

# **REPORT OF THE AUDITOR-GENERAL ON NATIONAL SOCIAL SECURITY FUND FOR THE YEAR ENDED 30 JUNE 2017**

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## **REPORT ON THE FINANCIAL STATEMENTS**

### **Qualified Opinion**

I have audited the accompanying financial statements of the National Social Security Fund (NSSF) set out on pages 78 to 122, which comprise the statement of net assets available for benefits as at 30 June 2017, and the statement of changes in accumulated members funds, statement of cash flows, statement of comparison of budget and actual for the year then ended and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of National Social Security Fund as at 30 June 2017, and of its financial performance and its cash flows for the year then ended, in accordance with International Financial Reporting Standards and comply with the National Social Security Fund Act, 2013.

In addition, as required by Article 229(6) of the Constitution, except for the matters described in the Basis for Qualified Opinion and Other Matter sections of my report, based on the procedures performed, I confirm that public money has been applied lawfully and in an effective way.

### **Basis for Qualified Opinion**

#### **1. Unaccounted for Members Contributions**

##### **1.1 Unremitted Members Contributions**

As previously reported contributions totalling Kshs.754,995,367 had not been remitted in the stipulated time period according to twenty (20) sampled employer files maintained in nine (9) NSSF branches. This was contrary to Section 8(a) of the NSSF Act, 2013 which required employers to remit into the Fund contributions deducted from members in full and in time.

Although management took action by issuing demand letters and also made alternative payment arrangements with employers such as instalment payments before considering legal action, it has not been established whether any amounts have been realized from these arrangements.

As a result, recoverability of the unremitted members contributions of Kshs.754,995,367 remains doubtful for over two years.

##### **1.2 Unidentified and Unposted Members Contributions**

The financial statements under statement of changes in net assets available for benefits reflects a net surplus from dealings with members of Kshs.9,885,860,827 for the year under review. In compliance with Retirement Benefits Act, 1997, NSSF maintains employer contribution clearing accounts for benefit payment upon qualification as per the Act. During the year under review, the contributions in transit balance changed marginally from Kshs.764 million as at 30 June 2016 to Kshs.762 million as at 30 June 2017.

No reasons have been provided for not posting the Kshs.762 million which has accumulated over the years to the respective member's accounts despite the Fund having acquired a Social Security Pension Administration System (SSPAS) and compliance officers to assist safeguard member's funds.

Consequently, the fund may not have gotten value for money for SSPAS procured in the year 2011/2012 at a cost of Kshs.300,000,000 and members risk loss of accrued interest especially those claiming benefits in the intervening period.

## **2. Investments in Imperial Bank and Chase Bank**

### **2.1 Fixed Deposits (Held to Maturity)**

Note 17(b) to the financial statements as at 30 June 2017 reflects fixed deposits (held to Maturity) totalling Kshs.7,729,907,953 which included deposits in Chase Bank of Kshs.70,000,000 and Imperial Bank of Kshs.259,500,000. These fixed deposits were invested between 8 September 2015 and 3 March 2016 and were to mature between December, 2015 and May 2016. The deposits did not mature nor have they been recovered as at 30 June 2017.

## **3. Corporate Bonds**

Note 20 to the financial statements as at 30 June 2017 reflects corporate bonds balance of Kshs.9,222,122,293 which includes Kshs.132,200,000 invested in Imperial Bank and Kshs.534,700,000 invested in Chase Bank which were invested between 28 September 2015 and 6 October 2015 to mature within February 2022 and September 2022 as tabulated below:

Bank	Fund Manager	Nominal Amount	Investment Date	Maturity Date	Recovery
<b>Fixed Deposits</b>					
<b>Imperial Bank</b>	GenAfrica Asset Managers Ltd	30,000,000.00	9/22/2015	12/21/2015	3,070,194.40
	GenAfrica Asset Managers Ltd	20,000,000.00	9/8/2015	1/4/2016	2,134,730.55
	GenAfrica Asset Managers Ltd	8,500,000.00	9/11/2015	1/4/2016	907,260.50
	Old Mutual Investments Group	201,000,000.00	9/30/2015	11/30/2015	20,570,302.50
<b>Chase Bank</b>	Britam Asset Managers Ltd	70,000,000.00	3/3/2016	5/9/2016	
<b>Sub Total</b>		<b>329,500,000.00</b>			<b>26,682,487.95</b>
<b>Corporate Bond</b>					
<b>Imperial Bank</b>	Britam Asset Managers Ltd	90,000,000.00	9/28/2015	9/22/2020	-
	Old Mutual Investments Group	42,200,000.00	9/28/2015	9/22/2020	-
<b>Chase Bank</b>	GenAfrica Asset Managers Ltd	160,000,000.00	10/6/2015	2/6/2022	-
	Old Mutual Investments Group	174,700,000.00	10/6/2015	2/6/2022	-
	Britam Asset Managers Ltd	100,000,000.00	10/6/2015	2/6/2022	-
	Stanlib Kenya Ltd	100,000,000.00	10/6/2015	2/6/2022	-
<b>Sub Total</b>		<b>666,900,000.00</b>			-
<b>Total</b>		<b>996,400,000.00</b>			<b>26,682,487.95</b>

Recovery of interest on the corporate bonds for the period upto 30 June 2017 remains outstanding safe for the paltry Kshs.26,682,488 from chase bank.

#### **4. Banks Holding Deposits placed under Receivership by the Central Bank of Kenya**

Available information confirmed that the Central Bank of Kenya (CBK) placed Imperial Bank Ltd under receivership on 13<sup>th</sup> October, 2015 and immediately appointed the Kenya Deposit Insurance Corporation as receiver. The main reasons being irregularities and malpractices in the bank's management.

The CBK also placed Chase Bank under receivership on 7<sup>th</sup> April 2016 and appointed the Kenya Deposit Insurance Corporation as receiver the main reasons being liquidity problems. At the time the banks were placed under receivership by CBK, the Fund, through appointed Fund managers had invested a total of Kshs.391,700,000 in Imperial Bank and Kshs.604,700,000 in Chase bank all totaling Kshs.996,400,000.

According to documents availed for audit, out of the total investments of Kshs.996,400,000, the Fund managers have been able to recover only Kshs.26,682,487 from Imperial Bank leaving a total balance of Kshs.969,717,513 outstanding and in addition, no disclosure note was made in the financial statements as required.

In the circumstances, the safety of deposits totalling Kshs.969,717,513 made by the Fund managers could not be confirmed. The Fund does not appear to have received value for money from the Kshs.181,518,979 paid to the Fund managers during the year under review. It is also not clear whether the deposits were insured.

The three year (3) contracts of the current Fund managers were renewed in the year 2014/2015 and it is recommended that the Fund managers be changed on expiry of their contracts.

The Fund has however, indicated the likelihood of recovering most of the investments after the CBK carried out an expression of interest and received initial bids to sell Imperial Bank to pay off depositors while Chase Bank was reopened and was reportedly acquired by SBM Kenya Limited, a subsidiary of SBM Holdings Limited of Mauritius.

## **5. Stalled Project - Hazina Trade Centre Nairobi**

The statement of net assets available for benefits as at 30 June 2017 reflects a balance of Kshs.20,777,695,787 under Developed Investment Property. Included in this figure is Kshs.1,500,000,000 in respect to fair value of the Hazina Trade Centre, Nairobi.

As previously reported, the construction of Hazina Trade Centre, Nairobi commenced on 17 June 2013 and was to be undertaken in 155 weeks with an expected completion date of July 2016. However, as at 14 March 2018 the building was still incomplete and builders work had stalled after reaching 15<sup>th</sup> floor or 38 % and Kshs.1,887,744,544 spent on the project out of the total contract cost of Kshs.6,715,218,188. All efforts should be made to ensure completion of the building to safeguard members' contributions.

## **6. Unresolved Prior Year Matters**

### **6.1 Irregular Disposal of Undeveloped Land - Mavoko**

As previously reported, undeveloped land in Mavoko Municipality measuring 69.16 acres was subdivided into seven (7) plots of 9.88 acres and disposed-off at Kshs.18,000,000 each. The plots were sold to AMS Properties Limited on the basis of an agreement dated 21 November, 2011 at a total cost of Kshs.126,000,000. However, only Kshs.12,600,000 or 10% was paid vide Miscellaneous Receipt M010022315 dated 23 August, 2011. The balance of Kshs.113,400,000 which was to be paid within 90 days from the date of execution of the agreement has not been settled to date.

No reasons were provided for the failure to terminate the sale agreement upon the expiry of the 90 days execution period provided for in the contract agreement. The Fund risks loss of the land which by now has appreciated in value and possible additional costs. No legal action appears to have been taken by the Fund as at 30 June 2017.

In consequence, loss of the Kshs.113,400,000 and or the land together with accrued interest remains real plus risk of additional litigation costs.

## **7. Non – Beneficial Lease of Hazina Plaza Mombasa – LR. NO.MSA/BLK XX/328 & 329**

As previously reported, the Fund acquired Hazina Plaza formally known as Polana Hotel at a cost of Kshs.450 Million in 1994. The Plaza comprised of a nine storey building which was leased and operated as a four-star hotel at an annual rent of Kshs.60 Million.

However, the hotel reportedly remained partially closed since 2001 due to failure by the then tenant to meet rent obligations. The building was later advertised for sale on 3 September 2009 at a reserved price of Kshs.300 million, however the bids received were below the reserve price.

On 25 May 2010, the premises were again leased to M/s Techno Holdings Ltd at a monthly rent of Kshs.2.25 million or 27 million annually net of all taxes with an escalation cost of 10% after every two (2) years.

According to the lease agreement entered between the Fund and M/s Techno Holdings Ltd, the lessee was to pay a total of Kshs.164,837,000 to the Fund for the hire of the building as a hotel for a period of ten (10) years from 1 August 2010 to 30 July 2020.

M/s Techno Holdings Ltd was granted a two-year grace period commencing 2 May, 2014 when they formerly got vacant possession. Rent payment was therefore effective from 1 May 2016 which was also extended by a further six (6) months to 31 December 2016 by the Board of Trustees to enable the firm repair the building which was in a dilapidated state.

By September, 2016 the building had accumulated rent due of Kshs.323,585,144 but only Kshs.66,500,000 had been realized leaving a balance of Kshs.239,500,000 unpaid up to date. So far, the Fund, has not realized any value for money from the investment of Kshs.450 million in Hazina Plaza Mombasa since 1994.

In view of the foregoing, the unrealized benefit from the investments in Mombasa Plaza cast doubts on prudent financial management of the lease for the interest of contributors as at 30 June 2017.

## **8. Unrecovered Investment Returns - Kisumu Milimani Upmarket Houses**

As previously reported, land LR.KISUMU/MUN/8/258 measuring 0.7740 Ha. situated in Milimani Estate, Kisumu County was on 26 November 2012 swapped to offset a debt of Kshs.150 million owed to the Fund by the then Municipal Council of Kisumu. The land is currently valued at Kshs.178,000,000. Within the land is a flat comprising of eight (8) two (2) bedrooms apartments and three separate maissonettes of three (3) bedrooms each with a servant quarter.

Although the Fund allowed the houses to be occupied by NSSF staff, only Kshs.66,000 was being received as rental income from these upmarket houses. Despite lack of rental income from these houses over the years, the Fund continued to provide security and other services. No reasons have so far been provided for the failure to review the rent payable since taking over the property in 2012. Review of the status in 2016/2017 revealed that no action has been taken to remedy this anomaly in the management of investment property.

Consequently, value for money has not been realized from the investment worth Kshs.178,000,000 over the last five (5) years upto 30 June 2017.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of National Social Security Fund in accordance with ISSAI 30 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

### **Key Audit Matters**

Key Audit Matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. Except for the effect of the matters

described in the Basis for Qualified Opinion and Other Matter sections of my report, I confirm that there were no Key Audit Matters to report in the year under review.

## **Other Matter**

### **1. Governance – Senior Management in Acting Appointments**

Among the top management team, there were a total of thirteen (13) staff including that of the Chief Executive Officer/Managing Trustee who have been serving in acting capacity with some acting for more than four (4) years without being confirmed.

No reasons have been provided for the continuous holding of senior management positions and staff in acting capacities.

### **2. Refurbishment of Mombasa Social Security House**

The Fund on 12<sup>th</sup> January 2012 entered into a contract with M/s EPCO Builders Ltd through Tender No. 27/2010-2011 after competitive bidding for the refurbishment and associated services of the Mombasa Social Security House at a cost of Kshs.217,530,427. The contract was to be executed within a period of forty (40) weeks after engagement.

Information availed indicate that the project was completed and a certificate of practical completion issued by the project consultants on 7<sup>th</sup> November 2013 while a certificate of making good the defects was issued on 30 November 2015 and payments totalling to Kshs.226,218,458 made to the contractor.

However, part of the main contract entailed the installation of Closed Circuit Television (CCTV) system at a cost of Kshs.48,666,664.

A physical inspection carried out on 30 May 2018 at the Social Security House - Mombasa revealed that the CCTV system installed was not functioning despite the fact that they had been partly paid for. In response to our enquiries, the management explained that the CCTV system was in proper working condition at the time of hand-over and worked effectively for the first two (2) years before developing technical issues due to lack of maintenance and a dispute on the amounts payable.

No reasons were provided for the failure to include a service maintenance clause in the contract signed or for the failure to resolve the dispute and have the system working.

In view of the foregoing, the Fund did not obtain value for money from the Kshs.48,666,664 CCTV contract thereby posing a security risk to the building.

### **3. Budget and Budgetary Performance**

#### **3.1 Income**

The Fund had budgeted for income totalling Kshs.28,332,942,000 during the year ended 30 June 2017 as tabulated below:

## Summarized Income Analyses

I t e m	Budget	Actual	Over/Under (-)	Over/Under (-)
	Kshs.	Kshs.	Kshs.	
R e v e n u e				
C o n t r i b u t i o n s R e c e i v a b l e	15,574,316,000	13,546,886,133	-2,027,429,867	-15%
B e n e f i t s P a y a	-4,505,000,000	-3,661,025,306	843,974,694	-23%

b l e				
I n v e s t m e n t I n c o m e	12,319,616,000	14,246,254,583	1,926,638,583	14%
O t h e r I n v e s t m e n t I n c o m e	0	42,128,382	42,128,382	100%
R e a l i z e d	512,000,000	331,070,043	-180,929,957	-55%



g a i n o n s a l e o f i n v e s t m e n t				
U n r e a l i z e d g a i n o n s a l e o f i n v e	4,402,010,000	5,982,386,547	1,580,376,547	26%

s t m e n t				
O t h e r I n c o m e	30,000,000	135,103,327	105,103,327	78%
T o t a l	<b>28,332,942,000</b>	<b>30,622,803,709</b>	<b>2,289,861,709</b>	<b>7%</b>

However, the actual income realized amounted to Kshs.30,622,803,709 resulting to over collection of Kshs.2,289,861,709. No reasons have been provided for the failure to pay budgeted benefits payable totalling to Kshs.843,974,694.

### 3.2 Expenditure

Actual expenditure amounted to Kshs.6,726,294,791 against the approved budget of Kshs.7,274,770,000 resulting to an under expenditure of Kshs.668,955,937 as follows:

#### Summarized Expenditure analyses

Item	Budget	Actual	Over/Under	Over/Under(-)
	Kshs.	Kshs.	(-)	
			Kshs.	
<b>Staff Costs</b>	3,883,534,618	3,883,534,618	0	0%
<b>General Administrative Costs</b>	2,961,067,382	2,515,907,607	-445,159,775	-18%
<b>Investment management expenses</b>	430,168,000	326,852,566	-103,315,434	-32%
<b>Total</b>	<b>7,274,770,000</b>	<b>6,726,294,791</b>	<b>-548,475,209</b>	<b>-8%</b>

The overall under absorption of Kshs.548,475,209 or 8% especially on General administrative costs and investment management expenses implies that these items were over budgeted.

### **Responsibilities of Management and Those Charged with Governance for the Financial Statements**

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Financial Reporting Standards (IFRS) and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the Fund's ability to continue to sustain its services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless the management either intends to liquidate the Fund or to cease operations, or have no realistic alternative but to do so.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

Those charged with governance are responsible for overseeing the Fund's financial reporting process.

### **Auditor-General's Responsibilities for the Audit of the Financial Statements**

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution of Kenya. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.


As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.

- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances and for the purpose of giving an assurance on the effectiveness of the Fund's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the management.
- Conclude on the appropriateness of the management's use of the going concern accounting concept and based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Fund's ability to continue to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Fund to cease to continue to sustain its services.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information of the Fund's activities to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that are identified during the audit.

I also provide management with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.



**FCPA Edward R. O. Ouko, CBS**  
**AUDITOR-GENERAL**  
**Nairobi.**

**09 August 2018**