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THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FIFTH SESSION – 2026

DIRECTORATE OF DEPARTMENTAL COMMITTEES

**DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL
PLANNING**

REPORT ON:

**THE CONSIDERATION OF SESSIONAL PAPER NO. 7 OF 2026 ON THE
NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY**

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 27 AUG 2026	DAY. Thursday
TABLED BY:	Leader of the Majority Party
CLERK-AT THE TABLE:	Moses Atonale

**The Directorate of Departmental Committees
Clerk's Chambers
Parliament Buildings
NAIROBI**

AUGUST 2026

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LIST OF ABBREVIATIONS AND ACRONYMS

CDH	-	Cliffe Dekker Hofmeyr
CMA	-	Capital Markets Authority
CoB	-	Controller of Budget
COFEK	-	Consumers Federation of Kenya
COK	-	Constitution of Kenya
CRA	-	Commission on Revenue Allocation
DFIs	-	Development Finance Institutions
DSCR/LLCR	-	Debt Service Coverage Ratio/ Loan Life Coverage Ratio
EMCA/EIA	-	Environmental Management and Compliance Act/ Environmental Impact Assessment
ESG	-	Environmental, Social, and Governance
FKE	-	Federation of Kenya Employers
ICPAK	-	Institute of Certified Public Accountants of Kenya
IPS	-	Investment Policy Statement
IRRs	-	Internal Rate of Returns
LSK	-	Law Society of Kenya
MP	-	Member of Parliament
NIF	-	National Infrastructure Fund
NIFCA	-	Nairobi International Financial Centre
NPV	-	Net Profit Value
OAG	-	Office of the Auditor General
OCOB	-	Office of the Controller of Budget
ODM	-	Orange Democratic Movement
PPADA	-	Public Procurement and Asset Disposal Act
PPP	-	Public-Private Partnership
SPVs	-	Special Purpose Vehicles
UDA	-	United Democratic Alliance

ANNEXURES

Annexure 1: Adoption Schedule

Annexure 2: Minutes of the Committee on consideration of the Sessional Paper

Annexure 3: Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy

Annexure 4: Advertisement inviting the public to submit memoranda on the Sessional Paper

Annexure 5: Letter from the Clerk of the National Assembly inviting relevant stakeholders to attend the public participation forum.

Annexure 6: Memoranda by Stakeholders

CHAIRPERSON'S FOREWORD

This Report contains the proceedings of the Departmental Committee on Finance and National Planning on its consideration of Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy.

The Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy was tabled in the National Assembly on Wednesday, 12th August 2026 and was thereafter committed to the Committee for consideration and tabling of the report to the House. Pursuant to the provisions of Article 118 of the Constitution, the Committee was required to facilitate public participation and make appropriate recommendations to the House on the Sessional Paper.

Sessional Paper No. 7 of 2026 presents the Investment Policy Statement (IPS) for the National Infrastructure Fund (NIF). The National Infrastructure Fund was established under the National Infrastructure Fund Act, 2026 as a strategic national institution intended to mobilise long-term capital for commercially viable infrastructure of national significance. The Act establishes the Fund as a body corporate and sets out its purpose, governance and investment framework. The Investment Policy is intended to provide the policy framework within which the Fund will invest and manage its resources. The Policy seeks to establish an alternative mechanism for financing national infrastructure outside the traditional Exchequer and borrowing framework.

In compliance with Article 118 (1) (b) of the Constitution and Standing Order 127(3), the Clerk of the National Assembly placed an advertisement in the print media on 15th August 2026. In addition, the Clerk of the National Assembly vide letter Ref. No. NA/DDC/F&NP/2026/116 and NA/DDC/F&NP/2026/117 dated 14th August 2026 invited key stakeholders to submit views on the Sessional Paper and attend a public participation forum on Thursday, 20th and Friday, 21st August 2026. The memoranda were to be received on or before Monday, 24th August 2026 at 5.00 pm.

The Committee is grateful to the Offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to it during its consideration of the Sessional Paper. Similarly, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made invaluable contributions towards the preparation and production of this report.

On behalf of the Departmental Committee on Finance and National Planning and pursuant to the provisions of Standing Order 199(6), it is my pleasure to report that the Committee has considered the Sessional No. 7 of 2026 on the National Infrastructure Fund Investment Policy and wish to report to this august House with the recommendation that the House **approves** the Sessional Paper No. 7 of 2026 with amendments.

Hon. FCPA. Kuria Kimani, CBS, M.P

Chairperson, Departmental Committee on Finance and National Planning

CHAPTER ONE

I.0 PREFACE

I.1 ESTABLISHMENT AND MANDATE OF THE COMMITTEE

1. The Departmental Committee on Finance and National Planning is one of twenty departmental committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to **Standing Order 216 (5)** is as follows:
 - a) *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
 - b) *To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*
 - c) *To, on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
 - d) **To study and review all legislation referred to it;**
 - e) *To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - f) *To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;*
 - g) *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
 - h) *To examine treaties, agreements and conventions;*
 - i) *To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation;*
 - j) *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - k) *To examine any questions raised by Members on a matter within its mandate.*
2. The Second Schedule to the National Assembly Standing Orders assigns the Committee the mandate to consider matters in relation to public finance, public audit policies, monetary policies, financial institutions, economy, investment policies, competition, banking, insurance, national statistics, population, revenue policies including taxation, national planning and development, digital finance, including digital currency.
3. In executing its mandate, the Committee oversees the following Ministries/Departments:
 - a) The National Treasury.
 - b) State Department for Economic Planning.
 - c) State Department for Public Investments and Asset Management.
 - d) The Commission on Revenue Allocation (CRA)
 - e) Office of the Controller of Budget

I.2 COMMITTEE MEMBERSHIP

- I. The Departmental Committee on Finance and National Planning was constituted by the House on 27th October 2022 and reconstituted on Wednesday, 5th March 2025 and further reconstituted on Thursday, 28th May, 2026. The Committee comprises the following Members:

Chairperson

Hon. FCPA Kuria Kimani, CBS, MP
Molo Constituency

UDA Party

Vice-Chairperson

Hon. (Amb.) FCPA Langat Benjamin Kipkirui, CBS, MP
Ainamoi Constituency

UDA Party

Members

Hon. Peter Kaluma, CBS, MP
Homa Bay Town Constituency
ODM Party

Hon. Sunkuyia, R. George, MP
Kajiado West Constituency
UDA Party

Hon. FCPA Oyula, Joseph H. Maero, MP
Butula Constituency
ODM Party

Hon. Dr. Gathoni Wamuchomba, HSC, MP
Githunguri Constituency
UDA Party

Hon. Mboni, David Mwalika, MP
Kitui Rural Constituency
WDM Party

Hon. Sheikh Umul Sheikh, MP
Mandera County
UDM Party

Hon. Okuome Adipo Andrew, MP
Karachuonyo Constituency
ODM Party

Hon. (Dr.) Shadrack Mwiti, MP
South Imenti Constituency
Jubilee Party

Hon. Chiforomodo, Munga, MP
Lunga Lunga Constituency
UDM Party

Hon. (Dr.) Ariko John Namoit, MP
Turkana South Constituency
ODM Party

Hon. CPA Rutto Julius Kipletting, MP
Kesses Constituency
UDA Party

Hon. Machele M. Soud, MP
Mvita Constituency
ODM Party

Hon. Paul Biego, MP
Chesumei Constituency
UDA Party

I.3 COMMITTEE SECRETARIAT

4. The Committee is facilitated by the following staff:

Ms. Tracy Chebet
Principal Clerk Assistant II

Ms. Jennifer Ndeto
Deputy Director, Legal Services

Mr. Benson Kamande
Clerk Assistant III

Ms. Winfred Kambua
Clerk Assistant III

Mr. Salem Lorot
Senior Legal Counsel

Mr. Eugene Luteshi
Audio Officer III

Ms. Nelly W. Ondieki
Research Officer III

Mr. George Ndenjeshe
Fiscal Analyst II

Mr. James Macharia
Media Relations Officer

Ms. Joyce Wachera
Hansard Reporter II

Mr. Benson Muthuri
Assistant Serjeant-At-Arms

Mr. Jared Onyancha
Protocol Officer

Mr. Allan Ngugi
Administrative Officer II

CHAPTER TWO

2.0 OVERVIEW OF SESSIONAL PAPER NO. 7 OF 2026 ON THE NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY

Background

5. The Sessional Paper No. 7 of 2026 was developed by the Governing Council of the National Infrastructure Fund pursuant to section 25 of the National Infrastructure Fund Act, No. 4 of 2026. The Cabinet Secretary for the National Treasury and Economic Planning, who is also the Chairperson of the Governing Council of the National Infrastructure Fund, transmitted it to the National Assembly. The Sessional Paper was tabled in the National Assembly on 12th August, 2026.
6. Section 25(1) and (2) of the National Infrastructure Fund Act provides for the development and matters to be specified in the Investment Policy in the following terms—

25. Investment Policy

(1) The Governing Council shall develop an Investment Policy for approval by Cabinet.

(2) The Investment Policy shall specify

- (a) priority sectors proposed for development;*
- (b) proposed projects;*
- (c) any existing incomplete projects from the previous investment policy;*
- (d) expected rate of return on investment on specific projects;*
- (e) asset allocation, portfolio distribution and leverage ratios; and*
- (f) exposure limits per sector and project.*

7. The Sessional Paper was thereafter committed to the Committee for consideration and tabling of its report pursuant to section 27 of the National Infrastructure Fund Act, No. 4 of 2026.

2.1. Intention of the Sessional Paper

8. Sessional Paper No. 7 of 2026 presents the Investment Policy Statement (IPS) for the National Infrastructure Fund (NIF). The National Infrastructure Fund was established under the National Infrastructure Fund Act, 2026 as a strategic national institution intended to mobilise long-term capital for commercially viable infrastructure of national significance. The Act establishes the Fund as a body corporate and sets out its purpose, governance and investment framework. The Investment Policy is intended to provide the policy framework within which the Fund will invest and manage its resources.

9. The Policy seeks to establish an alternative mechanism for financing national infrastructure outside the traditional Exchequer and borrowing framework. The Fund is therefore intended to provide a revolving financing mechanism through which initial capital is invested in infrastructure, and returns are subsequently recycled into future projects.

10. The principal objectives of the Investment Policy are to:

- i. provide a clear framework for investment and management of the Fund's resources;
- ii. finance commercially viable infrastructure of national significance;
- iii. mobilise domestic and international private capital;
- iv. reduce reliance on public borrowing for commercially viable infrastructure;
- v. promote commercially disciplined investment decisions;
- vi. strengthen Kenya's capacity to originate, structure and execute large infrastructure projects;
- vii. preserve and grow the Fund's capital base;
- viii. recycle investment proceeds into future infrastructure projects; and
- ix. promote transparency, accountability and responsible stewardship of public resources.

2.2. Role of Parliament

11. The Investment Policy was submitted to the National Assembly pursuant to the National Infrastructure Fund Act, 2026, which provides the statutory framework governing its development, content, submission and consideration. Sections 25–31 set out the key requirements for the Investment Policy, including the priority sectors and proposed projects, expected returns, asset allocation, portfolio distribution, leverage and exposure limits, risk management, submission and consideration by the National Assembly, approval with or without reservations or amendments, resubmission where declined, and the publication and review of the Policy.

12. The Sessional Paper therefore provides a compliance checklist showing how the proposed Investment Policy addresses these statutory requirements.

2.3. Establishment of the National Infrastructure Fund

13. The National Infrastructure Fund was established under the National Infrastructure Fund Act, 2026 to accelerate national infrastructure development, mobilise private and non-traditional sources of finance, reduce reliance on public debt for commercially viable infrastructure, and strengthen Kenya's capacity to structure and execute large projects. The Fund is intended to provide an alternative to Exchequer financing, with Government indicating that its seed capital will include privatisation proceeds and that it will mobilise additional capital from pension funds, banks, sovereign wealth funds and development finance institutions.

14. The Policy places commercial discipline and capital preservation at the centre of the Fund's investment approach. Projects are expected to demonstrate identifiable

demand, commercial viability, technical readiness and appropriate risk management, while ordinarily supporting at least 60 percent non-recourse project debt and generating a minimum expected equity return of 7 percent to the Fund. As a permanent national investment fund, its capital is intended to be preserved and strengthened over time, with investment income, realised gains and recycled proceeds used to finance successive generations of infrastructure.

2.4. Eligible Sectors and Infrastructure Priorities

2.5. Priority Sectors

15. The Policy identifies the principal infrastructure sectors as national highways, railway networks, airports, seaports, electricity generation, transmission and distribution, ICT infrastructure, water and irrigation, agriculture and livestock infrastructure, as well as other national-priority infrastructure approved by the Governing Council.
16. The Paper further expands these categories to encompass logistics infrastructure and key energy and petroleum infrastructure, including geothermal, hydro, wind and solar power generation, petroleum, oil and gas infrastructure, refineries, pipelines. In addition, the expanded scope covers telecommunications and fibre networks, cloud infrastructure and data centres, dams and desalination facilities, as well as agricultural value-addition infrastructure.

2.6. Investment Criteria and Project Appraisal

17. The Policy requires proposed projects to satisfy minimum investment criteria, including demonstrated demand, commercial viability, capacity to support at least 60 percent non-recourse project debt, a minimum expected equity return of 7 percent, technical readiness, environmental, legal and financial readiness, relevant regulatory approvals and compliance with the Board's Risk Management Framework.
18. It also provides for project preparation, technical appraisal and legal, technical, financial, environmental and social due diligence as part of the investment process. These requirements are consistent with the importance placed during parliamentary consideration of the enabling legislation on adequate feasibility studies and the use of the public-private partnership framework in preparing and structuring infrastructure projects.

2.7. Government Support Measures

19. The Policy provides that projects failing to meet the general investment criteria may only be considered where Government Support Measures are provided in accordance with the Act and where the Board is satisfied that the investment remains commercially and financially sustainable after taking those measures into account.

2.8. Treasury Management and Temporary Investment of Funds

20. Pending deployment into infrastructure investments, Fund resources are to be managed prudently to preserve capital, maintain liquidity and generate appropriate investment income. Surplus funds may be invested in Government securities in accordance with the statutory framework.

2.9. Governance and Accountability

21. The Policy establishes a two-tier governance structure, consistent with the Act, under which the Governing Council provides strategic oversight and establishes investment policy, while the Board is responsible for implementing the Policy through the Investment Strategy, Annual Business Plans, investment approvals and portfolio oversight. The Sessional Paper further provides that investment authority will be delegated through the Board Charter, thereby establishing the framework for allocating investment decision-making responsibilities within the Fund.

2.10. Fund Capitalisation and Source Of Resources

22. The Policy provides that the Fund will be capitalised principally through proceeds from privatisation and other strategic capital allocations by Government, to preserve and grow capital derived from public assets. The Government has subsequently indicated that privatisation proceeds, including proceeds associated with the Kenya Pipeline Company and other strategic asset transactions, are intended to form part of the Fund's seed capital.

2.11. Monitoring, Evaluation and Performance

23. The Sessional Paper provides that the Board will monitor both the financial and non-financial performance of the Fund, including financial performance, capital deployment, capital mobilisation, portfolio quality and national development outcomes. This indicates that the Fund is intended to be assessed not only on the financial returns generated from its investments, but also on its ability to mobilise additional capital, maintain a sound investment portfolio and contribute to broader national infrastructure and development objectives.

2.12. Five-Year Validity and Annual Review

24. The Sessional Paper provides that the Investment Policy will remain in force for five years, while the Board is required to undertake an annual review and recommend amendments to the Governing Council where necessary. This provides for periodic updating of the Policy while maintaining a longer-term investment framework.

2.13. Value for Money and Public Interest

25. The Sessional Paper states that the Fund is intended to reduce reliance on public borrowing for commercially viable infrastructure and preserve public resources by shifting from traditional Exchequer financing towards an investment-based model. The Policy therefore seeks to ensure that public capital is deployed commercially,

generates returns and is recycled into future infrastructure investments, rather than relying solely on additional Government borrowing.

2.14. Conclusion

26. The National Infrastructure Fund Investment Policy represents a significant shift towards investment-based infrastructure financing, with the potential to reduce reliance on public borrowing, mobilise private capital and recycle investment returns into future projects. The Policy contains important safeguards, including commercial viability requirements, minimum return and leverage thresholds, exposure limits, non-recourse financing and capital-preservation principles.
27. Finally, the IPS should provide the National Assembly with adequate and timely information on the Fund's capitalisation, investments, returns, losses, exposure, Government Support Measures, contingent liabilities, costs, private capital mobilisation and development outcomes.

CHAPTER THREE

3.0 PUBLIC PARTICIPATION AND STAKEHOLDER ENGAGEMENT ON THE BILL

28. Article 118 (1)(b) of the Constitution provides that Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.
29. To facilitate public participation, the Clerk of the National Assembly placed an advertisement in the print media on 15th August 2026 inviting the public to submit memoranda on the Sessional Paper. Further, the Clerk of the National Assembly, vide letters NA/DDC/F&NP/2026/116 and NA/DDC/F&NP/2026/117 dated 14th August 2026, invited key stakeholders to submit views on the Sessional Paper and attend a stakeholder engagement forum on 20th and 21st August 2026.

3.1 MEMORANDA RECEIVED ON THE SESSIONAL PAPER

30. The Committee received twelve (12) memoranda from the following stakeholders whose submissions are detailed below:

- (1) The National Treasury;
- (2) Institute of Certified Public Accountants of Kenya (ICPAK);
- (3) Capital Markets Authority (CMA);
- (4) Office of the Controller of Budget (OCOB);
- (5) Nairobi International Financial Centre (NIFCA);
- (6) Cliffe Dekker Hofmeyr (CDH);
- (7) Office of the Auditor General (OAG);
- (8) Bara Build Nexus;
- (9) Olyvia M. Lavis;
- (10) CPF Group;
- (11) EMSI & Associates Advocates LLP; and
- (12) Dhamana Guarantee Company Limited.

3.2 SUBMISSIONS FROM STAKEHOLDERS

General Submissions

3.2.1 The National Treasury

31. The Cabinet Secretary for the **National Treasury and Economic Planning, Hon. FCPA John Mbadi Ng'ongo, EGH**, appeared before the Committee on Thursday, 20th August 2026 and submitted that the Investment Policy Statement is a principles-based policy under section 25 of the NIF Act, 2026 that defines NIF's operating compact.
- 32.

33. The Policy performs four functions: it defines eligible sectors, screening standards and appraisal standards; it protects capital through stage-gated preparation, downside testing and exposure limits; it enables the Board to invest, manage exits and recycle capital; and it measures performance through Expected Equity IRRs, portfolio risk, capital mobilisation and national outcomes.
34. The **National Treasury** stated that NIF exists to shift commercially viable infrastructure investment beyond the national budget. The Fund is to accelerate nationally significant infrastructure, mobilise domestic, international and non-traditional capital, reduce reliance on public debt for commercially viable projects, and build national origination, structuring and execution capability. Public capital is intended to act catalytically, mobilising private investment while preserving fiscal space for public services.
35. They highlighted out a governance structure in which the Governing Council owns policy and the Board implements it. They noted that the Council establishes the investment policy through the IPS and defines objectives, principles, eligibility, thresholds and limits. The Board implements policy through strategy and plans, and takes decisions and exercises oversight through approvals, conflict management, portfolio management and reporting to Council.
36. They noted that the Implementation instruments include the Investment Strategy, Annual Business Plans, and Risk and Treasury frameworks. They proposed an annual feedback loop, in which monitoring informs annual policy review and periodic portfolio-level reporting to Council.
37. On the division of decision rights, the Council develops policy, considers amendments, oversees compliance and receives portfolio-level reporting. The Council does not oversee individual investments. The Board approves individual investments, implements strategy and plans, and applies appraisal, risk, conflict and portfolio controls.
38. The National Treasury proposed seven principles to guide every investment decision:
- (i) commercial viability;
 - (ii) financial sustainability;
 - (iii) commercial discipline;
 - (iv) capital mobilisation;
 - (v) technical integrity;
 - (vi) responsible stewardship; and
 - (vii) national development.
39. Before a project reaches detailed preparation, the National Treasury proposed a preparation mechanism under sections 32 and 33 of the Act.
- (i) Projects are screened first against statutory eligibility;
 - (ii) priority-sector alignment;
 - (iii) preliminary viability;

- (iv) demand or off-take;
- (v) development readiness; and
- (vi) potential debt capacity.

40. Preparation then proceeds progressively, with further expenditure authorised only while a project retains a reasonable path to the Fund's investment criteria. The National Treasury proposed stopping or advancing projects at each stage if the prospect of investability no longer exists.
41. At the investment gate, the National Treasury proposed six tests: demand validation through identifiable users or off-take; bankability, requiring market-based cash flows able to support at least 60 percent non-recourse project debt; a project-specific Expected Equity IRR based on NIF cash flows from deployment to exit; a defined holding period and exit strategy set at appraisal; downside resilience under stress scenarios covering cost, delay, demand, operating, interest rate, foreign exchange and refinancing risk; and technical and risk readiness, under which risk is allocated to the party best placed to bear it.
42. Further, **National Treasury** noted that the Policy will include Government Support Measures provision, presented as an exception mechanism rather than an alternative investment standard. Where a project misses the general investment threshold, Government Support Measures may be applied under the Act. The Board must then re-underwrite the project and confirm it remains commercially and financially sustainable before it may proceed.
43. The National Treasury proposed six eligible infrastructure sectors: transport (highways, railways, airports, seaports and logistics); energy (generation, transmission, distribution and nationally significant systems); ICT (telecommunications, fibre, cloud and data centres); water and irrigation (supply, storage, dams, irrigation, desalination and bulk water); agriculture and livestock (production, storage, processing and value-add infrastructure); and other national priorities identified by the Governing Council and permitted by the Act.
44. Since this is the inaugural IPS, the National Treasury stated that there are no carried-over project commitments as there is no preceding policy. Project selection filters proposed include national development priority, commercial viability, catalytic economic impact, capital mobilisation potential, and alignment with the Fund's statutory purpose. Specific projects will be incorporated into the Annual Business Plan and pass through screening, preparation and feasibility under sections 32 and 33 before being brought to the Board for investment consideration.
45. The National Treasury proposes a range of investment structures grouped under three headings: direct capital (direct investments, equity and quasi-equity, and debt instruments); vehicles and partners (project finance, SPVs, infrastructure funds and co-investment platforms); and markets and development (capital market transactions, project development activities and strategic partner structures). They stated that the

structure of an investment may change, but the policy standards and portfolio guardrails apply regardless of structure.

46. On capital recycling, the National Treasury proposed a three-stage cycle. At entry, the target holding period, exit strategy and expected exit value are set as part of the Equity IRR appraisal. During the holding period, the Board reassesses the holding period and exit strategy against performance, market conditions and the Fund's long-term interests. At exit, capital is released through refinancing, institutional take-out, strategic or secondary sale, listing, securitisation, buy-back or another appropriate mechanism, and realised capital is redeployed into new investments where commercially appropriate.
47. The National Treasury proposed portfolio exposure limits measured against total Fund assets: a maximum of 40 percent in any one priority sector, and a maximum of 20 percent aggregate exposure to any single project entity, with all Fund instruments to that entity aggregated for the test. The Fund is not permitted to borrow on its own balance sheet, and project leverage is ordinarily to be non-recourse to the Fund. They highlighted that these limits are measured against Fund asset allocation, not against the capital structure or total asset value of an underlying project entity.
48. On treasury management, the National Treasury proposed three objectives applied before capital is deployed to projects: preserve capital, maintain liquidity for approved investment needs, and generate income solely through Government securities permitted under Section 43 of the Act. They stated that the Treasury Management Framework governs liquidity, maturity and deployment within this statutory investment universe and does not create broader asset classes.
49. The National Treasury proposed five performance lenses reviewed annually: returns against expected IRRs, capital deployment, capital mobilisation and recycling, portfolio and downside risk, and national development outcomes. The policy cycle runs on an annual rhythm, with the Board adopting an Annual Business Plan, setting project indicators and reviewing the IPS each year, and recommending amendments as required, subject to the statutory approval process. The National Treasury proposed a policy validity period of five years, at the end of which the Board reports all incomplete projects and a new policy cycle begins.
50. On Council oversight, the **National Treasury** proposed periodic reporting at portfolio level across eight items: portfolio composition and performance, capital deployed and private capital mobilised, performance against investment-specific Equity IRRs, sector and project-entity exposures, material portfolio and downside risks, the project-preparation pipeline and expenditure, underperformance, exits and capital recycled, and IPS compliance, breaches and remedial action. In their view this reporting supports policy oversight and does not transfer responsibility for individual investment decisions from the Board to the Council.

51. The National Treasury proposed six implementation instruments to make the policy executable. The Investment Strategy translates the IPS into portfolio priorities and investment approaches. The Annual Business Plan sets the project-preparation allocation, annual priorities and delivery commitments. Appraisal and stage-gate procedures screen projects early, reuse existing studies where appropriate, and govern progressive preparation spend. The Risk Management Framework defines stress testing, risk allocation, risk appetite and portfolio controls. The Treasury framework and procedures govern capital preservation, liquidity and approved surplus investment. The governance and reporting framework sets delegation, conflicts, performance measures and Council reporting. They stated that all six instruments are developed and approved in accordance with the Act and applicable governance arrangements.

3.2.2 Institute of Certified Public Accountants of Kenya (ICPAK)

52. **ICPAK** submitted that the National Infrastructure Fund Act, 2026 established the National Infrastructure Fund (NIF) as a vehicle for mobilizing resources for national infrastructure investment and advancing the Government's ambition to mobilize Ksh. 5 trillion over a ten-year period through domestic resource mobilization, monetization of public assets and the crowding in of private capital. They noted that NIF framework envisaged mobilization of Ksh. 5 trillion and crowding in private capital. However, the IPS does not clearly set out how this ambition will be progressively achieved, monitored and reported over the investment period. This will make it difficult to assess whether the Fund is attracting the expected level of private and development capital or whether its capital mobilization strategy requires adjustment.

53. **ICPAK** proposed that the Policy introduces a new Section 1.4 titled 'Policy Targets of the Fund' and to read as follows:

The Fund shall establish measurable targets to include

- a) the targeted Fund capitalization over the policy period*
- b) annual and cumulative private-sector capital commitments*
- c) the targeted amount of development and concessional finance mobilized*
- d) the targeted ratio of private and institutional capital to Fund capital*
- e) annual and cumulative capital deployed to eligible infrastructure investments*
- f) the value of investment commitments and projects reaching financial close*

The Board shall review performance against the approved targets at least annually and disclose the results in the Fund's annual performance report.

Appendix I

54. **ICPAK** submitted that the Appendix sets out key investment parameters but does not adequately address the foreign-exchange risks associated with mobilizing and investing capital from international investors or undertaking investments with foreign currency. The Institute recommended that Appendix I include a Foreign Exchange and Currency Risk Management Framework to ensure clarity in the following areas
- (a) the currencies in which the Fund may receive, hold and deploy capital
 - (b) acceptable levels of unhedged foreign-currency exposure
 - (c) circumstances requiring currency hedging

55. The Institute also recommended the addition of the following role to the Board for clarity

The Board shall monitor the currency composition of the Fund's assets, liabilities and commitments and ensure that material currency mismatches are identified and managed.

56. This will enhance risk management and transparency in cross-border investment operations, ensuring that the Fund's capital mobilization strategy aligns with both national financial stability objectives.

57. **On Chapter 2, specifically 2.2-Commercial Viability, ICPAK** noted that a project may be capable of supporting debt but should not necessarily be financed to the maximum level of that capacity, given that it may expose the Fund to refinancing and default risks. They proposed amending the provision to read as follows;

2.2.2. A project shall demonstrate financial capacity to support an appropriate level of non-recourse or limited-recourse debt, as determined through project-specific financial modelling and risk assessment.

2.2.3. The appropriate debt-to-total-financing ratio shall be determined having regard to

- a) projected cash flows
- b) revenue certainty
- c) demand risk
- d) construction and operational risks
- e) project maturity
- f) contractual arrangements
- g) regulatory environment
- h) foreign exchange exposure
- i) interest-rate risk
- j) the overall risk profile of the project.

2.2.4. Where a project is proposed for financing outside the standard financing parameters approved by the Board, the investment proposal shall document the basis for the deviation, the additional risks involved and the measures proposed to protect the Fund's capital.

58. They stated that this will provide flexibility and ensure that financing is aligned with the specific risk and cash-flow characteristics of each project.
59. **On 2.2 General Investment Criteria Financial Return, ICPAK** noted that the Policy requires projects to generate a minimum equity return of 7% to the Fund but does not explain the basis for this threshold or clarify whether it applies to individual investments or the Fund's overall portfolio. They proposed amending the provision to read as follows;
- 2.2.5. The Fund shall seek to achieve positive risk-adjusted financial returns across its investment portfolio.
- 2.2.6. The minimum required return for each investment shall be determined using an approved methodology that takes into account
- a) Fund's cost of capital
 - b) prevailing market conditions
 - c) inflation
 - d) investment tenor
 - e) liquidity
 - f) project risks
 - g) expected risk-adjusted return on comparable investments
- 2.2.7. The Board shall approve and periodically review the methodology and applicable return benchmarks.
- 2.2.8. Where an investment is expected to generate a return below the applicable benchmark, the investment proposal should provide
- a) a documented justification demonstrating its economic value
 - b) the financial implications of accepting the lower return
 - c) the associated risks and
 - d) the measures proposed to protect the Fund's capital.
60. They observed that a risk-adjusted framework provides a more appropriate basis for evaluating infrastructure investments, it maintains that the Fund's overall performance should also be assessed on a portfolio basis. Additionally, it also provides a transparent basis for approving investments that may have lower financial returns but demonstrable strategic value.
61. **On Chapter 3 - Priority Sectors for Development, ICPAK** submitted that the sectors identified in the IPS are presented without a clear basis for determining how resources should be prioritized between sectors when available capital is limited. They proposed that the Policy introduces a sector prioritization framework under which allocations consider the following
- (a) national development priorities
 - (b) project readiness
 - (c) economic and social impact
 - (d) commercial viability

- (e) private capital mobilization potential
 - (f) implementation capacity
 - (g) historical budget absorption
 - (h) climate and environment
 - (i) equitable development
62. The Institute stated that this will provide an objective basis for portfolio construction.
63. **On 3.1 and 3.2 Priority Sectors and Proposed Projects, ICPAK** observed that the IPS does not currently use evidence of sector implementation performance to inform portfolio prioritization. They recommended that;
- (i) the Policy should include historical implementation performance as one of the portfolio-allocation criteria.
 - (ii) The Board should assess sector and the projects' absorption performance, preferably using a rolling three-year trend where data is available.
 - (iii) The FY2022/23 performance of sectors from the Controller of Budget should form part of the baseline assessment.
64. Additionally, **ICPAK** noted that proposed projects are identified at sector level rather than through a defined project selection framework. It fails to specify how these criteria will be applied or weighted. They proposed that the Policy establishes a project scoring and ranking framework. Where each project is assessed against defined criteria, including commercial viability, economic rate of return, financial return, project readiness, implementation capacity, fiscal risk, climate resilience, private capital mobilization, strategic importance and expected development outcomes. This will help in improving consistency and comparability in investment decisions.
65. Further, **ICPAK** proposed that the Policy allows the Governing Council to identify any other nationally significant infrastructure as a priority. They proposed that any additional sector or project category be supported by a documented investment case and needs assessment to meet the same investment criteria applicable to the identified priority sectors. This will prevent ad hoc expansion of the Fund's investment mandate.
66. **On 3.3 Portfolio Framework/Exposure Limits, ICPAK** noted that the IPS limits exposure to one sector to 40% of Fund assets and a single project to 20%. However, the policy does not demonstrate the basis for these thresholds or explain how concentration risk will be assessed across correlated sectors. They recommended that the Policy should require the Board to establish exposure limits based on
- (a) portfolio risk
 - (b) sector correlation
 - (c) project size
 - (d) counterparty exposure financing structure
 - (e) liquidity requirements.

67. **The 40% sector and 20% project limits** should be subject to periodic review based on portfolio risk analysis.
68. Finally, **ICPAK** submitted that the policy requires annual review by the Board but does not establish matters that should trigger a substantive amendment to the IPS. The Institute recommends the policy should indicate that review should consider
- (a) changes in the Fund's capital base
 - (b) macroeconomic conditions such as interest rates, inflation, fiscal position
 - (c) sector performance
 - (d) regulatory changes
 - (e) emerging infrastructure risks.
69. This will ensure that policy reviews are evidence-based and responsive to material changes.

3.2.3 Capital Markets Authority (CMA)

70. CMA appearing before the Committee submitted that on the list of Abbreviations, ABS is indicated as Annual Business Plan. They proposed replacing ABS with ABP.
71. On the Executive summary, they noted that the existing Capital Market Collective Investment Scheme regulations do not recognise Infrastructure Funds as an investment class/alternative. They recommended reviewing the Collective Investment Scheme regulations to recognise Infrastructure Fund as one of the asset classes.
72. **On the introduction part, CMA** noted that the NIF Act states that the NIF shall be a body corporate with perpetual succession, however, the IPS states that “*The Fund is a special purpose vehicle...*”. They recommended clarifying the entity structure by reconciling the Policy as drafted and the NIF Act.
73. **On the general investment criteria, CMA** observed that the time horizon of the investment(s) as a key investment criterion is missing. They proposed introducing project-specific time horizon criterion as a key consideration in informing the NIF investment decisions.
74. **On Government Support Measures, CMA** noted that an element of supporting the ‘public good’ needs to be infused into the policy. They observed that infrastructure is an essential plank in setting the basis of all other growth by stunting systemic risks and availing accessible benefits to extensive areas and diverse communities. NIF should therefore have as one of its objectives, meeting public interest/good.
75. Additionally, the Authority stated projects that fail the general commercial criteria may still proceed where Government Support Measures apply, with no ceiling, approval threshold or disclosure requirement specified. CMA was of the view that non-disclosure of the reasons for Government support measure(s) may materially mis-state the projects’ underlying risk profile. They proposed requiring quantified

ceilings on Government Support Measures and mandatory disclosure of any such support in the offering document(s).

76. **On the General Investment Criteria- Financial Return**, CMA highlighted that it is not clear whether:
- a) This is a KES or Hard Currency (e.g., USD) return
 - b) This is a gross or net return
 - c) This is a nominal or real return
77. They recommended that the Policy provide for the same minimum return of 7% irrespective of the sector and despite the differing risk-return profiles.
78. **On proposed projects, CMA noted that there is no reference to the aspect of the proposed projects leveraging capital markets as a key anchor**, as expressly mentioned in Par 5 of the foreword and Par. 4 of the Executive Summary. They submitted that countries that have registered impressive infrastructure development, including China, Malaysia, India, and Morocco, have actively leveraged capital markets as the pivot point for facilitating rapid capital raising while leveraging technology.
79. **On regularity of review of the IPS**, CMA stated that it is not clear what the Governing Council should do with the recommendations after the IPS review. They were of the opinion that there should be room to review the IPS (on an as-needed basis) within a shorter period to address new developments or market dynamics.
80. They proposed expressly indicating that the recommended amendments will then be adopted by the Governing Council and implemented in the subsequent period. Also, evaluate the IPS review period to account for new and/or unforeseen developments. By adding 'or as will be necessary in the view of the Governing Council.
81. **On treasury management, CMA** noted that MDAs are already overweight in Government securities. The investment room for investing surplus funds should be expanded. They proposed including all capital market securities as the potential universe of assets in which surplus funds may be invested.

3.2.4 Office of the Controller of Budget (OCOB)

Through a written submission the OCOB submitted as follows;

82. **On paragraph 2.3 of the IPS**, the CoB noted that the objective of reducing public debt could be undermined if the Government provides extensive guarantees and other support measures to Fund projects. The legislative framework allows government support measures, including binding undertakings, letters of support, letters of credit and credit guarantees. This creates an important fiscal- risk question: although the Fund may initially appear to be off- budget financing, government guarantees can ultimately expose taxpayers to contingent liabilities if projects fail.

83. **They** proposed amending the proposal to state;
- (i) when the Fund may borrow;
 - (ii) who bears the repayment obligation;
 - (iii) whether borrowing constitutes public debt;
 - (iv) the circumstances under which the Government may provide guarantees;
 - (v) maximum leverage ratios; and
 - (vi) how contingent liabilities will be reported.
84. In their view, this introduces explicit leverage and guarantee ceilings to prevent the Fund **from** becoming an indirect source of public debt.
85. **On Paragraph 3.1**, the CoB noted that a sophisticated approach to examining whether national infrastructure projects are fairly distributed across Kenya is lacking. There is therefore the risk of concentrating investment in politically favoured regions or sectors. They stated that while investments should not be distributed to achieve political balance, the policy should ensure that national infrastructure investment does not systematically exclude economically productive but historically underserved regions. The CoB was of the view that the Investment Policy should establish transparent principles for geographical and sectoral allocation.
86. **On paragraph 2.2 on the minimum equity return**, the CoB observed that the minimum-return approach requires scrutiny. While a minimum return can impose useful commercial discipline, applying a uniform return threshold to fundamentally different infrastructure projects could be problematic. They proposed replacing the rigid uniform return threshold with risk- adjusted return benchmarks differentiated by sector, project maturity and risk.
87. **On paragraph 3.3 – the portfolio framework**, the CoB noted that the Act requires the Investment Policy to specify asset allocation, portfolio distribution and leverage ratios. However, these provisions need to be translated into robust quantitative risk limits that can be monitored in practice. They stated that there is need to require independent feasibility and value-for- money assessments before major investments are approved.
88. They proposed the Investment Policy to clearly define:
- (i) maximum exposure to a single project;
 - (ii) maximum exposure to a particular sector;
 - (iii) permissible levels of borrowing and leverage;
 - (iv) foreign-exchange exposure limits;
 - (v) counterparty limits;
 - (vi) liquidity requirements;
 - (vii) guarantees and contingent liabilities;
 - (viii) acceptable credit-risk levels; and
 - (ix) procedures for restructuring distressed investments.

89. The CoB stated that without these safeguards, the Fund could unintentionally recreate the high fiscal risks it is intended to cure.
90. **On 3.1- priority sectors**, the CoB stated that there is potential for duplication with existing institutions: The NIF operates within an already extensive infrastructure and public investment institutional framework. This is likely to create a risk of overlap with bodies such as the Kenya National Highways Authority, Kenya Airports Authority, KENGEN, KETRACO and the State Department for Public Investment and Assets Management, among others. This will increase the likelihood of duplicate project appraisals, competing mandates, additional administrative costs, and diluted accountability.
91. In the CoB's view the Investment Policy should clearly define the relationship among the Fund, National Treasury, the State Department for Public Investment and Assets Management, implementing agencies, and sector regulators, and specify where their responsibilities lie. The Policy should also make the Fund principally a financing and investment vehicle, rather than creating another project- implementation bureaucracy.
92. **On paragraph 2.2- general investment criteria**, the OCOB submitted that the commercial-return principle could disadvantage socially important projects. Some strategically important infrastructure projects may generate substantial social and economic benefits without producing sufficiently high direct financial returns. They stated that the policy should therefore distinguish between financial return and economic/ social return. Projects should be assessed using a broader development-adjusted investment framework rather than relying exclusively on financial profitability. They recommended creating a transparent project-ranking framework based on financial, economic, social, environmental and strategic criteria.
93. The Policy does not define the term 'National Infrastructure'. Instead, it relies on the definition provided in the NIF Act. The CoB stated that the absence of a sufficiently precise definition of national infrastructure may constitute a grey area that could create room for discretionary investment and allow resources to be directed towards projects of questionable economic value. They proposed the Investment Policy establish a clear taxonomy of eligible investments. It should distinguish between strategic national infrastructure, commercially viable infrastructure, social infrastructure and projects that should ordinarily be financed through the ordinary development budget.
94. **On the Stewardship of the Fund's Capital**, the CoB observed that the use of proceeds from privatisation and disposal of government assets as a source of funding is potentially innovative, but it also raises an important intergenerational issue. Public assets are finite. Selling an asset to finance infrastructure can be justified where the proceeds are invested productively. However, there is a risk that valuable public assets could be sold without adequate valuation or without demonstrating that the resulting investment will generate superior long-term public value. They proposed

establishing strong safeguards around valuation, disposal, investment and reporting. Additionally, ring-fencing and protecting proceeds from privatisation and asset disposal through transparent valuation, competitive disposal processes and clear investment rules.

95. The CoB noted that to ensure public trust, stronger conflict-of-interest provisions are needed in the Policy. Given the substantial financial resources involved, the policy should contain rigorous rules governing conflicts of interest involving Council members, directors, senior management, investment advisers, and related parties. They noted that declarations of interests should be mandatory, independently verified, and publicly disclosed where appropriate. Individuals with conflicts should be prohibited from participating in related decisions. This is essential for maintaining investor confidence and protecting public assets.
96. Additionally, they stated that Environmental, social and climate risks have not been incorporated in investment guardrails. They recommended integrating climate-risk and environmental sustainability assessments into every major investment decision.

3.2.5 Nairobi International Financial Centre (NIFCA)

NIFCA, through their written memoranda submitted as follows;

97. **NIFCA** submitted that while Section 25 correctly requires the Investment Policy to specify sectors, projects, returns, asset allocation, leverage and exposure limits, the Policy does not yet state how the Fund will crowd in private capital without compromising its statutory governance or creating uncontrolled contingent liabilities.
98. They proposed that this gap be addressed by expressly recognising six matters in the Policy: lawful investment and co-investment vehicles; institutional collaboration with NIFCA and other relevant agencies; domestic and international institutional capital mobilisation; investor-readiness standards; additionality, meaning that Fund participation should not needlessly displace private finance; and measurement of capital mobilised alongside capital invested.
99. NIFCA highlighted some gaps in the IPS as follows;
100. **On Investment and co-investment vehicles**, **NIFCA** stated that there is need to expressly permit lawful investment vehicles where they improve commercial viability, risk allocation or mobilisation. They iproposed inserting a new text to read as follows;

"The Fund may, subject to applicable law and its approved investment parameters, establish, invest through, participate in or co-invest alongside appropriate investment vehicles, including project companies, special purpose vehicles, funds, joint ventures and other legally recognised investment structures, where such structures enhance commercial viability, risk allocation, capital mobilisation or efficient management of an investment."

101. Additionally, they noted that the policy needs to recognise NIFCA as one of several statutory institutions available to support investor participation and qualifying structures. They proposed text should read as follows;

"In mobilising domestic and international private capital, the Fund may collaborate with the Nairobi International Financial Centre Authority and other relevant public institutions to facilitate investor participation and, where appropriate, the establishment or utilisation of investment vehicles and financial structures within Kenya in accordance with applicable law."

102. **On private capital mobilization**, NIFCA proposed the inclusion of the following text;

"For commercially viable projects, the Fund shall, where appropriate, seek to crowd in domestic and international institutional capital through co-investment, syndicated investment, funds, project companies and other appropriate financing mechanisms, while maintaining prudent risk allocation and protecting the financial interests of the Fund."

103. They stated that this will make crowding-in a deliberate implementation objective.

104. Further, NIFCA noted that there is a domestic institutional capital gap. They proposed amending the IPS to include the following;

"The Fund shall, subject to applicable financial-sector laws and prudential requirements, promote opportunities for participation by domestic institutional investors in commercially viable national infrastructure investments."

105. This will create opportunities, not mandates, for pensions, insurers and other eligible investors.

106. **On international institutional capital**, NIFCA proposed expressly permitting partnerships with SWFs, DFIs, infrastructure funds and other institutional investors. They recommended amending the Policy to read as follows;

"The Fund may seek investment partnerships and co-investment arrangements with sovereign wealth funds, development finance institutions, infrastructure funds, pension and insurance investors, private investment funds, climate-finance institutions and other eligible institutional investors."

107. **On investor readiness/ bankability**, NIFCA was of the view that the Policy be amended to include; *"Projects intended to attract private capital shall be developed to an appropriate level of commercial and investor readiness, including clearly defined revenue models, risk allocation, governance arrangements, financing structures and, where applicable, investor entry and exit mechanisms."* They stated that this will require projects seeking private capital to reach a defined commercial-readiness threshold.

108. **On the Capital Mobilisation metric**, NIFCA stated that there will be need to report both NIF capital deployed and third-party capital mobilised. They proposed inserting the following;

"The Fund shall monitor and report the amount of domestic and international private capital mobilised alongside its investments and an appropriate capital-mobilisation ratio, without double counting."

109. NIFCA noted that in determining whether to invest, the Fund shall consider the additionality of its participation, including whether its investment accelerates the project, addresses an identifiable financing constraint, improves bankability or mobilises additional private capital. This will prevent NIF from unnecessarily displacing private finance.

110. **On the vehicle governance**, NIFCA highlighted that any investment vehicle through which the Fund invests shall be subject to governance, financial reporting, audit, valuation, beneficial-ownership, conflict-of-interest and transparency requirements proportionate to the Fund's investment and consistent with applicable law. This ensures transparency and governance safeguards to vehicles in which NIF invests.

111. To ensure non-duplication, NIFCA proposed requiring use of existing statutory capabilities where practicable and should read as follows;

"In implementing this Policy, the Fund shall collaborate with relevant public institutions and regulatory authorities and, to the extent practicable, utilise existing statutory frameworks and institutional capabilities rather than duplicate functions assigned under written law."

3.2.6 Cliffe Dekker Hofmeyr (CDH)

CDH, through their written memoranda submitted as follows;

112. **On 2.2: Commercial Viability / Minimum 60% Non-Recourse Project Debt.**

CDH observed that the section provides the 60% threshold and presents it as a minimum criterion applicable to every project. This may exclude otherwise viable infrastructure projects which have longer development periods, significant public-interest characteristics or different financing structures. They stated that the 60% threshold operate as a general benchmark, with a controlled exception for projects which are commercially and financially viable but cannot reasonably achieve the threshold because of the characteristics of the infrastructure sector or project.

113. They proposed amending the section to read as follows;

"Approved projects shall ordinarily be expected to generate market-based cash flows capable of supporting at least sixty percent non-recourse project debt. The Board may approve a project that does not meet this threshold where, following an independent financial assessment, it is satisfied that the project is commercially and financially sustainable and that the deviation is justified by the characteristics of the project or sector. The reasons for such approval shall be documented."

114. On section 2.2: Financial Return, CDH was of the view that the provision of a uniform minimum return may not adequately account for differences in project risk,

tenor, sector, inflation and capital structure. They stated that the 7% return be retained as a benchmark but that the Policy define the basis for calculating the return and permit a departure where justified by a documented risk-adjusted assessment. They proposed amending the section to read as follows;

“Projects shall be expected to generate a minimum risk-adjusted equity return of seven percent to the Fund, measured in accordance with investment guidelines approved by the Board.

The Board may approve a project with an expected return below the benchmark where it determines, on the basis of a documented risk-adjusted assessment, that the investment remains financially sustainable and advances the statutory objectives of the Fund.”

- 115. On Section 2.3: Government Support measures**, they highlighted that the Policy does not state what assessment must be undertaken before Government Support Measures are relied upon, nor does it expressly require consideration of the potential fiscal or contingent liability arising from such support. They proposed amending the section to read as follows;

“Where a project is considered for investment on the basis of Government Support Measures, the Board shall, before approving the investment, undertake or procure an assessment of the financial, fiscal and contingent liability implications of the proposed support and satisfy itself that the support is necessary, proportionate and consistent with the Public Finance Management Act and the National Infrastructure Fund Act.”

- 116. On Section 3.2: Proposed Projects**, CDH stated that the Act expressly requires proposed projects to be specified in the Policy. They recommended approving the Policy with a reservation under Section 28(b) of the Act requiring the Governing Council to incorporate an indicative pipeline of proposed projects into Section 3.2.

- 117. On section 3.2: Other National priority infrastructure**, the stakeholder noted that the phrase “other nationally significant infrastructure” is broad and does not identify the criteria or process through which a project outside the listed sectors may be designated a national priority. They proposed amending the proposal to read as follows;

“Any project falling outside the priority sectors specified in this Policy may be designated as national priority infrastructure where the Governing Council, on the recommendation of the Board, is satisfied that the project demonstrates significant national economic or strategic impact, is consistent with the objects of the Fund and satisfies the applicable investment criteria. The reasons for the designation shall be recorded in writing.”

118. On 3.3: Sector and project exposure limits, CDH stated that the section does not explain how “exposure” or “Fund assets” are to be calculated, particularly where the Fund invests through special purpose vehicles, infrastructure funds, co-investment arrangements or other indirect investment structures. They proposed a new provision to read as follows;

“For purposes of the sector and project exposure limits, the Board shall establish a methodology for calculating direct and indirect exposure, including exposure arising through special purpose vehicles, infrastructure funds, co-investment arrangements and other investment structures.

The methodology shall be approved by the Governing Council and reviewed annually.”

119. On Section 2.1 and Preface: Authority for the preparation of the Policy, CDH submitted that the Policy and the Compliance Checklist ought to be aligned with Sections 25(1) and 26 of the Act by confirming that the Policy is developed by the Governing Council, approved by Cabinet and submitted to the National Assembly by the Cabinet Secretary, and that the Board's role is limited to implementation.

120. On Section 3.3: Leverage and the prohibition on balance sheet borrowing, the stakeholder recommended that the Policy states expressly that leverage shall be non-recourse to the Fund and that no instrument may be granted which constitutes borrowing or the taking of credit against the Fund's balance sheet, and that it identify the credit support the Fund may provide at project level within that limit. They proposed amending the section to read as follows;

“Leverage shall be undertaken only at the project or investment vehicle level and shall be non-recourse to the Fund. The Fund shall not borrow or take credit against its balance sheet. The Board may approve equity commitment undertakings, contingent equity, subordinated shareholder funding and similar support at project level, provided that the aggregate contingent exposure of the Fund is capped at the amount of the Fund's approved capital commitment to the relevant project, is quantified at the time of approval and is reported in accordance with the risk management framework.”

121. On Chapter 3: Security, intercreditor arrangements and enforcement, CDH stated that the Policy does not address the taking or realisation of security, the Fund's position as against senior lenders, or the exercise of step-in and enforcement rights where a project fails. They proposed amending the provision to read as follows;

“The Fund shall, where appropriate, take security for its investments and shall determine its position in relation to senior and other creditors in each transaction. The Board shall approve guidelines addressing the taking, holding, sharing and release of security, intercreditor and subordination arrangements, and the circumstances in which the Fund may exercise step-in, enforcement or remedial rights in respect of an underperforming project. Any release or subordination of security shall be approved by the Board and the reasons recorded in writing.”

122. **On Chapter 3: Co-investment arrangements and shareholder protections**, the stakeholder noted that the Policy refers to co-investment platforms and capital mobilisation as a performance measure but does not address the terms on which the Fund will co-invest or the governance and minority protections it will require where it holds a non-controlling interest. They stated that the Policy should require the Board to satisfy itself, before approving an investment, that the Fund's governance and minority protections in the relevant vehicle are appropriate to the Fund's interest and to the nature of the project.

123. They proposed amending the provision to read as follows;

"Where the Fund invests alongside other investors or through a special purpose vehicle, pooled investment vehicle or infrastructure fund, the Board shall, before approving the investment, satisfy itself that the constitutive and shareholder documents confer governance, participation, information and exit rights appropriate to the Fund's interest in the vehicle and to the nature of the project, and shall record its assessment in writing."

124. **On Chapter 2: Conflicts of interest, related party transactions and political independence**, CDH noted that the chapter contains no operative provision on conflicts of interest, related party transactions or independence of investment decision-making. They proposed amending to include an operative provision as follows;

"Investment decisions shall be taken by the Board on commercial and technical grounds in accordance with this Policy and the Act, and no investment shall be approved on the direction of any person other than in accordance with the Act. A member of the Governing Council or of the Board who has a direct or indirect interest in a proposed investment or in a counterparty shall disclose that interest and shall not participate in the deliberation or approval of the matter. The Board shall approve a related party transaction policy requiring the identification, independent review and disclosure of any investment or transaction involving a director, member of the Governing Council, senior officer or their related parties."

125. On Section 3.4: Treasury management, CDH stated that the Policy does not identify the instruments in which undeployed capital may be held, or any counterparty, concentration or tenor limits. They proposed expanding the section to reflect the statutory constraints and to set treasury guardrails as follows;

"Treasury investments shall be limited to Government securities approved by the Cabinet Secretary in accordance with Section 43 of the Act and to deposits held with the Central Bank of Kenya or with commercial banks maintained under Section 40(4) of the Act. The Board shall approve treasury guidelines specifying eligible instruments, minimum counterparty credit criteria, single counterparty and concentration limits, maximum tenor and liquidity requirements aligned to projected capital deployment, and shall report treasury exposures to the Governing Council."

126. **On Chapter 2: Financial risk management framework**, CDH noted that the Policy does not identify the categories of financial risk to which the Fund will be exposed. Infrastructure investments of the kind contemplated will typically involve foreign currency debt, long tenors and refinancing at the end of an initial debt term.

127. They proposed inserting the following provision;

"The Risk Management Framework shall address, at a minimum, credit and counterparty risk, currency and interest rate risk, refinancing and liquidity risk, construction and completion risk, concentration risk and the use of hedging or other risk mitigation instruments."

128. **On Chapter 4: Monitoring and evaluation**, the stakeholder highlighted that the Policy identifies broad areas of performance but does not establish minimum reporting intervals, minimum indicators or a deadline for reporting performance. Additionally, the Policy also includes "national development outcomes" as a performance consideration but does not indicate how these outcomes are to be measured. They recommended amending as follows;

"The Board shall monitor the performance of each approved project on a quarterly basis against financial and non-financial performance indicators. The Board shall include in its annual report a consolidated assessment of the performance of the Fund and each approved project, including capital deployed, financial returns, capital mobilised, project implementation status, material risks and national development outcomes."

Additionally, they recommended that the annual Business Plan contain measurable development indicators appropriate to the relevant sector and project.

129. **On the Appendix I: Key Policy Parameters**, CDH recommended that the Appendix expressly identify whether each parameter is statutory, policy-based or operational. They recommended amending as follows;

"The policy parameters set out in this Appendix shall be classified as either statutory requirements under the National Infrastructure Fund Act, 2026 or additional policy parameters adopted under this Policy. Any amendment to a statutory or substantive policy parameter shall be undertaken in accordance with the applicable provisions of the Act."

3.2.7 Office of the Auditor General (OAG)

The OAG through a written memoranda submitted as follows;

130. The OAG submitted that the Office recognises Kenya's infrastructure financing gap, the pressure on public debt and the need to mobilise long-term private capital. A properly designed Fund can support commercially viable infrastructure, crowd in institutional capital and recycle proceeds while preserving public value.

131. The Auditor General stated that some of the issues the Office raised during the consideration of the NIF Bill stage have been addressed in the Policy. However, some remain partly addressed they include;
- (i) Define maximum gearing, coverage ratios, stress tests and treatment of public support.
 - (ii) Annex the actual five-year pipeline and define decision evidence, approvals and exceptions.
 - (iii) Quantify, cap, approve and disclose every fiscal commitment and contingent liability.
 - (iv) Define measurement, connected exposure, continuous monitoring and breach remedies.
 - (v) Require independent valuation, transparent price discovery, capital preservation and reinvestment rules.
 - (vi) Prescribe consolidation, project-level disclosure, record retention and contractual audit access.
132. Additionally, the OAG stated that Section 25(2) of the National Infrastructure Fund Act, 2026 requires the Investment Policy to specify particular matters. They noted that the checklist leaves several statutory requirements blank while a separate technical table asserts compliance with frameworks that are not identifiable in the substantive Policy. They proposed replacing the competing tables with one reconciled checklist showing the statutory requirement, exact Policy clause, implementation instrument, responsible body and evidence of compliance.
133. **On chapter 3 – projected sectors and projects**, the OAG noted that the IPS names sectors but does not identify the proposed projects to which the five-year mandate will apply. They stated that Parliament cannot evaluate aggregate capital demand, readiness, geographic and sector concentration, expected returns, Government support, or consistency with national development priorities.
134. They proposed annexing the proposed pipeline, showing for each project the sponsor, sector and location; estimated total cost and Fund commitment; proposed instrument and financing structure; readiness stage; expected return; Government support; key risks; and indicative implementation period.
135. **On section 2.2 and Appendix I - minimum expected equity return of 7%.** The OAG observed that the Policy does not state whether 7% is nominal or real, gross or net of fees, pre- or post-tax, Kenya-shilling or foreign-currency, project or Fund level, or measured over what period. They stated that a uniform figure may underprice construction, demand, regulatory, currency and liquidity risk. If interpreted as a nominal Kenya-shilling net return, it is below the 8.77% 91-day Treasury-bill benchmark published by the Central Bank of Kenya in August 2026, despite infrastructure equity being long-term and illiquid.
136. The OAG proposed defining the return measure and require a risk-adjusted hurdle-rate methodology by sector, project stage and currency, benchmarked to the relevant risk-free yield plus explicit risk premiums. Also, disclose expected gross and net

returns, fees, taxes, inflation assumptions and downside cases in each appraisal and the Annual Business Plan.

137. **On Sections 2.2 and 3.3; Appendix I - projects should support at least 60% non-recourse debt.** The OAG highlighted that the Policy does not prescribe maximum debt-to-capital, minimum debt-service or loan-life coverage, covenant headroom, stress tests, connected exposure or breach action. They recommended setting sector- and stage-specific maximum gearing and minimum DSCR/LLCR thresholds under base and stressed cases. Measure exposure using equity, loans, undrawn commitments, guarantees and other risk-bearing obligations; aggregate connected projects and specify escalation, cure and divestment action for breaches.
138. **On Section 3.4 - Treasury Management; general risk provisions.** The OAG noted that there are no binding limits or disclosure rules addressing foreign-currency debt against Kenya-shilling revenues, floating-rate exposure, refinancing concentration or hedge-counterparty risk. They recommended requiring project-level disclosure of unhedged currency, interest-rate and refinancing exposure; Board-approved limits and hedging arrangements for material mismatches; hedge effectiveness and counterparty limits; debt-maturity profiles; and stress tests linked to tariff, demand and support scenarios.
139. **On Section 2.3 - Government Support Measures; section 34 of the NIF Act.** The OAG was of the view that a project that fails the general criteria may be reconsidered after Government support, but the Policy does not prescribe quantified ceilings, ex-ante fiscal-risk clearance, affordability tests or comprehensive disclosure of the resulting obligations. They proposed requiring National Treasury fiscal-risk clearance; value-for-money and affordability assessment; disclosure of returns before and after support; present value, maximum exposure and probability-weighted cost; budget provision where required; project and portfolio ceilings; and annual reconciliation to national fiscal-risk and debt reporting.
140. **On Sections 2.2 and 2.3 - Demand Validation, Commercial Viability and Government Support Measures.** The OAG observed that for toll roads, bulk water, ports, energy and other user-pays infrastructure, the Policy specifies commercial-return requirements but no explicit tariff-affordability or social-access test. The OAG proposed requiring an affordability and social-access assessment as part of demand validation, with household or user-incidence analysis, tariff path and indexation, service-quality obligations, vulnerable-user arrangements and sensitivity testing. Any tariff subsidy, revenue-shortfall undertaking or viability support should be explicit, budgeted and treated as a Government Support Measure.
141. **On Section 2.1 - Guiding Principles; future Governance and Investment Frameworks.** The Policy does not prescribe minimum rules for declarations of interest, recusals, related-party transactions, beneficial ownership, politically exposed persons, sanctions, debarment, source of funds or adviser independence. The OAG proposed requiring continuing and transaction-specific declarations; mandatory

recusal; beneficial-ownership and source-of-funds verification; PEP, sanctions and debarment screening; related-party approval and disclosure; voting records and dissent; adviser rotation and independence; and auditable conflicts register covering the Council, Board, committees, management, sponsors and service providers.

142. **On Investment Decision and Governance Frameworks.** The OAG highlighted that the Policy does not establish functional independence between those who originate and structure a transaction and those who review risk, legality, valuation and final approval. They proposed defining separate accountable functions for origination, technical and financial appraisal, risk review, legal review, valuation, investment-committee recommendation, Board approval, monitoring and internal audit. Requiring documented challenge, conditions precedent, delegated-authority limits and escalation of dissent.
143. The OAG noted that the Policy does not cap, benchmark or require disclosure of management, arrangement, advisory, valuation, monitoring, transaction, carried-interest or performance-linked fees, including fees paid through SPVs. The OAG proposed requiring transparent competitive appointment where applicable; fee benchmarking; disclosure of gross and net returns; total expense ratio by project and portfolio; performance-fee methodology and clawback; related-party prohibition or enhanced approval; and annual disclosure of all fees, transaction costs and counterparties in the Business Plan and audited statements.
144. **On Executive Summary - investment structures; sections 2.2 and 3.3,** the OAG noted the Policy lists equity, debt, SPVs, capital-market transactions and co-investment platforms but does not distinguish those investment transactions from procurement of goods, works, services, advisers or disposal of public assets.
145. **They** proposed inserting a transaction-classification framework identifying the applicable route: PPADA procurement; PPP procurement; privatisation or asset disposal; capital-market process; or documented negotiated investment. For non-competitive transactions, they recommended requiring an approved rationale, independent valuation, market testing where feasible, best-value analysis, conflicts clearance and complete decision records.
146. Further, the OAG stated that the Policy does not state valuation standards, independence requirements, valuation date, treatment of control premiums, liabilities and transaction costs, price-discovery method or approval of material deviations from valuation.
147. **They** recommended requiring independent professional valuation by qualified advisers; transparent appointment and conflict checks; documented valuation methods, assumptions and sensitivity ranges; market testing or competitive price discovery where feasible; disclosure of gross proceeds, costs and debt settled; and Board reasons for any material departure from the independent range.

148. **On sections 3.5 and 3.6 on investment period and review**, the OAG observed that the Policy does not establish holding-period rationale, permitted exit routes, reinvestment triggers, treatment of realised income and unrealised gains, withdrawal rules or a minimum real-capital floor. They proposed ring-fencing and tracing gross sale, refinancing, distribution and exit proceeds; separate capital, realised income and unrealised gains; protect the inflation-adjusted value of net public contributions; and requiring a Board-approved exit and reinvestment framework covering holding rationale, exit routes, valuation, price discovery, transaction costs, reinvestment timing and post-exit evaluation.
149. **On Section 2.2 - Technical Readiness and Responsible Stewardship**. The OAG noted that the Policy refers generally to environmental and legal compliance but does not establish project classification, due diligence, climate-resilience screening, land and resettlement requirements, grievance mechanisms, incident reporting or continuing monitoring. The OAG was of the view that before commitment, require compliance with EMCA/EIA, climate, land-acquisition and resettlement law; quantified safeguard costs; disclosed permits, claims and mitigation measures; stakeholder engagement and grievance procedures; contractual ESG obligations; major-incident reporting; and post-investment monitoring.
150. Further, the OAG noted that the Policy does not specify how control, joint control and significant influence will be assessed or how controlled SPVs, structured interests and public commitments will be consolidated or disclosed. They proposed applying standards prescribed by the Public Sector Accounting Standards Board to determine the reporting boundary; consolidating controlled vehicles; disclosing joint arrangements and other structured interests; and reporting project by project the Fund's equity, loans, commitments, guarantees, support, related parties, fees, impairments, sensitivities and maximum contingent exposure. Reconcile these disclosures to national budget, debt and fiscal-risk reports.
151. **On Chapter Four - Monitoring and Evaluation; sections 35-37 of the NIF Act**. The Auditor General noted that the Policy identifies broad monitoring themes but no mandatory indicators, baselines, targets, reporting frequency, publication standard or distinction between committed and deployed private capital. They recommended for each project, publish approved and forecast cost and completion date; cost/time variance; capital committed and drawn; expected and actual return; leverage; Government support; impairment; material contract changes; private capital mobilised per shilling of Fund capital; and service outcomes covering access, reliability, affordability, jobs, local content, climate resilience and maintenance. Explain unresolved breaches and corrective action.
152. The OAG observed the Policy does not expressly require investment agreements, SPV documents and service-provider contracts to preserve complete decision records and access to information relevant to public capital and commitments. They proposed requiring a records schedule covering origination, due diligence, models, valuation, approvals, conflicts, procurement, contracts, drawdowns, performance,

Government support and exits; securing digital retention for the statutory period; data ownership and handover clauses; and contractual recognition of the Auditor-General's access to relevant records held by SPVs, managers and service providers.

153. On Sections 26-31 of the NIF Act; Policy review, amendment and publication provisions. The OAG noted the Policy does not clearly state the information that should accompany material amendments, annual Business Plans and public reporting, or how public and Parliamentary input will be recorded and responded to over the five-year period.

154. They proposed recording and publishing how material stakeholder submissions were considered; publishing the approved consolidated Policy, annual Business Plans and project summaries subject only to lawful confidentiality; disclosing material Policy and pipeline changes with reasons and fiscal effects; and providing Parliament with periodic portfolio, Government-support and breach reports in a standard format. Commercial confidentiality should be narrowly defined and should not conceal public obligations or aggregate risk.

3.2.8 Bara Build Nexus

155. Through their written submission, Bara Build Nexus supported the IPS, particularly the Policy's emphasis on commercial discipline, technical integrity, project preparation, capital mobilization, responsible stewardship and national development. They stated that the Fund should be designed not only as a financing platform, but as an intelligent infrastructure investment platform. Capital can only be deployed effectively when the underlying infrastructure decisions are supported by reliable, connected and decision-ready information.

156. They submitted that the NIF should establish a structured infrastructure intelligence framework connecting the full investment lifecycle:

Pipeline → Project Preparation → Appraisal → Investment Decision → Financing → Delivery → Operations → Performance → Learning → Reinvestment

157. This should create a common evidence base for both individual investment decisions and portfolio management.

158. Additionally, they stated that the Fund's project-development role provides an opportunity to establish a structured pipeline of potential investments rather than relying principally on projects arriving at the Fund already packaged for financing.

159. Projects should progress through defined stages:

Concept → Screening → Preparation → Appraisal → Investment Ready → Financial Close → Delivery → Operational Performance

160. Each stage should have defined evidence requirements and decision gates. This would allow the Fund to distinguish between a good infrastructure idea, a technically prepared project, and a genuinely investment-ready project.

161. Bara Build stated that the NIF should establish minimum information standards for projects seeking investment. These should cover, as relevant: demand; technical

design; costs; financing; revenue; land; approvals; environmental and social considerations; risk; implementation; asset performance; and lifecycle requirements. Standardization would improve comparability across projects and reduce dependence on fragmented institutional information.

162. They emphasized that the Fund's proposed exposure limits concentration should be assessed not only by financial exposure but also by risk correlation and infrastructure interdependence.
163. Further, Monitoring should not end with reporting whether a project is on budget or on schedule. Project data should feed back into future investment decisions. The Fund should progressively develop a national infrastructure investment knowledge base containing:
- (i) projected versus actual costs;
 - (ii) projected versus actual demand;
 - (iii) projected versus actual returns;
 - (iv) construction performance;
 - (v) operational performance;
 - (vi) maintenance requirements;
 - (vii) risk events; and
 - (viii) lessons from completed investments.
164. This would create a learning investment institution, rather than simply a portfolio manager.
165. Finally, BARA Build Nexus recommended that infrastructure intelligence be embedded within the operational architecture of the National Infrastructure Fund. This would strengthen the NIF's commercial discipline while simultaneously advancing its broader national development mandate.

3.2.9 Olyvia M. Lavisa

166. Through a written memorandum, Olyvia submitted that the establishment of the National Infrastructure Fund (NIF) is an important shift in how Kenya approaches infrastructure financing. The Fund has the potential to move the country beyond reliance on annual budgetary allocations and public borrowing towards a more sustainable model of infrastructure investment, capital mobilization and recycling.
167. The stakeholder noted that long-term success of the NIF will depend not only on its ability to mobilize capital, but on its ability to consistently identify, prepare, select and manage the right infrastructure investments.
168. The Investment Policy provides a strong commercial and governance foundation and the stakeholder recommended strengthening the policy further around the quality of infrastructure investment decisions and the long-term public value generated by those investments.
169. The stakeholder stated that Commercial viability should remain central to the Fund. However, commercial viability alone should not become a proxy for infrastructure value. Investment appraisal should explicitly consider:
- (i) economic and social value;
 - (ii) strategic national importance;

- (iii) service outcomes and accessibility;
 - (iv) resilience and climate vulnerability;
 - (v) whole-life cost and maintainability;
 - (vi) lifecycle asset performance; and
 - (vii) catalytic effects on regional and economic development.
170. They highlighted that the Fund should assess projects not only on whether they can attract financing, but whether they represent sound long-term infrastructure investments for Kenya. The Policy appropriately requires demand validation, commercial viability, financial returns, technical readiness and risk management.
171. Olyvia recommended that these be operationalised through a transparent multi-dimensional investment appraisal framework, with minimum technical, financial, economic, environmental, social and governance gates before capital commitment. This would reduce the risk of selecting projects primarily because they are financially attractive while overlooking infrastructure that may generate significant wider economic value.
172. The Fund should therefore maintain a dedicated project-preparation function covering,
- (i) feasibility and demand studies;
 - (ii) engineering and technical studies;
 - (iii) land and site readiness;
 - (iv) environmental and social assessments;
 - (v) financial and commercial structuring;
 - (vi) risk allocation;
 - (vii) transaction preparation; and
 - (viii) procurement readiness.
173. The NIF should establish a central, continuously updated information system covering its project pipeline and portfolio. The stakeholder noted that at minimum, this should enable decision-makers to understand:
- (i) project readiness;
 - (ii) estimated cost and financing requirements;
 - (iii) demand and revenue assumptions;
 - (iv) risks and mitigations;
 - (v) implementation progress;
 - (vi) asset condition and performance;
 - (vii) financial performance; and
 - (viii) development outcomes.
174. This would allow the Fund to move from project-by-project decision-making towards portfolio intelligence and evidence-based capital allocation.
175. Olyvia supported the Policy's emphasis on commercial discipline and political independence. This should be reinforced through clearly documented investment decisions, independent technical and financial assurance, conflict-of-interest controls and published performance reporting. The Fund should be sufficiently independent to reject projects that do not meet its investment standards, while retaining a structured

mechanism through which Government may support strategically important projects that require appropriate public intervention.

176. They proposed project and portfolio performance to also track:

- (i) service delivery;
- (ii) cost and schedule performance;
- (iii) asset reliability;
- (iv) lifecycle performance;
- (v) resilience;
- (vi) local economic impact;
- (vii) environmental and social outcomes; and
- (viii) realized versus projected investment assumptions.

177. This will allow the Fund to learn from completed investments and improve subsequent investment decisions.

3.2.10 CPF Group

Through a written memorandum, CPF submitted as follows;

178. On **Section 2.1 – Commercial viability**, CPF noted that the policy should provide for a more comprehensive assessment of commercial viability, including, as applicable, IRR, DSCR/debt capacity, positive NPV, project-specific bankable revenues/offtake, completed feasibility studies, technical readiness, creditworthiness of counterparties, affordability and value for money. These should be applied proportionately depending on the asset class and investment structure. They submitted that the current commercial viability test should be on how the Fund will genuinely determine whether a project is capable of supporting greater private-sector participation.

179. On **Section 2.2 – General investment criteria: financial return**, CPF observed that the proposed 7% minimum requires further clarification. They noted that if the proposed return of 7% is maintained, it becomes the actual expected equity return presented to the Fund and potentially influence the quality of projects Fund's ability to attract institutional capital. They recommended that the Policy adopts a risk-adjusted return framework for equity, senior debt, subordinated debt, quasi-equity and other investment structures, taking into account project-specific risk, construction/development risk, illiquidity, inflation and currency risk where relevant.

180. Additionally, they noted that the Fund is intended to mobilise private and institutional capital. A return framework materially below market, could create an expectation that the fund is willing to provide concessional capital and could ultimately affect the quality of its pipeline and ability to attract co-investors.

181. On the **General investment criteria – non-recourse project debt**, CPF proposed clarifying that project debt should, as a general principle, be non-recourse to the Fund and secured against the relevant project/SPV assets, rights and cash flows.

This should not prevent a private sponsor/promoter from providing completion support, guarantees or additional security where appropriate, subject to the Fund's risk-management and contingent-liability framework. This proposed non-recourse debt requirement is an important protection for the Fund and should be clearly ring-fenced at Fund level.

182. On **Proposed projects**, CPF observed that the Fund should not become a mechanism for transferring or historically poorly performing projects. They recommended requiring every existing or proposed project to undergo a fresh and independent technical, commercial, legal, and financial appraisal before NIF investment. This should include cost-to-complete, outstanding liabilities, contractual position, demand/offtake, revised project economics, implementation risks, land, regulatory and procurement issues.
183. On **Incomplete projects**, CPF stated that existing incomplete or stalled projects should not automatically qualify for NIF financing simply because they are already Government projects. They proposed introducing a clear re-entry test for incomplete/stalled projects. Only projects that demonstrate renewed technical, commercial and financial viability following independent appraisal should qualify. The assessment should also consider whether restructuring, refinancing, rebidding or alternative financing would provide a better outcome before NIF capital is committed.
184. On **Asset allocation and portfolio distribution**, CPF noted that the proposed exposure limits are useful, but concentration risk can arise beyond the sector and single-project limits through common sponsors, counterparties, revenue sources or correlated sectors. They proposed strengthening the concentration-risk framework to cover sector, project, sponsor/counterparty and correlated exposures, together with periodic stress testing and scenario analysis.
185. On **Section 25(2)(f) – Sector and project exposure limits**, CPF submitted that nationally significant projects may, in exceptional circumstances, require exposure above the prescribed limits. However, exceptions should not undermine the diversification framework. They recommended retaining the prescribed limits but introduce a clear exception mechanism requiring documented justification, assessment of the impact on the overall portfolio, enhanced due diligence, appropriate risk mitigation and approval at the appropriate governance level.
186. On **Section 25(4) – Risk management framework**, CPF stated that the Act requires a formal risk-management framework. Given the nature of infrastructure investments, the IPS should provide sufficient direction on the key risks to be addressed. The framework should expressly cover credit, market, liquidity, construction, operational, legal/regulatory, counterparty, concentration, currency, refinancing and contingent-liability risks, together with stress testing, monitoring, early-warning indicators and escalation thresholds.
187. On **Section 19 – Investment structures**, CPF stated that the Fund needs sufficient structuring flexibility to allocate risk appropriately and attract private capital rather than relying predominantly on direct equity investment. They recommended that the policy should expressly encourage appropriate use of SPVs, project finance,

co-investment structures, pooled vehicles, securitisation, project bonds and other capital-markets instruments, where appropriate, to improve risk allocation and crowd in private and institutional capital.

188. **On Section 19 – Credit enhancement**, CPF observed that catalytic role can be significantly strengthened through appropriate credit-enhancement structures that reduce risk for private investors.
189. **On Section 32(2) – Project structuring and preparation**, the stakeholder noted that the ability to mobilise private capital will depend significantly on whether projects are sufficiently prepared before being presented for investment. They proposed providing for appropriate resources for feasibility studies, technical, legal and financial structuring, transaction advisory and project-development costs, with the objective of creating an investment-ready pipeline capable of reaching financial close.
190. **On Section 33 – Feasibility studies**, CPF stated that a feasibility study should establish not only whether a project is technically and economically desirable, but whether it is capable of being financed and implemented. They proposed linking the feasibility assessment more directly to investment approval and require consideration of the financing plan, revenue model, debt capacity, proposed risk allocation, bankability and route to financial close, alongside the statutory technical, legal, social, economic and environmental considerations.
191. **On Section 34 – Government support measures**, CPF observed that Government support can materially improve project bankability but may also create contingent fiscal liabilities. Government guarantees, letters of support, letters of credit and other support measures should be quantified, risk-assessed, appropriately approved and monitored, with clear limits on the Fund's exposure and the resulting contingent liabilities.
192. **On Section 1.3 – Catalytic objective**, CPF highlighted that the catalytic mandate is important, but it should not become a basis for funding projects that are otherwise commercially unviable. They recommended allowing the Fund to accept a lower direct financial return where there is a demonstrable catalytic benefit, such as significant third-party capital mobilisation, project de-risking or market creation. Such investments should require explicit approval, defined financial and development metrics and a clear rationale for the return concession.
193. **On Section 1.3 / capital mobilisation objective**, CPF was of the view that the success of the Fund should be assessed not only by the amount of NIF capital deployed but also by the amount of additional private and institutional capital it mobilises. They proposed a capital mobilisation/crowding-in KPI, including the ratio of private/institutional capital mobilised to NIF capital committed, with a clear methodology distinguishing capital committed from capital actually invested.
194. **On Performance management/section 25(4)**, CPF stated that given the national importance of the Fund, the key performance indicators should be sufficiently clear to assess whether the Fund is delivering on both its commercial and catalytic infrastructure objectives. They proposed including clear KPIs covering financial

returns, capital mobilised, projects reaching financial close, preservation, capital deployment, project completion, defaults/impairments and portfolio concentration, catalytic/development outcomes. Financial and performance indicators should be separately measured.

195. On **Section 24 – Business plan**, CPF stated that the annual business plan should translate the Investment Policy into a practical investment programme. They proposed requiring the business plan to set out the investment pipeline, project-readiness status, capital deployment targets, expected returns, capital mobilisation targets, and capital requirements, with performance monitored against these targets.
196. On **Investment horizon/capital recycling**, the stakeholder was of the view that Infrastructure investments are long-term and illiquid. The Fund's ability to recycle capital will be important to its long-term sustainability and ability to finance subsequent projects.
197. They proposed having an exit and capital-recycling strategy, particularly for equity and quasi-equity investments. Potential mechanisms could include refinancing, strategic/institutional investor exits, capital-markets transactions, asset sales or other appropriate exit assumptions should form part of the original investment case.
198. On **Section 19 / Institutional capital mobilization**, CPF proposed that the Fund should ideally operate as an anchor investor and catalyst for institutional capital rather than becoming the principal or sole source of financing for projects. CPF proposed encouraging co-investment platforms and capital-markets structures that enable pension funds, insurers, banks, DFIs and other institutional investors to invest alongside or through the Fund. The Fund should be able to take an anchor position where this materially improves the ability to achieve financial close.
199. On **Portfolio liquidity / treasury management**, CPF was of the view that the policy should provide principles for liquidity and treasury management, including appropriate temporary liquidity investments with the approved investment pipeline and expected funding requirements.
200. On **Investment governance**, CPF noted that a commercially driven Fund requires clear investment decision-making and appropriate protection against conflicts and deviations from the approved investment framework. They proposed clearly establishing investment approval thresholds, delegated authority, escalation requirements and conflict-of-interest controls, including a requirement for material deviations from approved investment criteria or exposure limits to receive appropriate approval and reporting.
201. On **Reporting and transparency**, CPF highlighted that reporting should enable the Government, Parliament and institutional investors to assess whether the Fund is delivering financial returns and its intended infrastructure impact. They recommended that in addition to statutory reporting, provide for transparent reporting of capital committed and deployed, financial performance, private capital mobilised, project status, portfolio concentration, impairments/defaults and material contingent liabilities, subject to legitimate commercial confidentiality.

3.2.1 EMSI & Associates Advocates LLP

Through a written memoranda EMSI submitted as follows;

202. EMSI submitted that the version of the Investment Policy tabled as Sessional Paper No. 7 of 2026 may be incomplete on its own terms. They noted that the Table of Contents lists only a Foreword, Preface, Abbreviations, Executive Summary, four chapters and one appendix, yet the appended Compliance Checklist and Key Board Policy Decisions annex refer to a Project Preparation section, an Infrastructure Investment Framework, a Technical Integrity Principle, an Investment Decision Framework, an Infrastructure Governance Framework, a political independence clause, and a five-dimensional performance framework, none of which appear in the 22-page document as tabled.
203. EMSI stated that this gap is particularly significant because the Compliance Checklist records an 'Aligned' self-assessment against sections 32 and 33 of the Act, concerning feasibility studies and project preparation, despite the supporting text not being before Parliament. EMSI recommended requiring the Governing Council and Treasury to confirm in writing that the tabled version is complete, submit the missing sections or correct the annex's cross-references, suspend the ninety-day consideration period under section 27 until completeness is verified, and provide a corrected, fully paginated version of the Policy.
204. EMSI observed that the Investment Policy does not satisfy section 25(2)(b) of the Act, which requires the Policy to specify proposed projects in addition to priority sectors. They stated that paragraph 3.2, titled '*Proposed Projects*', restates sector categories rather than naming any project, pipeline or investment opportunity, and that the Policy's general investment criteria, a minimum 7 percent equity return and a 60 percent non-recourse debt capacity threshold, are investment screening criteria rather than the project-specific expected rates of return required by section 25(2)(d).
205. EMSI recommended that;
- (i) the Governing Council append a defined project list or a documented project-identification methodology with a near-term pipeline,
 - (ii) provide indicative project-level or sector-level expected returns distinguishable from the general screening criteria, and
 - (iii) confirm that any future addition of named projects outside the approved policy will be treated as a substantive amendment under section 30 rather than being implemented through administrative action.
206. EMSI submitted that the Investment Policy expands the Fund's mandate beyond the statutory definition of 'national infrastructure' in section 2 of the Act. They noted that paragraph 3.2(b) extends the energy category to petroleum, oil, gas, refineries, pipelines and LNG infrastructure, none of which fall within the statutory definition, which is confined to electricity generation, transmission and distribution. Additionally, they stated that paragraph 3.2(f) creates an open-ended 'Other National Priority

Infrastructure' category that the Governing Council may expand without express parliamentary approval. Further, paragraph 1.1 uses the term 'catalytic national infrastructure', a phrase featured in the NIF Bill but was not carried into the enacted Act.

207. EMSI further submitted that the recently enacted Sovereign Wealth Fund Act, 2026 establishes a Strategic Infrastructure Investment Component with a broader, more open-ended mandate than the NIF Act's closed list, creating a material risk of overlap, competing project pipelines and duplicated public capital deployment between the two vehicles. They recommended that paragraph 3.2(b) be strictly aligned with the statutory definition, the term 'catalytic national infrastructure' be replaced with the statutory term, that any designation under paragraph 3.2(f) require National Assembly ratification or a formal amendment under section 30, and that Treasury table a coordination framework clarifying the division of responsibilities between the NIF and the Sovereign Wealth Fund's Strategic Infrastructure Investment Component.
208. EMSI observed that the Investment Policy does not address the reporting and disclosure obligations under section 35, the dual-account structure at the Central Bank of Kenya under section 40, the expenditure-control mechanism under section 41, or the withdrawal restrictions under section 42, which operate alongside Article 228(5) of the Constitution.
209. **EMSI** stated that these are not among the Policy's mandatory content requirements under section 25(2), but they are key safeguards over the custody and expenditure of Fund assets, and that omission could imply the existence of broader governance, treasury-management and control frameworks through which these statutory safeguards are intended to be operationalized.
210. EMSI recommended that the Governing Council confirm in writing that these statutory controls have been incorporated into the Fund's governance instruments, identify the specific instruments implementing them, provide the Committee with a summary of those arrangements, and ensure future Investment Policies describe the Fund's principal statutory financial controls on their face.
211. **EMSI** submitted that the Policy's 40% sector exposure cap and 20% single-project exposure cap permit substantial concentration relative to the Fund's narrow sectoral universe. They noted that an equally weighted allocation across the Act's eight sectors would be approximately 12.5% each, so a 40% cap allows concentration at more than three times that level, and that a 20% single-project limit means as few as five projects could account for the entire portfolio. Based on the approximately KES 310.3 billion of anticipated seed capital identified in the FY 2026/27 Budget Statement, EMSI calculated that a single project could absorb approximately KES 62 billion and a single sector approximately KES 124 billion.
212. The stakeholder highlighted that these thresholds are policy choices by the Governing Council rather than statutory requirements, since sections 25(2)(e) and (f) require the Policy to address diversification and risk management without prescribing

numerical limits. EMSI recommends that the Governing Council justify the thresholds with portfolio modelling and pipeline analysis, submit sensitivity analyses for early-stage concentration scenarios, consider a lower single-project limit of 10 to 15 percent during the Fund's formative years with graduated increases tied to asset growth, require exposure compliance to be measured at each reporting date rather than only at approval, and cross-reference the limits to the statutory Risk Management Framework.

213. EMSI submitted that the Investment Policy introduces an 'Investment Strategy' as a Board-level implementation instrument that has no basis anywhere in the Act. They stated that, as drafted, this instrument could become the primary document shaping investment selection and portfolio construction while sitting outside the governance framework established under sections 25 to 31, without a specified legal status, approval process, content requirement or reporting obligation.

214. EMSI recommended that-

- (i) the Governing Council either remove reference to the Investment Strategy and rely solely on the Annual Business Plan and Risk Management Framework.
- (ii) Or, if it is retained, require Governing Council approval in addition to Board approval, provide the Committee with a copy or framework description of it, and
- (iii) if operationally necessary, pursue a future legislative amendment in the Act expressly establishing it.

215. EMSI submitted that the Policy's Treasury Management Framework, governing capital awaiting deployment, is undefined by the Act, which recognises only a Risk Management Framework requiring Governing Council approval under section 25(4). EMSI noted that paragraph 2.1 of the Policy omits the requirement that the Risk Management Framework receive Governing Council approval before taking effect, and that this matters because a substantial share of the Fund's approximately KES 310.3 billion in anticipated seed capital, from the Kenya Pipeline privatisation and the proposed partial divestiture of the Government's Safaricom stake to Vodacom, may sit uninvested for extended periods, exposed to cash-management, liquidity, custodial, counterparty and interest-rate risk under a framework lacking clear statutory footing.

216. EMSI recommended that paragraph 2.1 be amended to require Governing Council approval of the Risk Management Framework, that

- (i) the Treasury Management Framework and Treasury Policies be integrated into the statutory Risk Management Framework rather than maintained as separate instruments,
- (ii) both frameworks be tabled before the Committee given the scale of resources involved, and

- (iii) the governance hierarchy between the Policy, the Risk Management Framework and Board-level procedures be clarified.
217. EMSI stated that the Policy appears to introduce a capitalization source not found in section 38 of the Act, which sets out an apparently exhaustive list of three sources: privatisation proceeds, proceeds from the sale of shares in a government-linked corporation under section 87A of the PFM Act, and the Fund's own investment income. EMSI noted that page 6 of the Policy nonetheless describes the Fund as capitalised from privatisation proceeds 'and other strategic capital allocations by the Government', an undefined phrase capable of being read as direct budgetary transfers, Exchequer injections or special appropriations not authorised by section 38.
218. EMSI recommended that;
- (i) the phrase be deleted or replaced with an express cross-reference to section 38(a) to (c), or, if direct government capital support is intended,
 - (ii) Treasury provide the statutory authority for it, clarify whether any future government capital contributions are anticipated beyond section 38, and
 - (iii) confirm that any expansion of funding sources would require amendment of the Act rather than policy language alone.
219. EMSI submitted that the Policy's seven investment principles, commercial discipline, commercial viability, financial sustainability, capital mobilisation, technical integrity, responsible stewardship and national development, are not defined, not linked to measurable indicators, and are not connected to the five General Investment Criteria in paragraph 2.2 in any way. EMSI stated that, as drafted, the principles operate as statements of aspiration rather than enforceable standards capable of constraining the Board's investment discretion.
220. EMSI recommended that;
- (i) each principle be given an operative definition or cross-referenced to the provisions implementing it,
 - (ii) measurable indicators be attached to each, such as a minimum private-sector co-investment ratio for capital mobilisation,
 - (iii) paragraph 2.2 state expressly that the General Investment Criteria are the minimum operational implementation of the principles,
 - (iv) additional criteria be considered, including sector alignment, local content, technology transfer and capacity building reflecting section 4(d) of the Act, and
 - (v) annual reporting under section 35 demonstrate how each approved investment satisfied both the principles and the criteria.

221. EMSI also submitted that paragraph 2.3, which allows investments falling short of the General Investment Criteria to proceed where Government Support Measures are provided, does not restate the statutory limits in section 34(2), under which such measures are permitted only to reduce political-risk premiums or to underwrite approved commercial risks under a negotiated project agreement. They observed that omitting these limits risks Government Support Measures being used generally to compensate for weak commercial fundamentals, and that such measures do not eliminate public-sector risk but convert it into a contingent liability of the national government, which defeats the purpose stated in section 4 of the Act if left undisclosed.

222. The stakeholder recommended that;

- (i) paragraph 2.3 expressly cross-reference section 34(2),
- (ii) Government Support Measures be confirmed as not constituting a general exemption from the commercial-viability, financial-return or technical-readiness requirements,
- (iii) annual disclosure under section 35 cover the aggregate value, form, beneficiary projects and corresponding contingent liabilities of such measures,
- (iv) an explicit exposure limit or participation cap be introduced, and
- (v) the Risk Management Framework monitor aggregate contingent-liability exposure across the whole portfolio rather than project by project.

223. EMSI further submitted that Chapter 4's five performance dimensions, financial performance, capital deployment, capital mobilisation, portfolio quality and national development outcomes, are appropriate categories but carry no quantitative measures, reporting thresholds or baselines in the Policy itself. They noted that performance indicators are instead left to the Annual Business Plan, an instrument not subject to the same Cabinet and parliamentary approval process as the Investment Policy, so that material performance expectations could shift from one Business Plan cycle to the next without corresponding review.

224. They recommended that at least one headline KPI be embedded in the Policy for each of the five categories, for example a minimum blended portfolio-return target for financial performance and a private-capital-mobilisation ratio for capital mobilisation, that Annual Business Plan KPIs be required to align with and report against these headline indicators, that independent verification by the Auditor-General or another authorised reviewer be required, and that annual reporting explain any material deviation from approved targets.

225. **EMSI** submitted that Appendix I of the Policy states that 'Investment Authority' is delegated through the Board Charter, an instrument not disclosed to Parliament, without specifying the extent of the delegation, to whom it is made, reporting obligations, or how the Board retains accountability. They noted that sections 18 and

19 of the Act vest governance and investment powers directly in the Board, and submits that deferring investment authority to an unpublished Charter creates uncertainty over who may ultimately authorise the commitment of Fund capital.

226. EMSI recommended that;

- (i) any delegation be confined to Board committees under the framework contemplated by section 21, such as an investment committee, and remain subject to Board approval unless Parliament expressly authorises broader delegation by amending the Act;
- (ii) delegation to management, external advisers or third parties be confirmed as impermissible except where expressly permitted by law; and
- (iii) material delegation thresholds and reserved matters be disclosed within the Policy itself rather than left to an unpublished governance document.

227. On capitalisation, EMSI noted that the FY 2026/27 Budget Statement identifies approximately KES 310.3 billion in seed capital, KES 106.3 billion from the Kenya Pipeline Company IPO and approximately KES 204 billion from the proposed partial divestiture of the Government's Safaricom stake to Vodacom, which remains modest against Treasury's own stated infrastructure financing gap of approximately USD 5 billion, or roughly KES 647 billion, a year. EMSI submitted that the Fund's future capitalisation depends on the timing of further privatisation transactions, the Government-Owned Enterprises Act, 2025, and regulations under section 48 of the Act whose status remains unclear, and cautions that if Government Support Measures become routine rather than exceptional, the practical effect may be to transfer fiscal risk rather than eliminate it.

228. On institutional overlap, EMSI noted that the Fund will operate alongside the Public-Private Partnerships programme under the PPP Act and the Strategic Infrastructure Investment Component under the Sovereign Wealth Fund Act, and submitted that without a clear division of mandates there is a risk of duplicated project origination, fragmented governance, competition for scarce capital and inconsistent investment decisions. EMSI recommended that Treasury explain how the Fund will scale toward closing the financing gap, incorporate Government Support Measures into fiscal-risk and debt-sustainability reporting, table a coordination framework covering the NIF, the PPP programme and the Sovereign Wealth Fund's Strategic Infrastructure Investment Component, provide a timeline for regulations under section 48, and confirm the governance and reporting measures that will apply while capital is being accumulated.

3.2.12 Dhamana Guarantee Company Limited

Through a written memoranda Dhamana submitted as follows;

229. Dhamana stated that it supports the establishment of the Fund and its objectives. Dhamana recommended that the Policy should expressly recognise guarantees, credit enhancement, contingent capital facilities and other risk-sharing mechanisms as eligible instruments through which the Fund may leverage public capital to mobilise private investment.
230. They stated that the Policy authorise the Fund to allocate a portion of its capital to a National Infrastructure Guarantee and Risk-Sharing Window. This window would provide contingent backstop support to approved credit enhancement providers, such as Dhamana itself, enabling infrastructure bonds and project finance debt to be guaranteed and placed with domestic institutional investors, including pension funds, insurers and banks.
231. Dhamana highlighted that it had earlier proposed to the Government of Kenya a de-risking arrangement under which a portion of the Fund would be retained as a contingent capital facility or de-risking tranche, with Dhamana issuing guarantees to investors and the Fund's de-risking tranche operating as a contingent reimbursement or risk-sharing backstop in the event of defined claims.
232. They observed that this model is consistent with the Policy's stated objectives because it allows public capital to be leveraged multiple times rather than spent once, supports local currency financing, mobilises pension fund capital, and reduces the need for direct public borrowing.
233. Dhamana recommended amendments to the Investment Policy as follows:
- (i) Recognise guarantees, credit enhancement, contingent capital and risk-sharing facilities as eligible deployment tools. They stated that the Fund can crowd in private capital rather than relying only on direct investments.
 - (ii) Create a National Infrastructure Guarantee and Risk-Sharing Window within or alongside the Fund. They noted that, Dhamana and other approved partners can de-risk infrastructure assets and mobilise domestic capital.
 - (iii) Permit supported projects to issue guaranteed infrastructure bonds, notes and asset-backed securities. The stakeholder observed that Pension funds, insurers and asset managers obtain investable infrastructure products.
 - (iv) Allow Treasury-supported payment support and reimbursement frameworks for public-sector obligations. They stated that this will reduce investor concern over government, county or SOE payment delays.
 - (v) Create a development risk and project preparation facility. A stronger pipeline of bankable, financeable and investment-ready projects.

- (vi) Adopt mobilisation ratios and private capital participation as performance indicators. The Fund is assessed by capital catalysed, not only capital deployed.
 - (vii) Prioritise KES-denominated financing and credit enhancement. They stated that this will reduce foreign exchange risk and deeper domestic capital markets.
234. Dhamana submitted that, without express recognition of guarantee and risk-sharing instruments, the Policy carries several risks. They stated that the Fund may become simply a public investment vehicle rather than a platform that systematically crowds in banks, pension funds, insurers and other private investors, and that commercially important projects may fail to reach financial close where the Policy provides no structured tools to bridge credit, revenue or completion risk gaps.
235. Further, Dhamana observed that investors may remain cautious where projects depend on payments from government entities, counties, utilities or state-owned enterprises, that domestic banks may be unable or unwilling to provide financing tenors matched to project cash flows without credit enhancement or refinancing support, and that projects with construction exposure may remain unsuitable for pension funds unless backed by completion and performance support mechanisms. Additionally, project preparation may stay underfunded absent development risk capital, and that foreign currency borrowing may expose projects to depreciation risk while the absence of refinancing mechanisms could trap bank liquidity and limit project scale.
236. Dhamana proposed that contingent capital be expressly recognised as an eligible Fund deployment modality, permitting the Fund to allocate a portion of its resources to contingent capital facilities, risk reserves or guarantee support arrangements.
237. Additionally, they proposed that the Fund establish a dedicated Guarantee and Risk-Sharing Window supporting partial credit guarantees, bond guarantees, payment guarantees, refinancing guarantees, portfolio risk-sharing and project development guarantees, governed by clear eligibility, pricing, claims, monitoring and reporting rules. They stated that the Policy should create a category of approved capital mobilisation and risk-sharing partners, including financial guarantors, development finance institutions, credit enhancement providers and qualified infrastructure financing intermediaries.
238. Dhamana proposed that the Policy expressly permit Fund-supported projects to issue guaranteed infrastructure bonds, project bonds, green bonds, climate bonds, municipal bonds and asset-backed infrastructure securities, to create investable instruments for pension funds and insurers. They also proposed that, where the Fund supports a contingent facility, the Policy require pre-agreed Treasury reimbursement arrangements, reserve account mechanics, payment waterfalls and claim settlement procedures, that mobilisation performance be measured through indicators covering private capital mobilised, pension fund participation, guarantees issued, infrastructure bonds placed, refinancing volumes and leverage ratios achieved, and that the Fund

prioritise Kenya Shilling-denominated financing where commercially feasible to reduce foreign exchange exposure and deepen domestic capital markets.

239. Dhamana's included four supporting annexes. Annex 1 sets out a Risk-to-Guarantee Mechanism Matrix, mapping eight categories of project risk, including bankability, institutional investor participation, government or offtake payment risk, construction and completion risk, refinancing risk, bank portfolio capacity risk, project preparation risk and currency risk, to a corresponding Dhamana guarantee mechanism and the policy implication of recognising it.
240. Annex 2 sets out Dhamana's proposed NIF-Dhamana Contingent De-Risking Facility as an eight-step process: the Fund allocates a portion of its capital to a contingent de-risking tranche or risk reserve; Dhamana is appointed as a risk-sharing and credit enhancement partner under objective eligibility criteria; eligible projects, SPVs, state-owned enterprises, counties, PPPs or utilities issue KES-denominated debt instruments or obtain bank debt; Dhamana guarantees timely payment of principal and interest to bondholders, lenders or trustees; pension funds, insurers, banks and asset managers invest in the guaranteed instrument; Dhamana pays investors promptly if a defined payment default occurs; Dhamana is reimbursed, to the extent agreed, from the Fund's contingent de-risking tranche, reserve account or reimbursement facility; and the Fund reports capital mobilised, guarantee exposure, claims, recoveries, leverage ratios and development impact.
241. Annex 3 cites four international precedents Dhamana stated support recognising guarantee mechanisms in the Policy: InfraCredit in Nigeria, for local currency infrastructure bond guarantees; the African Development Bank's partial risk and partial credit guarantee facilities; Brazil's IDB-supported public-private partnership guarantee structures for government and public entity payment obligations; and Indian credit enhancement and refinancing models for long-tenor infrastructure financing.
242. Annex 4 sets out proposed conditions and safeguards for the Guarantee Window, namely objective eligibility criteria on commercial viability, public benefit, legal due diligence and environmental and social compliance; independent underwriting through credit, legal, technical and ESG review; risk-based guarantee pricing; exposure limits by project, sector, sponsor, county, offtake and guarantee provider; a defined claims process with triggers, cure periods, payment timelines and reserve account arrangements; annual transparency and reporting; and a safeguard that Dhamana remains an active risk underwriter, so that NIF support does not create automatic or unlimited government liability.

CHAPTER FOUR

4.0 COMMITTEE OBSERVATIONS

243. The Committee, having considered Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy and having engaged relevant stakeholders, makes the following observations:

4.1 Investment Policy Framework

- (i) THAT, the Sessional Paper does not provide a comprehensive investment policy framework to guide the Fund in making investment decisions in a consistent, transparent and prudent manner. In particular, the Sessional Paper does not clearly set out the key investment guardrails relating to eligible and priority infrastructure sectors, project selection and ranking criteria, commercial viability, financial returns, capital mobilisation and additionality, portfolio allocation, sector and project exposure limits, leverage and borrowing, risk management, liquidity and treasury management, governance and conflict-of-interest safeguards, and monitoring, evaluation and reporting.
- (ii) The Committee notes that the absence of these overarching parameters could result in inconsistent investment decisions and expose the Fund to unnecessary financial, operational and governance risks. The Committee therefore recommends that the Sessional Paper be amended to provide for a comprehensive investment policy framework establishing the principal investment guardrails applicable to the Fund and to enable the Board to operationalize detailed investment policies in line with the Fund's mandate and national infrastructure priorities.

4.2 Demand Validation

- (iii) THAT, the Sessional Paper does not adequately address the need to establish whether the intended users or consumers of a proposed infrastructure project have both the ability and willingness to pay for the services to be provided. The Committee notes that infrastructure projects may have technically sound designs and strong projected demand but may nevertheless fail to generate sustainable revenues if the proposed users cannot afford the applicable charges or are unwilling to pay them. The Committee further notes that an assessment of ability to pay and willingness to pay is important in determining appropriate tariffs, user charges, revenue projections and ultimately the commercial viability of a project. The Committee therefore recommends that the Sessional Paper be amended to require demand validation to include an assessment of the ability to pay and willingness to pay of the target consumers or users of the project.

4.3 Commercial Viability and Project Leverage

- (iv) THAT, the prescribed minimum non-recourse debt threshold could, if applied rigidly, exclude projects that are commercially and financially sustainable but whose financing structures are not suited to the prescribed leverage level. The Committee

notes that infrastructure projects differ considerably in revenue profiles, capital intensity, sector characteristics, risk allocation, project tenor, and financing requirements. The Committee was therefore of the view that the framework should allow the Board to consider exceptional circumstances while maintaining appropriate safeguards against excessive financial risk. The Committee therefore recommends that the Sessional Paper be amended to allow the Board to approve projects with a minimum non-recourse debt level below the prescribed threshold where an independent financial assessment confirms that the project is commercially and financially sustainable and the deviation is justified by the characteristics of the project or sector. The amendment should further require the reasons for the deviation and the associated risks and safeguards to be documented and reported.

4.4 Financing Structure Deviations

- (v) THAT, the Sessional Paper does not provide a sufficiently detailed process for dealing with proposed financing structures that fall outside the standard financing parameters approved by the Board. The Committee noted that deviations from approved parameters may expose the Fund to additional financial, credit, liquidity, refinancing or project-specific risks and should therefore not be approved without a clear understanding of their implications. The Committee was of the view that any such deviation should be supported by documented analysis to enable the Board to make an informed decision and ensure accountability for the departure from the approved parameters. The Committee therefore recommends that the Sessional Paper be amended to require an investment proposal involving a deviation from the standard financing parameters to document the reason for the deviation, additional risks arising from it, its effect on expected financial returns, debt-service capacity and Fund exposure, and the measures proposed to protect the Fund's capital.

4.5 Financial Returns

- (vi) THAT, the Sessional Paper does not provide a sufficiently comprehensive methodology for determining and assessing the financial returns expected by the Fund. The Committee noted that the determination of an appropriate return should consider the Fund's cost of capital, prevailing market conditions, the broader macroeconomic environment, investment tenor, project-specific financial and commercial risks, foreign-exchange and interest-rate risks, and returns available from comparable investments. The Committee further observed that circumstances may arise where a project with significant economic or development value may not achieve the prescribed minimum equity return, and that any such departure should be subject to a transparent and accountable approval process. The Committee therefore recommends that the Sessional Paper be amended to provide a comprehensive methodology for assessing financial returns and to allow the Board, where justified, to approve a lower minimum equity return subject to written justification addressing the reason for accepting the lower return, the

economic and development value of the investment, the financial implications to the Fund, additional risks assumed, capital protection measures, approval authority and the sector to which the deviation applies.

4.6 Technical Readiness and Capital Mobilisation

- (vii) THAT, the Sessional Paper places emphasis on financial, commercial and regulatory considerations but does not adequately provide for a structured assessment of the technical readiness of proposed infrastructure projects. The Committee noted that a project may be financially viable but may still face significant implementation challenges where its design, technology, site readiness, procurement arrangements or other technical requirements are not sufficiently developed. The Committee further observed that some infrastructure projects may require government support measures before they can reach financial close or commence implementation. The Committee therefore recommends that the Sessional Paper be amended to provide that technical readiness shall be assessed against a technical readiness framework developed by the Board and that the assessment shall also establish whether the project will require government support measures.

4.7 Risk Management

- (viii) THAT, the Sessional Paper does not provide sufficiently detailed requirements for the assessment of the major risks associated with individual infrastructure projects. The Committee noted that infrastructure investments are exposed to multiple and interconnected risks that can affect project costs, completion, revenues, operations, debt repayment and ultimately the Fund's expected returns. The Committee was of the view that a comprehensive risk assessment should form an integral part of project appraisal and approval.
- (ix) The Committee further observed that Section 25(4) of the National Infrastructure Fund Act, 2026 contemplates a risk management framework for the Fund. The Committee noted that the risk management framework appears to be a distinct requirement from the matters specified under Section 25(2). However, the Committee was of the view that, to the extent that risk management forms part of the investment criteria and guardrails of the Investment Policy, it should be expressly incorporated into the Sessional Paper to provide a clear basis for assessing project risks and protecting the Fund's capital. The Committee therefore recommends that the Sessional Paper be amended to require projects to comply with the risk management framework and demonstrate adequate assessment of financial, construction and completion, operational, user demand, legal and regulatory, environmental and social, political, foreign-exchange and interest-rate risks, together with any other material project-specific risks.

4.8 Government Support Measures

- (x) THAT, the Sessional Paper does not adequately provide for the assessment and disclosure of contingent liabilities that may arise where a project benefits from

government support measures. The Committee noted that government guarantees, commitments, undertakings or other forms of support may create financial obligations or exposures over the life of a project, even where such obligations do not arise immediately. The Committee was of the view that such potential liabilities should be identified and quantified at the project appraisal stage to facilitate proper assessment of fiscal and financial risks. The Committee therefore recommends that the Sessional Paper be amended to provide that a project which obtains government support measures shall include the estimated contingent liabilities for the duration of the project.

4.9 Proposed Projects and Investment Framework under section 25 of the Act

- (xi) THAT, section 3.2 of the Sessional Paper does not comprehensively reflect the matters required under section 25 of the National Infrastructure Fund Act, 2026. The Committee noted that section 25(2) uses the mandatory wording that the Investment Policy “shall specify” the prescribed matters. The Committee was therefore of the view that these statutory requirements constitute the substantive yardstick against which the Committee should assess the Investment Policy in determining whether to approve it, decline it, or approve it with amendments.
- (xii) The Committee further observed that the Sessional Paper does not comprehensively provide for the proposed projects, expected rates of return on specific projects, asset allocation, portfolio distribution, leverage ratios, the Investment Policy, and exposure limits per sector and project. The Committee therefore recommends that section 3.2 be amended to align the Sessional Paper with the requirements of section 25 of the National Infrastructure Fund Act, 2026 and to ensure that all matters required under the Act are expressly provided for.

4.10 Validity Period of the Investment Policy

- (xiii) THAT, Section 25(3) of the National Infrastructure Fund Act, 2026 expressly provides for the validity of the Investment Policy for a period of five years. The Committee noted that the proposal by the National Treasury for an annual review of the Investment Policy may fall outside the scope of the five-year validity period prescribed by the Act. The Committee was of the view that the Sessional Paper should be aligned with the statutory requirement and that any review or adjustment of the Investment Policy should be undertaken in a manner consistent with the Act. The Committee therefore recommends that the Sessional Paper be amended to ensure that the validity and review of the Investment Policy are aligned with the five-year period prescribed under section 25(3) of the National Infrastructure Fund Act, 2026.

4.11 Portfolio Framework and Exposure Limits

- (xiv) THAT, the Sessional Paper provided for maximum sector and single-project exposure limits but did not adequately provide for circumstances in which the Board may need to adjust those limits based on the characteristics and strategic

importance of particular investments. The Committee noted that rigid application of exposure limits may not adequately account for the correlation between sectors and projects, economies of scale, liquidity requirements or the wider economic impact of strategically important infrastructure investments. The Committee was therefore of the view that the Board should have limited discretion to adjust exposure limits based on objective and demonstrable considerations while maintaining prudent portfolio management. The Committee therefore recommends that the Sessional Paper be amended to provide that the Board may adjust the maximum sector and single-project exposure limits based on an assessment of correlation between sectors and projects, economies of scale, liquidity requirements, and the economic impact of the sector or project on economic growth and employment creation.

4.12 Conflicts of Interest

- (xv) THAT, the Sessional Paper does not provide sufficiently explicit requirements for the identification and disclosure of actual, potential and perceived conflicts of interest in the appraisal and approval of investment projects. The Committee noted that conflicts of interest may undermine the objectivity and integrity of investment decisions and may expose the Fund to reputational, financial and governance risks. The Committee was therefore of the view that conflict-of-interest disclosure should form part of the project appraisal and approval process, particularly where public or State officers are involved. The Committee therefore recommends that the Sessional Paper be amended to require every project appraisal and approval to be accompanied by a statement disclosing any actual, potential or perceived conflict of interest involving a public or State officer, in accordance with the Conflict of Interest Act.

CHAPTER FIVE

5.0 COMMITTEE'S RECOMMENDATIONS

244. The Committee, having considered Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy and pursuant to the provisions of section 28 (b) of the National Infrastructure Fund Act, No. 4 of 2026, recommends that the House **approves the Sessional Paper with amendments as proposed in the Schedule in Chapter Six of this Report.**

CHAPTER SIX

6.0 SCHEDULE OF AMENDMENTS

The Committee proposes the following amendments to Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy:

1) CHAPTER TWO — POLICY GUIDELINES

Purpose and Scope of the Investment Policy

THAT, the Sessional Paper be amended under 2.1 to include the following paragraph-

“The board shall operationalize a comprehensive investment policy framework establishing the principal investment guardrails applicable to the fund, including the following requirements:

- (a) eligible and priority infrastructure sectors;*
- (b) project-selection and ranking criteria;*
- (c) commercial viability;*
- (d) financial returns and the methodology for determining required returns;*
- (e) capital mobilization and additionality;*
- (f) portfolio allocation;*
- (g) sector and project exposure limits;*
- (h) leverage and borrowing;*
- (i) risk management;*
- (j) liquidity and treasury management;*
- (k) governance and conflict-of-interest safeguards; and*
- (m) monitoring, evaluation and reporting.”*

Justification: to establish clear investment guardrails for the Fund and ensure that investment decisions are made in a transparent, prudent and consistent manner. It provides a framework for project selection, financial returns, portfolio allocation, exposure limits, risk management, governance, and accountability, while enabling the Board to operationalize detailed investment policies in line with the Fund’s mandate and national infrastructure priorities.

2) INVESTMENT CRITERIA

Demand Validation

THAT, the Sessional Paper be amended under paragraph 2.2 to include the following paragraph—

“In determining demand validation, the project shall provide an analysis of the ability to pay and willingness to pay of the target consumers or users of the project.”

Justification: assessments of the ability to pay and willingness to pay of the target population of users or consumers is critical in determining the appropriate user charges which anchor the commercial viability of the projects.

3) COMMERCIAL VIABILITY AND PROJECT LEVERAGE

THAT, the Sessional Paper be amended under paragraph 2.2 immediately after the word ‘commercial viability’ to specify—

“The Board may approve projects whose minimum non-recourse debt is below 60%, where, following an independent financial assessment, it is satisfied that the project is commercially and financially sustainable and that the deviation is justified by the characteristics of the project or sector. The reasons for such approval shall be documented and reported and may include: the reason for the proposed deviation; the additional risks arising from the deviation; the effect of the deviation on the expected financial return; the effect on debt-service capacity and Fund exposure; and the measures proposed to protect the Fund's capital.

In determining a lower threshold, the Board shall assess the following—

- (a) projected cash flows and debt-service capacity;*
- (b) revenue certainty and predictability;*
- (c) user demand and utilization risk;*
- (g) the regulatory environment;*
- (h) foreign-exchange exposure and currency mismatch;*
- (i) interest-rate and refinancing risk; and*
- (j) the overall risk profile and financial resilience of the project.”*

Justification: having a lower threshold allows the identification of projects which are both commercially viable and affordable to the final consumer or user.

Where a proposed financing structure falls outside the standard financing parameters approved by the Board, the investment proposal shall, before approval, document—

- (a) the reason for the proposed deviation;
- (b) the additional risks arising from the deviation;
- (c) the effect of the deviation on the expected financial return;
- (d) the effect on debt-service capacity and Fund exposure; and
- (e) the measures proposed to protect the Fund's capital.

Justification: to ensure that any deviation from the Board-approved financing parameters is properly justified, assessed and documented before approval. It will strengthen risk management and accountability by requiring the Fund to consider the impact of such deviations on financial returns, debt-service capacity, Fund exposure and capital protection, thereby supporting prudent investment decisions and safeguarding the Fund's financial interests.

4) FINANCIAL RETURN

THAT the Sessional Paper be amended under paragraph 2.2 immediately after the words 'of the 7% to the Fund'—

The methodology for assessing financial returns shall include an assessment of the following—

- (a) the Fund's cost of capital;
- (b) prevailing market conditions;
- (c) prevailing macroeconomic situation;
- (d) investment tenor;
- (f) project-specific financial and commercial risks;
- (g) foreign-exchange and interest-rate risks; and
- (h) expected risk-adjusted returns on comparable investments.

The Board may approve a lower minimum equity return to the Fund subject to a written justification setting out—

- (a) the reason for accepting the lower return;
- (b) the economic and development value of the investment;
- (c) the financial implications to the Fund;
- (d) the additional risks assumed;
- (e) the measures proposed to protect the Fund's capital;

(f) the approval authority for the deviation;and

(g) Sector for which the approval applies.

Justification: to ensure that the Fund's required financial returns are determined using a comprehensive and risk-sensitive methodology that considers the cost of capital, market and macroeconomic conditions, investment tenor, project-specific risks, and comparable risk-adjusted returns. It also provides a clear and accountable framework for approving a lower minimum equity return where justified by the investment's economic and development value, while ensuring that the financial implications, additional risks, capital protection measures, approval authority and applicable sector are properly assessed and documented

5) INVESTOR READINESS AND CAPITAL MOBILISATION

THAT the Sessional Paper be amended under paragraph 2.2 by inserting the following new sub-paragraph immediately after the words 'regulatory approval' -

"Technical readiness shall be assessed against a technical readiness framework developed by the Board. Further, technical readiness shall also contain whether the project will require government support measures"

Justification: to ensure that infrastructure projects are assessed not only on their financial and commercial viability but also on their technical readiness and implementation requirements. Requiring a Board-approved technical readiness framework, including an assessment of any government support measures required, will improve project preparedness, identify implementation risks early, and support more informed investment and capital mobilisation decisions.

6) RISK MANAGEMENT

THAT, the Sessional Paper be amended under paragraph 2.2 immediately after the words 'Risk management framework' by inserting the following new sub-paragraph—

"Projects shall comply with the framework and demonstrate adequate assessment of major risks, including —

(a) financial risk;

(b) construction and completion risk;

(d) operational risk;

(e) user demand risk;

(f) legal and regulatory risk;

(g) environmental and social risk;

(h) *Political Risk;*

(i) *foreign-exchange risk and interest-rate risk;*

(j) *any other material project-specific risk.”*

Justification: to ensure that all projects are subject to a consistent and comprehensive risk assessment before investment decisions are made. Requiring projects to comply with the risk management framework and assess key financial, construction, operational, demand, legal, environmental, political, foreign-exchange, interest-rate and project-specific risks will strengthen due diligence, support informed decision-making, and safeguard the Fund against material risks and potential losses.

7) GOVERNMENT SUPPORT MEASURES

THAT, the Sessional Paper be amended under Paragraph 2.3 to provide that,

“The project which obtains government support measures shall also include the estimated contingency liabilities for the duration of the project.”

Justification: to ensure that projects receiving government support measures properly identify and quantify the potential contingent liabilities arising from such support over the life of the project. This will promote transparency, enable the Fund and Government to assess potential financial exposures, and strengthen fiscal risk management and informed investment decision-making.

8) CHAPTER THREE — PROPOSED SECTORS AND PROJECTS FOR DEVELOPMENT

Delete Section 3.2 and replace with the following paragraph: “a list of proposed projects; any existing incomplete projects from the previous Investment Policy; the expected rate of return on investment for specific projects; asset allocation, portfolio distribution and leverage ratios; and, exposure limits per sector and project, in accordance with the mandatory provisions of section 25 of the Act.”

Justification: the amendment is necessary to align Section 3.2 with the mandatory requirements of section 25 of the National Infrastructure Act, 2026, and to ensure that the Sessional Paper provides a comprehensive framework for investment planning and oversight. It will promote transparency and accountability by clearly identifying proposed and incomplete projects, expected returns, asset allocation, portfolio distribution, leverage ratios, investment policy and exposure limits, thereby supporting prudent management of the Fund and compliance with the Act.



THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FIFTH SESSION – 2026

DIRECTORATE OF DEPARTMENTAL COMMITTEES

**DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL
PLANNING**

REPORT ON:

**THE CONSIDERATION OF SESSIONAL PAPER NO. 7 OF 2026 ON THE
NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY**

**The Directorate of Departmental Committees
Clerk's Chambers
Parliament Buildings
NAIROBI**

AUGUST 2026

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LIST OF ABBREVIATIONS AND ACRONYMS

CDH	-	Cliffe Dekker Hofmeyr
CMA	-	Capital Markets Authority
CoB	-	Controller of Budget
COFEK	-	Consumers Federation of Kenya
COK	-	Constitution of Kenya
CRA	-	Commission on Revenue Allocation
DFIs	-	Development Finance Institutions
DSCR/LLCR	-	Debt Service Coverage Ratio/ Loan Life Coverage Ratio
EMCA/EIA	-	Environmental Management and Compliance Act/ Environmental Impact Assessment
ESG	-	Environmental, Social, and Governance
FKE	-	Federation of Kenya Employers
ICPAK	-	Institute of Certified Public Accountants of Kenya
IPS	-	Investment Policy Statement
IRRs	-	Internal Rate of Returns
LSK	-	Law Society of Kenya
MP	-	Member of Parliament
NIF	-	National Infrastructure Fund
NIFCA	-	Nairobi International Financial Centre
NPV	-	Net Profit Value
OAG	-	Office of the Auditor General
OCOB	-	Office of the Controller of Budget
ODM	-	Orange Democratic Movement
PPADA	-	Public Procurement and Asset Disposal Act
PPP	-	Public-Private Partnership
SPVs	-	Special Purpose Vehicles
UDA	-	United Democratic Alliance

ANNEXURES

Annexure 1: Adoption Schedule

Annexure 2: Minutes of the Committee on consideration of the Sessional Paper

Annexure 3: Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy

Annexure 4: Advertisement inviting the public to submit memoranda on the Sessional Paper

Annexure 5: Letter from the Clerk of the National Assembly inviting relevant stakeholders to attend the public participation forum.

Annexure 6: Memoranda by Stakeholders

CHAIRPERSON'S FOREWORD

This Report contains the proceedings of the Departmental Committee on Finance and National Planning on its consideration of Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy.

The Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy was tabled in the National Assembly on Wednesday, 12th August 2026 and was thereafter committed to the Committee for consideration and tabling of the report to the House. Pursuant to the provisions of Article 118 of the Constitution, the Committee was required to facilitate public participation and make appropriate recommendations to the House on the Sessional Paper.

Sessional Paper No. 7 of 2026 presents the Investment Policy Statement (IPS) for the National Infrastructure Fund (NIF). The National Infrastructure Fund was established under the National Infrastructure Fund Act, 2026 as a strategic national institution intended to mobilise long-term capital for commercially viable infrastructure of national significance. The Act establishes the Fund as a body corporate and sets out its purpose, governance and investment framework. The Investment Policy is intended to provide the policy framework within which the Fund will invest and manage its resources. The Policy seeks to establish an alternative mechanism for financing national infrastructure outside the traditional Exchequer and borrowing framework.

In compliance with Article 118 (1) (b) of the Constitution and Standing Order 127(3), the Clerk of the National Assembly placed an advertisement in the print media on 15th August 2026. In addition, the Clerk of the National Assembly vide letter Ref. No. NA/DDC/F&NP/2026/116 and NA/DDC/F&NP/2026/117 dated 14th August 2026 invited key stakeholders to submit views on the Sessional Paper and attend a public participation forum on Thursday, 20th and Friday, 21st August 2026. The memoranda were to be received on or before Monday, 24th August 2026 at 5.00 pm.

The Committee is grateful to the Offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to it during its consideration of the Sessional Paper. Similarly, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made invaluable contributions towards the preparation and production of this report.

On behalf of the Departmental Committee on Finance and National Planning and pursuant to the provisions of Standing Order 199(6), it is my pleasure to report that the Committee has considered the Sessional No. 7 of 2026 on the National Infrastructure Fund Investment Policy and wish to report to this august House with the recommendation that the House **approves** the Sessional Paper No. 7 of 2026 with amendments.

Hon. FCPA. Kuria Kimani, CBS, M.P

Chairperson, Departmental Committee on Finance and National Planning

CHAPTER ONE

I.0 PREFACE

I.1 ESTABLISHMENT AND MANDATE OF THE COMMITTEE

1. The Departmental Committee on Finance and National Planning is one of twenty departmental committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to **Standing Order 216 (5)** is as follows:
 - a) *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
 - b) *To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*
 - c) *To, on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
 - d) **To study and review all legislation referred to it;**
 - e) *To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - f) *To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;*
 - g) *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
 - h) *To examine treaties, agreements and conventions;*
 - i) *To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation;*
 - j) *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - k) *To examine any questions raised by Members on a matter within its mandate.*
2. The Second Schedule to the National Assembly Standing Orders assigns the Committee the mandate to consider matters in relation to public finance, public audit policies, monetary policies, financial institutions, economy, investment policies, competition, banking, insurance, national statistics, population, revenue policies including taxation, national planning and development, digital finance, including digital currency.
3. In executing its mandate, the Committee oversees the following Ministries/Departments:
 - a) The National Treasury.
 - b) State Department for Economic Planning.
 - c) State Department for Public Investments and Asset Management.
 - d) The Commission on Revenue Allocation (CRA)
 - e) Office of the Controller of Budget

I.2 COMMITTEE MEMBERSHIP

I. The Departmental Committee on Finance and National Planning was constituted by the House on 27th October 2022 and reconstituted on Wednesday, 5th March 2025 and further reconstituted on Thursday, 28th May 2026. The Committee comprises the following Members:

Chairperson

Hon. FCPA Kuria Kimani, CBS, MP

Molo Constituency

UDA Party

Vice-Chairperson

Hon. (Amb.) FCPA Langat Benjamin Kipkirui, CBS, MP

Ainamoi Constituency

UDA Party

Members

Hon. Peter Kaluma, CBS, MP
Homa Bay Town Constituency

ODM Party

Hon. Sunkuyia, R. George, MP
Kajiado West Constituency

UDA Party

Hon. FCPA Oyula, Joseph H. Maero, MP
Butula Constituency

ODM Party

Hon. Dr. Gathoni Wamuchomba, HSC, MP
Githunguri Constituency

UDA Party

Hon. Mboni, David Mwalika, MP
Kitui Rural Constituency

WDM Party

Hon. Sheikh Umul Sheikh, MP
Mandera County

UDM Party

Hon. Okuome Adipo Andrew, MP
Karachuonyo Constituency

ODM Party

Hon. (Dr.) Shadrack Mwiti, MP
South Imenti Constituency

Jubilee Party

Hon. Chiforomodo, Munga, MP
Lunga Lungu Constituency

UDM Party

Hon. (Dr.) Ariko John Namoit, MP
Turkana South Constituency

ODM Party

Hon. CPA Rutto Julius Kipletting, MP
Kesses Constituency

UDA Party

Hon. Machele M. Soud, MP
Mvita Constituency

ODM Party

Hon. Paul Biego, MP
Chesumei Constituency

UDA Party

I.3 COMMITTEE SECRETARIAT

4. The Committee is facilitated by the following staff:

Ms. Tracy Chebet
Principal Clerk Assistant II

Ms. Jennifer Ndeto
Deputy Director, Legal Services

Mr. Benson Kamande
Clerk Assistant III

Ms. Winfred Kambua
Clerk Assistant III

Mr. Salem Lorot
Senior Legal Counsel

Mr. Eugene Luteshi
Audio Officer III

Ms. Nelly W. Ondieki
Research Officer III

Mr. George Ndenjeshe
Fiscal Analyst II

Mr. James Macharia
Media Relations Officer

Ms. Joyce Wachera
Hansard Reporter II

Mr. Benson Muthuri
Assistant Serjeant-At-Arms

Mr. Jared Onyancha
Protocol Officer

Mr. Allan Ngugi
Administrative Officer II

CHAPTER TWO

2.0 OVERVIEW OF SESSIONAL PAPER NO. 7 OF 2026 ON THE NATIONAL INFRASTRUCTURE FUND INVESTMENT POLICY

Background

5. The Sessional Paper No. 7 of 2026 was developed by the Governing Council of the National Infrastructure Fund pursuant to section 25 of the National Infrastructure Fund Act, No. 4 of 2026. The Cabinet Secretary for the National Treasury and Economic Planning, who is also the Chairperson of the Governing Council of the National Infrastructure Fund, transmitted it to the National Assembly. The Sessional Paper was tabled in the National Assembly on 12th August, 2026.
6. Section 25(1) and (2) of the National Infrastructure Fund Act provides for the development and matters to be specified in the Investment Policy in the following terms—

25. Investment Policy

- (1) The Governing Council shall develop an Investment Policy for approval by Cabinet.*
- (2) The Investment Policy shall specify*
 - (a) priority sectors proposed for development;*
 - (b) proposed projects;*
 - (c) any existing incomplete projects from the previous investment policy;*
 - (d) expected rate of return on investment on specific projects;*
 - (e) asset allocation, portfolio distribution and leverage ratios; and*
 - (f) exposure limits per sector and project.*

7. The Sessional Paper was thereafter committed to the Committee for consideration and tabling of its report pursuant to section 27 of the National Infrastructure Fund Act, No. 4 of 2026.

2.1. Intention of the Sessional Paper

8. Sessional Paper No. 7 of 2026 presents the Investment Policy Statement (IPS) for the National Infrastructure Fund (NIF). The National Infrastructure Fund was established under the National Infrastructure Fund Act, 2026 as a strategic national institution intended to mobilise long-term capital for commercially viable infrastructure of national significance. The Act establishes the Fund as a body corporate and sets out its purpose, governance and investment framework. The Investment Policy is intended to provide the policy framework within which the Fund will invest and manage its resources.

9. The Policy seeks to establish an alternative mechanism for financing national infrastructure outside the traditional Exchequer and borrowing framework. The Fund is therefore intended to provide a revolving financing mechanism through which initial capital is invested in infrastructure, and returns are subsequently recycled into future projects.

10. The principal objectives of the Investment Policy are to:

- i. provide a clear framework for investment and management of the Fund's resources;
- ii. finance commercially viable infrastructure of national significance;
- iii. mobilise domestic and international private capital;
- iv. reduce reliance on public borrowing for commercially viable infrastructure;
- v. promote commercially disciplined investment decisions;
- vi. strengthen Kenya's capacity to originate, structure and execute large infrastructure projects;
- vii. preserve and grow the Fund's capital base;
- viii. recycle investment proceeds into future infrastructure projects; and
- ix. promote transparency, accountability and responsible stewardship of public resources.

2.2. Role of Parliament

11. The Investment Policy was submitted to the National Assembly pursuant to the National Infrastructure Fund Act, 2026, which provides the statutory framework governing its development, content, submission and consideration. Sections 25–31 set out the key requirements for the Investment Policy, including the priority sectors and proposed projects, expected returns, asset allocation, portfolio distribution, leverage and exposure limits, risk management, submission and consideration by the National Assembly, approval with or without reservations or amendments, resubmission where declined, and the publication and review of the Policy.

12. The Sessional Paper therefore provides a compliance checklist showing how the proposed Investment Policy addresses these statutory requirements.

2.3. Establishment of the National Infrastructure Fund

13. The National Infrastructure Fund was established under the National Infrastructure Fund Act, 2026 to accelerate national infrastructure development, mobilise private and non-traditional sources of finance, reduce reliance on public debt for commercially viable infrastructure, and strengthen Kenya's capacity to structure and execute large projects. The Fund is intended to provide an alternative to Exchequer financing, with Government indicating that its seed capital will include privatisation proceeds and that it will mobilise additional capital from pension funds, banks, sovereign wealth funds and development finance institutions.

14. The Policy places commercial discipline and capital preservation at the centre of the Fund's investment approach. Projects are expected to demonstrate identifiable

demand, commercial viability, technical readiness and appropriate risk management, while ordinarily supporting at least 60 percent non-recourse project debt and generating a minimum expected equity return of 7 percent to the Fund. As a permanent national investment fund, its capital is intended to be preserved and strengthened over time, with investment income, realised gains and recycled proceeds used to finance successive generations of infrastructure.

2.4. Eligible Sectors and Infrastructure Priorities

2.5. Priority Sectors

15. The Policy identifies the principal infrastructure sectors as national highways, railway networks, airports, seaports, electricity generation, transmission and distribution, ICT infrastructure, water and irrigation, agriculture and livestock infrastructure, as well as other national-priority infrastructure approved by the Governing Council.
16. The Paper further expands these categories to encompass logistics infrastructure and key energy and petroleum infrastructure, including geothermal, hydro, wind and solar power generation, petroleum, oil and gas infrastructure, refineries, pipelines. In addition, the expanded scope covers telecommunications and fibre networks, cloud infrastructure and data centres, dams and desalination facilities, as well as agricultural value-addition infrastructure.

2.6. Investment Criteria and Project Appraisal

17. The Policy requires proposed projects to satisfy minimum investment criteria, including demonstrated demand, commercial viability, capacity to support at least 60 percent non-recourse project debt, a minimum expected equity return of 7 percent, technical readiness, environmental, legal and financial readiness, relevant regulatory approvals and compliance with the Board's Risk Management Framework.
18. It also provides for project preparation, technical appraisal and legal, technical, financial, environmental and social due diligence as part of the investment process. These requirements are consistent with the importance placed during parliamentary consideration of the enabling legislation on adequate feasibility studies and the use of the public-private partnership framework in preparing and structuring infrastructure projects.

2.7. Government Support Measures

19. The Policy provides that projects failing to meet the general investment criteria may only be considered where Government Support Measures are provided in accordance with the Act and where the Board is satisfied that the investment remains commercially and financially sustainable after taking those measures into account.

2.8. Treasury Management and Temporary Investment of Funds

20. Pending deployment into infrastructure investments, Fund resources are to be managed prudently to preserve capital, maintain liquidity and generate appropriate investment income. Surplus funds may be invested in Government securities in accordance with the statutory framework.

2.9. Governance and Accountability

21. The Policy establishes a two-tier governance structure, consistent with the Act, under which the Governing Council provides strategic oversight and establishes investment policy, while the Board is responsible for implementing the Policy through the Investment Strategy, Annual Business Plans, investment approvals and portfolio oversight. The Sessional Paper further provides that investment authority will be delegated through the Board Charter, thereby establishing the framework for allocating investment decision-making responsibilities within the Fund.

2.10. Fund Capitalisation and Source Of Resources

22. The Policy provides that the Fund will be capitalised principally through proceeds from privatisation and other strategic capital allocations by Government, to preserve and grow capital derived from public assets. The Government has subsequently indicated that privatisation proceeds, including proceeds associated with the Kenya Pipeline Company and other strategic asset transactions, are intended to form part of the Fund's seed capital.

2.11. Monitoring, Evaluation and Performance

23. The Sessional Paper provides that the Board will monitor both the financial and non-financial performance of the Fund, including financial performance, capital deployment, capital mobilisation, portfolio quality and national development outcomes. This indicates that the Fund is intended to be assessed not only on the financial returns generated from its investments, but also on its ability to mobilise additional capital, maintain a sound investment portfolio and contribute to broader national infrastructure and development objectives.

2.12. Five-Year Validity and Annual Review

24. The Sessional Paper provides that the Investment Policy will remain in force for five years, while the Board is required to undertake an annual review and recommend amendments to the Governing Council where necessary. This provides for periodic updating of the Policy while maintaining a longer-term investment framework.

2.13. Value for Money and Public Interest

25. The Sessional Paper states that the Fund is intended to reduce reliance on public borrowing for commercially viable infrastructure and preserve public resources by shifting from traditional Exchequer financing towards an investment-based model. The Policy therefore seeks to ensure that public capital is deployed commercially,

generates returns and is recycled into future infrastructure investments, rather than relying solely on additional Government borrowing.

2.14. Conclusion

26. The National Infrastructure Fund Investment Policy represents a significant shift towards investment-based infrastructure financing, with the potential to reduce reliance on public borrowing, mobilise private capital and recycle investment returns into future projects. The Policy contains important safeguards, including commercial viability requirements, minimum return and leverage thresholds, exposure limits, non-recourse financing and capital-preservation principles.
27. Finally, the IPS should provide the National Assembly with adequate and timely information on the Fund's capitalisation, investments, returns, losses, exposure, Government Support Measures, contingent liabilities, costs, private capital mobilisation and development outcomes.

CHAPTER THREE

3.0 PUBLIC PARTICIPATION AND STAKEHOLDER ENGAGEMENT ON THE BILL

28. Article 118 (1)(b) of the Constitution provides that Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.
29. To facilitate public participation, the Clerk of the National Assembly placed an advertisement in the print media on 15th August 2026 inviting the public to submit memoranda on the Sessional Paper. Further, the Clerk of the National Assembly, vide letters NA/DDC/F&NP/2026/116 and NA/DDC/F&NP/2026/117 dated 14th August 2026, invited key stakeholders to submit views on the Sessional Paper and attend a stakeholder engagement forum on 20th and 21st August 2026.

3.1 MEMORANDA RECEIVED ON THE SESSIONAL PAPER

30. The Committee received twelve (12) memoranda from the following stakeholders whose submissions are detailed below:

- (1) The National Treasury;
- (2) Institute of Certified Public Accountants of Kenya (ICPAK);
- (3) Capital Markets Authority (CMA);
- (4) Office of the Controller of Budget (OCOB);
- (5) Nairobi International Financial Centre (NIFCA);
- (6) Cliffe Dekker Hofmeyr (CDH);
- (7) Office of the Auditor General (OAG);
- (8) Bara Build Nexus;
- (9) Olyvia M. Lavis;
- (10) CPF Group;
- (11) EMSI & Associates Advocates LLP; and
- (12) Dhamana Guarantee Company Limited.

3.2 SUBMISSIONS FROM STAKEHOLDERS

General Submissions

3.2.1 The National Treasury

31. The Cabinet Secretary for the **National Treasury and Economic Planning, Hon. FCPA John Mbadi Ng'ongo, EGH**, appeared before the Committee on Thursday, 20th August 2026 and submitted that the Investment Policy Statement is a principles-based policy under section 25 of the NIF Act, 2026 that defines NIF's operating compact.
- 32.

33. The Policy performs four functions: it defines eligible sectors, screening standards and appraisal standards; it protects capital through stage-gated preparation, downside testing and exposure limits; it enables the Board to invest, manage exits and recycle capital; and it measures performance through Expected Equity IRRs, portfolio risk, capital mobilisation and national outcomes.
34. The **National Treasury** stated that NIF exists to shift commercially viable infrastructure investment beyond the national budget. The Fund is to accelerate nationally significant infrastructure, mobilise domestic, international and non-traditional capital, reduce reliance on public debt for commercially viable projects, and build national origination, structuring and execution capability. Public capital is intended to act catalytically, mobilising private investment while preserving fiscal space for public services.
35. They highlighted out a governance structure in which the Governing Council owns policy and the Board implements it. They noted that the Council establishes the investment policy through the IPS and defines objectives, principles, eligibility, thresholds and limits. The Board implements policy through strategy and plans, and takes decisions and exercises oversight through approvals, conflict management, portfolio management and reporting to Council.
36. They noted that the Implementation instruments include the Investment Strategy, Annual Business Plans, and Risk and Treasury frameworks. They proposed an annual feedback loop, in which monitoring informs annual policy review and periodic portfolio-level reporting to Council.
37. On the division of decision rights, the Council develops policy, considers amendments, oversees compliance and receives portfolio-level reporting. The Council does not oversee individual investments. The Board approves individual investments, implements strategy and plans, and applies appraisal, risk, conflict and portfolio controls.
38. The National Treasury proposed seven principles to guide every investment decision:
- (i) commercial viability;
 - (ii) financial sustainability;
 - (iii) commercial discipline;
 - (iv) capital mobilisation;
 - (v) technical integrity;
 - (vi) responsible stewardship; and
 - (vii) national development.
39. Before a project reaches detailed preparation, the National Treasury proposed a preparation mechanism under sections 32 and 33 of the Act.
- (i) Projects are screened first against statutory eligibility;
 - (ii) priority-sector alignment;
 - (iii) preliminary viability;

- (iv) demand or off-take;
- (v) development readiness; and
- (vi) potential debt capacity.

40. Preparation then proceeds progressively, with further expenditure authorised only while a project retains a reasonable path to the Fund's investment criteria. The National Treasury proposed stopping or advancing projects at each stage if the prospect of investability no longer exists.
41. At the investment gate, the National Treasury proposed six tests: demand validation through identifiable users or off-take; bankability, requiring market-based cash flows able to support at least 60 percent non-recourse project debt; a project-specific Expected Equity IRR based on NIF cash flows from deployment to exit; a defined holding period and exit strategy set at appraisal; downside resilience under stress scenarios covering cost, delay, demand, operating, interest rate, foreign exchange and refinancing risk; and technical and risk readiness, under which risk is allocated to the party best placed to bear it.
42. Further, **National Treasury** noted that the Policy will include Government Support Measures provision, presented as an exception mechanism rather than an alternative investment standard. Where a project misses the general investment threshold, Government Support Measures may be applied under the Act. The Board must then re-underwrite the project and confirm it remains commercially and financially sustainable before it may proceed.
43. The National Treasury proposed six eligible infrastructure sectors: transport (highways, railways, airports, seaports and logistics); energy (generation, transmission, distribution and nationally significant systems); ICT (telecommunications, fibre, cloud and data centres); water and irrigation (supply, storage, dams, irrigation, desalination and bulk water); agriculture and livestock (production, storage, processing and value-add infrastructure); and other national priorities identified by the Governing Council and permitted by the Act.
44. Since this is the inaugural IPS, the National Treasury stated that there are no carried-over project commitments as there is no preceding policy. Project selection filters proposed include national development priority, commercial viability, catalytic economic impact, capital mobilisation potential, and alignment with the Fund's statutory purpose. Specific projects will be incorporated into the Annual Business Plan and pass through screening, preparation and feasibility under sections 32 and 33 before being brought to the Board for investment consideration.
45. The National Treasury proposes a range of investment structures grouped under three headings: direct capital (direct investments, equity and quasi-equity, and debt instruments); vehicles and partners (project finance, SPVs, infrastructure funds and co-investment platforms); and markets and development (capital market transactions, project development activities and strategic partner structures). They stated that the

structure of an investment may change, but the policy standards and portfolio guardrails apply regardless of structure.

46. On capital recycling, the National Treasury proposed a three-stage cycle. At entry, the target holding period, exit strategy and expected exit value are set as part of the Equity IRR appraisal. During the holding period, the Board reassesses the holding period and exit strategy against performance, market conditions and the Fund's long-term interests. At exit, capital is released through refinancing, institutional take-out, strategic or secondary sale, listing, securitisation, buy-back or another appropriate mechanism, and realised capital is redeployed into new investments where commercially appropriate.
47. The National Treasury proposed portfolio exposure limits measured against total Fund assets: a maximum of 40 percent in any one priority sector, and a maximum of 20 percent aggregate exposure to any single project entity, with all Fund instruments to that entity aggregated for the test. The Fund is not permitted to borrow on its own balance sheet, and project leverage is ordinarily to be non-recourse to the Fund. They highlighted that these limits are measured against Fund asset allocation, not against the capital structure or total asset value of an underlying project entity.
48. On treasury management, the National Treasury proposed three objectives applied before capital is deployed to projects: preserve capital, maintain liquidity for approved investment needs, and generate income solely through Government securities permitted under Section 43 of the Act. They stated that the Treasury Management Framework governs liquidity, maturity and deployment within this statutory investment universe and does not create broader asset classes.
49. The National Treasury proposed five performance lenses reviewed annually: returns against expected IRRs, capital deployment, capital mobilisation and recycling, portfolio and downside risk, and national development outcomes. The policy cycle runs on an annual rhythm, with the Board adopting an Annual Business Plan, setting project indicators and reviewing the IPS each year, and recommending amendments as required, subject to the statutory approval process. The National Treasury proposed a policy validity period of five years, at the end of which the Board reports all incomplete projects and a new policy cycle begins.
50. On Council oversight, the **National Treasury** proposed periodic reporting at portfolio level across eight items: portfolio composition and performance, capital deployed and private capital mobilised, performance against investment-specific Equity IRRs, sector and project-entity exposures, material portfolio and downside risks, the project-preparation pipeline and expenditure, underperformance, exits and capital recycled, and IPS compliance, breaches and remedial action. In their view this reporting supports policy oversight and does not transfer responsibility for individual investment decisions from the Board to the Council.

51. The National Treasury proposed six implementation instruments to make the policy executable. The Investment Strategy translates the IPS into portfolio priorities and investment approaches. The Annual Business Plan sets the project-preparation allocation, annual priorities and delivery commitments. Appraisal and stage-gate procedures screen projects early, reuse existing studies where appropriate, and govern progressive preparation spend. The Risk Management Framework defines stress testing, risk allocation, risk appetite and portfolio controls. The Treasury framework and procedures govern capital preservation, liquidity and approved surplus investment. The governance and reporting framework sets delegation, conflicts, performance measures and Council reporting. They stated that all six instruments are developed and approved in accordance with the Act and applicable governance arrangements.

3.2.2 Institute of Certified Public Accountants of Kenya (ICPAK)

52. **ICPAK** submitted that the National Infrastructure Fund Act, 2026 established the National Infrastructure Fund (NIF) as a vehicle for mobilizing resources for national infrastructure investment and advancing the Government's ambition to mobilize Ksh. 5 trillion over a ten-year period through domestic resource mobilization, monetization of public assets and the crowding in of private capital. They noted that NIF framework envisaged mobilization of Ksh. 5 trillion and crowding in private capital. However, the IPS does not clearly set out how this ambition will be progressively achieved, monitored and reported over the investment period. This will make it difficult to assess whether the Fund is attracting the expected level of private and development capital or whether its capital mobilization strategy requires adjustment.
53. **ICPAK** proposed that the Policy introduces a new Section 1.4 titled 'Policy Targets of the Fund' and to read as follows:

The Fund shall establish measurable targets to include

- a) the targeted Fund capitalization over the policy period*
- b) annual and cumulative private-sector capital commitments*
- c) the targeted amount of development and concessional finance mobilized*
- d) the targeted ratio of private and institutional capital to Fund capital*
- e) annual and cumulative capital deployed to eligible infrastructure investments*
- f) the value of investment commitments and projects reaching financial close*

The Board shall review performance against the approved targets at least annually and disclose the results in the Fund's annual performance report.

Appendix I

54. **ICPAK** submitted that the Appendix sets out key investment parameters but does not adequately address the foreign-exchange risks associated with mobilizing and investing capital from international investors or undertaking investments with foreign currency. The Institute recommended that Appendix I include a Foreign Exchange and Currency Risk Management Framework to ensure clarity in the following areas
- (a) the currencies in which the Fund may receive, hold and deploy capital
 - (b) acceptable levels of unhedged foreign-currency exposure
 - (c) circumstances requiring currency hedging

55. The Institute also recommended the addition of the following role to the Board for clarity

The Board shall monitor the currency composition of the Fund's assets, liabilities and commitments and ensure that material currency mismatches are identified and managed.

56. This will enhance risk management and transparency in cross-border investment operations, ensuring that the Fund's capital mobilization strategy aligns with both national financial stability objectives.

57. **On Chapter 2, specifically 2.2-Commercial Viability, ICPAK** noted that a project may be capable of supporting debt but should not necessarily be financed to the maximum level of that capacity, given that it may expose the Fund to refinancing and default risks. They proposed amending the provision to read as follows;

2.2.2. A project shall demonstrate financial capacity to support an appropriate level of non-recourse or limited-recourse debt, as determined through project-specific financial modelling and risk assessment.

2.2.3. The appropriate debt-to-total-financing ratio shall be determined having regard to

- a) projected cash flows
- b) revenue certainty
- c) demand risk
- d) construction and operational risks
- e) project maturity
- f) contractual arrangements
- g) regulatory environment
- h) foreign exchange exposure
- i) interest-rate risk
- j) the overall risk profile of the project.

2.2.4. Where a project is proposed for financing outside the standard financing parameters approved by the Board, the investment proposal shall document the basis for the deviation, the additional risks involved and the measures proposed to protect the Fund's capital.

58. They stated that this will provide flexibility and ensure that financing is aligned with the specific risk and cash-flow characteristics of each project.
59. **On 2.2 General Investment Criteria Financial Return, ICPAK** noted that the Policy requires projects to generate a minimum equity return of 7% to the Fund but does not explain the basis for this threshold or clarify whether it applies to individual investments or the Fund's overall portfolio. They proposed amending the provision to read as follows;
- 2.2.5. The Fund shall seek to achieve positive risk-adjusted financial returns across its investment portfolio.
- 2.2.6. The minimum required return for each investment shall be determined using an approved methodology that takes into account
- a) Fund's cost of capital
 - b) prevailing market conditions
 - c) inflation
 - d) investment tenor
 - e) liquidity
 - f) project risks
 - g) expected risk-adjusted return on comparable investments
- 2.2.7. The Board shall approve and periodically review the methodology and applicable return benchmarks.
- 2.2.8. Where an investment is expected to generate a return below the applicable benchmark, the investment proposal should provide
- a) a documented justification demonstrating its economic value
 - b) the financial implications of accepting the lower return
 - c) the associated risks and
 - d) the measures proposed to protect the Fund's capital.
60. They observed that a risk-adjusted framework provides a more appropriate basis for evaluating infrastructure investments, it maintains that the Fund's overall performance should also be assessed on a portfolio basis. Additionally, it also provides a transparent basis for approving investments that may have lower financial returns but demonstrable strategic value.
61. **On Chapter 3 - Priority Sectors for Development, ICPAK** submitted that the sectors identified in the IPS are presented without a clear basis for determining how resources should be prioritized between sectors when available capital is limited. They proposed that the Policy introduces a sector prioritization framework under which allocations consider the following
- (a) national development priorities
 - (b) project readiness
 - (c) economic and social impact
 - (d) commercial viability

- (e) private capital mobilization potential
- (f) implementation capacity
- (g) historical budget absorption
- (h) climate and environment
- (i) equitable development

62. The Institute stated that this will provide an objective basis for portfolio construction.

63. **On 3.1 and 3.2 Priority Sectors and Proposed Projects, ICPAK** observed that the IPS does not currently use evidence of sector implementation performance to inform portfolio prioritization. They recommended that;

- (i) the Policy should include historical implementation performance as one of the portfolio-allocation criteria.
- (ii) The Board should assess sector and the projects' absorption performance, preferably using a rolling three-year trend where data is available.
- (iii) The FY2022/23 performance of sectors from the Controller of Budget should form part of the baseline assessment.

64. Additionally, **ICPAK** noted that proposed projects are identified at sector level rather than through a defined project selection framework. It fails to specify how these criteria will be applied or weighted. They proposed that the Policy establishes a project scoring and ranking framework. Where each project is assessed against defined criteria, including commercial viability, economic rate of return, financial return, project readiness, implementation capacity, fiscal risk, climate resilience, private capital mobilization, strategic importance and expected development outcomes. This will help in improving consistency and comparability in investment decisions.

65. Further, **ICPAK** proposed that the Policy allows the Governing Council to identify any other nationally significant infrastructure as a priority. They proposed that any additional sector or project category be supported by a documented investment case and needs assessment to meet the same investment criteria applicable to the identified priority sectors. This will prevent ad hoc expansion of the Fund's investment mandate.

66. **On 3.3 Portfolio Framework/Exposure Limits, ICPAK** noted that the IPS limits exposure to one sector to 40% of Fund assets and a single project to 20%. However, the policy does not demonstrate the basis for these thresholds or explain how concentration risk will be assessed across correlated sectors. They recommended that the Policy should require the Board to establish exposure limits based on

- (a) portfolio risk
- (b) sector correlation
- (c) project size
- (d) counterparty exposure financing structure
- (e) liquidity requirements.

67. **The 40% sector and 20% project limits** should be subject to periodic review based on portfolio risk analysis.
68. Finally, **ICPAK** submitted that the policy requires annual review by the Board but does not establish matters that should trigger a substantive amendment to the IPS. The Institute recommends the policy should indicate that review should consider
- (a) changes in the Fund's capital base
 - (b) macroeconomic conditions such as interest rates, inflation, fiscal position
 - (c) sector performance
 - (d) regulatory changes
 - (e) emerging infrastructure risks.
69. This will ensure that policy reviews are evidence-based and responsive to material changes.

3.2.3 Capital Markets Authority (CMA)

70. CMA appearing before the Committee submitted that on the list of Abbreviations, ABS is indicated as Annual Business Plan. They proposed replacing ABS with ABP.
71. On the Executive summary, they noted that the existing Capital Market Collective Investment Scheme regulations do not recognise Infrastructure Funds as an investment class/alternative. They recommended reviewing the Collective Investment Scheme regulations to recognise Infrastructure Fund as one of the asset classes.
72. **On the introduction part, CMA** noted that the NIF Act states that the NIF shall be a body corporate with perpetual succession, however, the IPS states that "*The Fund is a special purpose vehicle...*". They recommended clarifying the entity structure by reconciling the Policy as drafted and the NIF Act.
73. **On the general investment criteria, CMA** observed that the time horizon of the investment(s) as a key investment criterion is missing. They proposed introducing project-specific time horizon criterion as a key consideration in informing the NIF investment decisions.
74. **On Government Support Measures, CMA** noted that an element of supporting the 'public good' needs to be infused into the policy. They observed that infrastructure is an essential plank in setting the basis of all other growth by stunting systemic risks and availing accessible benefits to extensive areas and diverse communities. NIF should therefore have as one of its objectives, meeting public interest/good.
75. Additionally, the Authority stated projects that fail the general commercial criteria may still proceed where Government Support Measures apply, with no ceiling, approval threshold or disclosure requirement specified. CMA was of the view that non-disclosure of the reasons for Government support measure(s) may materially mis-state the projects' underlying risk profile. They proposed requiring quantified

ceilings on Government Support Measures and mandatory disclosure of any such support in the offering document(s).

76. **On the General Investment Criteria- Financial Return**, CMA highlighted that it is not clear whether:
- a) This is a KES or Hard Currency (e.g., USD) return
 - b) This is a gross or net return
 - c) This is a nominal or real return
77. They recommended that the Policy provide for the same minimum return of 7% irrespective of the sector and despite the differing risk-return profiles.
78. **On proposed projects, CMA noted that there is no reference to the aspect of the proposed projects leveraging capital markets as a key anchor**, as expressly mentioned in Par 5 of the foreword and Par. 4 of the Executive Summary. They submitted that countries that have registered impressive infrastructure development, including China, Malaysia, India, and Morocco, have actively leveraged capital markets as the pivot point for facilitating rapid capital raising while leveraging technology.
79. **On regularity of review of the IPS**, CMA stated that it is not clear what the Governing Council should do with the recommendations after the IPS review. They were of the opinion that there should be room to review the IPS (on an as-needed basis) within a shorter period to address new developments or market dynamics.
80. They proposed expressly indicating that the recommended amendments will then be adopted by the Governing Council and implemented in the subsequent period. Also, evaluate the IPS review period to account for new and/or unforeseen developments. By adding 'or as will be necessary in the view of the Governing Council.
81. **On treasury management, CMA** noted that MDAs are already overweight in Government securities. The investment room for investing surplus funds should be expanded. They proposed including all capital market securities as the potential universe of assets in which surplus funds may be invested.

3.2.4 Office of the Controller of Budget (OCOB)

Through a written submission the OCOB submitted as follows;

82. **On paragraph 2.3 of the IPS**, the CoB noted that the objective of reducing public debt could be undermined if the Government provides extensive guarantees and other support measures to Fund projects. The legislative framework allows government support measures, including binding undertakings, letters of support, letters of credit and credit guarantees. This creates an important fiscal- risk question: although the Fund may initially appear to be off- budget financing, government guarantees can ultimately expose taxpayers to contingent liabilities if projects fail.

83. **They** proposed amending the proposal to state;
- (i) when the Fund may borrow;
 - (ii) who bears the repayment obligation;
 - (iii) whether borrowing constitutes public debt;
 - (iv) the circumstances under which the Government may provide guarantees;
 - (v) maximum leverage ratios; and
 - (vi) how contingent liabilities will be reported.
84. In their view, this introduces explicit leverage and guarantee ceilings to prevent the Fund **from** becoming an indirect source of public debt.
85. **On Paragraph 3.1**, the CoB noted that a sophisticated approach to examining whether national infrastructure projects are fairly distributed across Kenya is lacking. There is therefore the risk of concentrating investment in politically favoured regions or sectors. They stated that while investments should not be distributed to achieve political balance, the policy should ensure that national infrastructure investment does not systematically exclude economically productive but historically underserved regions. The CoB was of the view that the Investment Policy should establish transparent principles for geographical and sectoral allocation.
86. **On paragraph 2.2 on the minimum equity return**, the CoB observed that the minimum-return approach requires scrutiny. While a minimum return can impose useful commercial discipline, applying a uniform return threshold to fundamentally different infrastructure projects could be problematic. They proposed replacing the rigid uniform return threshold with risk- adjusted return benchmarks differentiated by sector, project maturity and risk.
87. **On paragraph 3.3 – the portfolio framework**, the CoB noted that the Act requires the Investment Policy to specify asset allocation, portfolio distribution and leverage ratios. However, these provisions need to be translated into robust quantitative risk limits that can be monitored in practice. They stated that there is need to require independent feasibility and value-for- money assessments before major investments are approved.
88. They proposed the Investment Policy to clearly define:
- (i) maximum exposure to a single project;
 - (ii) maximum exposure to a particular sector;
 - (iii) permissible levels of borrowing and leverage;
 - (iv) foreign-exchange exposure limits;
 - (v) counterparty limits;
 - (vi) liquidity requirements;
 - (vii) guarantees and contingent liabilities;
 - (viii) acceptable credit-risk levels; and
 - (ix) procedures for restructuring distressed investments.

89. The CoB stated that without these safeguards, the Fund could unintentionally recreate the high fiscal risks it is intended to cure.
90. **On 3.1- priority sectors**, the CoB stated that there is potential for duplication with existing institutions: The NIF operates within an already extensive infrastructure and public investment institutional framework. This is likely to create a risk of overlap with bodies such as the Kenya National Highways Authority, Kenya Airports Authority, KENGEN, KETRACO and the State Department for Public Investment and Assets Management, among others. This will increase the likelihood of duplicate project appraisals, competing mandates, additional administrative costs, and diluted accountability.
91. In the CoB's view the Investment Policy should clearly define the relationship among the Fund, National Treasury, the State Department for Public Investment and Assets Management, implementing agencies, and sector regulators, and specify where their responsibilities lie. The Policy should also make the Fund principally a financing and investment vehicle, rather than creating another project- implementation bureaucracy.
92. **On paragraph 2.2- general investment criteria**, the OCOB submitted that the commercial-return principle could disadvantage socially important projects. Some strategically important infrastructure projects may generate substantial social and economic benefits without producing sufficiently high direct financial returns. They stated that the policy should therefore distinguish between financial return and economic/ social return. Projects should be assessed using a broader development-adjusted investment framework rather than relying exclusively on financial profitability. They recommended creating a transparent project-ranking framework based on financial, economic, social, environmental and strategic criteria.
93. The Policy does not define the term 'National Infrastructure'. Instead, it relies on the definition provided in the NIF Act. The CoB stated that the absence of a sufficiently precise definition of national infrastructure may constitute a grey area that could create room for discretionary investment and allow resources to be directed towards projects of questionable economic value. They proposed the Investment Policy establish a clear taxonomy of eligible investments. It should distinguish between strategic national infrastructure, commercially viable infrastructure, social infrastructure and projects that should ordinarily be financed through the ordinary development budget.
94. **On the Stewardship of the Fund's Capital**, the CoB observed that the use of proceeds from privatisation and disposal of government assets as a source of funding is potentially innovative, but it also raises an important intergenerational issue. Public assets are finite. Selling an asset to finance infrastructure can be justified where the proceeds are invested productively. However, there is a risk that valuable public assets could be sold without adequate valuation or without demonstrating that the resulting investment will generate superior long-term public value. They proposed

establishing strong safeguards around valuation, disposal, investment and reporting. Additionally, ring-fencing and protecting proceeds from privatisation and asset disposal through transparent valuation, competitive disposal processes and clear investment rules.

95. The CoB noted that to ensure public trust, stronger conflict-of-interest provisions are needed in the Policy. Given the substantial financial resources involved, the policy should contain rigorous rules governing conflicts of interest involving Council members, directors, senior management, investment advisers, and related parties. They noted that declarations of interests should be mandatory, independently verified, and publicly disclosed where appropriate. Individuals with conflicts should be prohibited from participating in related decisions. This is essential for maintaining investor confidence and protecting public assets.
96. Additionally, they stated that Environmental, social and climate risks have not been incorporated in investment guardrails. They recommended integrating climate-risk and environmental sustainability assessments into every major investment decision.

3.2.5 Nairobi International Financial Centre (NIFCA)

NIFCA, through their written memoranda submitted as follows;

97. **NIFCA** submitted that while Section 25 correctly requires the Investment Policy to specify sectors, projects, returns, asset allocation, leverage and exposure limits, the Policy does not yet state how the Fund will crowd in private capital without compromising its statutory governance or creating uncontrolled contingent liabilities.
98. They proposed that this gap be addressed by expressly recognising six matters in the Policy: lawful investment and co-investment vehicles; institutional collaboration with NIFCA and other relevant agencies; domestic and international institutional capital mobilisation; investor-readiness standards; additionality, meaning that Fund participation should not needlessly displace private finance; and measurement of capital mobilised alongside capital invested.
99. NIFCA highlighted some gaps in the IPS as follows;
100. **On Investment and co-investment vehicles**, **NIFCA** stated that there is need to expressly permit lawful investment vehicles where they improve commercial viability, risk allocation or mobilisation. They iproposed inserting a new text to read as follows;

"The Fund may, subject to applicable law and its approved investment parameters, establish, invest through, participate in or co-invest alongside appropriate investment vehicles, including project companies, special purpose vehicles, funds, joint ventures and other legally recognised investment structures, where such structures enhance commercial viability, risk allocation, capital mobilisation or efficient management of an investment."

101. Additionally, they noted that the policy needs to recognise NIFCA as one of several statutory institutions available to support investor participation and qualifying structures. They proposed text should read as follows;

"In mobilising domestic and international private capital, the Fund may collaborate with the Nairobi International Financial Centre Authority and other relevant public institutions to facilitate investor participation and, where appropriate, the establishment or utilisation of investment vehicles and financial structures within Kenya in accordance with applicable law."

102. **On private capital mobilization**, NIFCA proposed the inclusion of the following text;

"For commercially viable projects, the Fund shall, where appropriate, seek to crowd in domestic and international institutional capital through co-investment, syndicated investment, funds, project companies and other appropriate financing mechanisms, while maintaining prudent risk allocation and protecting the financial interests of the Fund."

103. They stated that this will make crowding-in a deliberate implementation objective.

104. Further, NIFCA noted that there is a domestic institutional capital gap. They proposed amending the IPS to include the following;

"The Fund shall, subject to applicable financial-sector laws and prudential requirements, promote opportunities for participation by domestic institutional investors in commercially viable national infrastructure investments."

105. This will create opportunities, not mandates, for pensions, insurers and other eligible investors.

106. **On international institutional capital**, NIFCA proposed expressly permitting partnerships with SWFs, DFI, infrastructure funds and other institutional investors. They recommended amending the Policy to read as follows;

"The Fund may seek investment partnerships and co-investment arrangements with sovereign wealth funds, development finance institutions, infrastructure funds, pension and insurance investors, private investment funds, climate-finance institutions and other eligible institutional investors."

107. **On investor readiness/ bankability**, NIFCA was of the view that the Policy be amended to include; *"Projects intended to attract private capital shall be developed to an appropriate level of commercial and investor readiness, including clearly defined revenue models, risk allocation, governance arrangements, financing structures and, where applicable, investor entry and exit mechanisms."* They stated that this will require projects seeking private capital to reach a defined commercial-readiness threshold.

108. **On the Capital Mobilisation metric**, NIFCA stated that there will be need to report both NIF capital deployed and third-party capital mobilised. They proposed inserting the following;

"The Fund shall monitor and report the amount of domestic and international private capital mobilised alongside its investments and an appropriate capital-mobilisation ratio, without double counting."

109. NIFCA noted that in determining whether to invest, the Fund shall consider the additionality of its participation, including whether its investment accelerates the project, addresses an identifiable financing constraint, improves bankability or mobilises additional private capital. This will prevent NIF from unnecessarily displacing private finance.

110. **On the vehicle governance**, NIFCA highlighted that any investment vehicle through which the Fund invests shall be subject to governance, financial reporting, audit, valuation, beneficial-ownership, conflict-of-interest and transparency requirements proportionate to the Fund's investment and consistent with applicable law. This ensures transparency and governance safeguards to vehicles in which NIF invests.

111. To ensure non-duplication, NIFCA proposed requiring use of existing statutory capabilities where practicable and should read as follows;

"In implementing this Policy, the Fund shall collaborate with relevant public institutions and regulatory authorities and, to the extent practicable, utilise existing statutory frameworks and institutional capabilities rather than duplicate functions assigned under written law."

3.2.6 Cliffe Dekker Hofmeyr (CDH)

CDH, through their written memoranda submitted as follows;

112. **On 2.2: Commercial Viability / Minimum 60% Non-Recourse Project Debt.**

CDH observed that the section provides the 60% threshold and presents it as a minimum criterion applicable to every project. This may exclude otherwise viable infrastructure projects which have longer development periods, significant public-interest characteristics or different financing structures. They stated that the 60% threshold operate as a general benchmark, with a controlled exception for projects which are commercially and financially viable but cannot reasonably achieve the threshold because of the characteristics of the infrastructure sector or project.

113. They proposed amending the section to read as follows;

"Approved projects shall ordinarily be expected to generate market-based cash flows capable of supporting at least sixty percent non-recourse project debt. The Board may approve a project that does not meet this threshold where, following an independent financial assessment, it is satisfied that the project is commercially and financially sustainable and that the deviation is justified by the characteristics of the project or sector. The reasons for such approval shall be documented."

114. On section 2.2: Financial Return, CDH was of the view that the provision of a uniform minimum return may not adequately account for differences in project risk,

tenor, sector, inflation and capital structure. They stated that the 7% return be retained as a benchmark but that the Policy define the basis for calculating the return and permit a departure where justified by a documented risk-adjusted assessment. They proposed amending the section to read as follows;

“Projects shall be expected to generate a minimum risk-adjusted equity return of seven percent to the Fund, measured in accordance with investment guidelines approved by the Board.

The Board may approve a project with an expected return below the benchmark where it determines, on the basis of a documented risk-adjusted assessment, that the investment remains financially sustainable and advances the statutory objectives of the Fund.”

- 115. On Section 2.3: Government Support measures**, they highlighted that the Policy does not state what assessment must be undertaken before Government Support Measures are relied upon, nor does it expressly require consideration of the potential fiscal or contingent liability arising from such support. They proposed amending the section to read as follows;

“Where a project is considered for investment on the basis of Government Support Measures, the Board shall, before approving the investment, undertake or procure an assessment of the financial, fiscal and contingent liability implications of the proposed support and satisfy itself that the support is necessary, proportionate and consistent with the Public Finance Management Act and the National Infrastructure Fund Act.”

- 116. On Section 3.2: Proposed Projects**, CDH stated that the Act expressly requires proposed projects to be specified in the Policy. They recommended approving the Policy with a reservation under Section 28(b) of the Act requiring the Governing Council to incorporate an indicative pipeline of proposed projects into Section 3.2.

- 117. On section 3.2: Other National priority infrastructure**, the stakeholder noted that the phrase “other nationally significant infrastructure” is broad and does not identify the criteria or process through which a project outside the listed sectors may be designated a national priority. They proposed amending the proposal to read as follows;

“Any project falling outside the priority sectors specified in this Policy may be designated as national priority infrastructure where the Governing Council, on the recommendation of the Board, is satisfied that the project demonstrates significant national economic or strategic impact, is consistent with the objects of the Fund and satisfies the applicable investment criteria. The reasons for the designation shall be recorded in writing.”

118. On 3.3: Sector and project exposure limits, CDH stated that the section does not explain how “exposure” or “Fund assets” are to be calculated, particularly where the Fund invests through special purpose vehicles, infrastructure funds, co-investment arrangements or other indirect investment structures. They proposed a new provision to read as follows;

“For purposes of the sector and project exposure limits, the Board shall establish a methodology for calculating direct and indirect exposure, including exposure arising through special purpose vehicles, infrastructure funds, co-investment arrangements and other investment structures.

The methodology shall be approved by the Governing Council and reviewed annually.”

119. On Section 2.1 and Preface: Authority for the preparation of the Policy, CDH submitted that the Policy and the Compliance Checklist ought to be aligned with Sections 25(1) and 26 of the Act by confirming that the Policy is developed by the Governing Council, approved by Cabinet and submitted to the National Assembly by the Cabinet Secretary, and that the Board's role is limited to implementation.

120. On Section 3.3: Leverage and the prohibition on balance sheet borrowing, the stakeholder recommended that the Policy states expressly that leverage shall be non-recourse to the Fund and that no instrument may be granted which constitutes borrowing or the taking of credit against the Fund's balance sheet, and that it identify the credit support the Fund may provide at project level within that limit. They proposed amending the section to read as follows;

“Leverage shall be undertaken only at the project or investment vehicle level and shall be non-recourse to the Fund. The Fund shall not borrow or take credit against its balance sheet. The Board may approve equity commitment undertakings, contingent equity, subordinated shareholder funding and similar support at project level, provided that the aggregate contingent exposure of the Fund is capped at the amount of the Fund's approved capital commitment to the relevant project, is quantified at the time of approval and is reported in accordance with the risk management framework.”

121. On Chapter 3: Security, intercreditor arrangements and enforcement, CDH stated that the Policy does not address the taking or realisation of security, the Fund's position as against senior lenders, or the exercise of step-in and enforcement rights where a project fails. They proposed amending the provision to read as follows;

“The Fund shall, where appropriate, take security for its investments and shall determine its position in relation to senior and other creditors in each transaction. The Board shall approve guidelines addressing the taking, holding, sharing and release of security, intercreditor and subordination arrangements, and the circumstances in which the Fund may exercise step-in, enforcement or remedial rights in respect of an underperforming project. Any release or subordination of security shall be approved by the Board and the reasons recorded in writing.”

122. **On Chapter 3: Co-investment arrangements and shareholder protections**, the stakeholder noted that the Policy refers to co-investment platforms and capital mobilisation as a performance measure but does not address the terms on which the Fund will co-invest or the governance and minority protections it will require where it holds a non-controlling interest. They stated that the Policy should require the Board to satisfy itself, before approving an investment, that the Fund's governance and minority protections in the relevant vehicle are appropriate to the Fund's interest and to the nature of the project.

123. They proposed amending the provision to read as follows;

"Where the Fund invests alongside other investors or through a special purpose vehicle, pooled investment vehicle or infrastructure fund, the Board shall, before approving the investment, satisfy itself that the constitutive and shareholder documents confer governance, participation, information and exit rights appropriate to the Fund's interest in the vehicle and to the nature of the project, and shall record its assessment in writing."

124. **On Chapter 2: Conflicts of interest, related party transactions and political independence**, CDH noted that the chapter contains no operative provision on conflicts of interest, related party transactions or independence of investment decision-making. They proposed amending to include an operative provision as follows;

"Investment decisions shall be taken by the Board on commercial and technical grounds in accordance with this Policy and the Act, and no investment shall be approved on the direction of any person other than in accordance with the Act. A member of the Governing Council or of the Board who has a direct or indirect interest in a proposed investment or in a counterparty shall disclose that interest and shall not participate in the deliberation or approval of the matter. The Board shall approve a related party transaction policy requiring the identification, independent review and disclosure of any investment or transaction involving a director, member of the Governing Council, senior officer or their related parties."

125. On Section 3.4: Treasury management, CDH stated that the Policy does not identify the instruments in which undeployed capital may be held, or any counterparty, concentration or tenor limits. They proposed expanding the section to reflect the statutory constraints and to set treasury guardrails as follows;

"Treasury investments shall be limited to Government securities approved by the Cabinet Secretary in accordance with Section 43 of the Act and to deposits held with the Central Bank of Kenya or with commercial banks maintained under Section 40(4) of the Act. The Board shall approve treasury guidelines specifying eligible instruments, minimum counterparty credit criteria, single counterparty and concentration limits, maximum tenor and liquidity requirements aligned to projected capital deployment, and shall report treasury exposures to the Governing Council."

126. **On Chapter 2: Financial risk management framework**, CDH noted that the Policy does not identify the categories of financial risk to which the Fund will be exposed. Infrastructure investments of the kind contemplated will typically involve foreign currency debt, long tenors and refinancing at the end of an initial debt term.

127. They proposed inserting the following provision;

"The Risk Management Framework shall address, at a minimum, credit and counterparty risk, currency and interest rate risk, refinancing and liquidity risk, construction and completion risk, concentration risk and the use of hedging or other risk mitigation instruments."

128. **On Chapter 4: Monitoring and evaluation**, the stakeholder highlighted that the Policy identifies broad areas of performance but does not establish minimum reporting intervals, minimum indicators or a deadline for reporting performance. Additionally, the Policy also includes "national development outcomes" as a performance consideration but does not indicate how these outcomes are to be measured. They recommended amending as follows;

"The Board shall monitor the performance of each approved project on a quarterly basis against financial and non-financial performance indicators. The Board shall include in its annual report a consolidated assessment of the performance of the Fund and each approved project, including capital deployed, financial returns, capital mobilised, project implementation status, material risks and national development outcomes."

Additionally, they recommended that the annual Business Plan contain measurable development indicators appropriate to the relevant sector and project.

129. **On the Appendix I: Key Policy Parameters**, CDH recommended that the Appendix expressly identify whether each parameter is statutory, policy-based or operational. They recommended amending as follows;

"The policy parameters set out in this Appendix shall be classified as either statutory requirements under the National Infrastructure Fund Act, 2026 or additional policy parameters adopted under this Policy. Any amendment to a statutory or substantive policy parameter shall be undertaken in accordance with the applicable provisions of the Act."

3.2.7 Office of the Auditor General (OAG)

The OAG through a written memoranda submitted as follows;

130. The OAG submitted that the Office recognises Kenya's infrastructure financing gap, the pressure on public debt and the need to mobilise long-term private capital. A properly designed Fund can support commercially viable infrastructure, crowd in institutional capital and recycle proceeds while preserving public value.

131. The Auditor General stated that some of the issues the Office raised during the consideration of the NIF Bill stage have been addressed in the Policy. However, some remain partly addressed they include;
- (i) Define maximum gearing, coverage ratios, stress tests and treatment of public support.
 - (ii) Annex the actual five-year pipeline and define decision evidence, approvals and exceptions.
 - (iii) Quantify, cap, approve and disclose every fiscal commitment and contingent liability.
 - (iv) Define measurement, connected exposure, continuous monitoring and breach remedies.
 - (v) Require independent valuation, transparent price discovery, capital preservation and reinvestment rules.
 - (vi) Prescribe consolidation, project-level disclosure, record retention and contractual audit access.
132. Additionally, the OAG stated that Section 25(2) of the National Infrastructure Fund Act, 2026 requires the Investment Policy to specify particular matters. They noted that the checklist leaves several statutory requirements blank while a separate technical table asserts compliance with frameworks that are not identifiable in the substantive Policy. They proposed replacing the competing tables with one reconciled checklist showing the statutory requirement, exact Policy clause, implementation instrument, responsible body and evidence of compliance.
133. **On chapter 3 – projected sectors and projects**, the OAG noted that the IPS names sectors but does not identify the proposed projects to which the five-year mandate will apply. They stated that Parliament cannot evaluate aggregate capital demand, readiness, geographic and sector concentration, expected returns, Government support, or consistency with national development priorities.
134. They proposed annexing the proposed pipeline, showing for each project the sponsor, sector and location; estimated total cost and Fund commitment; proposed instrument and financing structure; readiness stage; expected return; Government support; key risks; and indicative implementation period.
135. **On section 2.2 and Appendix I - minimum expected equity return of 7%.** The OAG observed that the Policy does not state whether 7% is nominal or real, gross or net of fees, pre- or post-tax, Kenya-shilling or foreign-currency, project or Fund level, or measured over what period. They stated that a uniform figure may underprice construction, demand, regulatory, currency and liquidity risk. If interpreted as a nominal Kenya-shilling net return, it is below the 8.77% 91-day Treasury-bill benchmark published by the Central Bank of Kenya in August 2026, despite infrastructure equity being long-term and illiquid.
136. The OAG proposed defining the return measure and require a risk-adjusted hurdle-rate methodology by sector, project stage and currency, benchmarked to the relevant risk-free yield plus explicit risk premiums. Also, disclose expected gross and net

returns, fees, taxes, inflation assumptions and downside cases in each appraisal and the Annual Business Plan.

137. **On Sections 2.2 and 3.3; Appendix I - projects should support at least 60% non-recourse debt.** The OAG highlighted that the Policy does not prescribe maximum debt-to-capital, minimum debt-service or loan-life coverage, covenant headroom, stress tests, connected exposure or breach action. They recommended setting sector- and stage-specific maximum gearing and minimum DSCR/LLCR thresholds under base and stressed cases. Measure exposure using equity, loans, undrawn commitments, guarantees and other risk-bearing obligations; aggregate connected projects and specify escalation, cure and divestment action for breaches.
138. **On Section 3.4 - Treasury Management; general risk provisions.** The OAG noted that there are no binding limits or disclosure rules addressing foreign-currency debt against Kenya-shilling revenues, floating-rate exposure, refinancing concentration or hedge-counterparty risk. They recommended requiring project-level disclosure of unhedged currency, interest-rate and refinancing exposure; Board-approved limits and hedging arrangements for material mismatches; hedge effectiveness and counterparty limits; debt-maturity profiles; and stress tests linked to tariff, demand and support scenarios.
139. **On Section 2.3 - Government Support Measures; section 34 of the NIF Act.** The OAG was of the view that a project that fails the general criteria may be reconsidered after Government support, but the Policy does not prescribe quantified ceilings, ex-ante fiscal-risk clearance, affordability tests or comprehensive disclosure of the resulting obligations. They proposed requiring National Treasury fiscal-risk clearance; value-for-money and affordability assessment; disclosure of returns before and after support; present value, maximum exposure and probability-weighted cost; budget provision where required; project and portfolio ceilings; and annual reconciliation to national fiscal-risk and debt reporting.
140. **On Sections 2.2 and 2.3 - Demand Validation, Commercial Viability and Government Support Measures.** The OAG observed that for toll roads, bulk water, ports, energy and other user-pays infrastructure, the Policy specifies commercial-return requirements but no explicit tariff-affordability or social-access test. The OAG proposed requiring an affordability and social-access assessment as part of demand validation, with household or user-incidence analysis, tariff path and indexation, service-quality obligations, vulnerable-user arrangements and sensitivity testing. Any tariff subsidy, revenue-shortfall undertaking or viability support should be explicit, budgeted and treated as a Government Support Measure.
141. **On Section 2.1 - Guiding Principles; future Governance and Investment Frameworks.** The Policy does not prescribe minimum rules for declarations of interest, recusals, related-party transactions, beneficial ownership, politically exposed persons, sanctions, debarment, source of funds or adviser independence. The OAG proposed requiring continuing and transaction-specific declarations; mandatory

recusal; beneficial-ownership and source-of-funds verification; PEP, sanctions and debarment screening; related-party approval and disclosure; voting records and dissent; adviser rotation and independence; and auditable conflicts register covering the Council, Board, committees, management, sponsors and service providers.

142. **On Investment Decision and Governance Frameworks.** The OAG highlighted that the Policy does not establish functional independence between those who originate and structure a transaction and those who review risk, legality, valuation and final approval. They proposed defining separate accountable functions for origination, technical and financial appraisal, risk review, legal review, valuation, investment-committee recommendation, Board approval, monitoring and internal audit. Requiring documented challenge, conditions precedent, delegated-authority limits and escalation of dissent.
143. The OAG noted that the Policy does not cap, benchmark or require disclosure of management, arrangement, advisory, valuation, monitoring, transaction, carried-interest or performance-linked fees, including fees paid through SPVs. The OAG proposed requiring transparent competitive appointment where applicable; fee benchmarking; disclosure of gross and net returns; total expense ratio by project and portfolio; performance-fee methodology and clawback; related-party prohibition or enhanced approval; and annual disclosure of all fees, transaction costs and counterparties in the Business Plan and audited statements.
144. **On Executive Summary - investment structures; sections 2.2 and 3.3,** the OAG noted the Policy lists equity, debt, SPVs, capital-market transactions and co-investment platforms but does not distinguish those investment transactions from procurement of goods, works, services, advisers or disposal of public assets.
145. **They** proposed inserting a transaction-classification framework identifying the applicable route: PPADA procurement; PPP procurement; privatisation or asset disposal; capital-market process; or documented negotiated investment. For non-competitive transactions, they recommended requiring an approved rationale, independent valuation, market testing where feasible, best-value analysis, conflicts clearance and complete decision records.
146. Further, the OAG stated that the Policy does not state valuation standards, independence requirements, valuation date, treatment of control premiums, liabilities and transaction costs, price-discovery method or approval of material deviations from valuation.
147. **They** recommended requiring independent professional valuation by qualified advisers; transparent appointment and conflict checks; documented valuation methods, assumptions and sensitivity ranges; market testing or competitive price discovery where feasible; disclosure of gross proceeds, costs and debt settled; and Board reasons for any material departure from the independent range.

148. **On sections 3.5 and 3.6 on investment period and review**, the OAG observed that the Policy does not establish holding-period rationale, permitted exit routes, reinvestment triggers, treatment of realised income and unrealised gains, withdrawal rules or a minimum real-capital floor. They proposed ring-fencing and tracing gross sale, refinancing, distribution and exit proceeds; separate capital, realised income and unrealised gains; protect the inflation-adjusted value of net public contributions; and requiring a Board-approved exit and reinvestment framework covering holding rationale, exit routes, valuation, price discovery, transaction costs, reinvestment timing and post-exit evaluation.
149. **On Section 2.2 - Technical Readiness and Responsible Stewardship**. The OAG noted that the Policy refers generally to environmental and legal compliance but does not establish project classification, due diligence, climate-resilience screening, land and resettlement requirements, grievance mechanisms, incident reporting or continuing monitoring. The OAG was of the view that before commitment, require compliance with EMCA/EIA, climate, land-acquisition and resettlement law; quantified safeguard costs; disclosed permits, claims and mitigation measures; stakeholder engagement and grievance procedures; contractual ESG obligations; major-incident reporting; and post-investment monitoring.
150. Further, the OAG noted that the Policy does not specify how control, joint control and significant influence will be assessed or how controlled SPVs, structured interests and public commitments will be consolidated or disclosed. They proposed applying standards prescribed by the Public Sector Accounting Standards Board to determine the reporting boundary; consolidating controlled vehicles; disclosing joint arrangements and other structured interests; and reporting project by project the Fund's equity, loans, commitments, guarantees, support, related parties, fees, impairments, sensitivities and maximum contingent exposure. Reconcile these disclosures to national budget, debt and fiscal-risk reports.
151. **On Chapter Four - Monitoring and Evaluation; sections 35-37 of the NIF Act**. The Auditor General noted that the Policy identifies broad monitoring themes but no mandatory indicators, baselines, targets, reporting frequency, publication standard or distinction between committed and deployed private capital. They recommended for each project, publish approved and forecast cost and completion date; cost/time variance; capital committed and drawn; expected and actual return; leverage; Government support; impairment; material contract changes; private capital mobilised per shilling of Fund capital; and service outcomes covering access, reliability, affordability, jobs, local content, climate resilience and maintenance. Explain unresolved breaches and corrective action.
152. The OAG observed the Policy does not expressly require investment agreements, SPV documents and service-provider contracts to preserve complete decision records and access to information relevant to public capital and commitments. They proposed requiring a records schedule covering origination, due diligence, models, valuation, approvals, conflicts, procurement, contracts, drawdowns, performance,

Government support and exits; securing digital retention for the statutory period; data ownership and handover clauses; and contractual recognition of the Auditor-General's access to relevant records held by SPVs, managers and service providers.

153. **On Sections 26-31 of the NIF Act; Policy review, amendment and publication provisions.** The OAG noted the Policy does not clearly state the information that should accompany material amendments, annual Business Plans and public reporting, or how public and Parliamentary input will be recorded and responded to over the five-year period.
154. They proposed recording and publishing how material stakeholder submissions were considered; publishing the approved consolidated Policy, annual Business Plans and project summaries subject only to lawful confidentiality; disclosing material Policy and pipeline changes with reasons and fiscal effects; and providing Parliament with periodic portfolio, Government-support and breach reports in a standard format. Commercial confidentiality should be narrowly defined and should not conceal public obligations or aggregate risk.

3.2.8 Bara Build Nexus

155. Through their written submission, Bara Build Nexus supported the IPS, particularly the Policy's emphasis on commercial discipline, technical integrity, project preparation, capital mobilization, responsible stewardship and national development. They stated that the Fund should be designed not only as a financing platform, but as an intelligent infrastructure investment platform. Capital can only be deployed effectively when the underlying infrastructure decisions are supported by reliable, connected and decision-ready information.
156. They submitted that the NIF should establish a structured infrastructure intelligence framework connecting the full investment lifecycle:
Pipeline → Project Preparation → Appraisal → Investment Decision → Financing → Delivery → Operations → Performance → Learning → Reinvestment
157. This should create a common evidence base for both individual investment decisions and portfolio management.
158. Additionally, they stated that the Fund's project-development role provides an opportunity to establish a structured pipeline of potential investments rather than relying principally on projects arriving at the Fund already packaged for financing.
159. Projects should progress through defined stages:
Concept → Screening → Preparation → Appraisal → Investment Ready → Financial Close → Delivery → Operational Performance
160. Each stage should have defined evidence requirements and decision gates. This would allow the Fund to distinguish between a good infrastructure idea, a technically prepared project, and a genuinely investment-ready project.
161. Bara Build stated that the NIF should establish minimum information standards for projects seeking investment. These should cover, as relevant: demand; technical

design; costs; financing; revenue; land; approvals; environmental and social considerations; risk; implementation; asset performance; and lifecycle requirements. Standardization would improve comparability across projects and reduce dependence on fragmented institutional information.

162. They emphasized that the Fund's proposed exposure limits concentration should be assessed not only by financial exposure but also by risk correlation and infrastructure interdependence.

163. Further, Monitoring should not end with reporting whether a project is on budget or on schedule. Project data should feed back into future investment decisions. The Fund should progressively develop a national infrastructure investment knowledge base containing:

- (i) projected versus actual costs;
- (ii) projected versus actual demand;
- (iii) projected versus actual returns;
- (iv) construction performance;
- (v) operational performance;
- (vi) maintenance requirements;
- (vii) risk events; and
- (viii) lessons from completed investments.

164. This would create a learning investment institution, rather than simply a portfolio manager.

165. Finally, BARA Build Nexus recommended that infrastructure intelligence be embedded within the operational architecture of the National Infrastructure Fund. This would strengthen the NIF's commercial discipline while simultaneously advancing its broader national development mandate.

3.2.9 Olyvia M. Lavisa

166. Through a written memorandum, Olyvia submitted that the establishment of the National Infrastructure Fund (NIF) is an important shift in how Kenya approaches infrastructure financing. The Fund has the potential to move the country beyond reliance on annual budgetary allocations and public borrowing towards a more sustainable model of infrastructure investment, capital mobilization and recycling.

167. The stakeholder noted that long-term success of the NIF will depend not only on its ability to mobilize capital, but on its ability to consistently identify, prepare, select and manage the right infrastructure investments.

168. The Investment Policy provides a strong commercial and governance foundation and the stakeholder recommended strengthening the policy further around the quality of infrastructure investment decisions and the long-term public value generated by those investments.

169. The stakeholder stated that Commercial viability should remain central to the Fund. However, commercial viability alone should not become a proxy for infrastructure value. Investment appraisal should explicitly consider:

- (i) economic and social value;
- (ii) strategic national importance;

- (iii) service outcomes and accessibility;
 - (iv) resilience and climate vulnerability;
 - (v) whole-life cost and maintainability;
 - (vi) lifecycle asset performance; and
 - (vii) catalytic effects on regional and economic development.
170. They highlighted that the Fund should assess projects not only on whether they can attract financing, but whether they represent sound long-term infrastructure investments for Kenya. The Policy appropriately requires demand validation, commercial viability, financial returns, technical readiness and risk management.
171. Olyvia recommended that these be operationalised through a transparent multi-dimensional investment appraisal framework, with minimum technical, financial, economic, environmental, social and governance gates before capital commitment. This would reduce the risk of selecting projects primarily because they are financially attractive while overlooking infrastructure that may generate significant wider economic value.
172. The Fund should therefore maintain a dedicated project-preparation function covering,
- (i) feasibility and demand studies;
 - (ii) engineering and technical studies;
 - (iii) land and site readiness;
 - (iv) environmental and social assessments;
 - (v) financial and commercial structuring;
 - (vi) risk allocation;
 - (vii) transaction preparation; and
 - (viii) procurement readiness.
173. The NIF should establish a central, continuously updated information system covering its project pipeline and portfolio. The stakeholder noted that at minimum, this should enable decision-makers to understand:
- (i) project readiness;
 - (ii) estimated cost and financing requirements;
 - (iii) demand and revenue assumptions;
 - (iv) risks and mitigations;
 - (v) implementation progress;
 - (vi) asset condition and performance;
 - (vii) financial performance; and
 - (viii) development outcomes.
174. This would allow the Fund to move from project-by-project decision-making towards portfolio intelligence and evidence-based capital allocation.
175. Olyvia supported the Policy's emphasis on commercial discipline and political independence. This should be reinforced through clearly documented investment decisions, independent technical and financial assurance, conflict-of-interest controls and published performance reporting. The Fund should be sufficiently independent to reject projects that do not meet its investment standards, while retaining a structured

mechanism through which Government may support strategically important projects that require appropriate public intervention.

176. They proposed project and portfolio performance to also track:

- (i) service delivery;
- (ii) cost and schedule performance;
- (iii) asset reliability;
- (iv) lifecycle performance;
- (v) resilience;
- (vi) local economic impact;
- (vii) environmental and social outcomes; and
- (viii) realized versus projected investment assumptions.

177. This will allow the Fund to learn from completed investments and improve subsequent investment decisions.

3.2.10 CPF Group

Through a written memorandum, CPF submitted as follows;

178. **On Section 2.1 – Commercial viability**, CPF noted that the policy should provide for a more comprehensive assessment of commercial viability, including, as applicable, IRR, DSCR/debt capacity, positive NPV, project-specific bankable revenues/offtake, completed feasibility studies, technical readiness, creditworthiness of counterparties, affordability and value for money. These should be applied proportionately depending on the asset class and investment structure. They submitted that the current commercial viability test should be on how the Fund will genuinely determine whether a project is capable of supporting greater private-sector participation.

179. **On Section 2.2 – General investment criteria: financial return**, CPF observed that the proposed 7% minimum requires further clarification. They noted that if the proposed return of 7% is maintained, it becomes the actual expected equity return presented to the Fund and potentially influence the quality of projects Fund's ability to attract institutional capital. They recommended that the Policy adopts a risk-adjusted return framework for equity, senior debt, subordinated debt, quasi-equity and other investment structures, taking into account project-specific risk, construction/development risk, illiquidity, inflation and currency risk where relevant.

180. Additionally, they noted that the Fund is intended to mobilise private and institutional capital. A return framework materially below market, could create an expectation that the fund is willing to provide concessional capital and could ultimately affect the quality of its pipeline and ability to attract co-investors.

181. **On the General investment criteria – non-recourse project debt**, CPF proposed clarifying that project debt should, as a general principle, be non-recourse to the Fund and secured against the relevant project/SPV assets, rights and cash flows.

This should not prevent a private sponsor/promoter from providing completion support, guarantees or additional security where appropriate, subject to the Fund's risk-management and contingent-liability framework. This proposed non-recourse debt requirement is an important protection for the Fund and should be clearly ring-fenced at Fund level.

182. On **Proposed projects**, CPF observed that the Fund should not become a mechanism for transferring or historically poorly performing projects. They recommended requiring every existing or proposed project to undergo a fresh and independent technical, commercial, legal, and financial appraisal before NIF investment. This should include cost-to-complete, outstanding liabilities, contractual position, demand/offtake, revised project economics, implementation risks, land, regulatory and procurement issues.
183. On **Incomplete projects**, CPF stated that existing incomplete or stalled projects should not automatically qualify for NIF financing simply because they are already Government projects. They proposed introducing a clear re-entry test for incomplete/stalled projects. Only projects that demonstrate renewed technical, commercial and financial viability following independent appraisal should qualify. The assessment should also consider whether restructuring, refinancing, rebidding or alternative financing would provide a better outcome before NIF capital is committed.
184. On **Asset allocation and portfolio distribution**, CPF noted that the proposed exposure limits are useful, but concentration risk can arise beyond the sector and single-project limits through common sponsors, counterparties, revenue sources or correlated sectors. They proposed strengthening the concentration-risk framework to cover sector, project, sponsor/counterparty and correlated exposures, together with periodic stress testing and scenario analysis.
185. On **Section 25(2)(f) – Sector and project exposure limits**, CPF submitted that nationally significant projects may, in exceptional circumstances, require exposure above the prescribed limits. However, exceptions should not undermine the diversification framework. They recommended retaining the prescribed limits but introduce a clear exception mechanism requiring documented justification, assessment of the impact on the overall portfolio, enhanced due diligence, appropriate risk mitigation and approval at the appropriate governance level.
186. On **Section 25(4) – Risk management framework**, CPF stated that the Act requires a formal risk-management framework. Given the nature of infrastructure investments, the IPS should provide sufficient direction on the key risks to be addressed. The framework should expressly cover credit, market, liquidity, construction, operational, legal/regulatory, counterparty, concentration, currency, refinancing and contingent-liability risks, together with stress testing, monitoring, early-warning indicators and escalation thresholds.
187. On **Section 19 – Investment structures**, CPF stated that the Fund needs sufficient structuring flexibility to allocate risk appropriately and attract private capital rather than relying predominantly on direct equity investment. They recommended that the policy should expressly encourage appropriate use of SPVs, project finance,

co-investment structures, pooled vehicles, securitisation, project bonds and other capital-markets instruments, where appropriate, to improve risk allocation and crowd in private and institutional capital.

188. **On Section 19 – Credit enhancement**, CPF observed that catalytic role can be significantly strengthened through appropriate credit-enhancement structures that reduce risk for private investors.
189. **On Section 32(2) – Project structuring and preparation**, the stakeholder noted that the ability to mobilise private capital will depend significantly on whether projects are sufficiently prepared before being presented for investment. They proposed providing for appropriate resources for feasibility studies, technical, legal and financial structuring, transaction advisory and project-development costs, with the objective of creating an investment-ready pipeline capable of reaching financial close.
190. **On Section 33 – Feasibility studies**, CPF stated that a feasibility study should establish not only whether a project is technically and economically desirable, but whether it is capable of being financed and implemented. They proposed linking the feasibility assessment more directly to investment approval and require consideration of the financing plan, revenue model, debt capacity, proposed risk allocation, bankability and route to financial close, alongside the statutory technical, legal, social, economic and environmental considerations.
191. **On Section 34 – Government support measures**, CPF observed that Government support can materially improve project bankability but may also create contingent fiscal liabilities. Government guarantees, letters of support, letters of credit and other support measures should be quantified, risk-assessed, appropriately approved and monitored, with clear limits on the Fund's exposure and the resulting contingent liabilities.
192. **On Section 1.3 – Catalytic objective**, CPF highlighted that the catalytic mandate is important, but it should not become a basis for funding projects that are otherwise commercially unviable. They recommended allowing the Fund to accept a lower direct financial return where there is a demonstrable catalytic benefit, such as significant third-party capital mobilisation, project de-risking or market creation. Such investments should require explicit approval, defined financial and development metrics and a clear rationale for the return concession.
193. **On Section 1.3 / capital mobilisation objective**, CPF was of the view that the success of the Fund should be assessed not only by the amount of NIF capital deployed but also by the amount of additional private and institutional capital it mobilises. They proposed a capital mobilisation/crowding-in KPI, including the ratio of private/institutional capital mobilised to NIF capital committed, with a clear methodology distinguishing capital committed from capital actually invested.
194. **On Performance management/section 25(4)**, CPF stated that given the national importance of the Fund, the key performance indicators should be sufficiently clear to assess whether the Fund is delivering on both its commercial and catalytic infrastructure objectives. They proposed including clear KPIs covering financial

returns, capital mobilised, projects reaching financial close, preservation, capital deployment, project completion, defaults/impairments and portfolio concentration, catalytic/development outcomes. Financial and performance indicators should be separately measured.

195. On **Section 24 – Business plan**, CPF stated that the annual business plan should translate the Investment Policy into a practical investment programme. They proposed requiring the business plan to set out the investment pipeline, project-readiness status, capital deployment targets, expected returns, capital mobilisation targets, and capital requirements, with performance monitored against these targets.
196. On **Investment horizon/capital recycling**, the stakeholder was of the view that Infrastructure investments are long-term and illiquid. The Fund's ability to recycle capital will be important to its long-term sustainability and ability to finance subsequent projects.
197. They proposed having an exit and capital-recycling strategy, particularly for equity and quasi-equity investments. Potential mechanisms could include refinancing, strategic/institutional investor exits, capital-markets transactions, asset sales or other appropriate exit assumptions should form part of the original investment case.
198. On **Section 19 / Institutional capital mobilization**, CPF proposed that the Fund should ideally operate as an anchor investor and catalyst for institutional capital rather than becoming the principal or sole source of financing for projects. CPF proposed encouraging co-investment platforms and capital-markets structures that enable pension funds, insurers, banks, DFIs and other institutional investors to invest alongside or through the Fund. The Fund should be able to take an anchor position where this materially improves the ability to achieve financial close.
199. On **Portfolio liquidity / treasury management**, CPF was of the view that the policy should provide principles for liquidity and treasury management, including appropriate temporary liquidity investments with the approved investment pipeline and expected funding requirements.
200. On **Investment governance**, CPF noted that a commercially driven Fund requires clear investment decision-making and appropriate protection against conflicts and deviations from the approved investment framework. They proposed clearly establishing investment approval thresholds, delegated authority, escalation requirements and conflict-of-interest controls, including a requirement for material deviations from approved investment criteria or exposure limits to receive appropriate approval and reporting.
201. On **Reporting and transparency**, CPF highlighted that reporting should enable the Government, Parliament and institutional investors to assess whether the Fund is delivering financial returns and its intended infrastructure impact. They recommended that in addition to statutory reporting, provide for transparent reporting of capital committed and deployed, financial performance, private capital mobilised, project status, portfolio concentration, impairments/defaults and material contingent liabilities, subject to legitimate commercial confidentiality.

3.2.1 EMSI & Associates Advocates LLP

Through a written memoranda EMSI submitted as follows;

202. EMSI submitted that the version of the Investment Policy tabled as Sessional Paper No. 7 of 2026 may be incomplete on its own terms. They noted that the Table of Contents lists only a Foreword, Preface, Abbreviations, Executive Summary, four chapters and one appendix, yet the appended Compliance Checklist and Key Board Policy Decisions annex refer to a Project Preparation section, an Infrastructure Investment Framework, a Technical Integrity Principle, an Investment Decision Framework, an Infrastructure Governance Framework, a political independence clause, and a five-dimensional performance framework, none of which appear in the 22-page document as tabled.
203. EMSI stated that this gap is particularly significant because the Compliance Checklist records an 'Aligned' self-assessment against sections 32 and 33 of the Act, concerning feasibility studies and project preparation, despite the supporting text not being before Parliament. EMSI recommended requiring the Governing Council and Treasury to confirm in writing that the tabled version is complete, submit the missing sections or correct the annex's cross-references, suspend the ninety-day consideration period under section 27 until completeness is verified, and provide a corrected, fully paginated version of the Policy.
204. EMSI observed that the Investment Policy does not satisfy section 25(2)(b) of the Act, which requires the Policy to specify proposed projects in addition to priority sectors. They stated that paragraph 3.2, titled '*Proposed Projects*', restates sector categories rather than naming any project, pipeline or investment opportunity, and that the Policy's general investment criteria, a minimum 7 percent equity return and a 60 percent non-recourse debt capacity threshold, are investment screening criteria rather than the project-specific expected rates of return required by section 25(2)(d).
205. EMSI recommended that;
- (i) the Governing Council append a defined project list or a documented project-identification methodology with a near-term pipeline,
 - (ii) provide indicative project-level or sector-level expected returns distinguishable from the general screening criteria, and
 - (iii) confirm that any future addition of named projects outside the approved policy will be treated as a substantive amendment under section 30 rather than being implemented through administrative action.
206. EMSI submitted that the Investment Policy expands the Fund's mandate beyond the statutory definition of 'national infrastructure' in section 2 of the Act. They noted that paragraph 3.2(b) extends the energy category to petroleum, oil, gas, refineries, pipelines and LNG infrastructure, none of which fall within the statutory definition, which is confined to electricity generation, transmission and distribution. Additionally, they stated that paragraph 3.2(f) creates an open-ended 'Other National Priority

Infrastructure' category that the Governing Council may expand without express parliamentary approval. Further, paragraph 1.1 uses the term 'catalytic national infrastructure', a phrase featured in the NIF Bill but was not carried into the enacted Act.

207. EMSI further submitted that the recently enacted Sovereign Wealth Fund Act, 2026 establishes a Strategic Infrastructure Investment Component with a broader, more open-ended mandate than the NIF Act's closed list, creating a material risk of overlap, competing project pipelines and duplicated public capital deployment between the two vehicles. They recommended that paragraph 3.2(b) be strictly aligned with the statutory definition, the term 'catalytic national infrastructure' be replaced with the statutory term, that any designation under paragraph 3.2(f) require National Assembly ratification or a formal amendment under section 30, and that Treasury table a coordination framework clarifying the division of responsibilities between the NIF and the Sovereign Wealth Fund's Strategic Infrastructure Investment Component.
208. EMSI observed that the Investment Policy does not address the reporting and disclosure obligations under section 35, the dual-account structure at the Central Bank of Kenya under section 40, the expenditure-control mechanism under section 41, or the withdrawal restrictions under section 42, which operate alongside Article 228(5) of the Constitution.
209. **EMSI** stated that these are not among the Policy's mandatory content requirements under section 25(2), but they are key safeguards over the custody and expenditure of Fund assets, and that omission could imply the existence of broader governance, treasury-management and control frameworks through which these statutory safeguards are intended to be operationalized.
210. EMSI recommended that the Governing Council confirm in writing that these statutory controls have been incorporated into the Fund's governance instruments, identify the specific instruments implementing them, provide the Committee with a summary of those arrangements, and ensure future Investment Policies describe the Fund's principal statutory financial controls on their face.
211. **EMSI** submitted that the Policy's 40% sector exposure cap and 20% single-project exposure cap permit substantial concentration relative to the Fund's narrow sectoral universe. They noted that an equally weighted allocation across the Act's eight sectors would be approximately 12.5% each, so a 40% cap allows concentration at more than three times that level, and that a 20% single-project limit means as few as five projects could account for the entire portfolio. Based on the approximately KES 310.3 billion of anticipated seed capital identified in the FY 2026/27 Budget Statement, EMSI calculated that a single project could absorb approximately KES 62 billion and a single sector approximately KES 124 billion.
212. The stakeholder highlighted that these thresholds are policy choices by the Governing Council rather than statutory requirements, since sections 25(2)(e) and (f) require the Policy to address diversification and risk management without prescribing

numerical limits. EMSI recommends that the Governing Council justify the thresholds with portfolio modelling and pipeline analysis, submit sensitivity analyses for early-stage concentration scenarios, consider a lower single-project limit of 10 to 15 percent during the Fund's formative years with graduated increases tied to asset growth, require exposure compliance to be measured at each reporting date rather than only at approval, and cross-reference the limits to the statutory Risk Management Framework.

213. EMSI submitted that the Investment Policy introduces an 'Investment Strategy' as a Board-level implementation instrument that has no basis anywhere in the Act. They stated that, as drafted, this instrument could become the primary document shaping investment selection and portfolio construction while sitting outside the governance framework established under sections 25 to 31, without a specified legal status, approval process, content requirement or reporting obligation.

214. EMSI recommended that-

- (i) the Governing Council either remove reference to the Investment Strategy and rely solely on the Annual Business Plan and Risk Management Framework.
- (ii) Or, if it is retained, require Governing Council approval in addition to Board approval, provide the Committee with a copy or framework description of it, and
- (iii) if operationally necessary, pursue a future legislative amendment in the Act expressly establishing it.

215. EMSI submitted that the Policy's Treasury Management Framework, governing capital awaiting deployment, is undefined by the Act, which recognises only a Risk Management Framework requiring Governing Council approval under section 25(4). EMSI noted that paragraph 2.1 of the Policy omits the requirement that the Risk Management Framework receive Governing Council approval before taking effect, and that this matters because a substantial share of the Fund's approximately KES 310.3 billion in anticipated seed capital, from the Kenya Pipeline privatisation and the proposed partial divestiture of the Government's Safaricom stake to Vodacom, may sit uninvested for extended periods, exposed to cash-management, liquidity, custodial, counterparty and interest-rate risk under a framework lacking clear statutory footing.

216. EMSI recommended that paragraph 2.1 be amended to require Governing Council approval of the Risk Management Framework, that

- (i) the Treasury Management Framework and Treasury Policies be integrated into the statutory Risk Management Framework rather than maintained as separate instruments,
- (ii) both frameworks be tabled before the Committee given the scale of resources involved, and

- (iii) the governance hierarchy between the Policy, the Risk Management Framework and Board-level procedures be clarified.
217. EMSI stated that the Policy appears to introduce a capitalization source not found in section 38 of the Act, which sets out an apparently exhaustive list of three sources: privatisation proceeds, proceeds from the sale of shares in a government-linked corporation under section 87A of the PFM Act, and the Fund's own investment income. EMSI noted that page 6 of the Policy nonetheless describes the Fund as capitalised from privatisation proceeds 'and other strategic capital allocations by the Government', an undefined phrase capable of being read as direct budgetary transfers, Exchequer injections or special appropriations not authorised by section 38.
218. EMSI recommended that;
- (i) the phrase be deleted or replaced with an express cross-reference to section 38(a) to (c), or, if direct government capital support is intended,
 - (ii) Treasury provide the statutory authority for it, clarify whether any future government capital contributions are anticipated beyond section 38, and
 - (iii) confirm that any expansion of funding sources would require amendment of the Act rather than policy language alone.
219. EMSI submitted that the Policy's seven investment principles, commercial discipline, commercial viability, financial sustainability, capital mobilisation, technical integrity, responsible stewardship and national development, are not defined, not linked to measurable indicators, and are not connected to the five General Investment Criteria in paragraph 2.2 in any way. EMSI stated that, as drafted, the principles operate as statements of aspiration rather than enforceable standards capable of constraining the Board's investment discretion.
220. EMSI recommended that;
- (i) each principle be given an operative definition or cross-referenced to the provisions implementing it,
 - (ii) measurable indicators be attached to each, such as a minimum private-sector co-investment ratio for capital mobilisation,
 - (iii) paragraph 2.2 state expressly that the General Investment Criteria are the minimum operational implementation of the principles,
 - (iv) additional criteria be considered, including sector alignment, local content, technology transfer and capacity building reflecting section 4(d) of the Act, and
 - (v) annual reporting under section 35 demonstrate how each approved investment satisfied both the principles and the criteria.

221. EMSI also submitted that paragraph 2.3, which allows investments falling short of the General Investment Criteria to proceed where Government Support Measures are provided, does not restate the statutory limits in section 34(2), under which such measures are permitted only to reduce political-risk premiums or to underwrite approved commercial risks under a negotiated project agreement. They observed that omitting these limits risks Government Support Measures being used generally to compensate for weak commercial fundamentals, and that such measures do not eliminate public-sector risk but convert it into a contingent liability of the national government, which defeats the purpose stated in section 4 of the Act if left undisclosed.

222. The stakeholder recommended that;

- (i) paragraph 2.3 expressly cross-reference section 34(2),
- (ii) Government Support Measures be confirmed as not constituting a general exemption from the commercial-viability, financial-return or technical-readiness requirements,
- (iii) annual disclosure under section 35 cover the aggregate value, form, beneficiary projects and corresponding contingent liabilities of such measures,
- (iv) an explicit exposure limit or participation cap be introduced, and
- (v) the Risk Management Framework monitor aggregate contingent-liability exposure across the whole portfolio rather than project by project.

223. EMSI further submitted that Chapter 4's five performance dimensions, financial performance, capital deployment, capital mobilisation, portfolio quality and national development outcomes, are appropriate categories but carry no quantitative measures, reporting thresholds or baselines in the Policy itself. They noted that performance indicators are instead left to the Annual Business Plan, an instrument not subject to the same Cabinet and parliamentary approval process as the Investment Policy, so that material performance expectations could shift from one Business Plan cycle to the next without corresponding review.

224. They recommended that at least one headline KPI be embedded in the Policy for each of the five categories, for example a minimum blended portfolio-return target for financial performance and a private-capital-mobilisation ratio for capital mobilisation, that Annual Business Plan KPIs be required to align with and report against these headline indicators, that independent verification by the Auditor-General or another authorised reviewer be required, and that annual reporting explain any material deviation from approved targets.

225. **EMSI** submitted that Appendix I of the Policy states that 'Investment Authority' is delegated through the Board Charter, an instrument not disclosed to Parliament, without specifying the extent of the delegation, to whom it is made, reporting obligations, or how the Board retains accountability. They noted that sections 18 and

19 of the Act vest governance and investment powers directly in the Board, and submits that deferring investment authority to an unpublished Charter creates uncertainty over who may ultimately authorise the commitment of Fund capital.

226. EMSI recommended that;

- (i) any delegation be confined to Board committees under the framework contemplated by section 21, such as an investment committee, and remain subject to Board approval unless Parliament expressly authorises broader delegation by amending the Act;
- (ii) delegation to management, external advisers or third parties be confirmed as impermissible except where expressly permitted by law; and
- (iii) material delegation thresholds and reserved matters be disclosed within the Policy itself rather than left to an unpublished governance document.

227. On capitalisation, EMSI noted that the FY 2026/27 Budget Statement identifies approximately KES 310.3 billion in seed capital, KES 106.3 billion from the Kenya Pipeline Company IPO and approximately KES 204 billion from the proposed partial divestiture of the Government's Safaricom stake to Vodacom, which remains modest against Treasury's own stated infrastructure financing gap of approximately USD 5 billion, or roughly KES 647 billion, a year. EMSI submitted that the Fund's future capitalisation depends on the timing of further privatisation transactions, the Government-Owned Enterprises Act, 2025, and regulations under section 48 of the Act whose status remains unclear, and cautions that if Government Support Measures become routine rather than exceptional, the practical effect may be to transfer fiscal risk rather than eliminate it.

228. On institutional overlap, EMSI noted that the Fund will operate alongside the Public-Private Partnerships programme under the PPP Act and the Strategic Infrastructure Investment Component under the Sovereign Wealth Fund Act, and submitted that without a clear division of mandates there is a risk of duplicated project origination, fragmented governance, competition for scarce capital and inconsistent investment decisions. EMSI recommended that Treasury explain how the Fund will scale toward closing the financing gap, incorporate Government Support Measures into fiscal-risk and debt-sustainability reporting, table a coordination framework covering the NIF, the PPP programme and the Sovereign Wealth Fund's Strategic Infrastructure Investment Component, provide a timeline for regulations under section 48, and confirm the governance and reporting measures that will apply while capital is being accumulated.

3.2.12 Dhamana Guarantee Company Limited

Through a written memoranda, Dhamana submitted as follows;

229. Dhamana stated that it supports the establishment of the Fund and its objectives. Dhamana recommended that the Policy should expressly recognise guarantees, credit enhancement, contingent capital facilities and other risk-sharing mechanisms as eligible instruments through which the Fund may leverage public capital to mobilise private investment.
230. They stated that the Policy authorise the Fund to allocate a portion of its capital to a National Infrastructure Guarantee and Risk-Sharing Window. This window would provide contingent backstop support to approved credit enhancement providers, such as Dhamana itself, enabling infrastructure bonds and project finance debt to be guaranteed and placed with domestic institutional investors, including pension funds, insurers and banks.
231. Dhamana highlighted that it had earlier proposed to the Government of Kenya a de-risking arrangement under which a portion of the Fund would be retained as a contingent capital facility or de-risking tranche, with Dhamana issuing guarantees to investors and the Fund's de-risking tranche operating as a contingent reimbursement or risk-sharing backstop in the event of defined claims.
232. They observed that this model is consistent with the Policy's stated objectives because it allows public capital to be leveraged multiple times rather than spent once, supports local currency financing, mobilises pension fund capital, and reduces the need for direct public borrowing.
233. Dhamana recommended amendments to the Investment Policy as follows:
- (i) Recognise guarantees, credit enhancement, contingent capital and risk-sharing facilities as eligible deployment tools. They stated that the Fund can crowd in private capital rather than relying only on direct investments.
 - (ii) Create a National Infrastructure Guarantee and Risk-Sharing Window within or alongside the Fund. They noted that, Dhamana and other approved partners can de-risk infrastructure assets and mobilise domestic capital.
 - (iii) Permit supported projects to issue guaranteed infrastructure bonds, notes and asset-backed securities. The stakeholder observed that Pension funds, insurers and asset managers obtain investable infrastructure products.
 - (iv) Allow Treasury-supported payment support and reimbursement frameworks for public-sector obligations. They stated that this will reduce investor concern over government, county or SOE payment delays.
 - (v) Create a development risk and project preparation facility. A stronger pipeline of bankable, financeable and investment-ready projects.

- (vi) Adopt mobilisation ratios and private capital participation as performance indicators. The Fund is assessed by capital catalysed, not only capital deployed.
 - (vii) Prioritise KES-denominated financing and credit enhancement. They stated that this will reduce foreign exchange risk and deeper domestic capital markets.
234. Dhamana submitted that, without express recognition of guarantee and risk-sharing instruments, the Policy carries several risks. They stated that the Fund may become simply a public investment vehicle rather than a platform that systematically crowds in banks, pension funds, insurers and other private investors, and that commercially important projects may fail to reach financial close where the Policy provides no structured tools to bridge credit, revenue or completion risk gaps.
235. Further, Dhamana observed that investors may remain cautious where projects depend on payments from government entities, counties, utilities or state-owned enterprises, that domestic banks may be unable or unwilling to provide financing tenors matched to project cash flows without credit enhancement or refinancing support, and that projects with construction exposure may remain unsuitable for pension funds unless backed by completion and performance support mechanisms. Additionally, project preparation may stay underfunded absent development risk capital, and that foreign currency borrowing may expose projects to depreciation risk while the absence of refinancing mechanisms could trap bank liquidity and limit project scale.
236. Dhamana proposed that contingent capital be expressly recognised as an eligible Fund deployment modality, permitting the Fund to allocate a portion of its resources to contingent capital facilities, risk reserves or guarantee support arrangements.
237. Additionally, they proposed that the Fund establish a dedicated Guarantee and Risk-Sharing Window supporting partial credit guarantees, bond guarantees, payment guarantees, refinancing guarantees, portfolio risk-sharing and project development guarantees, governed by clear eligibility, pricing, claims, monitoring and reporting rules. They stated that the Policy should create a category of approved capital mobilisation and risk-sharing partners, including financial guarantors, development finance institutions, credit enhancement providers and qualified infrastructure financing intermediaries.
238. Dhamana proposed that the Policy expressly permit Fund-supported projects to issue guaranteed infrastructure bonds, project bonds, green bonds, climate bonds, municipal bonds and asset-backed infrastructure securities, to create investable instruments for pension funds and insurers. They also proposed that, where the Fund supports a contingent facility, the Policy require pre-agreed Treasury reimbursement arrangements, reserve account mechanics, payment waterfalls and claim settlement procedures, that mobilisation performance be measured through indicators covering private capital mobilised, pension fund participation, guarantees issued, infrastructure bonds placed, refinancing volumes and leverage ratios achieved, and that the Fund

prioritise Kenya Shilling-denominated financing where commercially feasible to reduce foreign exchange exposure and deepen domestic capital markets.

239. Dhamana's included four supporting annexes. Annex 1 sets out a Risk-to-Guarantee Mechanism Matrix, mapping eight categories of project risk, including bankability, institutional investor participation, government or offtake payment risk, construction and completion risk, refinancing risk, bank portfolio capacity risk, project preparation risk and currency risk, to a corresponding Dhamana guarantee mechanism and the policy implication of recognising it.
240. Annex 2 sets out Dhamana's proposed NIF-Dhamana Contingent De-Risking Facility as an eight-step process: the Fund allocates a portion of its capital to a contingent de-risking tranche or risk reserve; Dhamana is appointed as a risk-sharing and credit enhancement partner under objective eligibility criteria; eligible projects, SPVs, state-owned enterprises, counties, PPPs or utilities issue KES-denominated debt instruments or obtain bank debt; Dhamana guarantees timely payment of principal and interest to bondholders, lenders or trustees; pension funds, insurers, banks and asset managers invest in the guaranteed instrument; Dhamana pays investors promptly if a defined payment default occurs; Dhamana is reimbursed, to the extent agreed, from the Fund's contingent de-risking tranche, reserve account or reimbursement facility; and the Fund reports capital mobilised, guarantee exposure, claims, recoveries, leverage ratios and development impact.
241. Annex 3 cites four international precedents Dhamana stated support recognising guarantee mechanisms in the Policy: InfraCredit in Nigeria, for local currency infrastructure bond guarantees; the African Development Bank's partial risk and partial credit guarantee facilities; Brazil's IDB-supported public-private partnership guarantee structures for government and public entity payment obligations; and Indian credit enhancement and refinancing models for long-tenor infrastructure financing.
242. Annex 4 sets out proposed conditions and safeguards for the Guarantee Window, namely objective eligibility criteria on commercial viability, public benefit, legal due diligence and environmental and social compliance; independent underwriting through credit, legal, technical and ESG review; risk-based guarantee pricing; exposure limits by project, sector, sponsor, county, offtake and guarantee provider; a defined claims process with triggers, cure periods, payment timelines and reserve account arrangements; annual transparency and reporting; and a safeguard that Dhamana remains an active risk underwriter, so that NIF support does not create automatic or unlimited government liability.

CHAPTER FOUR

4.0 COMMITTEE OBSERVATIONS

243. The Committee, having considered Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy and having engaged relevant stakeholders, makes the following observations:

4.1 Investment Policy Framework

- (i) THAT, the Sessional Paper does not provide a comprehensive investment policy framework to guide the Fund in making investment decisions in a consistent, transparent and prudent manner. In particular, the Sessional Paper does not clearly set out the key investment guardrails relating to eligible and priority infrastructure sectors, project selection and ranking criteria, commercial viability, financial returns, capital mobilisation and additionality, portfolio allocation, sector and project exposure limits, leverage and borrowing, risk management, liquidity and treasury management, governance and conflict-of-interest safeguards, and monitoring, evaluation and reporting.
- (ii) The Committee notes that the absence of these overarching parameters could result in inconsistent investment decisions and expose the Fund to unnecessary financial, operational and governance risks. The Committee therefore recommends that the Sessional Paper be amended to provide for a comprehensive investment policy framework establishing the principal investment guardrails applicable to the Fund and to enable the Board to operationalize detailed investment policies in line with the Fund's mandate and national infrastructure priorities.

4.2 Demand Validation

- (iii) THAT, the Sessional Paper does not adequately address the need to establish whether the intended users or consumers of a proposed infrastructure project have both the ability and willingness to pay for the services to be provided. The Committee notes that infrastructure projects may have technically sound designs and strong projected demand but may nevertheless fail to generate sustainable revenues if the proposed users cannot afford the applicable charges or are unwilling to pay them. The Committee further notes that an assessment of ability to pay and willingness to pay is important in determining appropriate tariffs, user charges, revenue projections and ultimately the commercial viability of a project. The Committee therefore recommends that the Sessional Paper be amended to require demand validation to include an assessment of the ability to pay and willingness to pay of the target consumers or users of the project.

4.3 Commercial Viability and Project Leverage

- (iv) THAT, the Sessional Paper does not provide sufficient clarity on the minimum commercial-viability requirements for projects or the treatment of proposals that depart from Board-approved financing parameters. The Committee noted that

requiring projects to demonstrate capacity to support a minimum level of non-recourse project debt would provide an objective measure of bankability, while strategically important projects may, in exceptional circumstances, require restructuring or Government Support Measures to improve their commercial viability. The Committee further observed that any departure from approved financing parameters should be properly justified and assessed to ensure that the Fund is not exposed to disproportionate financial and commercial risks. The Committee therefore recommends that the Sessional Paper be amended to prescribe a minimum 60% non-recourse project-debt requirement relative to total project cost, provide for appropriate project restructuring or Government Support Measures for strategically important projects that do not meet the threshold, and require any other departure from Board-approved financing parameters to be supported by a documented assessment of the associated risks, returns, debt-service capacity, Fund exposure and capital-protection measures.

4.4 Financing Structure Deviations

- (v) THAT, the Sessional Paper does not provide sufficient guidance on the treatment of investment proposals that depart from Board-approved financing parameters. The Committee noted that while flexibility may be necessary for projects with strategic or developmental significance, such departures may increase the Fund's financial and credit risks and should therefore be supported by clear justification and risk assessment. The Committee therefore recommends that the Sessional Paper be amended to require any departure from Board-approved financing parameters, other than the minimum project-debt requirement under the Policy, to be justified in the investment appraisal, including an assessment of the incremental risks, impact on expected returns, debt-service capacity and Fund exposure, together with measures to protect the Fund's capital.

4.5 Financial Returns

- (vi) THAT, the Sessional Paper currently appears to treat the prescribed 7% return as the applicable benchmark without sufficiently distinguishing between a minimum capital-preservation threshold and the Fund's target commercial return. The Committee noted that investment decisions should require a positive risk-adjusted expected equity return, taking into account the risks associated with each project, and that the 7% threshold should serve as an absolute minimum rather than the Fund's target return. The Committee further observed that strategically important projects may, in exceptional circumstances, require project restructuring or Government Support Measures to achieve the minimum return, and that projects which remain unable to meet the minimum threshold may be more appropriately supported through the Government's fiscal or budgetary framework. The Committee therefore recommends that the Sessional Paper be amended to require a positive risk-adjusted expected equity return, subject to an absolute minimum expected equity return of 7%, clarify that the 7% threshold is a capital-preservation

floor and not the Fund's target commercial return, and provide for project restructuring or applicable Government Support Measures for strategically important projects, with projects that remain below the minimum threshold being considered through the appropriate Government fiscal or budgetary framework.

4.6 Technical Readiness and Capital Mobilisation

- (vii) THAT, the Sessional Paper places emphasis on financial, commercial and regulatory considerations but does not adequately provide for a structured assessment of the technical readiness of proposed infrastructure projects. The Committee noted that a project may be financially viable but may still face significant implementation challenges where its design, technology, site readiness, procurement arrangements or other technical requirements are not sufficiently developed. The Committee further observed that some infrastructure projects may require government support measures before they can reach financial close or commence implementation. The Committee therefore recommends that the Sessional Paper be amended to provide that technical readiness shall be assessed against a technical readiness framework developed by the Board and that the assessment shall also establish whether the project will require government support measures.

4.7 Risk Management

- (viii) THAT, the Sessional Paper does not provide sufficiently detailed requirements for the assessment of the major risks associated with individual infrastructure projects. The Committee noted that infrastructure investments are exposed to multiple and interconnected risks that can affect project costs, completion, revenues, operations, debt repayment and ultimately the Fund's expected returns. The Committee was of the view that a comprehensive risk assessment should form an integral part of project appraisal and approval.
- (ix) The Committee further observed that Section 25(4) of the National Infrastructure Fund Act, 2026 contemplates a risk management framework for the Fund. The Committee noted that the risk management framework appears to be a distinct requirement from the matters specified under Section 25(2). However, the Committee was of the view that, to the extent that risk management forms part of the investment criteria and guardrails of the Investment Policy, it should be expressly incorporated into the Sessional Paper to provide a clear basis for assessing project risks and protecting the Fund's capital. The Committee therefore recommends that the Sessional Paper be amended to require projects to comply with the risk management framework and demonstrate adequate assessment of financial, construction and completion, operational, user demand, legal and regulatory, environmental and social, political, foreign-exchange and interest-rate risks, together with any other material project-specific risks.

4.8 Government Support Measures

- (x) THAT, the Sessional Paper does not adequately provide for the assessment and disclosure of contingent liabilities that may arise where a project benefits from government support measures. The Committee noted that government guarantees, commitments, undertakings or other forms of support may create financial obligations or exposures over the life of a project, even where such obligations do not arise immediately. The Committee was of the view that such potential liabilities should be identified and quantified at the project appraisal stage to facilitate proper assessment of fiscal and financial risks. The Committee therefore recommends that the Sessional Paper be amended to provide that a project which obtains government support measures shall include the estimated contingent liabilities for the duration of the project.

4.9 Proposed Projects and Investment Framework under section 25 of the Act

- (xi) THAT, section 3.2 of the Sessional Paper does not comprehensively reflect the matters required under section 25 of the National Infrastructure Fund Act, 2026. The Committee noted that section 25(2) uses the mandatory wording that the Investment Policy “shall specify” the prescribed matters. The Committee was therefore of the view that these statutory requirements constitute the substantive yardstick against which the Committee should assess the Investment Policy in determining whether to approve it, decline it, or approve it with amendments.
- (xii) The Committee further observed that the Sessional Paper does not comprehensively provide for the proposed projects, expected rates of return on specific projects, asset allocation, portfolio distribution, leverage ratios, the Investment Policy, and exposure limits per sector and project. The Committee therefore recommends that section 3.2 be amended to align the Sessional Paper with the requirements of section 25 of the National Infrastructure Fund Act, 2026 and to ensure that all matters required under the Act are expressly provided for.

4.10 Validity Period of the Investment Policy

- (xiii) THAT, Section 25(3) of the National Infrastructure Fund Act, 2026 expressly provides for the validity of the Investment Policy for a period of five years. The Committee noted that the proposal by the National Treasury for an annual review of the Investment Policy may fall outside the scope of the five-year validity period prescribed by the Act. The Committee was of the view that the Sessional Paper should be aligned with the statutory requirement and that any review or adjustment of the Investment Policy should be undertaken in a manner consistent with the Act. The Committee therefore recommends that the Sessional Paper be amended to ensure that the validity and review of the Investment Policy are aligned with the five-year period prescribed under section 25(3) of the National Infrastructure Fund Act, 2026.

4.11 Portfolio Framework and Exposure Limits

- (xiv) THAT, the Sessional Paper provided for maximum sector and single-project exposure limits but did not adequately provide for circumstances in which the Board may need to adjust those limits based on the characteristics and strategic importance of particular investments. The Committee noted that rigid application of exposure limits may not adequately account for the correlation between sectors and projects, economies of scale, liquidity requirements or the wider economic impact of strategically important infrastructure investments. The Committee was therefore of the view that the Board should have limited discretion to adjust exposure limits based on objective and demonstrable considerations while maintaining prudent portfolio management. The Committee therefore recommends that the Sessional Paper be amended to provide that the Board may adjust the maximum sector and single-project exposure limits based on an assessment of correlation between sectors and projects, economies of scale, liquidity requirements, and the economic impact of the sector or project on economic growth and employment creation.

4.12 Conflicts of Interest

- (xv) THAT, the Sessional Paper does not provide sufficiently explicit requirements for the identification and disclosure of actual, potential and perceived conflicts of interest in the appraisal and approval of investment projects. The Committee noted that conflicts of interest may undermine the objectivity and integrity of investment decisions and may expose the Fund to reputational, financial and governance risks. The Committee was therefore of the view that conflict-of-interest disclosure should form part of the project appraisal and approval process, particularly where public or State officers are involved. The Committee therefore recommends that the Sessional Paper be amended to require every project appraisal and approval to be accompanied by a statement disclosing any actual, potential or perceived conflict of interest involving a public or State officer, in accordance with the Conflict of Interest Act.

CHAPTER FIVE

5.0 COMMITTEE'S RECOMMENDATIONS

244. The Committee, having considered Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy and pursuant to the provisions of section 28 (b) of the National Infrastructure Fund Act, No. 4 of 2026, recommends that the House **approves the Sessional Paper with amendments as proposed in the Schedule in Chapter Six of this Report.**

CHAPTER SIX

6.0 SCHEDULE OF AMENDMENTS

The Committee proposes the following amendments to Sessional Paper No. 7 of 2026 on the National Infrastructure Fund Investment Policy:

(I) CHAPTER TWO — POLICY GUIDELINES

2.1 Purpose and Scope of the Investment Policy

THAT, the Sessional Paper be amended under 2.1 to include the following paragraph-

“The board shall operationalize a comprehensive investment policy framework establishing the principal investment guardrails applicable to the fund, including the following requirements:

- (a) eligible and priority infrastructure sectors;*
- (b) project-selection and ranking criteria;*
- (c) commercial viability;*
- (d) financial returns and the methodology for determining required returns;*
- (e) capital mobilization and additionality;*
- (f) portfolio allocation;*
- (g) sector and project exposure limits;*
- (h) leverage and borrowing;*
- (i) risk management;*
- (j) liquidity and treasury management;*
- (k) governance and conflict-of-interest safeguards; and*
- (m) monitoring, evaluation and reporting.”*

Justification: To establish clear investment guardrails for the Fund and ensure that investment decisions are made in a transparent, prudent and consistent manner. It provides a framework for project selection, financial returns, portfolio allocation, exposure limits, risk management, governance, and accountability, while enabling the Board to operationalize detailed investment policies in line with the Fund’s mandate and national infrastructure priorities.

(2) INVESTMENT CRITERIA

Demand Validation

THAT, the Sessional Paper be amended under paragraph 2.2 to include the following paragraph—

“In determining demand validation, the project shall provide an analysis of the ability to pay and willingness to pay of the target consumers or users of the project.”

Justification: Assessments of the ability to pay and willingness to pay of the target population of users or consumers is critical in determining the appropriate user charges which anchor the commercial viability of the projects.

(3) COMMERCIAL VIABILITY AND PROJECT LEVERAGE

THAT, the Sessional Paper be amended under paragraph 2.2 by deleting the sub-paragraph titled “commercial viability and substituting the following new sub-paragraphs-

“Commercial viability: A project shall demonstrate capacity to support a minimum of 60% non-recourse project debt relative to total project cost.

Where a strategically important project does not meet this threshold, appropriate project restructuring or Government Support Measures permitted under section 34 of the Act may be considered to improve bankability.

A project that remains unable to meet the minimum commercial-viability threshold should be considered through the applicable Government fiscal or budgetary funding framework rather than investment by the Fund.

Where an investment proposal departs from the Board-approved financing parameters other than the minimum project-debt requirement under this Policy, the investment appraisal shall document the rationale for the departure, incremental risks, impact on expected returns, debt-service capacity and Fund exposure, and the measures proposed to protect the Fund's capital.”

Justification: The proposed amendment strengthens the Fund’s investment appraisal by requiring any departure from approved financing parameters to be justified and assessed for its impact on risk, returns, debt-service capacity and Fund exposure. It allows flexibility for strategic projects while ensuring departures are evidence-based, transparent and supported by appropriate risk-mitigation measures, thereby protecting the Fund’s capital and reinforcing accountability.

(4) FINANCIAL RETURN

THAT, the Sessional Paper be amended under paragraph 2.2 by deleting the subparagraph titled “financial return” and substituting with the following subparagraph:

“Projects shall be required to generate a positive risk-adjusted expected equity return, subject to an absolute minimum expected equity return of 7%.

Where a strategically important project cannot meet the minimum return, project restructuring or Government Support Measures permitted under section 34 may be considered where applicable. A project that remains unable to meet the minimum return should be considered through the applicable Government fiscal or budgetary funding framework rather than investment by the Fund.”

Justification: The proposed amendment distinguishes the Fund’s minimum capital-preservation threshold from its target commercial return. The 7% minimum provides a prudent floor for investment decisions, while the positive risk-adjusted return requirement ensures that projects are assessed against their underlying risks. It also allows restructuring or Government Support Measures for strategically important projects. Where the minimum return remains unattainable, the project should be considered through the Government’s fiscal or budgetary framework, thereby protecting the Fund’s capital and maintaining investment discipline.

(5) INVESTOR READINESS AND CAPITAL MOBILISATION

THAT the Sessional Paper be amended under paragraph 2.2 by inserting the following new sub-paragraph immediately after the words ‘regulatory approval’ -

“Technical readiness shall be assessed against a technical readiness framework developed by the Board. Further, technical readiness shall also include whether the project will require government support measures”

Justification: To ensure that infrastructure projects are assessed not only on their financial and commercial viability but also on their technical readiness and implementation requirements. Requiring a Board-approved technical readiness framework, including an assessment of any government support measures required, will improve project preparedness, identify implementation risks early, and support more informed investment and capital mobilisation decisions.

(6) RISK MANAGEMENT

THAT, the Sessional Paper be amended under paragraph 2.2 immediately after the words *Risk management framework* by inserting the following new sub-paragraph—

“Projects shall comply with the framework and demonstrate adequate assessment of major risks, including —

- (a) financial risk;*
- (b) construction and completion risk;*
- (d) operational risk;*
- (e) user demand risk;*
- (f) legal and regulatory risk;*
- (g) environmental and social risk;*
- (h) Political Risk;*
- (i) foreign-exchange risk and interest-rate risk;*
- (j) any other material project-specific risk.”*

Justification: to ensure that all projects are subject to a consistent and comprehensive risk assessment before investment decisions are made. Requiring projects to comply with the risk management framework and assess key financial, construction, operational, demand, legal, environmental, political, foreign-exchange, interest-rate and project-specific risks will strengthen due diligence, support informed decision-making, and safeguard the Fund against material risks and potential losses.

(7) GOVERNMENT SUPPORT MEASURES

THAT, the Sessional Paper be amended under Paragraph 2.3 to provide that,

“The project which obtains government support measures shall also include the estimated contingency liabilities for the duration of the project.”

Justification: To ensure that projects receiving government support measures properly identify and quantify the potential contingent liabilities arising from such support over the life of the project. This will promote transparency, enable the Fund and Government to assess potential financial exposures, and strengthen fiscal risk management and informed investment decision-making.

(8) CHAPTER THREE — PROPOSED SECTORS AND PROJECTS FOR DEVELOPMENT

Delete Section 3.2 and replace with the following paragraph: “**a list of proposed projects**; any existing incomplete projects from the previous Investment Policy; the expected rate of return on investment for specific projects; asset allocation, portfolio distribution and leverage ratios; and, exposure limits per sector and project, in accordance with the mandatory provisions of section 25 of the Act.”

Justification: The amendment is necessary to align Section 3.2 with the mandatory requirements of section 25 of the National Infrastructure Act, 2026, and to ensure that the Sessional Paper provides a comprehensive framework for investment planning and oversight. It will promote transparency and accountability by clearly identifying proposed and incomplete projects, expected returns, asset allocation, portfolio distribution, leverage ratios, investment policy and exposure limits, thereby supporting prudent management of the Fund and compliance with the Act.

(9) PORTFOLIO FRAMEWORK AND EXPOSURE LIMITS

THAT, the Sessional Paper be amended by inserting a new paragraph before 3.4—

“The Board may adjust the maximum sector and single project exposure limits based on an assessment of correlation between sectors and projects, economies of scale, liquidity requirements, and economic impact of the sector or the single project on economic growth and employment creation.”

Justification: To ensure that the Fund’s exposure limits remain responsive to the specific characteristics and economic significance of investments, the amendment provides the Board with flexibility to adjust sector and single-project limits based on correlation, economies of scale, liquidity requirements, and the potential impact on economic growth and employment creation. This will promote prudent portfolio management while allowing the Fund to support strategically important investments.

Insert new section 3.4(a) before 3.5—

3.4(A) Conflicts of Interest

“Each project appraisal and approval shall be accompanied by a statement of actual, potential and perceived conflict of interest of any public officer or state officer in accordance with the Conflict of Interest Act.”

Justification: To ensure that project appraisal and approval processes are transparent, objective and free from undue influence, the amendment requires disclosure of any actual, potential or perceived conflict of interest involving public or State officers in accordance with the Conflict of Interest Act. This will strengthen governance, promote accountability and protect the integrity of the Fund's investment decisions.

SIGNED.....



DATE.....

27th August 2026

**HON. FCPA KURIA KIMANI, CBS, MP
CHAIRPERSON
DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL
PLANNING**

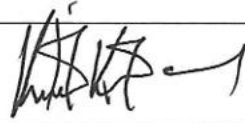
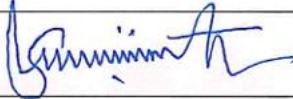
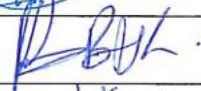
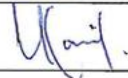
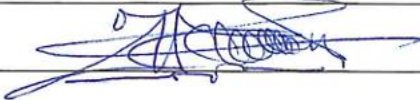


THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – FIFTH SESSION - 2026
DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

ADOPTION LIST

**REPORT ON SESSIONAL PAPER NO. 7 OF 2026 ON THE NATIONAL INFRASTRUCTURE FUND
INVESTMENT POLICY**

*We, the Members of the Departmental Committee on Finance and National Planning have pursuant to Standing Order 199, adopted this Report and affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity today, **Wednesday, 26th August 2026.***

S/NO.	NAME	SIGNATURE
1.	HON. FCPA. KURIA KIMANI, CBS, MP - CHAIRPERSON	
2.	HON. FCPA (AMB). BENJAMIN KIPKIRUI LANGAT, MP – VICE CHAIRPERSON	
3.	HON. KALUMA PETER OPONDO, CBS, MP	
4.	HON. GEORGE SUNKUYIA RISA, MP	
5.	HON. FCPA JOSEPH MAERO OYULA, OGW, MP	
6.	HON. ANDREW ADIPO OKUOME, MP	
7.	HON. DAVID MWALIKA MBONI, MP	
8.	HON. CHIFOROMODO MANGALE MUNGA, MP	
9.	HON. GATHONI WA MUCHOMBA, HSC, MP	
10.	HON. (CPA) JULIUS KIPLETING RUTTO, MP	
11.	HON. PAUL KIBICHIY BIEGO, MP	
12.	HON. UMUL KER SHEIKH KASSIM, MP	
13.	HON. DR. SHADRACK MWITI ITHINJI, MP	
14.	HON. DR. JOHN ARIKO NAMOIT, MP	
15.	HON. MOHAMED SOUD MACHELE, MP	

