

Overview of the PFM Regulations

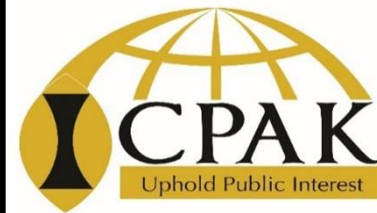
PFM Seminar, Coast Branch

*By Fredrick Riaga – Public Policy & Research Division
ICPAK*

◆ By the end of the session you will cover

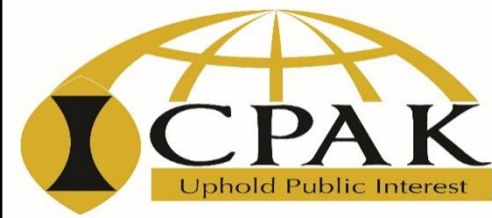
- *An Overview of the 2015 PFM Regulations*
- *Stipulations of the PFM Act and Regulations (2015) on Budget Preparation, Presentation and Accountability*

The 2015 Regulations



- ❑ PFM Regulations- National Government. [34-Public Finance Management Act Regulations 2015 National Government.pdf](#)
- ❑ PFM Regulations- County Governments: [PFM Regulations - Legal Notice No. 35 County Govts Regu-1.pdf](#)
- ❑ Gazette Notice- Audit Committees: [Gazette Notice Audit Committees in National and County Government Institutions Vol.CXVIII-No .40 \(002\).pdf](#)

Background

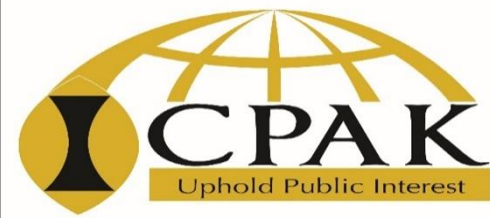


- ❑ The PFM Act underscores the importance of a good PFM management in creating a conducive environment for investments, job creation and poverty reduction at both levels of government.
- ❑ Without a good PFM system in place, the success of the devolution is to be curtailed if not de-railed.

Art. 201 of the Constitution - **the Principles of Public Finance**

- 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.

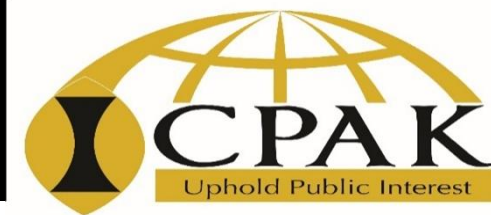
A macro review



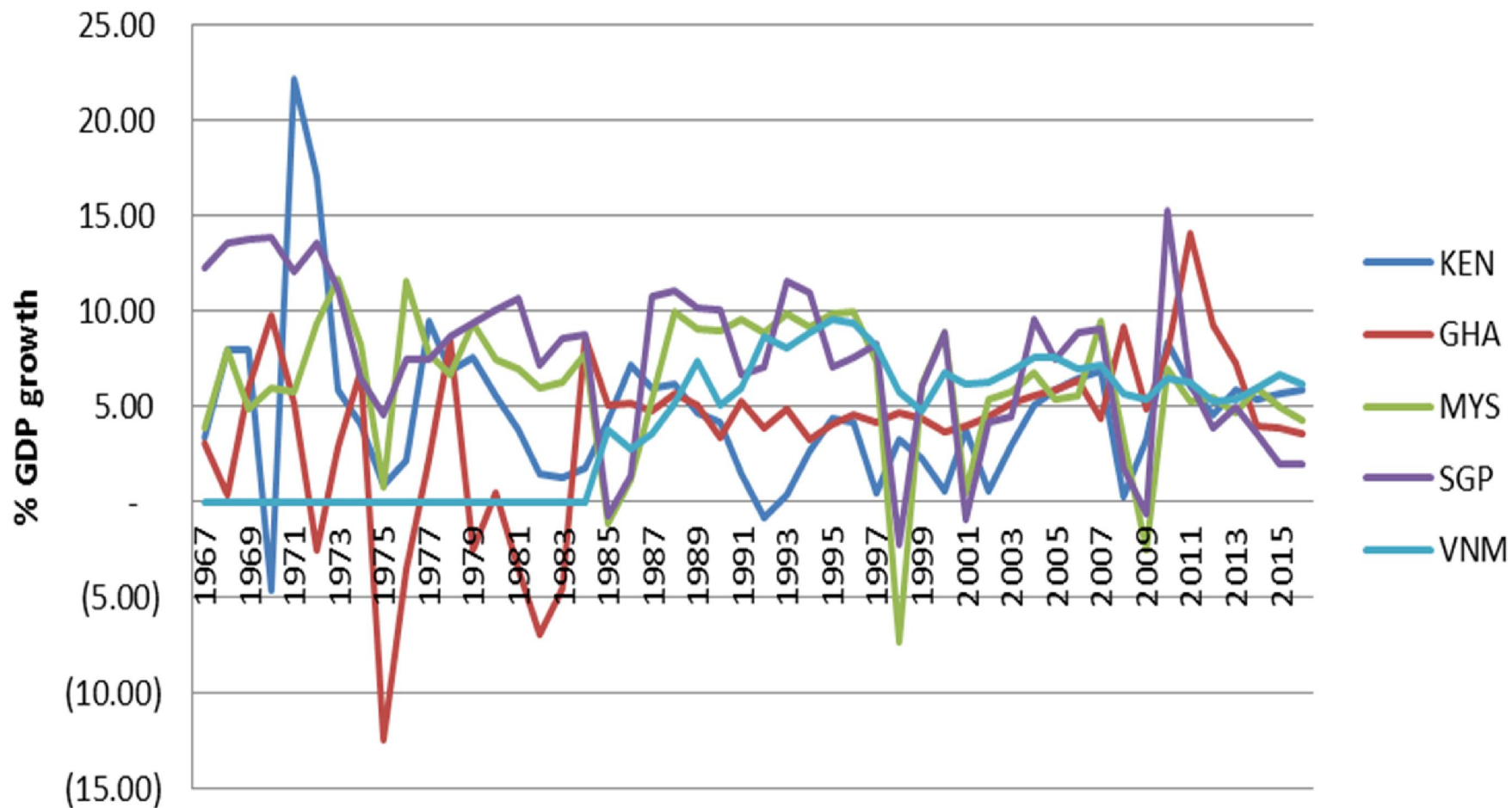
**What does our past macroeconomic indicators
tell us??**

For us to reflect!!!!

Comparative GDP Annual Growths

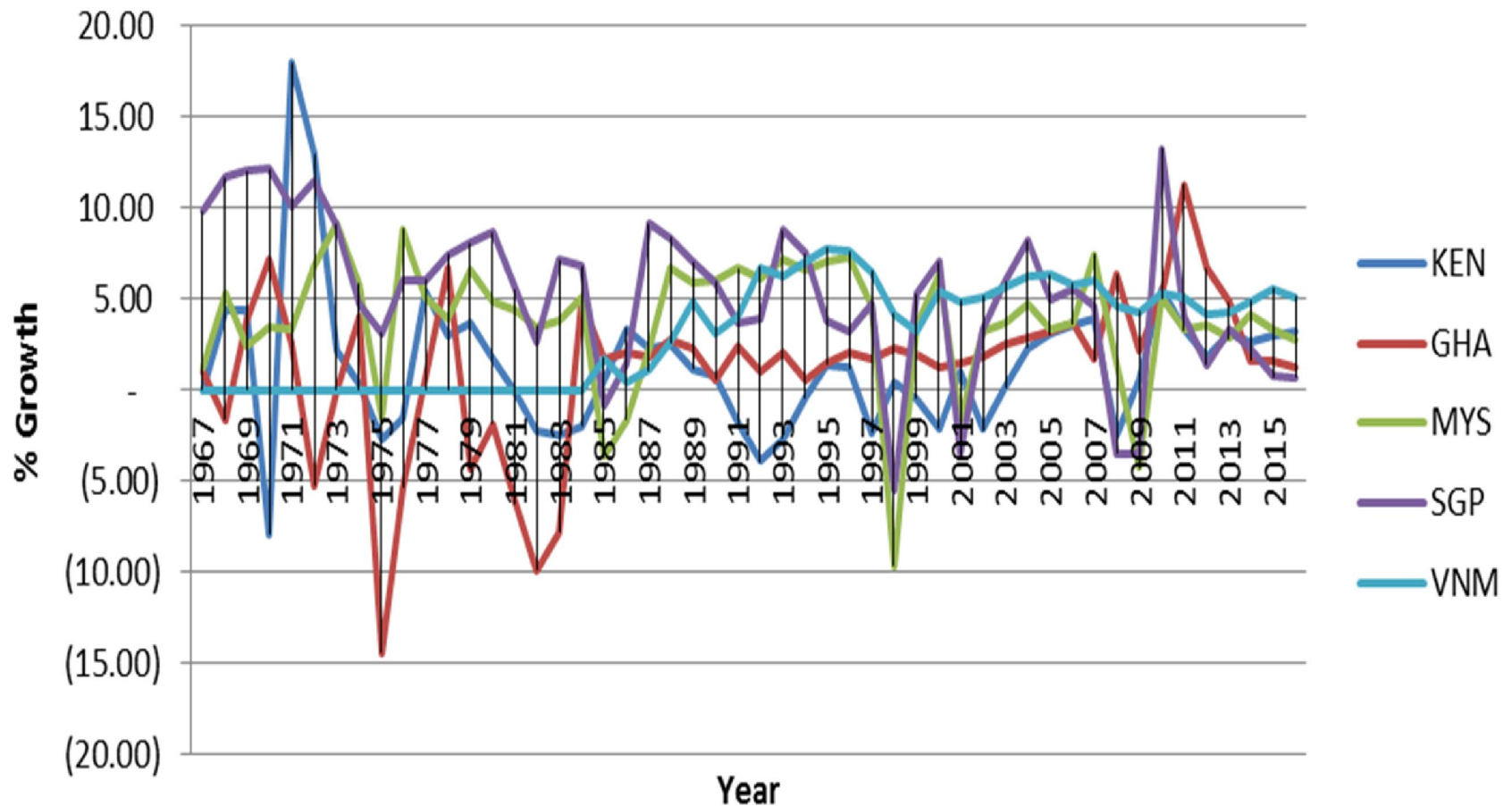


GDP Annual growth from 1967 to 2016

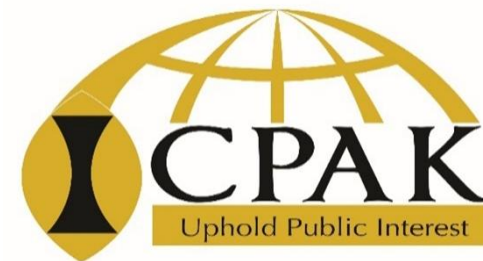


Comparative GDP Per Capita

GDP per capita from 1967 to 2016



Debt/GDP



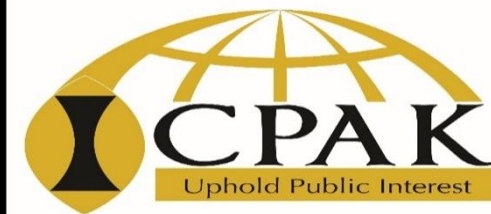
KENYA GOVERNMENT DEBT TO GDP



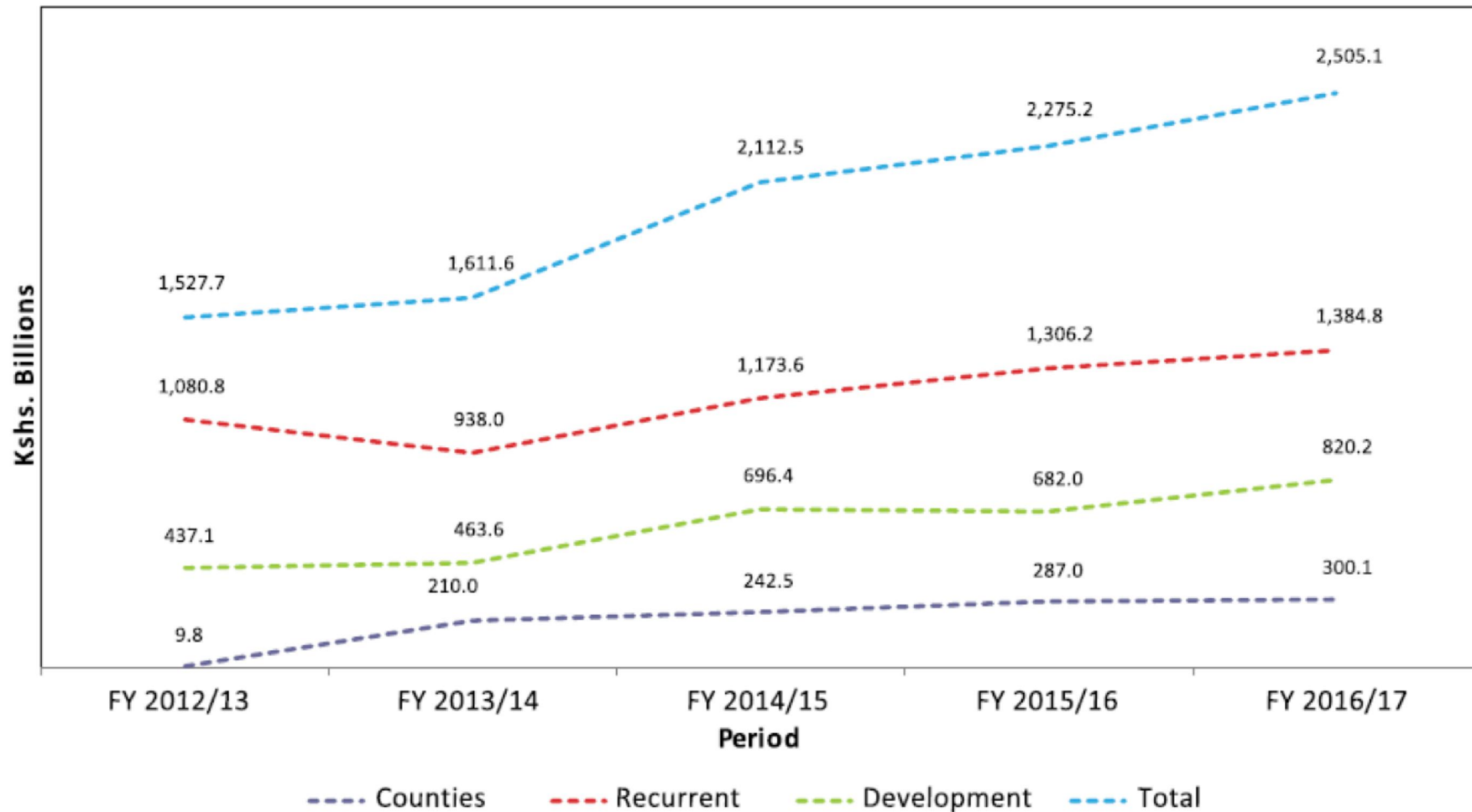
SOURCE: TRADINGECONOMICS.COM | CENTRAL BANK OF KENYA

Source – CoB Half Year 2016/17

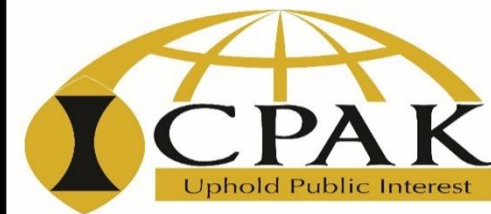
Annual Budget Trend FY 2011/12 – 2016/17



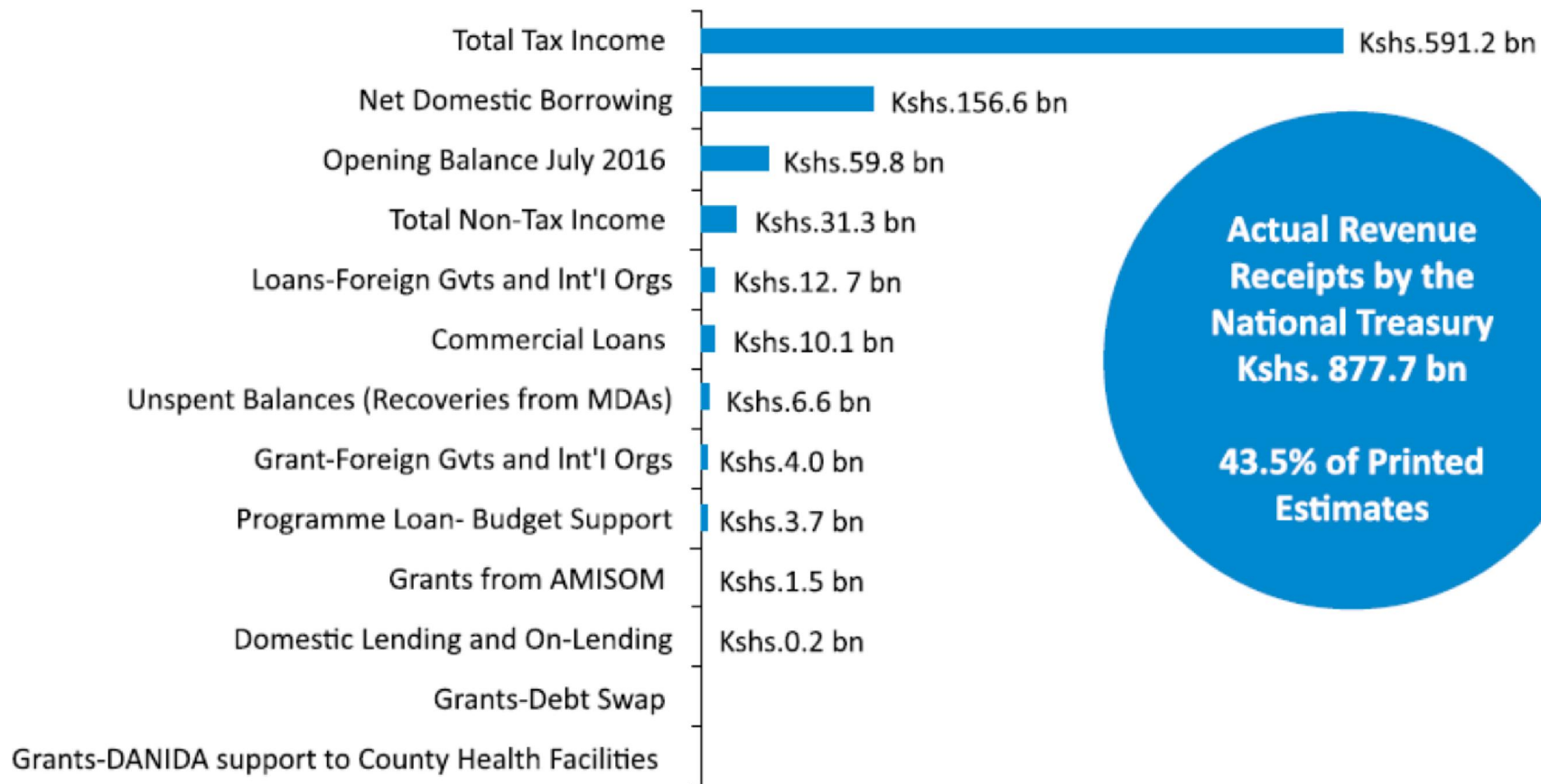
ANNUAL BUDGET TREND FROM FY 2012/13 TO FY 2016/17



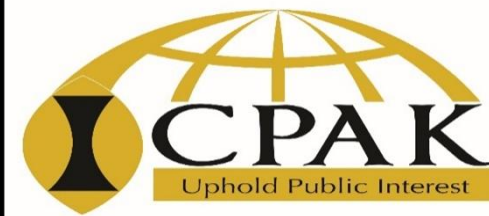
Annual Budget Trend FY 2016/17



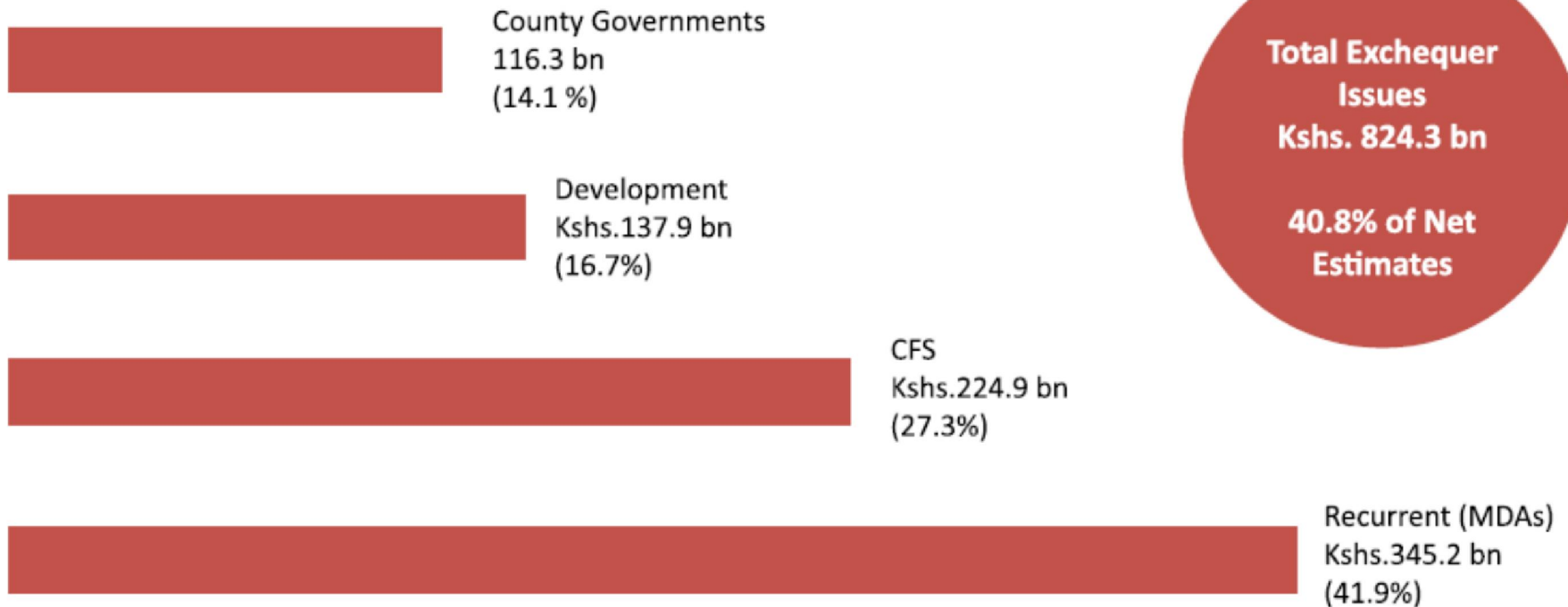
RECEIPTS INTO THE CONSOLIDATED FUND IN THE FIRST HALF OF FY 2016/17



Annual Budget Trend FY 2016/17

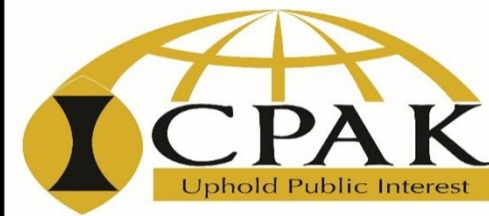


EXCHEQUER ISSUES IN THE FIRST HALF OF FY 2016/17

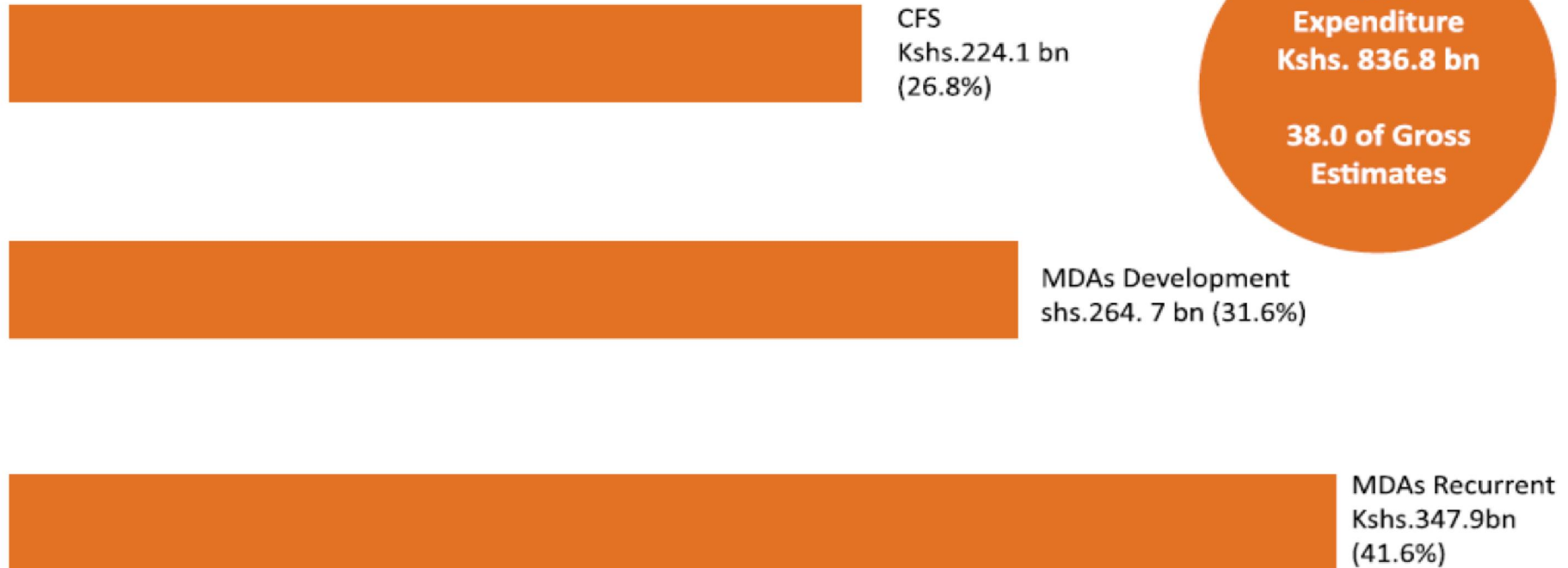


Source – CoB Half Year 2016/17

Annual Budget Trend FY 2016/17

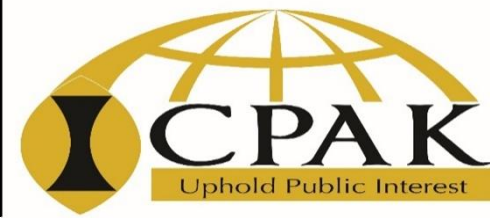


TOTAL EXPENDITURE IN THE FIRST HALF OF FY 2016/17



Source – CoB Half Year 2016/17

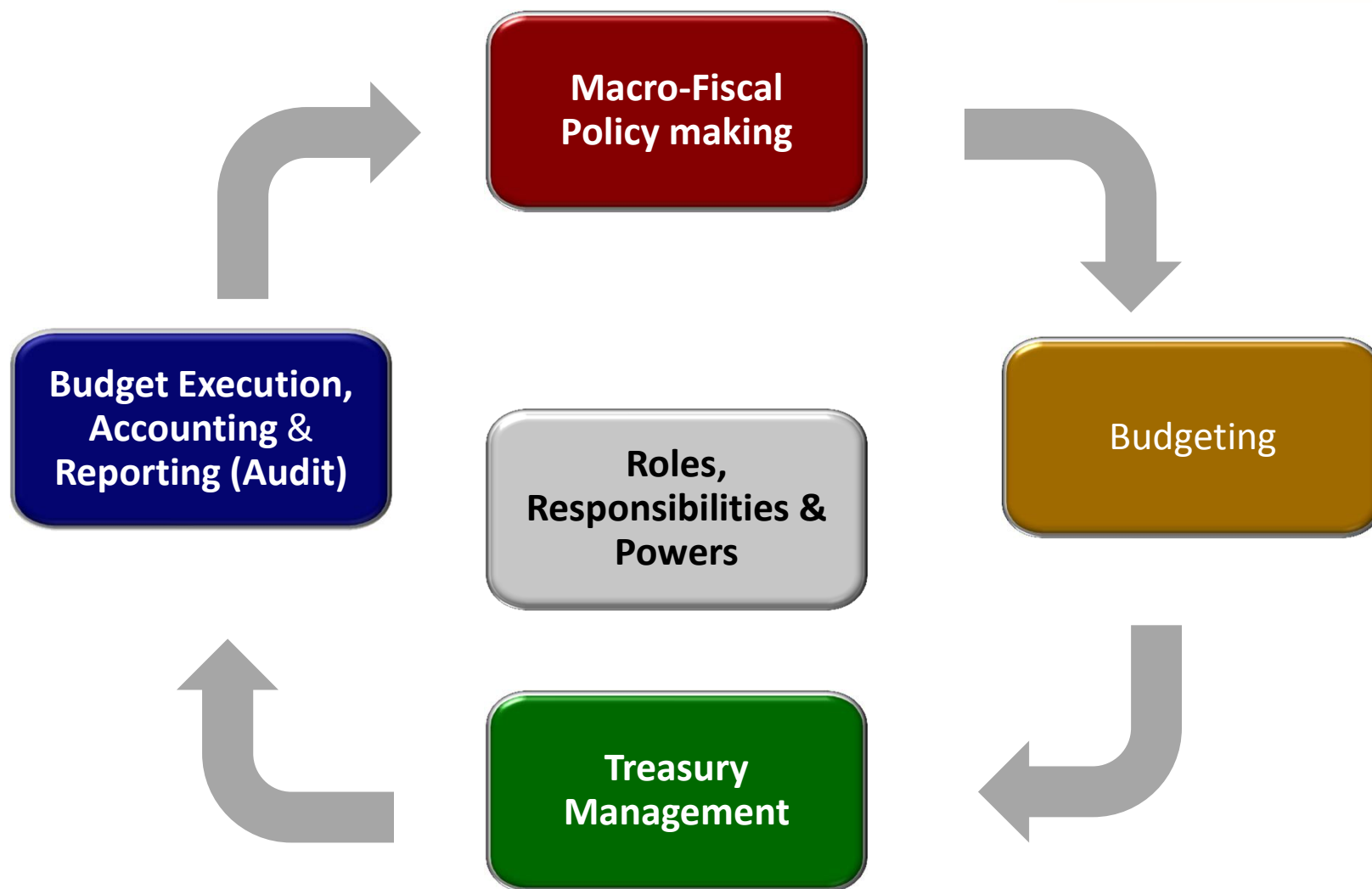
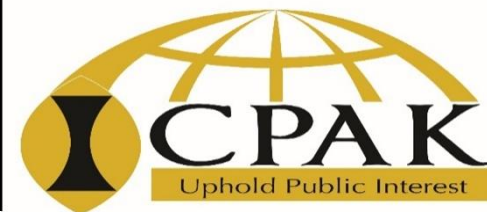
Key objectives of PFM Legal Framework



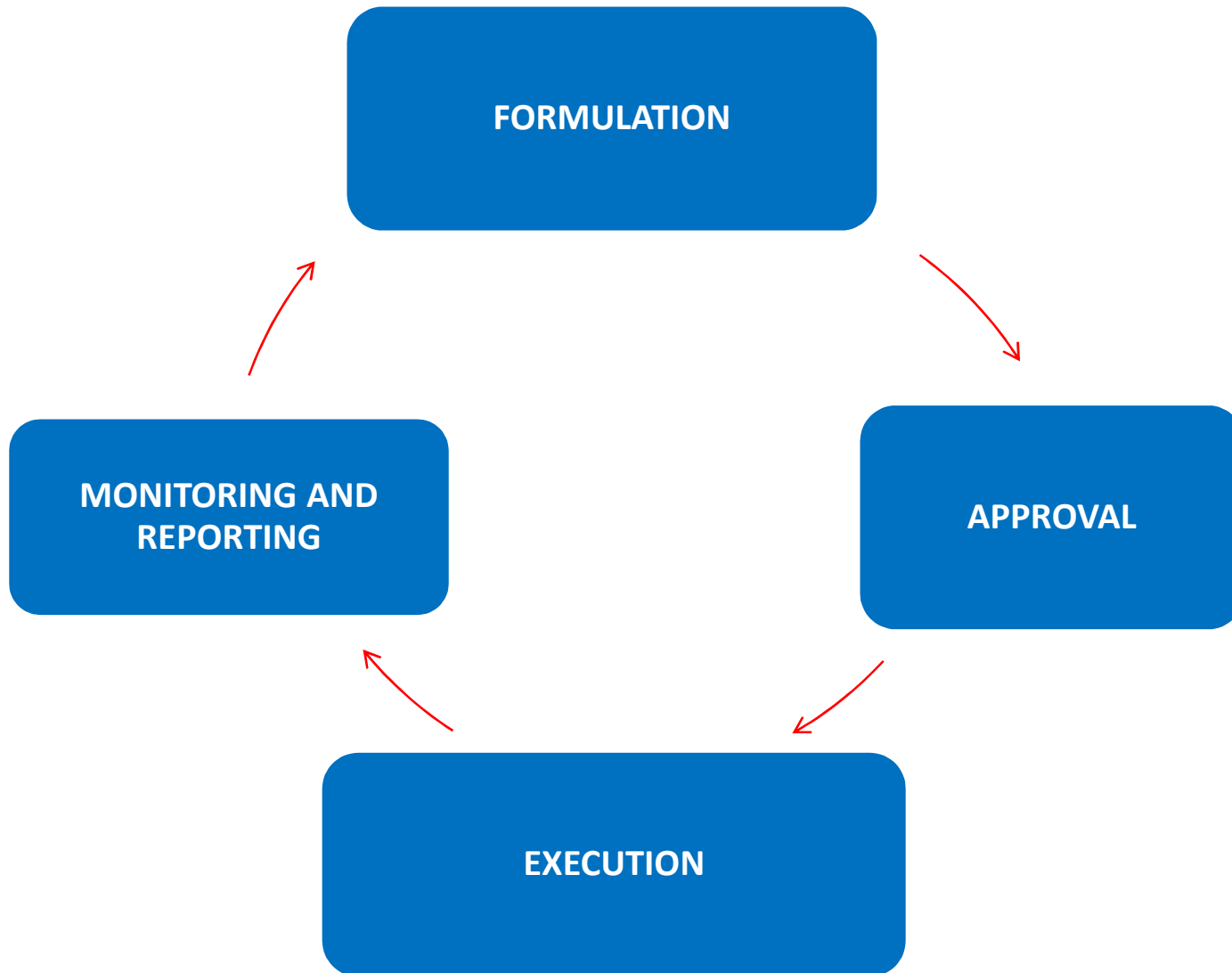
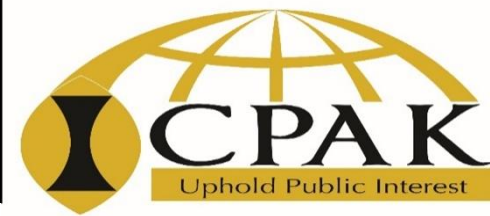
- ☐ To safeguard financial autonomy of both levels of government (Art's. 6(2); 189 (1)(a)).
- ☐ Anchor the **'Principles of public finance'** under Art. 201
- ☐ To incorporate best international practices in public financial management.
- ☐ To modernize and consolidate the many PFM laws that were in place

NB: The PFM Act caters for all the legislations required under the 5th Schedule of the Constitution—except for the procurement law which is separate

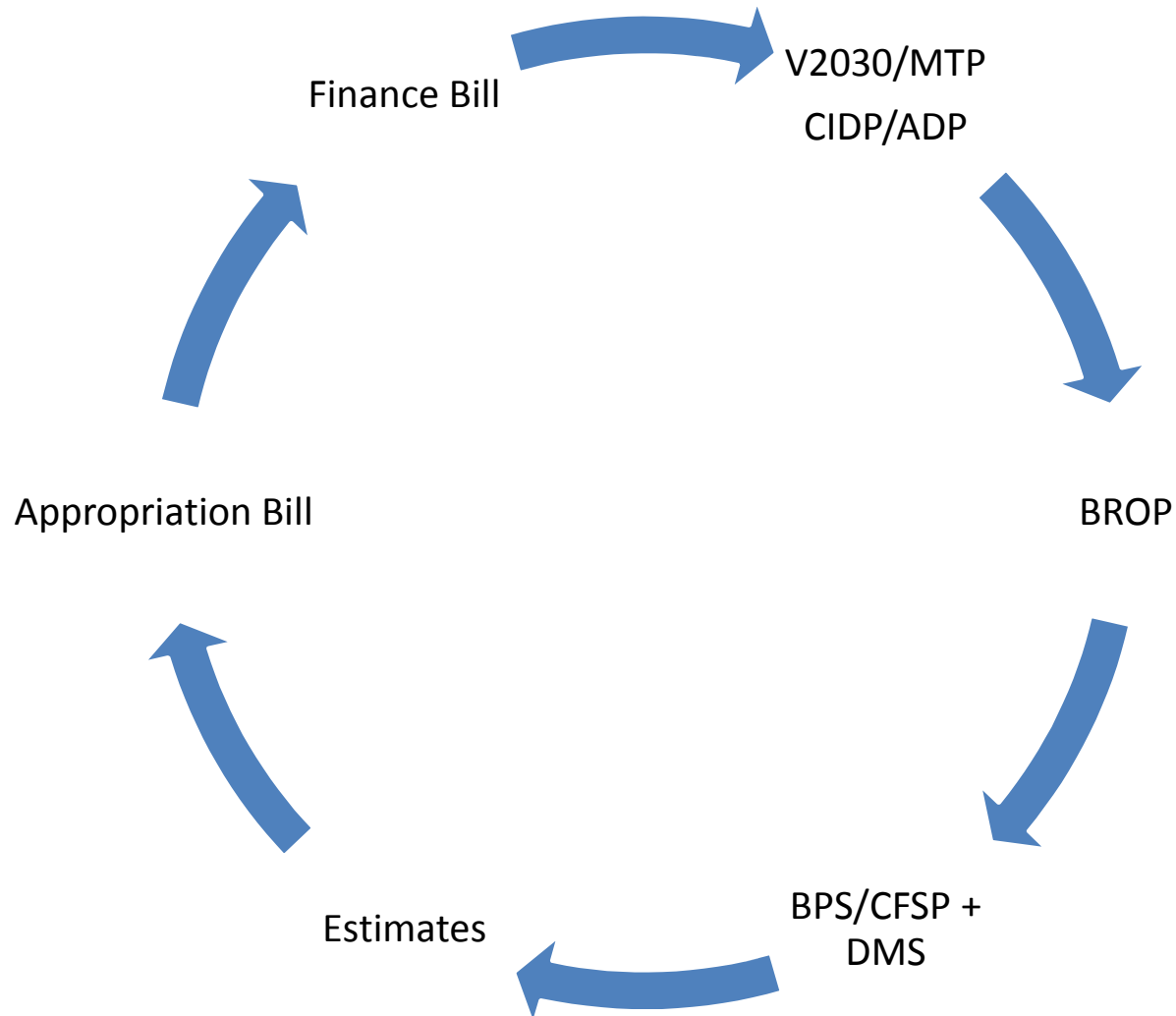
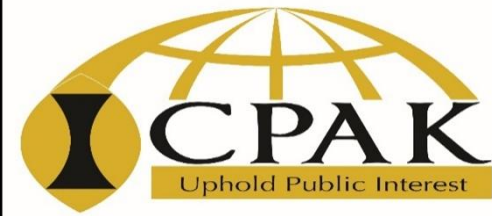
Core Areas of a Good PFM System



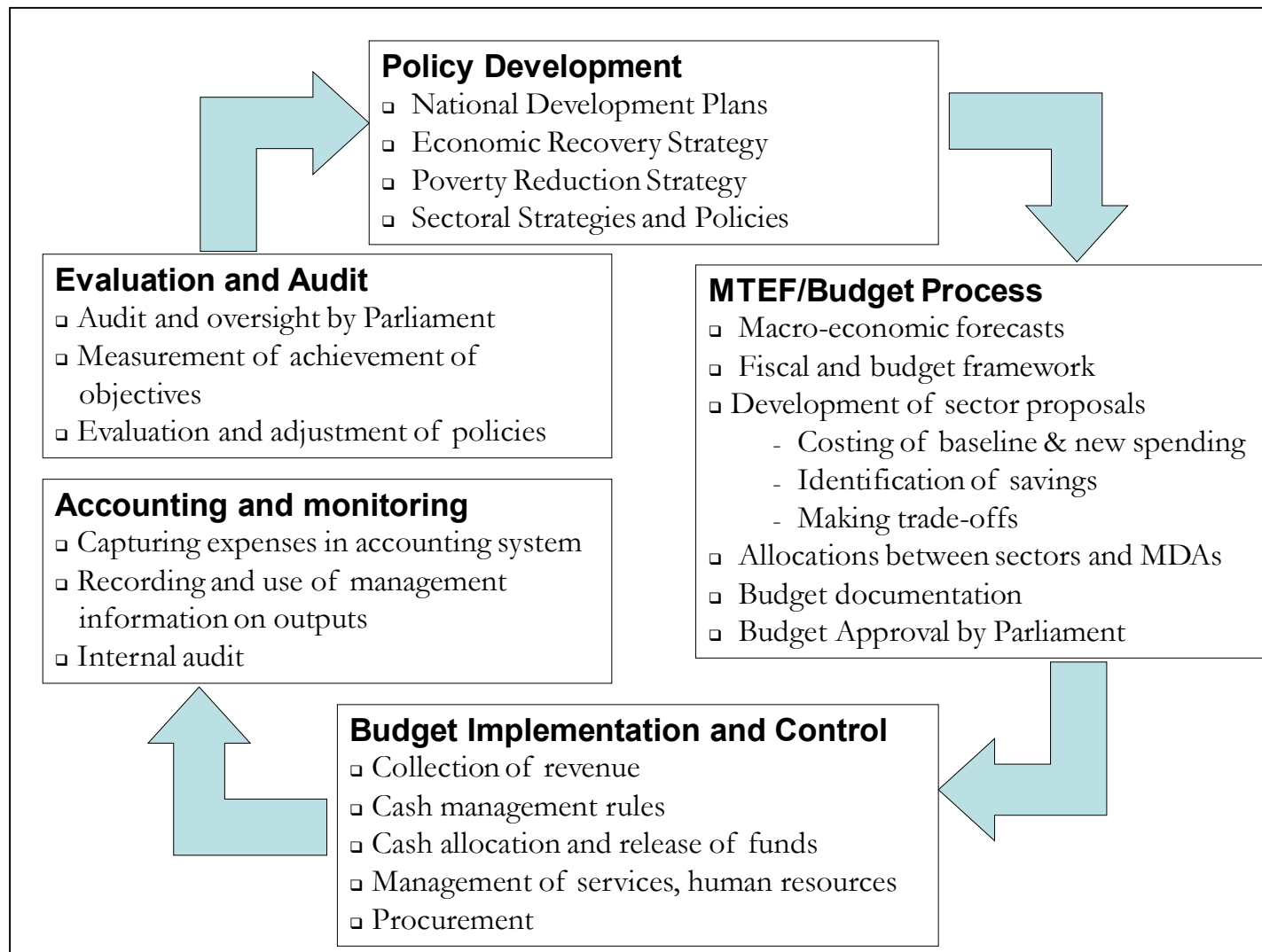
STAGES IN BUDGETING PROCESS



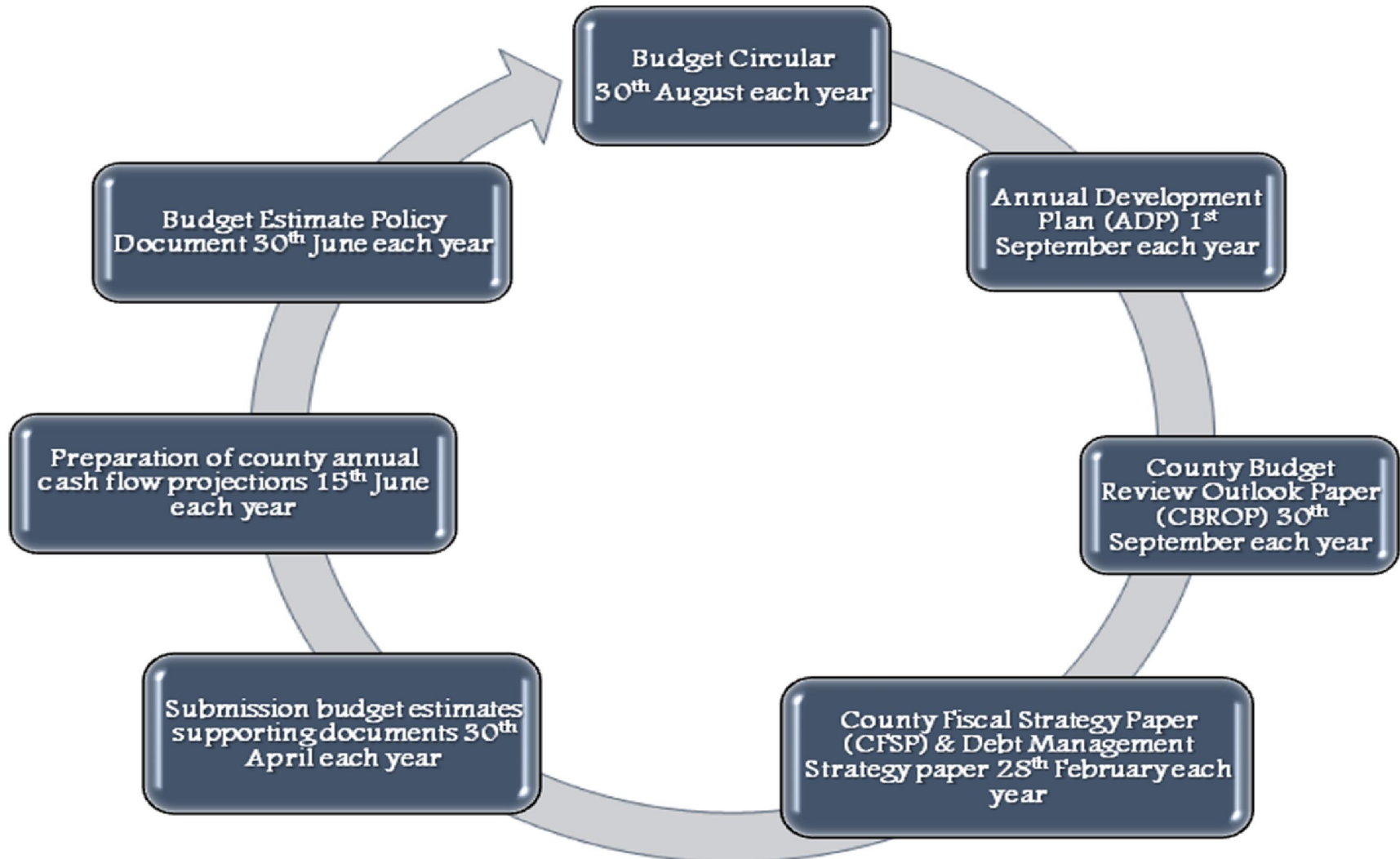
Budget Summary



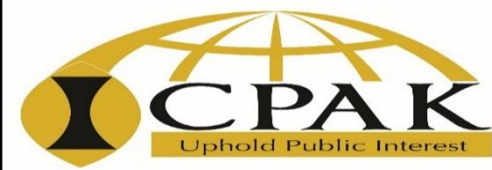
Summary of the Budget Cycle



Key Documents & Timelines - County

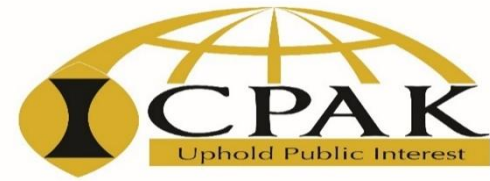


Link between the Constitution & the PFM Act



- Article 201 which provides for **principles of public finance** guides the PFM Act.
- 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**.

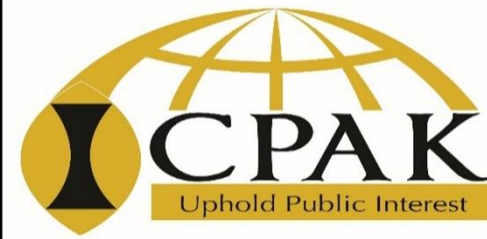
Supremacy of the PFM ACT 2012:



The PFM Act 2012 shall prevail in the case of any Inconsistency between it and any other legislation on the following matters:

- a) Preparation and submission of budget** estimates, including the time for doing so;
- b) Preparation and submission of accounts for audit**, including the time for doing so;
- c) Borrowing, lending and loan guarantees;**
- d) Raising of revenue and making of expenditures;**
- e) Banking arrangements, including opening of bank accounts and investment of moneys;**
- f) Establishment and management of public funds;**
- g) Establishment and dissolution of state corporations.**

Scope of the Regulations



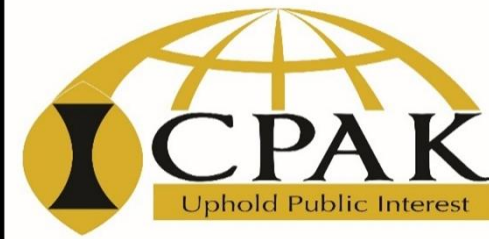
- ☐ Corporate Management
- ☐ Budget Preparation and Execution
- ☐ Management of Grants and Donations
- ☐ Treasury and Cash Management
- ☐ Accounting and Reporting
- ☐ Asset Management
- ☐ Public debt management
- ☐ Monitoring and evaluation
- ☐ Internal Audit and Audit Committees

.....is the process and structure used to direct and manage business affairs of the national/county government entities towards enhancing prosperity and good governance with the ultimate objective of realizing national long-term value while taking into account the interest of all stakeholders;

Opportunities

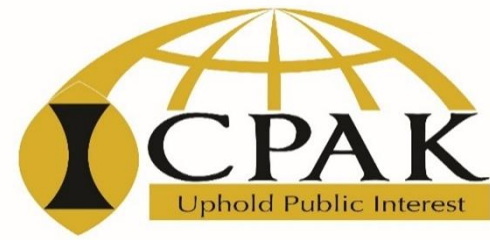
- **Enhanced Corporate governance (Mwongozo?)**
- Standing committees,
- Accounting Officers/AIE holders

Legal framework for Accountability



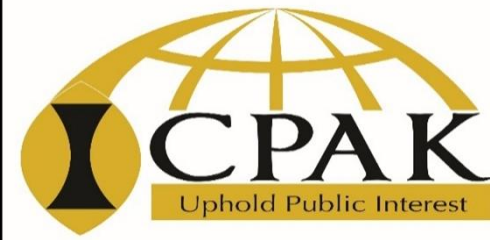
- Accountability on the use of public resources is required from the various sections of The Constitution, Public Finance Management Act of 2012, and other pieces of legislation:
- ✓ Art' 201 (a), there shall be openness & Accountability in public financial matters (including public participation)
- ✓ Art' 226 (5), If the holder of a public office, including a political office, directs or approves the use of public funds contrary to law or instructions, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not

Legal cont...



- ✓ Art' 232 (1)(e) requires accountability for administrative acts (as a principle & value in public service)
- ✓ Art' 73 (2)(d) requires accountability to the public, by a public officer, for his/her decisions & actions (as a guiding principle for leadership & integrity)

Obligations of Accounting Officers (PFM Act 2012)

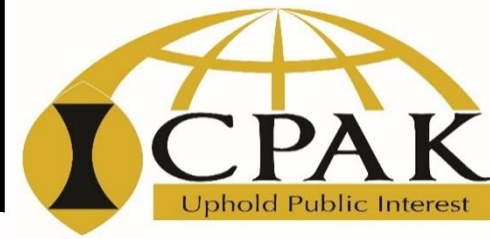


- ✓ Accounting Officers are Accountable to the National Assembly /County Assembly to ensure resources under their control are used in away that is:
 - a) Lawful & authorized
 - b) Effective, efficient, economic & transparent (Sec. 68(1))

- ✓ An accounting officer shall:
 - a) be responsible for the management of entity's assets & liabilities; and
 - b) manage those assets in a way that achieves value for money in acquiring (buying), using & disposing those assets (Sec. 71 (1))

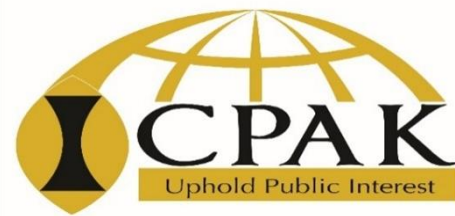
- ✓ Accounting officer may take disciplinary action against any officer who misuses public resources under their docket (sec. 74 (1))

Obligation of public officers (PFM Act of 2012, sec. 70(1&2))



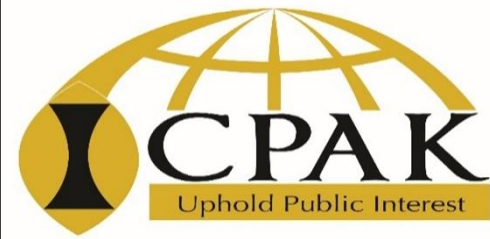
- A public officer shall:
 - ✓ comply with the constitution & all laws relating to the conduct of public officers
 - ✓ ensure that resources within the officers area of responsibility are used in a way that is:
 - a) lawful & authorized; and
 - b) effective, efficient, economical & transparent
- ✓ Within the officer's area of responsibility:
 - a) ensure adequate arrangements are made for the proper use, custody, safeguarding and maintenance of public property
 - b) use the officers best effort to prevent any damage from being done to the financial interest of the government

Accountability measures



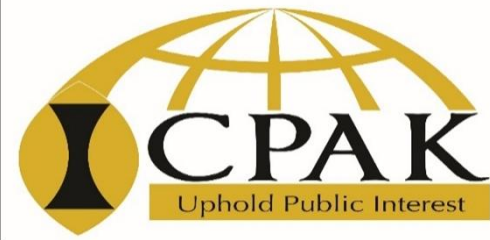
- **Handing over by public officer (Reg. 11)** – vacation of office is not complete until all financial & accounting records kept by such officer have been properly handed in writing & attested by the vacating officer's supervisor
- **use of signatures on finance matters (Reg. 12)**
 - ✓ (1) Signing a financial transaction must be in a manner that precludes any subsequent alteration or addition of information to such document or record
 - ✓ (2) Signature alluded to in (1) above is not binding unless a specimen signature was provided in advance to the accounting officer
 - ✓ (3) Once an officer vacates office, the accounting officer shall nullify the provided specimen signature & notify all other relevant authorizing officers

Fiscal Strategy and Macroeconomic Framework



- Fiscal responsibility principles.
- Budget Policy Statement.
- Macroeconomic framework.
- Contents of a fiscal framework.
- Revisions to a fiscal framework

Budget Preparation

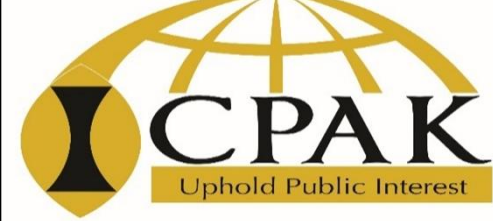


PFMA Opportunities:

- Budget preparation process.
- Budget guidelines
- Budget estimates,
- Appropriation Bills,
- Vote on Account,
- Approval by National Assembly

However, budgets have consistently been increasing.
Is this an opportunity or a challenge?

Budget Execution

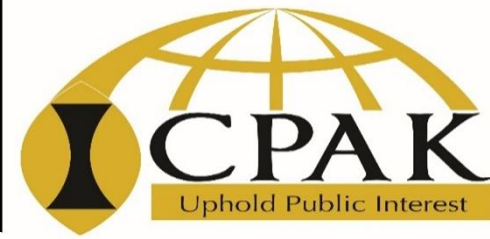


PFMA Opportunities:

- Budgetary control, variation, reallocations
- Release of Funds/Quarterly requests
- Commitment control
- Quarterly reporting

However, there are growing fiscal deficits

Management Revenues/ Receipts



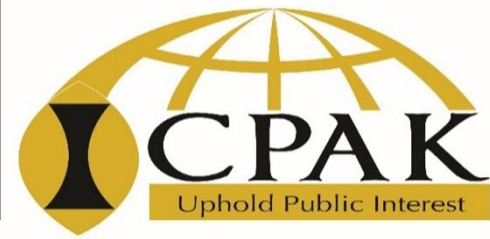
PFMA Opportunities

- Classification of revenues
- A.I.A and applications,
- Collectors and receivers,
- Quarterly reporting

However, revenue generation has not been increasing at par with govt. budgets.

National and County government targets not met

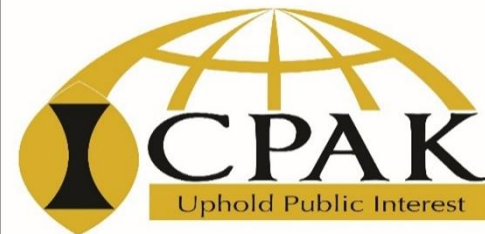
Treasury and Cash management



PFMA Opportunities:

- The Consolidated Fund,
- Cash and banking arrangements,
- Cheques & EFT,
- Cash Management Advisory Committee,
- Bank Reconciliation
- Imprest Management
- Treasury Single Account

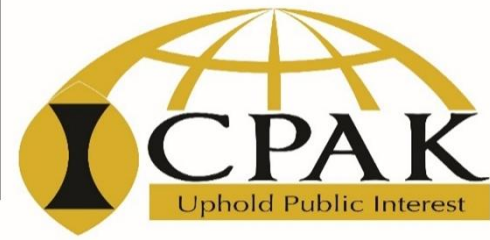
Accounting and Reporting



PFMA Opportunities:

- Form & Structure provided,
- Books of Account defined,
- Automation (IFMIS),
- Public Sector Accounting Standards Board (PSASB)

Expenditure Management and Control



PFMA Opportunities:

- Consolidated Fund Services,
- Accountable Documents,
- Procurement Plans

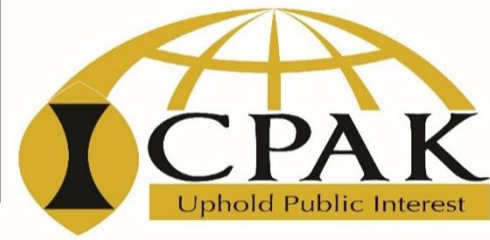
Challenge:

- Compliance?
- What controls are there then?

PFMA Opportunities:

- Responsibility for monitoring, evaluation and reporting
- Special National Government public Funds,
- State Corporations additional reporting

Asset Management

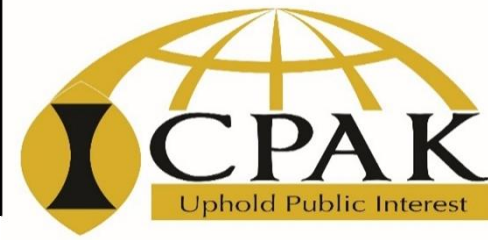


PFMA Opportunities:

- Inventories of Assets,
- Transfer of assets,
- Register of Assets,
- Losses and Write-offs

Opportunities for the entities to develop and maintain assets

INTERNAL AUDIT AND AUDIT COMMITTEES

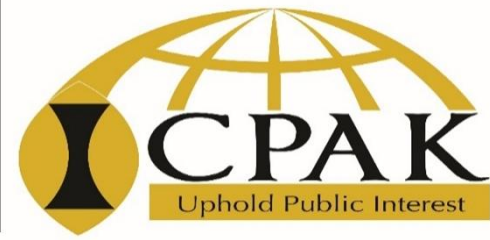


PFMA Opportunities:

- Mandate of internal auditors.
- Compliance with professional standards and code of ethics.
- Independence of the internal auditor.

New dawn for audit function (audit committee Guidelines issued April 2016)

Public Debt Management



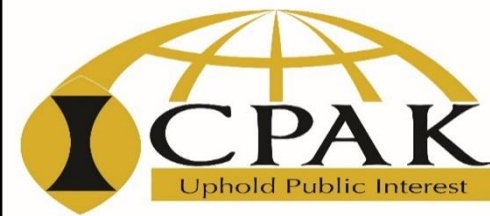
- Not more than set limits.
- Country borrowing strategy - domestically, foreign debts vs Interest rates

- Financial autonomy supported by Articles 6 and 189 of the Constitution:
 - Art. 6 (2) The governments 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.
- Role of institutions and fiscal responsibility principles

Art. 226 (5)

“If the holder of a public office, including a political office, directs or approves the use of public funds contrary to law or instructions, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not”.

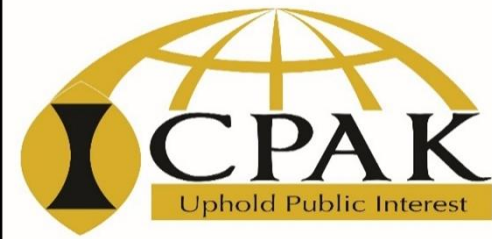
Penalties and Fines –PFM Act



- Section 199: Provides for maximum penalties for offences committed under this Act:
 - ✓ A conviction of a term of imprisonment not exceeding five years or
 - ✓ A fine not exceeding Ksh10 million or
 - ✓ Both such fine and imprisonment.
- Section 200 and 201 requires the principal secretary and accounting officers to report suspected offences to relevant law enforcement agencies for investigation.
- Section 202 and 203 provide for liability of a public officer for certain losses sustained by the National and County governments.

❑ We already have a precedent !!!

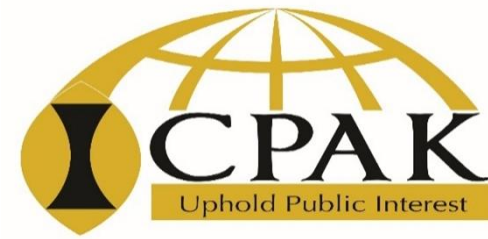
Way Forward



No easy answers in addressing the challenges and seizing the opportunities.

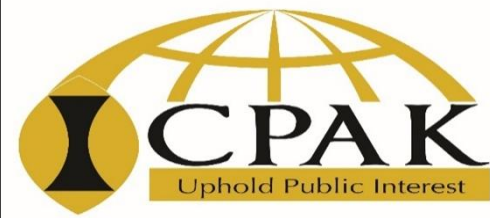
- Government needs to have more and better regard for the Constitution- and PFM reforms
- Corruption and impunity have undermined the gains expected of the reforms in the PFM Act.
- The functions of the Auditor General, Controller of budget should not be undermined.
- Fiscal reforms should be targeted at propping the economy
- Government should check its spending spree
- Government should communicate better
- Only then, might we start seeing the fruits of the reforms.

Way Forward - Questions



- Can Counties bring more prosperity to the people?
- Can public participation be made more effective?
- Can devolution take resources closer to the people?
- Can Government cut waste in spending?
- Can we prioritize spending on projects with catalytic value?
- Can we maintain macro-economic stability with low inflation, low fiscal deficit and fiscal space?

Conclusion



- Discussion
- Questions?

