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MEETING OF THE SENATE COMMITTEE ON DELEGATED LEGISLATION ON SINKING FUND

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1.

Conflicts between Guidelines and PFM Act & Regulations

The overarching objective of strengthening public finances and making repayments as opportunities arise to reduce the overall cost of debt, is supported.

The Public Finance Management Act and Regulations allow the creation and operation of a Sinking Fund. However, this is quite constrained:

- Redemption of Government Securities (Regulations Sec 206). Sinking fund is circumscribed to “pay for a bond, repurchase or early redemption of **Treasury Bonds**”
- Concern about an expanded class of Government debt (e.g., loans), and therefore inconsistency with other laws and architecture of public finance.

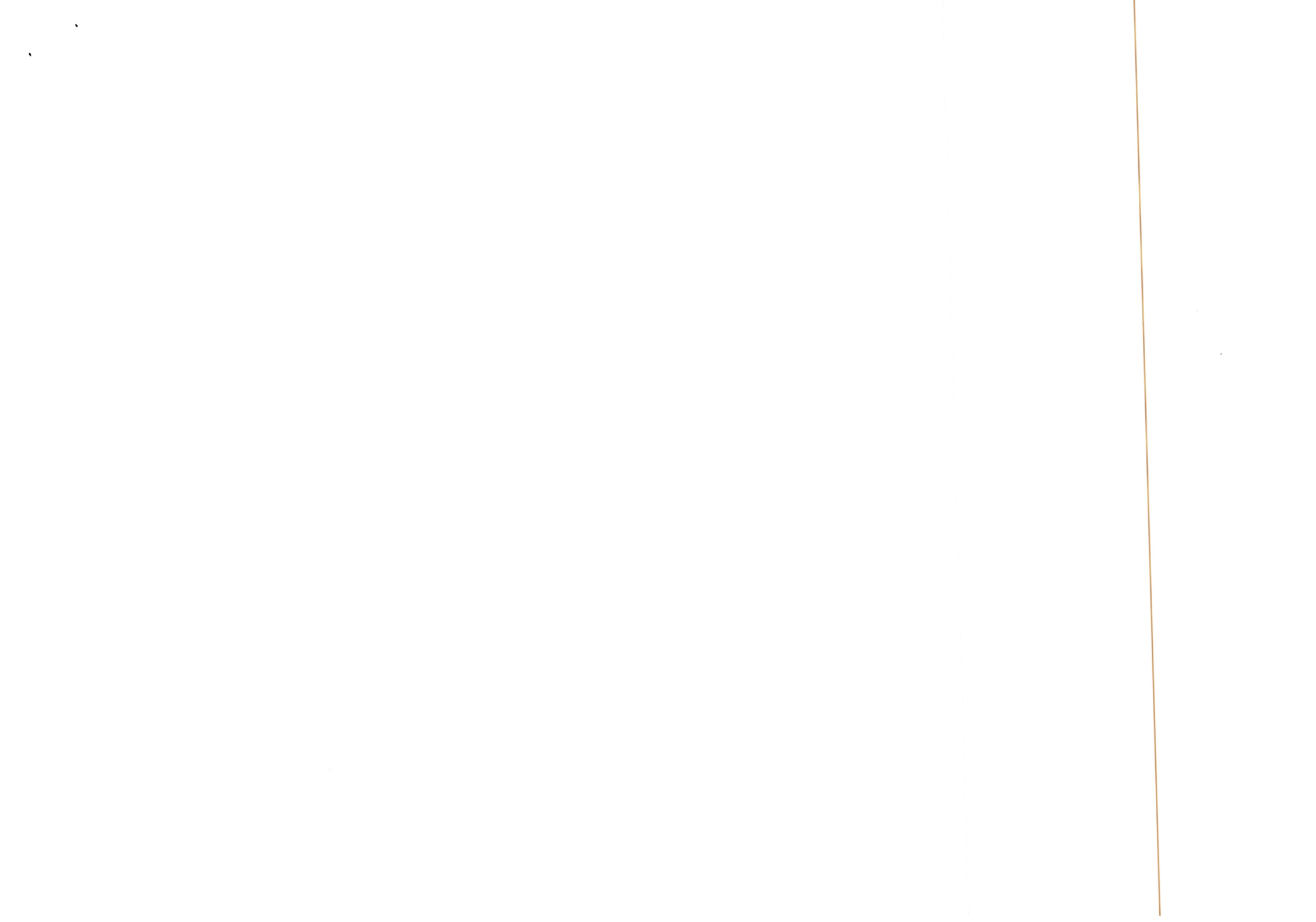


2.

Concerns, Red Flags, Reasons for Pause...

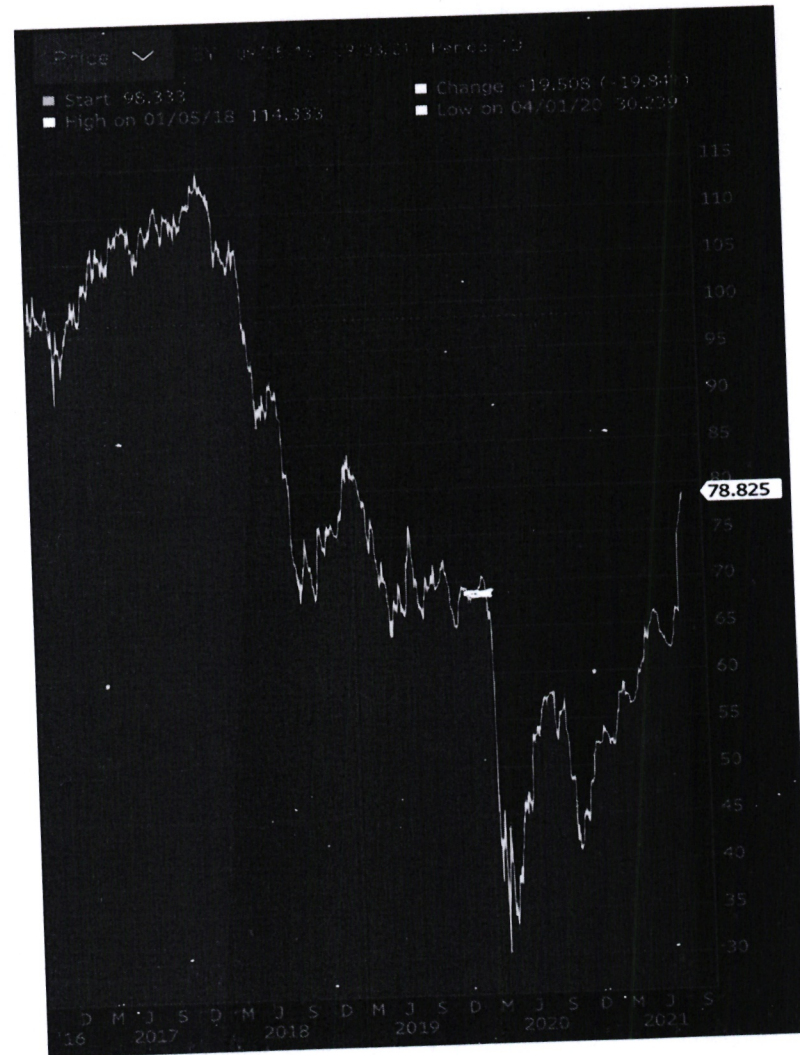
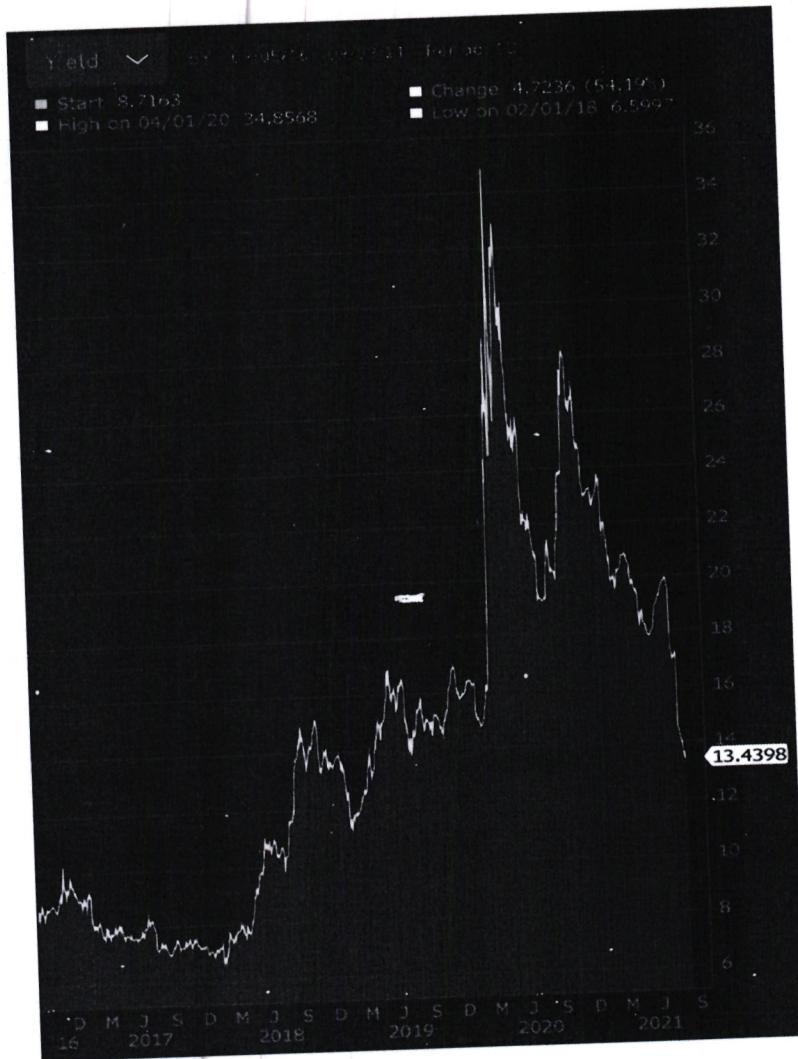
Sinking funds bespeak of repayment or financing constraints by the issuer

- Constrained by one revenue stream or a dwindling resource envelope. Sinking funds may help soften the hardship of a large outlay of revenue.
- Lender requiring greater assurance of repayment, as a condition of lending.
- Difficult to reconcile for a sovereign with a good repayment record and strong public financial management. Also does to augur well with efficient use of public resources (including the opportunity costs of the idle funds).
- What in the “Objects and Purposes of the Fund” cannot be done today? Are there other yet-to-be-pronounced reasons for this initiative?



3.

Case Study: Zambia Eurobonds, 30/07/2027





4.

Contradict between Guidelines and CBK Act & Operations

Section 5(e) of the Guidelines indicate that the sources of funds will include "Foreign exchange gains from external loans to the National Government."

- Conflicts the understanding that the Sinking Fund in is Kenya Shillings.
- Contradicts CBK's statutory mandate on foreign exchange, including "hold and manage [...] foreign exchange reserves" under Section 4A (1) of the CBK Act.
- Inadvertent inconsistency with other laws and architecture on foreign exchange.



5.

Key Messages

- The draft Guidelines are not consistent with other laws, particularly PFM Act & Regulations, and CBK Act. **A detailed review by the Attorney General's Office is needed.**
- Since the stated "Objects and Purposes of the Fund" can be achieved currently, **the fundamental reasons for this initiative should be probed further.**
- A Sinking Fund is not the solution (silver bullet) for the critical objective of strengthening public finances and reducing the public debt burden. **A wider conversation on public debt is needed.**



Thank You!

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