of unpaid toll as a civil debt.	Improve compliance.
		2. CAPITAL MARKETS ACT	
27.	Amends Section 11 under the objectives of the Authority.	introduces an additional function to the Capital Markets Authority (CMA) which is the regulation and oversight of private equity and venture capital firms (pension scheme funds) that have access to public funds	This enhances the regulation of the sector.
28.	Amends Section 18 under the established Investor Compensation Fund.	Amends the Act to remove the function of payment of beneficiaries from unclaimed dividends, from the Investor Compensation Fund (ICF).	This is because unclaimed dividends are currently handled under the Unclaimed Financial Assets Authority

3. INSURANCE ACT			
29.	Amends Section 204A which provides for powers of Insurance Regulatory Authority to settle disputes.	Proposes to amend Section 204A of the Act so as to provide a timeline of 30 days within which any appeal against a decision by the Commissioner of Insurance may be lodged at the Tribunal.	This is a good provision since it introduces a period for filing appeal unlike currently where there is no time frame given in the law.
4. STANDARDS ACT			
30.	Amends Section 2 to provide for the definition of a Consolidator	Proposes to amend the definition of consolidator to change the current scenario where consolidated goods from the origin are declared and cleared at the destination by one person, still consolidated, to a new shift where goods are deconsolidated for individual consignees to carry out their own declaration for customs purposes.	This is likely to be cumbersome but will enhance visibility of individual consignees
5. ROAD MAINTENANCE LEVY FUND ACT			
31.	Amends Section 7 which provides for the establishment of the Road Maintenance Levy Fund.	Proposed to be amended to remove the proceeds of the transit tolls from being paid into the Road Maintenance Levy Fund.	This is because clause 25 is seeking to establish a National Roads Toll Fund into which proceeds of tolls shall be paid
6. KENYA REVENUE AUTHORITY ACT			
32.	Amends Section 5 which provides for the function of the Kenya Revenue Authority.	Introduces a new function to the Kenya Revenue Authority, which is the authority to establish an institution for the purpose of providing capacity building and training for the better carrying out	Whereas this measure is likely to give KESRA legal backing and impetus to even extend its tentacles beyond KRA, care should be taken to ensure KRA does not digress from its

		of its functions. This is, in effect, intended to institutionalize the existing Kenya School of Revenue Administration (KESRA) which provides training and capacity building on tax policy and revenue administration matters.	core mandate, which is the revenue collection for the government. Also, the role of the Kenya School of Government may be considered in providing training and capacity building on these aspects.
33.	Amends Section 16 which provides for the funds of KRA	Introduce a new source of funds to KRA as being the agency fees paid for collecting revenue on behalf of a county government of government agency, provided it does not exceed 2% of the total revenue collected.	This may imply that KRA may retain up to 2% of the revenue they collect. As the revenue increases, they may end up retaining amounts that may not be needed considering that revenue administration cost does not proportionately increase with revenue yield.
34.	Introduces a new provision under Section 20 which deals with exemption of KRA from the State Corporations Act	The amendment provides for limitation of action and introduces timelines for suing the Authority.	This would aid in effective management of disputes.
35.	Amends Section 21 which provides for regulations.	The proposed amendment gives the Kenya Revenue Authority powers to make regulations with respect to capacity building and training, a role is proposed to be introduced under clause 32 of the Bill.	To be considered based on the provisions of clause 32 of this Bill.
		7. RETIREMENT BENEFITS ACT	
36.	Amends Section 35 of the Act which provides for actuarial	The amendment seeks to provide for the penalty of KSh. 100,000 for scheme trustees	This would enhance compliance for efficient management of the retirement

	evaluations.	who may fail to submit actuarial reports to the Retirement Benefits Authority. There shall also be additional KSh. 1,000 for each day the actuarial report is not submitted.	benefits schemes.
		8. INSOLVENCY ACT	
37.	Amends the Second Schedule on preferential debts	The proposed amendment seeks to introduce tax revenue by the Kenya Revenue Authority held in a bank is under receivership or liquidation, as second preferential claim.	This is meant to reduce the risk exposure of the government revenue, collected by KRA and held in banks