KENYA:
Proposed Financial Management Framework for a Devolved System of Government

Presented to ICPAK

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Outline of the presentation

I. Background
II. Link between the Constitution and the PFM Bill
III. The Five Core Areas of a Good PFM System
IV. PFM Institutions at the National and County Government Level
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VII. Macro-Fiscal Policy Making and Budgeting
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I. BACKGROUND

I. Background (Cont'd)

- In developing the PFM Bill, we were keenly aware of the importance of having a good PFM system in determining the success or failure of the system of devolved government.
- To ensure a good PFM system, several objectives were taken into account:
  1. The first was to ensure the PFM was consistent with the Constitution and in particular provided for safeguarding autonomy in financial management at both levels of government but within a unitary system of devolved government.

I. Background (Cont'd)

- Autonomy in financial management is supported by Articles 6 and 189 of the Constitution:
  - Art. 6 (2) The govs at the national and county levels are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and cooperation.
  - Art. 189 (1)(a): Government at either level shall perform its functions, and exercise its powers, in a manner that respects the functional and institutional integrity of government at the other level, and respects the constitutional status and institutions of government at the other level.

I. Background (Cont'd)

- The spirit of these Articles is that both levels of Government should not interfere in the day-to-day management of finances in the other level of government.
- Specifically, each level of government should be able to formulate, plan, execute and report on their budgets without interference of the other level of government.
- To operationalize this concept and to avoid favouring one level of government over the other, we have mirrored many of the institutional structures for financial management of the national government at the county government level.

I. Background (Cont'd)

- A second objective was to firmly anchor the Bill under Art. 201 of the constitution which deals with **the 'Principles of public finance'**. In particular, the Bill provides for:
  - Openness, accountability and public participation;
  - Equitable sharing of tax burden;
  - Equitable sharing of revenues;
  - Expenditures shall promote equitable development;
  - equitable sharing of debt burden/benefits between current and future generations;
  - Prudent and responsible use of public resources; and
  - Responsible financial management and clear fiscal reporting.

II. Other Links between the Constitution & the PFM Bill

- Article 201 which provides for **principles of public finance** guides the PFM Bill.
- Article 206 on the **Consolidated fund and other public funds.**
- Article 207 which establishes **County Revenue Funds** and provides for setting up of other funds at the county level.
- Article 208 on **Contingencies Fund.**
- Article 211 to 214 on **borrowing** and **guarantees.**
- Article 220 which requires national legislation to prescribe the **form, content and timing of budgets.**
- Article 225 on **financial controls** at the national &county level.
- Article 226 which requires an Act of Parliament to provide for **financial records** and **audit** of all accounts of governments;
- Article 227 on **procurement.**

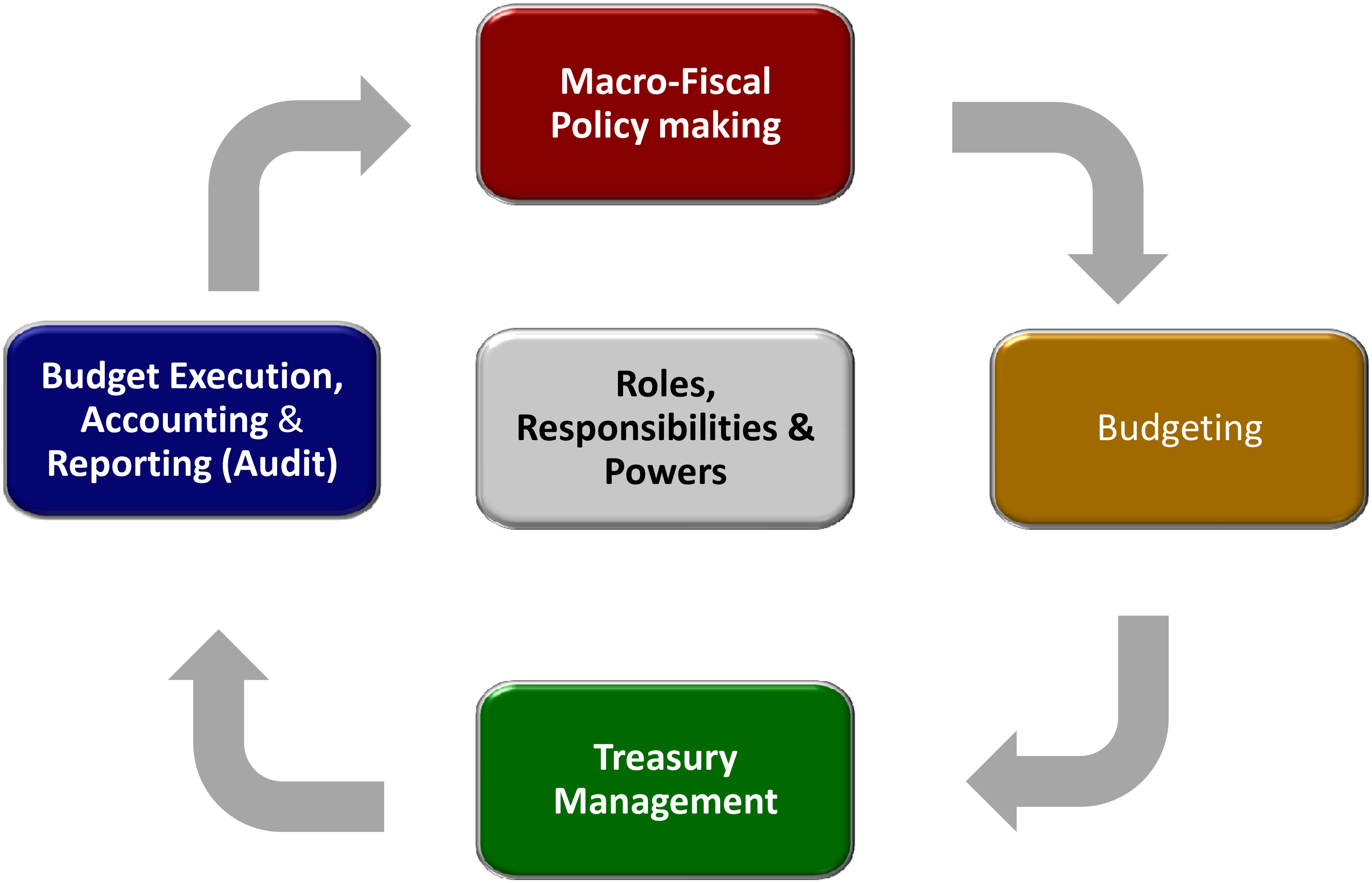
I. Background (Concl'd)

- A third objective was to modernize and consolidate the many PFM laws we currently have into one integrated PFM Law—an Organic Budget Law.
- With this Bill we will be able to repeal:
  - The Government Financial Management Act, 2004;
  - The Fiscal Management Act, 2009
  - The Internal Loans Act
  - The external Loans Act;
  - The National Government Loans Guarantee Act, 2011
  - The Contingencies Fund and County Emergency Funds Act 2011.
- The Bill also caters for all the legislations required under the 5th Schedule of the Constitution—except for the procurement law which will be separate.

I. Background (Cont’d)

- The fourth and final objective was to ensure the Bill incorporated best international practices. We did this by:
  - Holding extensive public consultations within/outside government, counties, getting comments from international/local experts on PFM
  - Ensuring that we had a single PFM law that covers both levels of government.
  - Basing the policy framework on the five core areas of a good system of public finances.

III. The Five Core Areas of a Good PFM System



PFM INSTITUTIONS: ROLES, RESPONSIBILITIES AND POWERS

THE NATIONAL AND COUNTY ASSEMBLIES: Legislature (Cont'd)

National Assembly

- Reviews the Budget Policy Statement and makes recommendations to the National Treasury;
- Determines the vertical division of revenue between the two levels of government through the DoRB.
- Approves the Budget Estimates for the National Government, Parliament and the Judiciary;

County Assembly

- Reviews the Fiscal Strategy Paper and makes recommendations to the County Exec.Com. Member
- Approves allocation of revenues between the County Government and Urban Areas or Cities as well as allocation of revenue across Urban Areas or Cities;
- Approves the **Budget Estimates** for County Government as well as Urban Areas or Cities within the County;

THE NATIONAL AND COUNTY ASSEMBLIES: Legislature

National Assembly

- Provides overall oversight over public finances at the NG level;
- Ensure adherence by CS and NG to Principles of Public Finance and fiscal responsibility principles;
- Approves the establishment of other NG public funds.
- Monitors budgets and public finances and related matters.

County Assembly

- Provides overall oversight over public finances at the CG level;
- Ensure adherence by CCS and CG to Principles of Public Finance; and fiscal responsibility principles;
- Approves the establishment of **other county public funds.**
- Monitors budgets and public finances and related matters.

Relevant Committee of Senate and the Senate

Senate Committee responsible for Budget

- Considers bills concerning county financial matters and makes recommendations to the Senate;
- Every 5 years, the Senate Committee proposes to the Senate the basis for sharing revenue among the counties;
- And annually, introduces the County Allocation of Revenue Bill in the House; and
- Makes recommendations to the Senate on improving management of County Government resources.

Senate

- Determines the allocation of revenue among counties (Art. 96) ;
- As CARB is considered a "Special Bill" it must be considered by the NA and can be amended/vetoed by at least 2/3 of members of the NA (Art. 111); and
- Exercises oversight of national revenue allocated to county Governments.

IV. PFM INSTITUTIONS AT THE NATIONAL AND COUNTY GOVERNMENT LEVEL—EXECUTIVE PFM INSTITUTIONS

IV. CABINET AND THE COUNTY EXECUTIVE COMMITTEE (Cont'd)

Cabinet

- Approves the **Budget Policy Statement (BPS)** and the **Budget Review and Outlook Paper (BROP), and MT/DMS.**
- Reviews the **Annual Budget Estimates** for the National Government (excluding Parliament and the Judiciary) before submission to Parliament for approval.
- Approves the **establishment and dissolution of National State Corporations** as well as **investment in a National Government Corporations**.

County Executive Committee

- Approves the **Fiscal Strategy Paper (FSP) and the County Budget Review and Outlook Paper (C-BROP);**
- Reviews and approves the **Annual Budget Estimates** for the County Government before submission to the County Assembly for approval;
- Approves the **establishment and dissolution of County State Corporations** as well as **investment in a County Government Corporation; and**
- Has powers to establish a **County Emergency Fund** but with the approval of the County Assembly.

IV. NATIONAL AND COUNTY TREASURIES—(Cont’d)

National Treasury

- Has overall responsibility for macro-economic formulation and management;
- Formulates **economic and financial policies** in coordination with other levels of government.
- Prepares annual budget estimates of revenues and expenditures of the NG and co-ordinates the preparation and implementation of the NG budget.
- Prepares the **BPS, the BROP, and Medium-term Debt Management Strategy** for the National Government
- Enforces the **fiscal responsibility principles at the national Level**

County Treasuries

- Has overall responsibility for managing the economic affairs of the County Government.
- Prepares **Annual Budget Estimates** for the County Government and co-ordinates the preparation and implementation of the CG budget.
- Prepares **Fiscal Strategy Paper, Budget Review and Outlook Paper** as well as the **Development Plan for the County Government**.
- Enforces the **Fiscal Responsibility Principles** at the County Government level.

IV. NATIONAL AND COUNTY TREASURIES-concl’d

National Treasury

- Prepares the annual DoRB and CARB.
- Administers consolidated fund, Equalization fund and the Contingencies fund.
- Prepares **budget, financial and fiscal reports** (annual, quarterly and on demand) and submits them to Parliament and also publishes and publicizes them.
- Strengthening financial and fiscal relations between the two levels of government.
- Prepare the pre-and-post election budget reports.
- Oversees the **cash and banking** arrangements for NG

County Treasuries

- Administers the County Revenue Fund and the County Emergency Fund
- Prepares **budget, financial and fiscal reports** (annual, quarterly and on demand) and submits them to the County Assembly and also publishes and publicizes them.
- Reviews **Budget Estimates for Urban Areas or Cities** and submit them to the County Assembly for Approval.
- Oversees the **cash and banking** arrangements for CG.

IV. CABINET AND COUNTY SECRETARY FOR FINANCE—cont'd

Cabinet Secretary

- Head of Treasury and responsible for **overseeing formulation of macroeconomic and financial policies** of Government;
- Manages the National Government **Budget Process;**
- Authorizes establishment of **National Government public funds;**
- Has powers to **stop transfer of funds** to National Government entities and County Governments for serious material breach or persistent material breaches of measures established n the PFM.

County Secretary

- **Head of County Treasury and oversees formulation of county economic policies;**
- Manages the County Government **Budget process**.
- Authorizes establishment of **County Government public funds;**
- May at the request of the CS **stop transfers of funds** to a County Government Entity for serious material breach or persistent material breaches.

IV. CABINET AND COUNTY SECRETARY FOR FINANCE—concl'd

Cabinet Secretary

- Has Powers to **raise a loan** on behalf of the National Government;
- Designates persons to **execute loan documents** for NG;
- **Issues debt instruments** (e.g. Securities) on behalf of NG; and
- **Guarantees loans (for CG and NG entities)** on behalf of NG.

County Exec.Com Member

- Has powers to **raise loan** on behalf of the County Government in accordance with the law.
- Designates persons to **execute loan documents** for CG
- **Issues debt instruments** (e.g. Securities) on behalf of CG;
- **Determines terms and conditions for borrowing** by Urban Areas and Cities.

IV. ACCOUNTING OFFICERS— NATIONAL AND COUNTY GOVERNMENT—Cont'd

National Government

- Accounting officers are to be **responsible for accounting for money** appropriated by Parliament;
- Accounting Officers for National Government entities, Parliament and the Judiciary are **accountable to the National Assembly** for financial management; and
- **Accounting Officers** for the **National Government entities** are to be designated by the Cabinet Secretary responsible for Finance;

County Government

- Accounting officers are to be **responsible for accounting for money** appropriated by County Assembly.
- Accounting Officers for County Government entities, are **accountable to the County Assembly** for financial management; and
- **Accounting Officers** for the County Government entities are to be **designated by the County Exec.Com member** responsible for Finance.

IV. ACCOUNTING OFFICERS— NATIONAL AND COUNTY GOVERNMENT—Concl'd

National Government

- Accounting officers to **ensure** public **resources** are used in a way that is **lawful** and authorised and in an **effective and efficient** manner.
- Must **ensure proper financial management** of the respective National Government entity.
- Aos to ensure they have appropriate arrangements in place for internal audit.

County Government

- Accounting officers to ensure public resources are used in a way that is **lawful** and authorised and in an **effective and efficient manner.**
- Must **ensure proper financial management** of the respective County Government entity.
- Aos to ensure they have appropriate arrangements in place for internal audit.

IV. RECEIVERS AND COLLECTORS OF REVENUE—NATIONAL AND COUNTY LEVELS

National Government

- **Receivers of National Government revenue** are to be designated by the Cabinet Secretary responsible for Finance.
- Receivers of National Government revenue are to be **responsible for receiving and accounting** for National Government revenue.
- Receivers of National Government revenue authorizes any public officer of the National Government to be a **Collector of Revenue.**
- **Kenya Revenue Authority** has been preserved (in the PFM Bill 2012) as a collector of National Government revenue.

County Government

- **Receivers of County Government revenue** are to be designated by the County Exec.Com Member responsible for Finance.
- Receivers of County Government revenue are to be **responsible for receiving and accounting** for County Government revenue.
- Receivers of County Government revenue authorizes any public officer of the County Government to be a **Collector of Revenue.**
- County Exec.Com Member has **powers to appoint Kenya Revenue Authority as collector** of County Government Revenue**.**

V. OTHER NATIONAL/COUNTY GOVERNMENT PFM INSTITUTIONS

V. Public Debt Management Office (PDMO)

- The **PFM Establishes** a Public Debt Management Office within the National Treasury.
- The **function** of the PDMO is to oversee the **management of public debt and borrowing as well as the issuance of debt instrument** in respect of the National Government and County Governments and their entities.
- The **objective** of the PDMO is to **effectively manage borrowing** by National Government and County Governments and their entities in line with Article 212 of the Constitution and ensure cost of borrowing is minimized.
- Will also **ensure benefits and burden of public debt are shared equitably** between current and future generations.
- Will be responsible for preparing the M/T Debt Management Strategy.

V. Accounting Standards Board (ASB)

- The **PFM Bill establishes** “The Accounting Standards Board” (ASB).
- The **function** of the ASB is to **prepare and publish standards of generally accepted accounting practice** for use by National and County Governments and their entities.
- The Board shall comprise of not more than 10 members to be appointed by the Cabinet Secretary for Finance.
- The ASB will help ensure **standardised reporting** on public finance at the national and county level. This would facilitate consolidation of accounts of NG and CGs to get the General Government position.
- The ASB will also help ensure **independence in the determination of accounting standards** at the National and County level—based on best domestic and international practices.

V. Boards of Cities and Municipalities and Town Committees

- **Boards or Town Committees oversee preparation of the integrated Development Plans** and Annual **Budget Estimates** for Urban Areas or Cities, consistent with the C-Fiscal Strategy Paper.
- **Boards or Town Committees approve the Annual Budget** Estimates for Urban Areas or Cities before they are **submitted to the County Treasury for consideration and submission to the County Assembly** for approval as part of the annual appropriations Bill.
- Sources of revenues will include revenue arising from rates, fees, levies, charges and other revenue raising measures. These sources of revenues shall be retained by the urban area or city in order to **defray the costs of delivering services.**

V. County Budget and Economic Forum (C-BEF)

- The County Budget and Economic Forum is established.
- The Forum provides **means for consultation** on County Government Plans, Budgets, the County economy, financial management at the County and related matters.
- The **County Budget and Economic Forum** is **chaired by the County Governor** and comprises members of the County Executive Committee and representatives of non-state actors.
- The C-BEF is expected to **meet at least twice** in a financial year. The timing of meetings should be such that **their deliberations will inform the meetings of the I-BEC**.

VI. INTERGOVERNMENTAL FISCAL RELATIONS INSTITUTIONS

VI. Intergovernmental Budget and Economic Council (I-BEC)

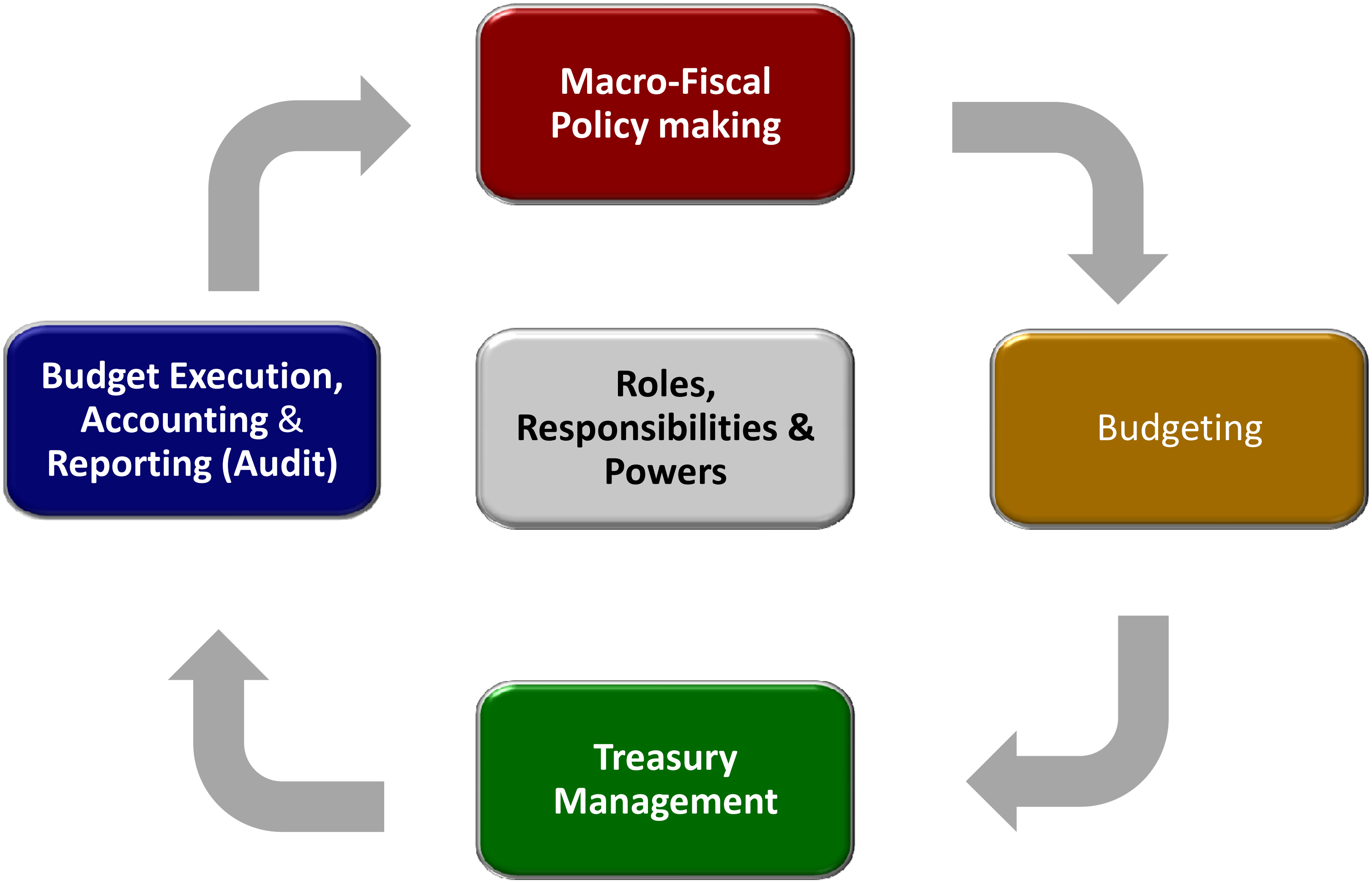
- The I-**Budget and Economic Council** comprises of representatives from the State Departments responsible for Finance and Devolved Government, Parliament, Judiciary, the CRA and non-government actors) and CG. It will meet at least twice in a year to provide guidance on budget and economic matters.
- Provides **means for consultation and cooperation** between the two tiers of government on a broad range of economic and financial issues, including for example borrowing by both levels of government, the BPS, the BROP, the MT/DMS
- It will also deliberate on financial regulations affecting county governments.
- The Budget and Economic Council will be **consulted** prior to the submission of **Division of Revenue Bill** and **County Allocation of Revenue Bill** to Parliament for approval.

VI. COMMISSION ON REVENUE ALLOCATION (CRA)

- To recommend the basis for the equitable sharing of revenue between:
  - National Government and County Governments
  - County Governments
- Give recommendations on other matters concerning the financing of, and financial management by, county governments.
- In formulating its recommendations the CRA is expected to encourage fiscal responsibility
- The recommendations will be submitted to the Senate, NA, National Executive, CAs, and County Executives.
- The recommendations should be made early enough in the budget process to allow both levels of government to formulate their budgets in a timely manner.
- Determines, publishes and regularly reviews a policy setting criteria to identify the marginalized areas for purposes of the Equal. Fund.

VII. MACRO-FISCAL POLICY MAKING AND BUDGETING

III. The Five Core Areas of a Good PFM System



VII. Macro-Fiscal Policy Making

National Government

- Preparation of a **macro-fiscal framework** in the BPS. Determine the **resource envelope.**
- The Macro-fiscal framework should support a stable macro-economic environment-- low inflation, stable interest and exchange rates.
- The MTEF/MTFF must also be consistent with debt sustainability in accordance with Art. 201 of the CoK2010.
- The BPS to contain the:
  - Indicative resource envelope for the State Departments of the NG, 47 CGs, Judiciary and Parliament.
  - The Fiscal responsibility Principles

County Government

- Preparation of CFS Paper— perhaps in a simpler format than the BPS at NG.
- The Medium-term plans must also be consistent with debt sustainability of the County in accordance with Art. 201 of the CoK2010.
- The CFS-P to contain the:
  - Medium-term plans of the CG.
  - Indicative resource envelope for the County State Departments.
  - The Fiscal responsibility Principles

VII. The Budget Process (Cont'd)

National Government

- The BPS, DoRB, CARB and MT/DMS to be submitted to NA in mid-Feb.
- The DoRB and CARB Bill to be approved within one month.
- After approval by Cabinet, CS to submit to the National Assembly by end-April the following:
  - Budget estimates—excl. Judiciary/Parliament
  - Appropriation Bill
- Parliament and Judiciary also to submit their budgets to NA by end-April.

County Government

- Following approval by County Executive Committee, the Exec. Com.member for finance submits to the CA by end-April:
  - the budget estimates.
  - The appropriations Bill
- After public participation, the relevant committee of the CA makes recommendations to the CA.

VII. The Budget Process (Cont'd)

National Government

- **Views of the CS** on the Committees recommendations are also **to be tabled.**
- **The NA may amend budget** estimates only in accordance with the DoRB and the BPS.
- Any proposed increase in expenditure is offset by a savings.
- The Finance Bill to be sent to Parliament at same time as other EAC members. Should be consistent with the DoRB.

County Government

- Views of the Exec.Com Member on the Committees recommendations are also to be tabled.
- The CA may amend budget estimates only in accordance with the CARB and the FSP.
- The Finance Bill to be sent to the CA before end-June.

VII. The Budget Process (Conl'd)

National Government

- Appropriations Bill to be passed by end-June.
- The finance Bill to be passed within 90 days of approval of appropriation Bill.
- Provisions for:
  - Vote on account
  - Supplementary budgets

County Government

- Appropriations Bill to be passed by end-June.
- The finance Bill to be passed within 90 days of approval of appropriation Bill.
- Provisions for:
  - Vote on account
  - Supplementary budgets

VII. Fiscal Responsibility Principles

National Government

- Over the Medium Term
  - **Recurrent expenditure** is not to exceed a % of revenue prescribed in regulations
  - **Wages** not to exceed a % of revenue prescribed in regulations.
- **Borrowings** to finance development expenditure
- **Public debt** to be maintained at sustainable level
- **Fiscal risks** to be managed prudently
- Reasonable predictability of **tax rates and bases**.

County Government

- Over the Medium Term
  - **Recurrent expenditure** is not to a % of revenue prescribed in regulations
  - **Wages** not to exceed a % of revenue prescribed in regulations.
- **Borrowings** to finance development expenditure
- **Public debt** to be maintained at sustainable level
- **Fiscal risks** to be managed prudently
- Reasonable predictability of **tax rates and bases**.

VIII. TREASURY MANAGEMENT

VIII. Treasury Management

National Government

- Administration of:
  - Consolidated Fund
  - Contingencies Fund
  - Equalization Fund
- Role of CoB: to oversee the implementation of the budget by authorizing the withdrawals
- **Banking arrangements** (e.g. Establishment of Treasury Single Bank Account)
- **Cash flow plans/Cash management**
- **Receiving and collection of revenue** (KRA is collector of National Government revenue)
- **Borrowing and loan guarantee** to National Government entities to be approved by Parliament.

County Government

- Establishment and Administration of:
  - County Revenue Funds
  - County Government Emergency Funds
- **Banking arrangements** (e.g. Establishment of Treasury Single Bank Account)
- **Cash flow plans/Cash management**
- **Receiving and collection of revenue** (County Governments may appoint KRA to be a collector)
- **Borrowing and loan guarantees** to County Governments to be authorised by Parliament.

IX. BUDGET EXECUTION, ACCOUNTING AND REPORTING

IX. Budget Execution, Accounting and Reporting

National Government

- Powers/responsibilities of **Accounting Officers** to:
  - Spend (incur expenditure),
  - write-off losses,
  - make cash advances, and
  - manage assets and liabilities.
- **Reporting** by:
  - National Treasury (consolidated NG Financial Statements)
  - Accounting Officers (annual and quarterly reports),
  - Receivers of Revenue and
  - Administrators of public funds.

County Government

- Powers/responsibilities of **Accounting Officers** to:
  - Spend (incur expenditure),
  - write-off losses,
  - make cash advances, and
  - manage assets and liabilities.
- **Reporting** by:
  - County Treasury (consolidated CG Financial Statements),
  - Accounting Officers (annual and quarterly reports)
  - Receivers of Revenue, and
  - Administrators of public funds.

IX. Conclusion

- To ensure **autonomy of two levels of government** in public finance management, PFM Institutions established at the National level have been mirrored at the County level.
- The PFM Bill also provides for a **Budget and Economic Council** to ensure that decision on matters touching on intergovernmental fiscal relations are arrived at through consultations and cooperation.
- To enhance transparency in public finance management the PFM Bill 2012 includes adequate **accountability mechanisms** through strict disclosure and public participation requirements as well as legislative oversight.
- We believe strongly that only a good PM will ensure the success of the new devolved system of government.

Thank you !