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ZAMBIA: TECHNICAL ASSISTANCE REPORT—TOWARDS AN INTEGRATED LEGAL FRAMEWORK FOR PUBLIC FINANCIAL MANAGEMENT

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ZAMBIA

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TECHNICAL ASSISTANCE REPORT—TOWARDS AN INTEGRATED LEGAL FRAMEWORK FOR PUBLIC FINANCIAL MANAGEMENT

This Technical Assistance Report on Zambia was prepared by a staff team of the Fiscal Affairs Department of the International Monetary Fund. It is based on the information available at the time it was completed on June 2015.

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Fiscal Affairs Department

ZAMBIA

TOWARDS AN INTEGRATED LEGAL FRAMEWORK FOR PUBLIC FINANCIAL MANAGEMENT

Florence Kuteesa, Richard Allen, Yugo Koshima, McCarthy Phiri, and Vijay Ramachandran

June 2015

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ACRONYMS AND ABBREVIATIONS

AFS	AFRITAC South
AG	Auditor General
BoZ	Bank of Zambia
CMC	Cash Management Committee
CMU	Cash Management Unit
CoA	Chart of Accounts
DSA	Debt Sustainability Analysis
EITI	Extractive Industries Transparency Initiative
FAD	Fiscal Affairs Department
FR	Financial Regulations
GAI	Grant-Aided Institutions
GFSM	Government Finance Statistics Manual
IDC	Industrial Development Corporation
IFMIS	Integrated Financial Management Information System
IPSAS	International Public Sector Accounting Standards
IPSASB	International Public Sector Accounting Standards Board
LGA	Local Government Act
LGEF	Local Government Equalization Fund
MoF	Ministry of Finance
MoJ	Ministry of Justice
MoLG	Ministry of Local Government and Housing
MPSA	Ministries, Provinces, and Spending Agencies
MTBP	Medium-Term Budget Paper
MTDS	Medium-Term Debt Management Strategy
MTEF	Medium-Term Expenditure Framework
NA	National Assembly
NDP	National Development Plan
OAG	Office of the Auditor General
PAA	Public Audit Act
PAC	Public Account Committee
PBB	Planning and Budgeting Bill
PBO	Parliamentary Budget Office
PFA	Public Finance Act
PFM	Public Financial Management
PFMA	Public Finance Management Act
PPP	Public-Private Partnership
PS	Permanent Secretary
SAC	State Audit Commission

SOE	State-Owned Enterprises
ST	Secretary to Treasury
TA	Technical Assistance
TSA	Treasury Single Account
ZCCM-IH	ZCCM Investments Holdings Plc

PREFACE

In response to a request from the Ministry of Finance (MoF) of the Government of the Republic of Zambia, an IMF Fiscal Affairs Department (FAD) and AFRITAC South (AFS) mission visited Lusaka during the period April 28–May 12, 2015. The mission comprised Florence Kuteesa (FAD, head), Richard Allen (FAD), Yugo Koshima (LEG), McCarthy Phiri (AFS), and Vijay Ramachandran (FAD Panel of Experts).

The mission met with Mr. Fredson Yamba, Secretary to Treasury (ST); Mrs. Pamela Chibonga, Permanent Secretary (PS) for Budget and Economic Affairs; Dr. Ronald Simwinga, PS for Finance and Economic Management; Mr. Mike Masiye, Budget Director; Mr. Dick Sichembe, the Accountant General; Mr. John Banda, Acting Director of Investments and Debt Management; Ms. Nsandi Manza, Deputy Accountant General - Financial Reporting; Mrs. Joyce Sundano, Controller of Internal Audit; and other senior officials from the MoF.

The mission also met with the Chairpersons of select committees and staff of the National Assembly (NA), namely: Honourable H. H. Hamududu, Estimates Committee; Honourable F. Mutati, Economic Affairs and Labour Committee; Honourable M. K. Sampa, Public Accounts Committee (PAC); and Mr. A. Chilambwe, Deputy Principal Clerk. The team held consultations with Dr. Bwalya Ngandu, Deputy Governor (Operations) and senior officials of the Bank of Zambia (BoZ); Mr. Berline Msiska, Commissioner General and selected senior officials of the Zambia Revenue Authority (ZRA); Mr Davison Mendamenda, Deputy Auditor General and senior staff in the Office of the Auditor General (OAG); as well as Directors of Planning and Financial Controllers of ministries of: Education, Energy and Mines, Works and Supply, and Local Government and Housing; and other senior officials from selected statutory bodies.

In addition, the mission shared the preliminary findings with the representatives of main cooperating partners supporting public financial management (PFM) reforms in Zambia—from the World Bank, KFW-German Development Bank, Deutsche Gesellschaft für Internationale Zusammenarbeit[1], Finland, Ireland, Norway, and Delegation of the European Union.

The mission wishes to express its appreciation to the Zambian authorities for the constructive discussions as well as their excellent cooperation, and special thanks to Ms. Nsandi Manza and Ms. Noris Matongo for facilitating the work of the mission. In particular, the mission would like to thank Mr. Tobias Rasmussen, the resident representative, and his staff for their extremely valuable logistical support and assistance during the mission.

[1] This is the Development Agency of the Federal Government of Germany.

EXECUTIVE SUMMARY

The legal framework for PFM in Zambia is fragmented, and much of it is outdated—falling short of capturing both recently introduced reforms and internationally accepted practices. The government has prioritized a revision of the existing legal framework for PFM and national development planning. This revision will permit a range of important PFM reforms that are ongoing or planned to be incorporated within the legal framework. These reforms include medium-term planning and budgeting, a performance-oriented approach to budget management, the introduction of comprehensive commitment controls, adoption of international accounting and reporting standards (International Public Sector Accounting Standards (IPSAS) and Government Finance Statistics Manual (GFSM) 2001), implementation of a treasury single account (TSA), and recognition of electronic transaction processing arrangements.

In addition, an updated legal framework would permit other important improvements in current practices to be incorporated. These amendments include: (i) extending the coverage of the law from the budgetary central government to general government and financial oversight of the wider public sector; (ii) harmonizing definitions and terminology; (iii) provisions on the management and monitoring of fiscal risks, and the approval for borrowing and guarantees issued by the government; (iv) clarification of the roles of the MoF and the BoZ on cash and debt management; (v) clear rules and procedural arrangements for supplementary budgets, excess expenditure, and the end-year carry-over of unspent appropriations; and (vi) broadening the sanctions regime for breaches of financial regulations to the controlling offices of organizations as well as individuals.

Furthermore, a revision of the legal framework would facilitate the strengthening of existing institutions, in particular the powers of the NA to scrutinize the government's medium-term fiscal and budget strategy and to oversee the execution of the budget, and the independence of the Auditor General (AG). Consideration could also be given to elevating the position of the Accountant General to PS level, in line with several other African countries.

Revisions to the PFM legal framework will need to be harmonized with the new Constitution, a draft of which was finalized in 2014. In addition, the government has embarked on a decentralization reform which by 2017 will substantially increase the autonomy of and the amount of fiscal transfers to local governments. The reform will require the establishment of legal provisions for enhancing intergovernmental fiscal relations, including central government's oversight of local government fiscal operations as well as harmonization of the Local Government Act (LGA) with the Public Finance Act (PFA).

The government is currently proposing a two-track approach to revising the PFM legislation. The first track comprises a Planning and Budgeting Bill (PBB) that has already been drafted and should be submitted to the Cabinet and NA in summer 2015. The PBB covers broadly the preparation of the national development plan (NDP) and the budget. The second track would comprise the preparation, in longer time, of the revised PFA and other specific PFM-related laws, including on debt management, state-owned enterprises (SOE), and local government finance.

The mission has reservations about the government's two-track approach as there are risks that the two laws will not be comprehensive, and will lack consistency and comparability. A preferred approach would be to prepare a single integrated PFM law—a new Public Finance Management Act (PFMA)—taking elements from the PFA 2004 and the draft PBB, and consolidating and updating them. Many other African countries (such as Kenya, Liberia, Mauritius, Rwanda, Seychelles, Swaziland, and Uganda) have followed a similar path in updating their legal framework for budgeting and public finance.

If the government decides to continue with the two-track approach, it is very important that the process of drafting legal framework is managed by a single technical working group, and the work is closely coordinated with relevant experts in the MoF, the Ministry of Local Government and Housing (MoLG), the Cabinet Office, and other government ministries and agencies. Ideally, the two Bills should be presented to the Cabinet for approval concurrently, followed by their combined submission to the NA.

This report proposes a road-map for completing the process of drafting and adopting the revised legal framework. It will be particularly important to consult at an early stage with all stakeholders, especially the NA. Early engagement with the legislature may convince them that it is necessary to extend the timetable for consultation and drafting in order to prepare a fully integrated legal framework as emphasized above.

In addition to its key role in preparing the revised framework of primary legislation, the working group should also take responsibility for revising the regulations relating to PFM—preferably after the enactment of the new PFMA or PBB/PFA—and updating "specialist" laws on debt management, oversight of SOEs and statutory bodies, procurement, and local government finance. This work should be done by the working group in consultation with relevant experts and stakeholders. The IMF's Fiscal Affairs Department (FAD) stands ready to provide further technical assistance (TA) to the MoF as this important work is taken forward.

Table 1 summarizes the recommendations contained in the report. Where necessary, transitional provisions should be used so that the most significant and complex changes are phased-in over time.

Table 1. Zambia: Summary of Recommendations

Number	Recommendation
A. Macroeconomic and Fiscal Policy	
2.1	Establish principles, objectives, and rules on macroeconomic and fiscal policy
B. Planning and Budget Preparation	
2.2	Specify institutions and procedures to ensure the MTEF and NDP are consistent.
2.3	Submit to Parliament a MTEF and report for monitoring of expenditure targets.
2.4	Specify principles, procedures, and institutions for public investment management.
2.5	Define budget calendar and documents.
2.6	Establish institutions and procedures for parliamentary scrutiny of the budget.
2.7	Define a unit of appropriation and provide for transition to output or program budgeting.
2.8	Specify rules and procedures for virement, supplementary budget, and carry-over and discontinue the excess expenditure appropriation.
C. Treasury Planning and Management	
2.9	Clarify scope of the Consolidated Fund/general revenues, establish a CMC and CMU, specify control of non-tax revenues, and establish a TSA and clarify MoF's and BoZ's roles.
2.10	Incorporate in the PFA, the fundamental principles for debt management including preparation of MTDS and DSA, establishment of borrowing thresholds, the roles of MoF and BoZ in debt management, and establish a separate law to elaborate them.
2.11	Set out commitment control rules, provide for the Treasury's power to enforce audit recommendations, and refer to international standards on internal audit.
D. Accounting, Reporting, and External Audit	
2.12	Refer to "internationally accepted accounting standards", specify the MoF's responsibility to set accounting standards, and require LGs to comply with the central government CoA.
2.13	Incorporate the contents of annual financial reports provided in the draft new Constitution.
2.14	Specify contents and timeline of in-year financial reports and include enforcement measures.
2.15	Ensure the independence of the OAG and reconsider establishment of the SAC.
E. Oversight of Local Governments, GAIs, and SOEs	
2.16	Include in the Schedule to the law, a list of all GAIs and SOEs, to be updated regularly.
2.17	Specify the responsibilities of the key players in the oversight of GAIs and SOEs.
2.18	Specify the process to determine the LGEF's distribution formulas. Require budgets and borrowing of local governments to be approved by the MoF and MoLG.
2.19	Require GAIs' budgets and borrowing to be approved by the MoF. Establish a process to assess the financial implications of a new GAI (and SOE).
2.20	Require SOEs to establish financial and dividends targets according to government policy. Require SOEs' budgets to be approved by the MoF. Specify transparency requirement of state-owned mining companies.
F. Roles and Responsibilities, and Sanctions	
2.21	Update and clarify the roles and responsibilities of key players in PFM.
2.22	Specify organizational sanctioning measures.
Proposals for Next Steps on PFM Law Revision	
3.1	Adopt an outline of an integrated PFM law or two laws without any overlap.
3.2	If the twin-track approach is followed, submit two bills to the NA concurrently.
3.3	Revise a roadmap for preparation of an integrated PFM law or two laws.
3.4	Organize a single technical working group of MoF officers and MoJ lawyers to prepare both the PBB and PFA, or an integrated PFM Bill.
3.5	Revise the PFM Reform Strategy to include the MoF's restructuring.
3.6	Replace existing debt management related laws with the provisions of the integrated PFM law (or the PBB/PFA) or a separate public debt management law.
3.7	Mandate the technical working group to prepare amendments to the LGA jointly with the MoLG and also review and prepare amendments to other PFM related laws.

I. Introduction

1. **The legal framework for PFM in Zambia is divided among several different laws and regulations—many of which are out-dated and poorly harmonized (see Annex I).** The main legal instrument—the PFA 2004—lacks many of the key provisions of a modern PFM law, such as macro-fiscal planning, budgeting, and treasury management, and does not capture the recently introduced or proposed reforms in the management of public finances. Furthermore, the PFA does not provide an effective anchor for other legislation pertaining to PFM issues, as its provisions do not have a superior status to other relevant laws.

2. **Zambia's overall PFM reform agenda[2] includes many important modifications that should be anchored within the legal framework.** Since the mid-2000s, the reform priorities have included: (i) restructuring the MoF[3]; (ii) further integration of planning and budgeting; (iii) improvements in cash and debt management; (iv) introduction of a computerized financial management information system (FMIS); (v) improvements in public procurement; and (vi) strengthening expenditure controls including the internal audit function.

3. **In addition, the draft Constitution of 2014[4] incorporates many important provisions on public finance and budgeting, including: macroeconomic and fiscal policy; the financial management and regulation of public funds; preparation of medium- and long-term financing frameworks and development plans; budget preparation process; public participation in the formulation of development plans and annual budgets; content of the government's financial statements; and control and disbursement of appropriated funds.** The constitutional review process provides an opportunity to review these proposed elements and ensure harmonization with the revised PFM legal framework.

4. **Furthermore, the government has embarked on the implementation of a major fiscal decentralization strategy.** By 2017, this strategy is intended to substantially increase both the autonomy of local governments and the amount of transfers received by them through the budget and the new equalization fund[5]. The reform will require establishment of

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[2] Republic of Zambia, *Public Financial Management Reform Strategy, 2013–2015*, July 2013.

[3] MoF, *Strategic Plan (2012–2016)*, 2012.

[4] *Final Draft Constitution of Zambia*, Part XVIII , October 2014.

[5] Cabinet Office, *Circular Number 10 of 2014: Implementation of the Revised National Decentralization Policy*, spells out the implementation modalities for the phased devolution of functions and financing during the period 2015–2017.

legal provisions for enhancing the intergovernmental fiscal relations—planning, budgeting, monitoring, and accountability—and central government's oversight of local government fiscal operations.

5. **The review of the PFM legal framework comprises several separate pieces of legislation that are being revised at different times.** The government has prioritized the drafting of the PBB which covers the formulation of the national development plan (NDP) and the budget. It has also announced plans to modernize the PFA of 2004 which covers other aspects of PFM, review the public debt legislation, prepare a new legal framework for the management of state-owned enterprises (SOEs), and update the LGA. It is important that this reform agenda is effectively coordinated to address the existing overlaps, gaps, and inconsistencies in all laws pertaining to PFM.

6. **The authorities have proposed a two-track process for revising the PFM legal framework.** At the time the mission took place, a draft PBB had already been prepared and the MoF planned to submit this proposal to the Cabinet and the NA by the end of June 2015. The second track would involve the preparation in longer time of the revised PFA together with the other PFM-related laws noted above.

7. **Against this background, the MoF requested a TA mission from the IMF's Fiscal Affairs Department to provide advice on the architecture of a modern and comprehensive PFM legal framework, and the process and timelines for preparing such a framework.** The mission's findings and recommendations are laid out in this report. Section II provides an assessment of the existing laws and current PFM practices, identifies the main gaps, and makes recommendations on a revised legal framework. Section III presents options on the overall design of a modern legal framework, and a timetable for preparing the various laws and submitting them for approval by the Cabinet and NA. It also makes recommendations on the sequencing of the overall PFM law reform agenda, together with an assessment of ongoing and future TA needs.

II. Assessment of the Current Legal Framework

8. **This section assesses gaps and weaknesses in the current legal framework and provides recommendations on the main features of the new legal framework.** It is divided into six areas: (A) macroeconomic and fiscal policy; (B) planning and budget preparation; (C) budget execution, and treasury planning and management; (D) accounting, reporting, and external audit; (E) oversight of local governments, Grant-Aided Institutions (GAIs), and SOEs; and (F) roles and responsibilities of the key players in the PFM process, and the imposition of a sanctions regime for non-compliance with laws and regulations.

A. Macroeconomic and Fiscal Policy

9. **A comprehensive legal framework for PFM should set out the government's medium-term fiscal strategy, targets, and objectives, and the policies and procedures for ensuring that these objectives are reflected in decisions on resource allocation.** The fiscal strategy would establish the principles, targets, and/or rules that help to shape a country's medium-term development and expenditure plans and the budget, together with arrangements for reporting performance against the strategy and explaining any deviation from the targets. The macroeconomic and fiscal framework should be consistent with the government's medium-term forecasts of economic growth. The format and content of such a framework, as it might be developed in Zambia, are discussed below.

Existing legal framework

10. **The existing Constitution and the PFA 2004, as well as other PFM laws, are mostly silent on issues related to macroeconomic and fiscal strategy and macroeconomic forecasting.** The latest version of the draft Constitution, however, defines broad "guiding principles" regarding public finance (Art. 240) which, in relation to macroeconomic and fiscal policy, includes provisions on transparency and accountability, sustainable public borrowing to ensure inter-generational equity, and the prudent and responsible use of public resources. In addition, the latest draft of the PBB includes a few provisions relating to macro-fiscal policy, though these are not consolidated in a single section of the draft (see Annex IV for further details).[6]

11. **Fiscal policy issues are also addressed to a limited extent in various reports and**

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[6] For example, Section 4.1 requires the national planning and budgeting process to promote the principle of "transparency and accountability on the development and formulation of macroeconomic frameworks"; and Section 40 specifies macroeconomic indicators and other information to be included in the Medium-Term Budget Plan.

official statements by the government. In particular, the MoF's "Green Paper" published each July/August sets out the government's main macroeconomic and fiscal policy objectives and targets, together with a medium-term expenditure framework (MTEF) that includes projections of spending by the main economic categories and sectors for a three-year period. The 2014 Green Paper[7], for example, sets targets for annual GDP growth of 7 percent over the period 2015–2017, maintenance of single digit inflation, and a reduction of domestic borrowing to less than 2 percent of GDP by 2017.

Key elements of the new legal framework

12. **Many countries have enacted (or are in the process of preparing) a comprehensive legal framework for macroeconomic and fiscal policy.** In the African region, these countries include Namibia, Kenya, Liberia, Mauritius, Sierra Leone, South Africa, Swaziland, Tanzania, and Uganda. Such frameworks typically include provisions in the following main areas[8]:

Principles of prudent and transparent fiscal management

- A borrowing policy which ensures that public debt is sustainable;
- A fiscal policy that achieves and maintains an appropriate fiscal balance;
- Policies to ensure the minimization and/or management of fiscal risks[9] arising from factors such as unexpected changes in the macroeconomic outlook, external economic shocks (e.g., fluctuations in international commodity prices), potential calls on government guarantees, and other contingent liabilities (e.g., public-private partnerships (PPP));
- A policy for government wages that is sustainable and ensures the hiring and retention of competent staff;
- Policies that ensure a reasonable degree of predictability about the level and stability

[7] Ministry of Finance, *Green Paper, the Proposed Medium-Term Expenditure Framework and Policies for the 2015 Budget*, August 2014.

[8] A similar set of provisions, for example, is included in recent legislation in Tanzania—see United Republic of Tanzania, *Budget Act 2015*, Part II—and in Uganda's draft *Public Finance Management Act*.

[9] Fiscal risks are the factors that lead to differences between a government's fiscal projections and the actual fiscal position. See IMF, *Fiscal Transparency, Accountability, and Risk*, August 2012.

of tax rates;

- A national budget and budgetary process that promotes transparency, accountability, and effective management of the public sector;

- Policies that facilitate the achievement of value for money in the use of public resources, especially with regard to capital investment projects;

- Policies that promote the prudent management of natural resources and revenues arising from their extraction;[10] and

- An appropriate balance between the powers of the executive and legislative branches in regard to decision-making on fiscal policy, information sharing and the management of the budget; and

- A provision that the Minister is responsible for ensuring that the principles of prudent fiscal management are taken into account in reporting to the legislature on all matters relating to the PFM laws.

Fiscal objectives and targets

- In accordance with the principles of prudent fiscal management described above, the government should set out medium-term fiscal objectives and targets for the next three years or more. Such provisions might take the form, for example, of a procedural rule[11] that allows the government to set numerical targets (sometimes called "fiscal rules") on macro-fiscal indicators such as the level of debt, borrowing and overall public spending in an annual fiscal strategy statement;

- Once the fiscal targets have been set—for example, at the beginning of the term of a new government—performance in achieving them should be monitored regularly, e.g., in the annual fiscal strategy statement or in the budget documents, or both;

- The law should define the format and content of the fiscal strategy statement which should be submitted to the legislature for scrutiny and endorsement of the assumptions and objectives; and

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[10] Most countries, however, have made provisions for the establishment of a sovereign wealth fund in separate legislation.

[11] In a *procedural* rule, fiscal targets are discretionarily fixed by the government whereas in a *numerical* rule, specific targets (e.g., a domestic debt limit of 35 percent) are fixed by the law, and are hence permanent and binding.

- The law should define procedures and timelines for translating the objectives and policies outlined in the fiscal strategy statement into the expenditure projections contained in the Medium-Term Budget Paper (MTBP)/MTEF and subsequently into the annual budget estimates (see Section II B below).

Deviations from fiscal objectives and targets

- In many countries, the law allows the government to deviate from its fiscal objectives and targets on a temporary basis in exceptional circumstances (e.g., where there is a major commodity price shock or natural disaster);

- Such laws typically require the Minister to submit a report to the legislature that explains the reasons for such a deviation, the period the deviation is expected to last, and a plan to correct the deviation to be approved by the legislature.

Macroeconomic and fiscal forecasts

- Modern public finance laws usually require the government to prepare and make public medium-term projections of GDP, inflation, the rate of employment and unemployment, the exchange rate, interest rates, and other macroeconomic indicators; together with projections of revenues, expenditures, the fiscal deficit, public debt, and other fiscal indicators; and

- In addition, the government is often required to explain the methodologies and assumptions used in preparing these projections, taking account of domestic and international economic conditions, including the commodity markets.

13. **It would be prudent to include a comprehensive macroeconomic and fiscal policy framework in the law in order to reduce fiscal risk and safeguard against any fiscal slippage in the medium- or long-term.**[12] Such provisions would also improve public access to information on fiscal policy, as well as strengthening donors' confidence and increasing the country's creditworthiness.

14. **Recommendation 2.1.** The government should consider the establishment of a permanent framework of principles, objectives, and rules relating to macroeconomic and fiscal policy in the new legal framework, drawing on the issues outlined above, together with provisions for monitoring and reporting on fiscal performance.

[12] Zambia's financial position remains vulnerable and substantial fiscal consolidation is required over the medium term. See IMF, *Zambia—Policy Note for the 2014 Article IV Consultation*. The Policy Note observes that the fiscal deficit increased sharply from 2.5 percent of GDP in 2012 to 6.6 percent in 2013.

B. Planning and Budget Preparation

15. **The planning and budget preparation section of a comprehensive PFM Act should define the principles for planning the annual budget and the procedures governing its preparation and authorization.** In addition, appropriate linkages should be made with the national development planning process. As such, the section should formulate: (i) principles and procedures that guide development planning to produce affordable policy and expenditure priorities; (ii) principles and procedures that guide the annual budget process; (iii) the institutional coverage and organizational structure of the budget documents; (iv) the budget calendar and procedures for the preparation of the annual budget by the government and its approval by the NA; and (v) rules and procedures concerning in-year changes to the appropriations voted by the NA. These issues are discussed below.

Existing legal framework

16. **The coverage of the PFM cycle in the PFA 2004 is incomplete and out of step with current planning and budgeting practices in Zambia.** The constitutional amendment adopted in 2009 included two major elements aimed at strengthening the planning and annual budget process. The first provision is the early submission of the Estimates of Revenue and Expenditure to the NA in each financial year, no later than ninety days before the commencement of the next financial year, and approval of the Estimates by the end of December. The second provision requires the enactment of a PBB, as noted in Section I above.

17. **The MoF has already prepared a draft of the PBB, which is based on a policy paper[13] issued by the government in May 2014.** The policy sets out the principles, institutional structures, and responsibilities and processes for the formulation, implementation, monitoring, and evaluation of NDPs, medium-term strategic plans, and annual budgets at all levels of government. The PBB provides an opportunity to fill the gaps and provide a comprehensive and well-structured legal underpinning for effective integration of the development planning and budget processes, and promotion of a credible budget process. Further, the Bill is intended to codify some good practices in budgeting, adopted in the last decade. These practices include: (i) a highly consultative approach to medium-term and annual planning and budget preparation; and (ii) an evolving performance-orientation to budget preparation.

18. **However, the latest draft of the PBB reviewed by the mission requires further strengthening to clarify its intention and improve its coverage and**

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[13] Republic of Zambia, Ministry of Finance, *National Planning and Budgeting Policy*, 2014.

comprehensiveness. In particular, the draft law is silent on principles of prudent macroeconomic and fiscal management, including natural resources and fiscal risks, and focuses on the institutional framework for national development planning and budget. In addition, the coverage of the PBB is too narrowly focused on budgetary central government with inadequate attention to general government and financial oversight of the wider public sector. Furthermore, the PBB does not lay down firm rules on the use of the contingency fund, supplementary estimates, and other in-year adjustments. Several major provisions lack clarity and the budget calendar is not clearly specified. These major shortcomings, including gaps and weaknesses are detailed in Annex IV.

Key elements of the new legal framework

Linking the development planning process and the budget process

19. **The PFM Law should require that the government's fiscal strategy statement and the five-year NDP are mutually consistent and provide for principles and procedural arrangements that require the preparation and implementation of the NDP to be constrained within the government's fiscal strategy.** The law should also define the procedural and institutional arrangements to ensure that endorsed objectives and priorities influence budgetary decision-making during the annual budget process. The planning framework should also define rules and institutional responsibilities that permit decisions on policy and expenditure prioritization, plus budgetary resource allocations to be undertaken with a high degree of predictability and efficiency.

20. **Recommendation 2.2.** Specify in the legal framework, institutional and procedural arrangements that would ensure that the government's fiscal strategy and the five-year NDP are mutually consistent, and allow decisions on policy and expenditure prioritization and budgetary resource allocations to be undertaken within a high degree of predictability and efficiency during the development planning process.

A more binding MTBP and MTEF

21. **The development of an MTEF was initiated in the early 2000s but has remained incomplete.** MTEF estimates—submitted by sector ministries during the annual budget process—cover both government and donor-financed expenditure for the budget year and subsequent two years. These estimates are accompanied by detailed information about the objectives, outputs, and activities for each head. However, the MTEF ceilings are revised at least two times during the budget process to reflect policy, operational, and macroeconomic changes, and published in the Green Paper[14] alongside the annual budget estimates. As a

[14] The Green Paper is a government policy document that spells out the medium-term fiscal policy objectives and

result, medium-term MTEF ceilings tend to not provide a reliable estimate of future spending allocations, and thus have not yet proven to be a solid anchor on future years' expenditure.

22. **The PFM law should specify rules and procedures, governing the requirement to commit to, report against, and be held accountable for medium-term expenditure targets and outputs.** The budget process, in particular procedural arrangements, should require prioritizing, presenting, and managing expenditure in the resource constrained multi-year perspective; and present medium-term expenditure at specific times as deemed appropriate. The law should make provisions for the submission of reliable multi-year expenditures estimates, and an obligation to approve numerical expenditure limits beyond the annual budget thus moving towards reliable and binding spending plans, especially for public investments, over the medium term. Furthermore, the framework should spell out the standing requirements to enhance accountability for the MTBP performance with the executive being held accountable for any unjustified deviation from the multi-year plans.

23. **Recommendation 2.3.** Include provisions in the law for submission of reliable medium-term expenditure estimates, that could be approved by Parliament (not appropriated), and for monitoring the performance of the MTEF and reporting on any deviations from the expenditure targets.

Prioritization and management of public investments

24. **The PFM legal framework should provide clear and comprehensive principles, procedures, and institutional responsibilities that allow rigorous appraisal and selection of development projects, sustained funding of well-designed and appraised development projects, and effective monitoring and feedback.** This will ensure smooth implementation of projects that will promote value for money in public investments.

25. **Recommendation 2.4.** Provide clear and comprehensive principles, procedures, and institutional responsibilities that allow efficient and effective management of public investments.

Budget calendar

26. **The PFM legal framework should present and articulate all key budgetary decision-making processes and dates in a coherent manner.** For example, there is

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expenditure framework for the budget year and two outer-years to foster the implementation of the priorities spelt out in the National Development Plan (R-SNDP). It is published as part of the annual budget process by MoF.

currently no legal requirement for parliament to discuss the medium-term fiscal and budget framework before the budget is tabled to the NA in October. The start date of the budget process needs to be brought forward to April to provide for the strategic phase of the annual budget process. This phase involves: (i) submission of the medium-term fiscal outlook to the Cabinet in April for approval and onward submission to NA; and (ii) preparation and submission of the medium- term expenditure framework by line ministries to MoF in May/June.

27. **Recommendation 2.5.** Define the key budgetary decision-making processes, the roles and responsibilities of each actor, required budget information and documentation, and timelines that would constitute the annual budget calendar.

Effective engagement of the legislature in budget preparation

28. **The PFM law should establish the institutions and procedures required for effective parliamentary scrutiny of the budget.** The PBB provides an early involvement of parliament in the formulation of the medium-term macro-fiscal policy objectives and expenditure projections under section 40(1). It could also provide for establishment of: (i) a Budget Committee, and (ii) a Parliamentary Budget Office (PBO)—to enhance the capacity of the NA in scrutinizing the budget proposed by the executive. Most countries within the region—like Kenya, Tanzania, and Uganda—have opted for enshrining the parliamentary budget institution within the overarching PFM legal framework.

29. **Recommendation 2.6.** Establish the institutions and procedures required for effective parliamentary scrutiny of the budget.

Unit of budget appropriation

30. **The PFM law should define the unit of appropriation.** This will require the authorities to resolve the nature of appropriation in light of the on-going budget reform recently introduced to migrate to output based budgeting (OBB). The current appropriation covers institutions, administrative boundaries (provinces), and missions abroad. Meanwhile, the on-going reform—moving from activity based budgeting (ABB) to output budgeting—is still in its infancy—providing limited experience to guide on the unit of appropriation. Countries like Ethiopia, Mauritius, and South Africa, in the region have opted for "programs" and not "outputs" as the unit of appropriation. This would require a transitional period to provide for reform toward an output or program-based, and use the lessons learnt to inform the decision on the unit for appropriation.

31. **Recommendation 2.7.** Define the unit of appropriation and provide for a transitional period for moving toward an output or program-based appropriation to allow full adoption of the reform.

In-year variations, supplementary and excess expenditures, and carry-overs

32. **The PBB (Section 46), and draft Constitution (Article 244) lay down principles for making in-year changes to the annual budget.** They are silent, however, on the replenishment procedures for the Contingency Fund, as well as on the rules and procedures governing the variations and supplementary expenditures above the appropriations. The current legal framework does not have explicit provisions on carryover. The PFM law should provide for the following:

- Criteria for accessing the Contingency Fund—to help define and categorize eligible expenditure pressures that could be: (i) unavoidable—when the need for additional spending is compelling and urgent; (ii) unforeseeable—when the need for additional spending stems from unexpected events that were not foreseeable when the budget was approved; and (iii) cannot be absorbed within existing appropriation—when all the potential variations set out above have been exhausted;

- Criteria, limits, and procedural guidelines for authorizing carryover unspent appropriation from one financial year into the next; and

- Discontinuation of the existing "excess expenditure" provisions and the requirement that any spending beyond the approved level of appropriations should be regularized as supplementary expenditure.

33. **Recommendation 2.8.** The new legal framework should:

- Specify the rules and procedures governing in-year variations of expenditure;

- Specify criteria and procedural arrangements for submitting a supplementary budget to parliament during the year;

- Define limits and guidelines to carryover unspent appropriations from one financial year into the next year and ensure they are appropriated; and

- Discontinue the excess expenditure appropriation and ensure that any spending beyond appropriation should be regularized as supplementary expenditure.

C. Treasury Planning and Management

34. **The treasury management section of a PFM law should incorporate principles that help achieve the objectives of a modern treasury system.** These principles include: (i) assigning the responsibility of cash management and control of bank accounts to the treasury; (ii) establishing a consolidated fund and bank account as well as processes for withdrawal of cash from the consolidated account; (iii) collecting, depositing, retaining, and

reporting of government revenues; (iv) establishing structured cash planning and management and reporting arrangements; (v) establishing banking arrangements that incorporate principles of a TSA to support efficient cash management; and (vi) ensuring that all receipts and payments are effectively and efficiently tracked.

Existing legal framework and key elements of the new legal framework

Cash management and banking arrangements

35. **The existing legal and regulatory framework generally conforms to the fundamental principles for establishing an effective treasury function.** The Constitution and the PFA 2004 (Section 13 (1) and (2))[15] provide broad principles for: establishing a Consolidated Fund and treasury account; assigning of treasury and cash management responsibility to the treasury; prescribing banking arrangements; collecting, depositing, and banking government revenues; assigning clear responsibilities to accounting officers for budget execution; requiring commitment control as part of budget execution procedures; and ensuring that all receipts and payments are effectively and efficiently tracked.

36. **However, the PFA is silent on cash management institutional arrangements and its coordination with fiscal, monetary, and debt management policy framework.** In particular, it does not define specific roles and responsibilities of the MoF, the BoZ, and other key stakeholders in cash management, nor provide for key institutions that include, the establishment of a Cash Management Committee (CMC) and Cash Management Unit (CMU), though the government has recently established a CMU.

37. **The legal framework provides for establishing minimum banking arrangements but does not explicitly define principles for setting up and managing a TSA system.** The government is in the process of establishing a TSA at the BoZ, which in principle will receive all government revenues including non-budget support donor funds and some earmarked non-tax revenues and facilitate all government payments. In addition, the legal framework does not sufficiently define or clarify the institutional scope of the Consolidated Fund or "general revenues". The new legislation should provide a clear operational definition of the Consolidated Fund and general revenues, together with laying down the principles of a TSA system.

[15] Section 13 of the PFA 2004 states that there shall be established a Consolidated Fund into which all general revenues and public moneys accruing to the Treasury shall be credited. Subsection (2) prescribes that the moneys payable to the Consolidated Fund under subsection (1) shall be deposited into the Treasury Account which shall be maintained at the BoZ.

38. **Recommendation 2.9.** The new legal framework should:

- Clarify the scope of the Consolidated Fund and general revenues;
- Clarify the coverage, structures, and processes for strengthened cash management, including the requirements for establishing a CMC and CMU;
- Provide principles for effective monitoring and control of retained non-tax revenues to mitigate the risk of abuse;
- Establish the concept of the TSA and specify its coverage and the responsibilities of the MoF and BoZ for managing the TSA; and
- Provide the ST or Accountant General with access to information on all government bank account balances and flows, within and outside the TSA from commercial banks.

Asset and liability management

39. **Currently, there are a number of laws[16] that govern public debt management, but they are relatively outdated and incoherent in terms of new practices, and application is inconsistent.** There are no provisions for specific borrowing limits in the PFA and other laws, but a range of practices on the determination and approval of terms and conditions of borrowing, are stipulated in various laws. The major shortcomings are summarized below:

- On the one hand, Section 14(1) of the Loans and Guarantees Authorization Act gives powers to the Minister of Finance to borrow, lend, and determine terms and conditions. On the other hand, Section 151(1) of the Financial Regulations (FR) allows ministries, provinces, and spending agencies (MPSA) to incur a loan on behalf of the government with the approval of the Minister of Finance and the Attorney-General. Consequently, public entities may borrow money without the approval of the treasury or the Minister of Finance.
- The law does not currently provide for any limits on the amount of loans and guarantees that are approved by the NA. As a consequence, there is limited involvement of the NA in the approval of government borrowing.

[16] They include, among others, the Treasury Bills Act, the General Loan and Stock Act, the Local Loans (Registered Stock and Securities) Act, the Loans (Authorization) Act, the Government Securities Act, and the Development Bond Act.

- The existing legal framework does not spell out appropriate arrangements for loan repayments, conversion, and consolidation. It does not stipulate clear restrictions and guidance on the repayment of debt prior to the redemption date or the terms and conditions under which a loan could be converted, or two or more loans could be consolidated.

- The law does not provide for the conducting of a medium-term debt management strategy (MTDS)[17] as an anchor for effective debt management, as well as periodic assessment of both performance of debt management and debt sustainability.

40. **The existing law does not provide principles for better management of assets, liabilities, or receivables relating to on-lending.** For example, while management arrangements of PPPs are enshrined in the PPP Act of 2009, the recognition and reporting practices of the accounting liabilities that arise are not supported by legislation. In addition, the existing law does not provide for staff pensions as a liability in its accounting records and does not report on them as such in the annual financial statements. It is important that the law provides for the establishment and maintenance of asset registers and the reporting of all financial and non-financial assets and liabilities in the balance sheet. Considering that reforms in the area of asset management might take a long time, the law should allow flexibility for gradual implementation. The government should build up over time comprehensive data on public assets and liabilities to enable better management of its balance sheet.

41. **Recommendation 2.10.** The new legal framework should:

- Incorporate fundamental principles for managing public debt, including a requirement for the Minister to prepare a MTDS, an annual borrowing plan, and to undertake a DSA;

- Establish thresholds for approval of various types or categories of borrowing and guarantees by the MoF and the NA;

- Incorporate principles, terms and conditions for the repayment, conversion, and consolidation of loans;

- Clarify the roles and responsibilities of the MoF and the BoZ in debt management,

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[17] The MTDS should not be developed in isolation, but should have regard to the outlook on key macro variables (real, monetary, external, and fiscal variables) as well as the impact of the financial terms on debt sustainability. The MTDS should, however, not be confused with debt sustainability analysis (DSA) which is focused on the sustainable level of the debt considering forecasted government revenues, economic growth, etc.

and the establishment of a Public Debt Management Committee; and

- Lay down the principles and requirements for the reporting of government assets and liabilities.

Budget execution, and internal control and audit

42. **The Constitution establishes broad principles for the control of commitments, requiring that a commitment be created only against a budget appropriation, and the PFA and FR contain additional provisions.** Section 3(a) of the PFA also requires Accounting Officers to establish systems of financial management and internal control for their MPSAs. The internal audit function in the government is established and governed by the PFA (Section 10(1) and 11(1)), and includes provisions for enterprise risk management[18] as part of internal control processes across all MPSAs and statutory corporations. In addition, Article 115(e) of the Constitution allows for a warrant to be issued relating to expenditure of capital projects continuing from the previous financial year[19].

43. **Notwithstanding such provisions, there are major gaps and weaknesses that need to be addressed.** Such gaps include:

- Limited independence and powers of the Controller of Internal Audit;

- Lack of a framework for identifying, recording, managing, and reporting of fiscal risks across government; and

- Inadequate provisions for the multiyear commitment for capital projects that span beyond the three-year MTEF.

44. **Recommendation 2.11.** the new legal framework should:

- Provide clear principles for managing and monitoring commitments, including multiyear commitments;

- Prescribe requirements for establishing a risk management and monitoring

[18] The Committee of Sponsoring Organizations of the Treadway Commission (COSO) defines risk management as "a process, effected by an organization's senior management and staff, applied in strategy setting and across the enterprise, designed to identify potential events that may affect the entity, and manage risk to be within its risk appetite, to provide reasonable assurance regarding the achievement of entity objectives".

[19] Art. 115 (2) (e) of the Constitution states that a warrant shall not be issued by the President, authorizing expenditure from the general revenues of the republic unless the expenditure is incurred on capital projects continuing from the previous financial year and is so incurred before commencement of the Appropriation Act for the current financial year.

framework across government entities;

- Provide the treasury with the necessary powers to enforce sanctions on MPSAs that do not comply with audit recommendations, including by the imposition of spending cuts and the suspension of the powers of MPSAs to manage their own budgets; and

- Require internal audit methods and procedures to comply with international standards.

D. Accounting, Reporting, and External Audit

45. **The accounting, reporting, and external audit provisions in the PFA are quite comprehensive, but need to be updated to reflect ongoing reforms and good international practice.** The provisions need to be updated to provide for the adoption of internationally recognized accounting and reporting standards, and to ensure compatibility with the chart of accounts (CoA) maintained by agencies receiving public moneys. The provisions related to the independence and mandate of external audit should be enhanced so as to ensure improved oversight of budget execution.

Existing legal framework

Accounting standards and CoA

46. **Accounting standards prescribed in the PFA[20] do not conform with either current practice or international accounting standards.** While the Act prescribes the use of "generally recognized accounting practices" as the accounting standard, in practice the treasury is in the process of adopting the IPSAS cash basis of accounting by 2020[21]. The law needs to be updated to underpin this reform, while giving the authorities the flexibility to adapt the IPSAS to their own needs.

47. **The authorities are inclined towards a flexible requirement on accounting standards in the law.** The mission discussed with the authorities the possibility that IPSAS might be prescribed as the legal accounting standard for the government, with a caveat that the treasury could introduce such a requirement over a period of years through an appropriate transitional provision in the law. The treasury, however, had reservations on the inclusion of IPSAS in the law as they believe it would be difficult to change specific

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[20] Section 5(2)(b).

[21] Earlier IMF reports [21]have commended the prudent approach adopted by the government to gradually migrate to IPSAS accrual standards by 2020.

requirements to cater for the continued evolution of public sector accounting standards. The concern of the authorities seems well founded given the fact that the two main international accounting standard setting bodies (International Accounting Standards Board (IASB) and International Public Sector Accounting Standards Board (IPSASB)[22]) continue to regularly update the standards. The inclusion of "internationally accepted accounting standards as adopted by Zambia" in the PFA, would provide the flexibility to move gradually to accrual standards and to continue to use different accounting standards—for example cash accounting—for ministries and departments on the one hand, and statutory corporations[23] on the other hand. An amendment of the current law to include the "prescription and enforcement" of standards would clearly establish the treasury as the standard setting body for government accounting.

48. **The PFA authorizes the treasury to enforce a uniform CoA[24] which is currently used only by central government.** The treasury has chosen to use the classification system prescribed in the IMF GFSM 2001 as the basis for a uniform budget and accounting classification system. This basis of classification provides the flexibility to migrate from cash to accrual basis of accounting. It also provides internationally recognized definitions for each element of classification. However, local governments and statutory corporations are maintaining their accounts on an accrual basis, and their classifications are not entirely in conformity with the uniform budget and accounting classification used by the treasury. Compatibility between the central government's CoA and that of the local governments, is essential to facilitate the consolidation of the general government's financial reports.

49. **Recommendation 2.12.** The new legal framework should:

- Provide for "internationally accepted accounting standards as adopted by Zambia" as the basis for accounting;
- Augment the current provisions for the enforcement of accounting standards to include the responsibility for the prescription of the standards; and
- Include provisions requiring local governments to ensure compatibility with the central government's CoA.

[22] IASB for commercial bodies and IPSASB for government.

[23] These corporations use International Financial Reporting Standards (IFRS).

[24] Section 5(2)(b).

Annual financial reports

50. **The government is committed to improving the timeliness of the submission of annual financial reports.** The draft amended Constitution proposes[25] to reduce the period of submission by three months and provides for the submission of the audit report to the NA within nine months of the end of the financial year. This reform will generate timely and reliable data on budget performance for the previous fiscal year, which is required to inform budgetary decisions during the annual budget process. However, enforcement of the timelines will be a challenge given that there are significant delays in the submission of accounts by controlling officers. The full implementation of the Integrated Financial Management Information System (IFMIS) will improve the ability of controlling officers to adhere to prescribed timelines for submission of accounts. Additionally, adherence to timelines should be enforced by the inclusion of sanctions in the PFA to penalize defaulters (see Section II F).

51. **The content of, and processes for, the preparation of annual financial reports are set out in a number of articles in the Constitution[26] and the PFA[27].** The reports presented to the NA are comprehensive[28] but the legislation allocates responsibility for preparing reports to a wide range of officials, and the procedures are not clearly specified.

52. **Recommendation 2.13.** The revised legal framework should:

- Elaborate the contents of financial reports and prescribe the timelines for their preparation, submission, consolidation, audit, and publication for different levels of government.
- Prescribe the principles for the consolidation of the budget outturns of local governments, statutory bodies, and SOEs in the general government's Annual Financial Report.

[25] Final Draft Constitution, October 2014, Article 254.

[26] Constitution of the Republic of Zambia 1991 (as amended up to Act No. 18 of 1996), Article 118(2).

[27] The PFA 2004 Sections 6(3)(m), (n), and (o), and 7(6).

[28] They include statements of (i) cash receipts & payments; (ii) comparison of expenditure with budget appropriation; and (iii) functional classification of expenditure and public debt. Appendices include statements of (i) expenditures on personnel emoluments; (ii) goods and services; (iii) non-financial assets; and (iv) outstanding commitments.

In-year financial reports

53. **There are no provisions in the law for producing in-year management reports.** Periodic financial information and statements necessary for the efficient management of budget execution, are not being compiled and disseminated regularly[29]. These include reports on delayed remittance of government revenues, outstanding commitments, and age-wise analysis of debtors, creditors, and unreconciled bank accounts. Many of these statements can be printed through IFMIS. Additionally, MPSAs using the IFMIS system have access to an extensive range of monthly and cumulative budget execution data which can be reviewed using customized reports, as required. The electronic interface within the IFMIS would need to be underpinned by suitable provisions to legalize electronic authentication of transmitted data.

54. **The law does not prescribe the roles and responsibilities of the Controlling Officer and the treasury in the submission and consolidation of data on monthly budget outturns and financial reports.** Section 3(2)(b) of the PFA makes the ST responsible for submitting a report on the quarterly review of the performance of the budget to the Minister, who is responsible for presenting half yearly budget performance reports to the NA. However, the responsibilities of the Controlling Officer are not stated. Neither does the PFA contain provisions regarding the content and timelines for the process of preparing and disseminating consolidated reports of budgetary outturns and financial performance.

55. **Recommendation 2.14.** The new legal framework should:

- Prescribe the contents, timeline, mode of publication, and use of monthly quarterly and half-yearly budget performance reports; and
- Include sanctions to penalize Controlling Officers who fail to observe the provisions in the PFA for periodic in-year budget performance reporting and monitoring.

External audit

56. **The Constitution (Article 121 and 122) and the Public Audit Act (PAA) provide the AG with some degree of independence.** Limited independence is assured as a result of: (i) the AG's appointment by the President; (ii) his assured tenure untill the age of 60

[29] An earlier IMF report recommended that the PFM regulatory framework should be updated to make better use of the enhanced availability of financial data in the IFMIS.

years[30]; (iii) the extensive scope of audit; (iv) the AG's unrestricted access to accounting records; and (v) his ability to report to the NA through the President. However, the AG's independence continues to be restricted due to dependence on the government for financing the OAG through the budget, and, dependence on the Public Service Commission for the recruitment of OAG staff.

57. **The proposed draft Constitution (Article 291 and 292) enhances the independence of the AG and the OAG.** The draft (i) gives the AG a clear mandate to audit all levels of government and other institutions financed from public funds; (ii) provides for the decentralization of the OAG to provinces and districts, to facilitate the implementation of the AG's mandate to audit all levels of the government; (iii) directs the prescription of finances for the OAG; (iv) clarifies procedures for staff appointments and human resources management in the OAG; and (v) empowers the AG to recommend prosecution of officials as and when required in the exercise of his mandate[31]. This enhanced independence accorded to the AG (and the OAG) is in conformity with good international practice.

58. **The draft Constitution, however, does not provide sufficient clarification on the financing of the OAG or the management of its human resources.** The practice in some of the countries in the region, in this regard, is shown in Table 2. It will be seen from the table above that funds for the OAG are either charged to the Consolidated Fund or appropriated by parliament on the recommendation of one of its internal committees. It is prudent that in order to enhance fiscal discipline, the preferred option should allow the OAG to determine its own budget in consultation with the MoF and submit the estimate for approval by the NA.

Table 2. Funding and Staffing of Offices of the Auditor General in Selected Countries

	South Africa	Kenya	Tanzania	Uganda
Funds for the OAG	Appropriated as recommended by oversight mechanism of parliament	Approved by National Audit Commission and appropriated by parliament	Appropriated by parliament and paid into an Audit Revenue Fund	Approved by parliament and a direct charge on the Consolidated Fund
Appointment of OAG staff and human resources management	By Auditor General	By National Audit Commission/Auditor General	By Controller & Auditor General	By Auditor General in consultation with Public Service Commission

[30] Article 294(2) of the draft Constitution provides that the AG may retire at the age of 55 with full benefits.

[31] The OAG signed an MOU with the ACC in 2010 to scale up this collaboration. In addition, the office signed MOUs with the Financial Intelligence Unit and the Drug Enforcement Commission in the first quarter of 2015.

59. **The provisions in the draft Constitution (Article 275) regarding the institution of a State Audit Commission (SAC) also needs further clarification.** The draft proposes that the SAC be mandated to oversee the operations of the OAG and make recommendations to the President on the appointment of the AG. The composition of the SAC and the responsibilities and procedures related to its oversight are not elaborated. The mission was not able to get further details on the background for the proposal to set up the SAC, but it appears that one of the responsibilities of the SAC would be to prescribe the financing and staffing of the OAG. In this respect, the SAG will be similar to the "oversight mechanism" of the NA of South Africa[32]. Given the augmentation of the independence of the AG proposed in the draft Constitution and the existing oversight of the OAG by the PAC, there may be no need to establish the SAC.

60. **Recommendation 2.15.** The revised legal framework should:

- Supplement the provisions in the draft Constitution with additional provisions that ensure independence in the areas of financing the operations of the OAG and its human resource management;
- Reconsider the provision for establishment of SAC in light of the independent OAG; and
- Specify mechanisms to ensure independence in financing and staffing the OAG.

E. Oversight and Control of Local Governments, Grant-Aided Institutions, and State-Owned Enterprises

61. **The MoF should be legally empowered to oversee the finances of the local government sector, GAIs, and SOEs; exercise control over their financial planning, budget preparation and execution, and borrowing; and assess the financial implications of establishment of new institutions.** In relation to fiscal decentralization, the MoF also needs to take the key roles in determining the appropriate form and level of revenue sharing between the central and local governments.

Classification and overarching issues

62. **The current classification of institutions is based on their legal form, rather than their source of finance[33].** The PFA 2004 is silent on the classification of government-

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[32] The SAG is mandated to "assist and protect the Auditor-General in order to ensure the independence, impartiality, dignity, and effectiveness of the Auditor-General".

[33] This is different from the approach of GFSM 2014 that classifies an institution based on the criteria including,

controlled institutions, but in practice they are broadly classified into GAIs and SOEs. Apart from some minor exceptions, a statutory body established by a specific act of parliament is classified as a GAI, while a company incorporated under the Companies Act or an entity created under some other general law (e.g., a society) is classified as an SOE. However, different oversight arrangements are necessary for entities mainly funded by the government budget and enterprises mainly financed by sales in the market. In the former case, it would be appropriate for the government to exercise tight control over the preparation and execution of the budget by the entity concerned, as well as its borrowing; while in the latter case, oversight should focus on the monitoring of financial targets (e.g., targets of a return on equity and a leverage ratio), together with targets of dividends, both of which are agreed with the government. Under the current classification scheme, it follows that the government may find it difficult to apply appropriate oversight procedures.

63. **The current legal framework is unclear about the responsibilities of key players in the financial management of local governments, GAIs, and SOEs.** Such key players include the councils of local governments, the boards of GAIs and SOEs, the MoF, the MoLG, and other line ministries. As mentioned in Section II F, the division of responsibilities between these players is not mentioned in the law, and in practice there is no clear understanding of who is responsible for e.g., the financial management of individual institutions or the fiscal sustainability and transparency of these sub-national sectors.

64. **Recommendation 2.16.** The new legal framework should: reclassify existing GAIs and SOEs based on clear criteria on the sources of finance and the extent of government control, in line with GFSM 2014 methodology, and include in a Schedule to the law, a list of all GAIs and SOEs, to be updated regularly[34].

65. **Recommendation 2.17.** The new legal framework should specify the responsibilities of the local government councils and GAIs' and SOEs' boards for the internal control and financial management of each institution, those of the MoF for the fiscal oversight, and those of the line ministry for the attainment of the sector policy and plan through these institutions.

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among others, whether the institution is controlled and mainly financed by the government or whether it is controlled by the government but produces goods or services for the market. The former falls within the general government, while the latter is classified as a public corporation (i.e., SOE).

[34] For example, the South African PFM Act, 1999, differentiates between "national government business enterprises" and "national public entities", both of which are specified in Schedules of the law, and allows the National Treasury to make changes to these Schedules without going back to Parliament. The law also requires the board of an entity to report to the National Treasury if the entity is wrongfully omitted from Schedules.

Local governments

66. **In Zambia, there are 103 local governments, including 4 cities, 15 municipalities, and 84 districts.** Currently, local governments provide a limited range of services, their fiscal impact is small (equivalent to less than 2 percent of central government expenditure) and their level of indebtedness is generally minimal. However, in December 2014, the President's Office issued a circular which requires devolution of a broad range of functions, including primary health care and primary education, to local governments starting in January 2015, though no budgetary resources have yet been transferred.

67. **The process of determining the local governments' share of the government revenue is not set out clearly in the current legal framework.** Until now, local governments have received two types of grants from the central government—a grant equivalent to the amount of property tax on government buildings and a flat-rate grant. However, to support the planned devolution of functions, the LGA was amended in 2014 to establish a Local Government Equalization Fund (LGEF) to which not less than 5 percent of total income tax is appropriated each year by the State budget. The LGA requires that the LGEF be distributed to each local government using "a formula based on the population…, adjusted by poverty levels". In practice, however, the LGEF is not fully operational and the distribution formula is yet to be determined. The current legal framework is not clear about the methodology and procedures for determining the distribution formula, although clarity and transparency in these arrangements are critical for the financial planning of local governments.

68. **The planned devolution of spending authority to local governments requires the MoF to develop a stronger fiscal oversight function.** In practice, the financial management of local governments is overseen solely by the MoLG, and the MoF has no unit responsible for managing local government finance issues. However, the fiscal decentralization strategy requires the MoF to take over key responsibilities for overseeing the financial management of local governments. In addition, the draft new Constitution (Article 200(2)) envisages that the MoF be responsible for determining the distribution formula of the LGEF.

69. **The oversight responsibilities of the MoLG are also not fully supported by the legal framework.** The budget of each local government is currently prepared in accordance with the MoLG's circular—issued concurrently with the MoF's budget call circular—and submitted to the MoLG's district officers for approval 60 days before the beginning of the financial year. When the NA makes changes in the national budget, the MoLG's district officers also instruct local governments to modify their budgets accordingly. Since 2013, the local governments have been required to submit to the MoLG, five-year strategic plans and three-year budgets. However, the LGA is largely silent on the budget process of local

governments and does not give adequate legal backing for current practices.

70. **In relation to borrowing, the LGA permits local governments to borrow from domestic banks without the approval of the MoLG or MoF.** The MoLG approves borrowing only for financing capital expenditure. In practice, in the rare cases where such borrowing takes place, local governments voluntarily seek the MoLG's approval because otherwise financial institutions would be unwilling to lend. The current legal framework does not, however, provide legal underpinning of these current practices.

71. **Recommendation 2.18.** The new legal framework should:

- Specify the responsibilities of the MoF for managing the LGEF, and the process and formulas for determining the distribution of grants to local governments;
- Require budgets and borrowing of local governments to be approved by the MoF and MoLG; and
- Codify the requirements and procedures for local governments to prepare multi-year budgets and strategic plans.

GAIs

72. **There are more than 100 GAIs which are to be included in the general government sector.** The 2013 annual financial statements of the government lists up 108 GAIs, but the list is not comprehensive and there may be other institutions which should be classified as GAIs and subject to the provisions of the law[35].

73. **The current legal framework is silent on the MoF's power to oversee GAIs, except for representation of the ministry on the boards of these entities.** However, as discussed above, the board is responsible only for the proper financial management of each entity and so is not an optimal mechanism for the MoF to exercise fiscal oversight. In practice, the degree of fiscal oversight exercised by the MoF varies across GAIs. The National Road Fund Agency, for example, is under the direct supervision of the MoF, its budgets are prepared and approved as part of the national budget, and the execution of its budget is closely monitored by the MoF. In contrast, some GAIs are overseen solely by the responsible line ministry and the MoF seldom receives or scrutinizes their budgets or financial reports. In relation to borrowing, many GAIs are allowed to borrow under their own laws. Although in practice only a few GAIs (e.g., the Food Reserve Agency) borrow from sources other than the government, any borrowing from a financial institution requires only the approval of the line

[35] In the websites of various ministries, an additional 22 entities are listed as GAIs or statutory bodies.

minister, unless the GAIs request a guarantee issued by the MoF.

74. **The current legal framework does not specify a process for appraising the fiscal impact of establishing a new GAI.** In practice, when a new GAI is being established, the MoF is not always involved in the appraisal of the financial implications.

75. **Recommendation 2.19.** In relation to GAIs, the new legal framework should include a comprehensive list of GAIs in the Schedule of the law and establish a common oversight framework with the following requirements:

- The budgets of all GAIs should be submitted to the MoF for approval by a specific deadline;
- Borrowing of all GAIs should be subject to the prior approval of the MoF; and
- The financial implications of a proposal to establish a new GAI should be assessed according to standard procedures in which the MoF is required to provide an opinion.

SOEs

76. **There are around 40 SOEs and the MoF owns their shares on behalf of the government.** The 2013 annual financial statements of the government list up 42 SOEs. However, several SOEs receive grants or transfers from the State budget for their recapitalization and capital projects[36] and might need to be reclassified as GAIs (see Section II F). Section 3 of the Ministry of Finance (Incorporation) Act, Chap. 349 authorizes the MoF to own shares in SOEs.

77. **The division of responsibilities for SOEs' financial management between the SOEs' boards, the MoF, the parent line ministry, and the Industrial Development Corporation (IDC) is yet to be clarified in the legal framework.** The IDC was created in 2014 as a company under the Companies Act and is under the supervision of the Ministry of Commerce. Although it is not yet fully operational, it is intended that the IDC will hold all of the government's shares in SOEs and manage a fund (called the "Sovereign Wealth Fund") into which 70 percent of the dividends paid by SOEs will be deposited. Similarly to the case of GAIs, the current legal framework is silent on the roles of key players in the oversight of SOEs. The transfer of shares in SOEs from the MoF to the IDC, in the near future, is likely to make the division of responsibilities more unclear. In practice, the MoF as well as the

[36] In the 2014 budget, K1.7 billon (4.5% of total expenditure) was appropriated for SOE's recapitalization and capital investment.

"parent" line ministry oversees the financial management of SOEs mainly through representation (as a member or observer) on the boards which typically approve the budgets, financial targets, capital projects, and borrowing of the enterprises concerned. Under this arrangement, the MoF's oversight focuses mostly on the financial management of individual SOEs, rather than their impact on the macroeconomic and fiscal framework.

78. **The current legal framework does not specify the procedures to be followed should there be a proposal to create a new SOE[37].** In contrast, the procedures required to privatize an SOE are described in the Zambia Development Agency Act, 2006.

79. **Special arrangements apply in regard to the participation of the government in Zambia's mining sector.** A holding company, ZCCM Investments Holdings Plc (ZCCM-IH)[38], owns shares (ranging from 10 percent to 100 percent) in most of the copper mining companies. In turn, 87.6 percent of the shares of ZCCM-IH are owned by the MoF. In relation to the transparency of resource revenues from state-owned mining companies, Zambia joined the Extractive Industries Transparency Initiative (EITI) in 2009 and its EITI reports, which are publicly available, include a broad range of data on resource revenues from state-owned and other mining companies. However, the legal framework provides an unclear definition of the boundary between the revenues that belong to the state-owned mining companies and those which the companies receive on behalf of the government. The law also does not require state-owned mining companies to make a full disclosure of information that relates to:

- Quasi-fiscal activities carried out by the company on behalf of government, such as an obligation to finance the construction of public infrastructure; and

- Any reduction in resource revenues or dividends to be paid by the company, in exchange for obligations to conduct quasi-fiscal activities.

80. **Recommendation 2.20.** In relation to SOEs, the new legal framework should include a comprehensive list of SOEs specified in the schedule of the law; the respective responsibilities of the boards, MoF, parent line ministries, and IDC; and establish a common oversight framework with the following requirements:

- All SOEs should establish financial targets (including the payment of dividends in

[37] In practice, a new SOE is typically created by a declaration of the Cabinet with the authorization of the MoF, but there are no commonly applied procedures for appraising the financial and fiscal risks that may arise by establishing a new SOE.

[38] ZCCM-IH is a company established under the Companies Act and is also subject to the provisions of the Mines and Minerals Development Act, 2008.

accordance with government policy), and submit reports monitoring the implementation of these targets to the MoF according to deadlines specified in the law;

- The budgets of SOEs should be submitted to the MoF for approval by a specified date;
- The financial implications of a proposal to establish a new SOE should be assessed by the MoF and reviewed by the Cabinet before a decision is taken on the proposal; and
- Information on the revenues and financial operations of state-owned mining companies should be fully disclosed.

F. Roles and Responsibilities, and Sanctions

81. **The PFM legal framework should specify the roles and responsibilities of key players in PFM, and establish effective sanctioning measures for financial irregularities.**

Roles and responsibilities of key players in PFM

82. **In general, Zambia's PFM legal framework provides a reasonably comprehensive list of roles and responsibilities.** The roles of the Minister of Finance, the ST, Controlling Officers, Accounting Officers, the Accountant General, the Controller of Internal Audit, the AG, the NA and several other institutions are clearly defined in the Constitution, the PFA 2004, other public finance laws, and the FR. Earlier sections of this report, however, have proposed that revisions to the PFM legal framework should:

- Enhance the powers of the NA to scrutinize budget execution, and to review and comment on financial reports submitted by the executive be substantially enhanced;
- Ensure the independence of the AG, in particular in regard to the financing of his office, and the salaries and terms and conditions of his staff;
- Elevate the position of the Accountant General to that of a PS;
- Clarify the respective role of the MoF and the BoZ in relation to cash management and debt management; and
- Clarify the respective roles of the MoF, parent line ministries, the IDC, and management boards in monitoring the financial performance of GAIs and SOEs.

83. **The role of the NA in the budget process is relatively weak in comparison to many countries.** The draft Constitution proposes a clarification of the NA's role which would allow the NA to make amendments to the executive's budget proposal, provided that the

total level of expenditure and revenue is not changed. However, the following issues should be addressed by the new legal framework in order to: (i) enhance the powers of the NA to scrutinize fiscal policy and budget documents; (ii) monitor budget execution; and (ii) review a wider range of financial reports submitted by the executive than at present.

- **Parliamentary engagement and scrutiny of macro-fiscal policy making** - As discussed in Sections II A and B, the NA should be consulted on medium-term fiscal objectives and targets, and policy measures to be set out in a fiscal strategy statement, in order to ensure the NA's participation in formulation of the macro-fiscal policy. Several PFM laws in the region specify the NA's power to scrutinize and endorse a pre-budget document (e.g., Kenya, South Africa, Tanzania, and Uganda);

- **Parliamentary amendment powers** - Although the power of Parliament to amend the budget varies widely between countries, some restriction on the amendment power is necessary to ensure consistency of the annual budget with fiscal objectives and targets previously scrutinized by the NA. If the draft Constitution does not come into force in the near future, the new PFM law should incorporate a similar restriction on the parliamentary amendment powers;

- **Sequence of parliamentary approval** - To allow adequate time for parliamentary scrutiny and ensure that it follows a top-down sequence, the new PFM law or parliamentary standing orders should clarify the sequence and timing of parliamentary approval of a fiscal strategy statement, the Finance Bill, and the budget. In the region, for example, Kenya and South Africa specify the time-limits for Parliament to scrutinize the budget framework papers and the Finance Bill;

- **Accountability mechanisms to fiscal objectives and targets** - As discussed in Section II A, the government should be accountable to consistency between previously formulated fiscal objectives/targets, current budgetary outturns, and final accounts. Some PFM laws in the region require submission to Parliament of in-year fiscal performance reports which assess compliance with fiscal objectives plus targets; explain the significant deviations, if any and seek for endorsement of corrective plans for deviations (e.g., Kenya and Tanzania); and

- **PAC recommendations and Treasury Minute** - In order to ensure the timeliness and effectiveness of the PAC recommendations, it would be advisable for the new PFM law to set out the timeframe: (i) for the PAC to debate the Auditor-General's regular and special reports and make recommendations on them; and (ii) for the government to respond to the PAC's recommendations through Treasury Minutes.

84. **If it is decided to establish a PBO, the law should limit clearly its functions to the production of independent, objective, and professional analysis for the NA on matters related to the PBG, the budget, and the Finance Bill.** In order to ensure the independence and objectivity of its analysis, the new PFM law or parliamentary standing orders should ensure that the institutional set-up of the PBO guarantees its operational independence. To this end, for example, the head of the PBO could be required to be appointed through an open, competitive process and be dismissed only on limited grounds and with the adequate due process. In the region, for example, Kenya, Uganda, and Tanzania, have established new PBOs of this type under PFM laws. If they are well-designed, with clear remits, analytical independence, and sufficient technical capacity, such bodies can help improve parliamentarians' understanding of the budget provisions and of the wider economic and fiscal position, and so improve the quality of legislative oversight and scrutiny.

85. **In addition to these specific proposals, there may be other areas of the law in which the roles and responsibilities of PFM players and stakeholders are not defined with sufficient clarity.** These issues may arise because of new PFM practices that have emerged since the original legal framework was enacted, as well as institutions and functions that have been superseded (e.g., the Crown Agents).[39] In addition, the definition of the roles and responsibilities of the different players is presently scattered among various laws and regulations. One of the tasks of the technical working group that has been proposed in this report to take forward the work on the revision of the PFM legal framework, should be to consider areas where modifications to existing roles and responsibilities need to be made, and where definitions can be streamlined and consolidated.

86. **Recommendation 2.21.** The technical working group should consider all relevant changes in the roles and responsibilities of key players in PFM as part of their work in preparing the revised legal framework. Specifically, the framework should clarify the roles of the NA in the budget formulation, including top-down sequenced budget approval, parliamentary amendment powers, and accountability mechanisms.

Sanctions

87. **The enforcement measures under the existing legal framework focus on sanctions against individual officers.** Under the PFA, the ST could recover the loss of public money from the controlling officer (Section 30), and any public officer could be penalized by fines or imprisonment for violation of the PFA (Section 51). In practice, however, these sanctions are rarely enforced, partly because other civil, criminal, and

[39] For example, the functions of accounting officers as defined in the PFA seem to overlap with those of controlling officers, and the separation of duties between these two functions should be clarified. Similarly, the functions of the "Establishment of the Treasury" under Section 5 of the PFA seem to overlap with those of the ST under Section 6 and could be deleted.

disciplinary sanctions are available under the common law and the Disciplinary Code and Procedures of the Public Service Commission.

88. **In addition to the personal sanctions noted above, the new legal framework could include a broader range of sanctions to be imposed on MPSAs, local governments, GAIs, and SOEs as organizations.** Although personal sanctions are still important and should be maintained by the new legal framework, adding organizational sanctions would facilitate the enforcement of the law, because they are generally less drastic than personal sanctions and could be imposed more effectively by the MoF or the NA[40]. Such organizational sanctions could include, for example, publishing information on cases of financial misconduct; calling the controlling officer to a public hearing at the PAC; requiring additional reporting to the MoF and/or the NA; approving a financial management improvement plan; imposing tighter controls over certain categories of expenditure; and appointing a financial overseer who takes over some financial management powers of the controlling officer.

89. **Recommendation 2.22.** The new legal framework should:

- Specify a broad range of sanctioning measures to be imposed on MPSAs, local governments, GAIs, and SOEs for financial irregularities.

[40] In Tanzania, for example, the new Budget Act includes "corrective actions" against financial irregularities of the government and public entities, some of which (e.g., calling to a hearing at the NA) have been actually imposed.

III. ARCHITECTURE OF A REVISED LEGAL FRAMEWORK FOR PUBLIC FINANCIAL MANAGEMENT AND DRAFTING PROCESS

A. Overall Design of the Legal Framework

90. **In principle, the best option for the new PFM legal framework would be to produce a single integrated PFM law.** The integrated PFM law is the "umbrella" law covering the entire PFM system and placing existing PFM related laws within a unifying framework[41]. This is a standard approach internationally and one that has been followed recently by several countries in the Africa region[42]. Table 3 presents the structure of PFM laws in other African countries. The advantage of a single law is that it can be clearly structured to cover all the PFM areas and so minimizes the risks of legal conflict. Further, having a single source for legal requirements is more accessible than multiple sources, and so is likely to enhance understanding of the legal framework among users. Annex III includes the proposed structure of an integrated PFM law.

91. **The National Planning and Budgeting Policy envisages to proceed with the two separate laws on the planning and budgeting and on the PFM.** This is primarily driven by the provision of the Constitution (Amendment) Act, 2009 (Article 118A) that requires the government to bring forward "budgeting and planning legislation" relating to "the annual budget and to medium and long-term development plans".

92. **Should the government decide to continue with a twin-track approach, it is important to ensure that the two laws are made fully consistent.** Having two laws creates a significant risk that there will be overlaps, conflicts, and gaps between them. To avoid such a risk, the proposed structure of the PBB and PFA presented in Annex III is designed to focus the PBB on the budget process and the coordination with the national and local development plans, while the structure of the new PFA broadly reflects the current content of the PFA 2004 and so minimizes the necessary revisions to this law. Broadly, the division of coverage is as follows:

- The PBB covers the earlier stages of the budget process, from establishing a macro-fiscal framework through budget preparation and approval, and the coordination

[41] Ideally, the integrated PFM law should be given a superior status to other acts of parliament, so that it can supersede conflicting laws. However, creating a hierarchy between acts of parliament requires a constitutional ground which does not exist in Zambia. Therefore, alternative options need to be sought in order to prevent the integrated PFM law from being easily overridden by other laws. An option could be an "interpretation clause" to allow the integrated PFM law to be prioritized when e.g., the integrated PFM law sets a stricter rule than the other law, because in this case two laws can be complied concurrently by following the stricter rule.

[42] For example, Kenya, Liberia, Namibia, Sierra Leone, South Africa, Swaziland, and Uganda.

with the development plans, much of which is the responsibility of the Budget Department and the National Planning Department within the MoF; and

- The new PFA establishes the roles and responsibilities of the key institutions and includes provisions on banking and cash management; budget execution; asset and liability management; accounting, reporting, and audit, many of which are the responsibility of the Office of the Accountant General.

93. **Recommendation 3.1.** The MoF should either adopt the structure of an integrated PFM law, or develop two laws—a PBB and a PFA—with structures that minimize the risk of overlap and duplication.

Table 3. Architecture of Public Financial Management Laws in Selected African Countries

Country	Name of Act	Features of PFM Law								
		Date enacted	Roles & responsibi-lities of key players	Coverage of PFM Law	Macro-fiscal policy functions	Budget formulation & execution	Banking & cash management	Accounting, reporting, & internal control	Management of debt, borrowing, & fiscal risk	Enforce-ment of PFM laws
Kenya	PFMA	2012	Yes	General	Yes	Yes	Yes	Yes	Yes	Yes
Lesotho	PFM and Accountability Act	2011	Partial	Central	No	No	No	No	Yes	Yes
Liberia	PFMA	2009	Yes	General	No rules, but fiscal principles	Yes	Yes	Yes	Yes	Yes
Mauritius	PFMA	Draft	Yes	General	No rules, but fiscal principles	Yes	Yes	Yes	Yes	Yes
Namibia	State Finance Act	1991	Yes	Central		Format of estimates				
Rwanda	State Finances & Property Act	Revised 2013	Yes	General	No	Yes	Yes	TBD in regulations	Yes	Yes
Sierra Leone	PFMA	Draft	Yes	General	Yes	Yes	Yes	Yes	Yes	Yes
South Africa	PFMA	1999	Yes	General (covered in two laws)	No	Yes	No TSA, NT prescribes cash mgt. system	Yes	Yes	Yes
Swaziland	PFMA	Draft	Yes	General	Yes	Yes	Yes	Yes	Yes	Yes
Uganda	PFMA	Draft	Yes	General	Yes	Yes	Yes	No, determined by AG	No	Partial
Zambia	PFA	2004	Yes	Budgetary CG	No	Yes	Yes	Yes	No	Partial
Zimbabwe	PFMA	2010	Yes	General	No	No	Yes	Yes	Yes	Yes

Source: Fiscal Affairs Department, IMF.

Note: CG = Central Government; PFA = Public Finance Act; PFMA = Public Finance Management Act.

B. Integrated Preparation Process

94. **If the twin-track approach is followed, the two separate work streams currently producing the PBB and PFA need to be brought together into a single, integrated process.** As mentioned in Box 1, experience in countries in the African region shows that there are major challenges in the twin-track approach. It is essential to ensure that the two laws are fully consistent and use the same definitions and terminology. It will also be necessary for the two laws to include references to each other in order to assist users in understanding their relationship, and to facilitate their implementation. To this end, the PBB and PFA should be drafted by the same technical working group, and the process of preparing the two laws and submitting them for approval should be fully integrated.

Box 1. Experiences of the Two Track Approach in Selected Countries

Tanzania: In 2013, the MoF decided on the two track approach to produce the new Budget Act on the budget process and the new PFM Act amending the existing PFA 2001. Two Bills were prepared by separate working groups. The Budget Act was promptly prepared and passed in March 2015, while the PFM Bill is still being prepared. Although the Budget Act is well structured, some provisions conflict with the current version of the PFM Bill. In addition, until the PFM Bill is enacted, the current PFA remains in force and includes inconsistencies with the Budget Act.

Uganda: The Budget Act, 2001 and the Public Finance and Accountability Act, 2003 were prepared separately under the initiative of parliament and the government and had inconsistencies. To improve the legal framework, the government prepared the new integrated PFM Act, 2015 which was passed in November 2014.

95. **The twin-track approach also requires the PBB and PFA to be enacted without time delay.** Currently, the preparation of the PBB is well-advanced, and the MoF plans to submit the Bill for approval in June 2015, before much work on revising the PFA 2004 has begun. The prospect that the new PFA will not be submitted and approved by the NA until long after the PBB has been approved creates major risks, as noted above. In addition, delay in enactment of the new PFA may affect the implementation of the PBB because the reform measures enshrined in the two laws are interdependent (e.g., control of multiannual commitments under the PBB and cash management under the PFA). In order to ensure that the two Bills come into force without time delay, they should be submitted to the Cabinet and NA concurrently. To this end, the road map for producing the two laws should be revised and agreed by the MoF, and the current deadline of presenting the PBB to the Cabinet in June needs to be adjusted accordingly. A suggested road map is provided in Table 4.

Table 4. Zambia: Suggested Revised Roadmap for Finalizing the Planning Budgeting Bill and the New Public Finance Act

	Action	Responsible
May, 15	Organize the technical working group (TWG) to prepare the PBB and PFA	ST
Jun–Jul, 15	Agree outline of the two laws	TWG
	Produce a policy note to supplement the National Planning and Budgeting Policy and discuss overall structure of two laws and PFA	TWG
Aug–Dec, 15	Consult on the policy note with stakeholders, including the NA	TWG
	Finalize the policy paper	TWG
Jan–Feb, 15	Revise PBB and prepare PFA	TWG
Mar–Apr, 15	Consult on two bills within MoF and revise them	TWG
	Consult on revised two bills with stakeholders outside the MoF	TWG
	Consult on revised two bills with stakeholders in the NA	TWG
	Finalize two bills by incorporating results of consultation	TWG
May, 15	Submit the PFA and PBB to the MoJ for legal vetting	MoJ
	Submit the PFA and PBB to the Cabinet and NA	Minister
Jun–Jul, 16	Review the LGA and other PFM related laws	TWG/MoLG
	Prepare amendments to the LGA and other PFM related laws	TWG/MoLG
Aug–Sep, 16	Consult on amendments to the LGA and other laws with key stakeholders	TWG/MoLG
	Finalize amendments to the LGA and other laws	TWG/MoLG
Oct, 16	Submit amendments to the LGA and other laws to the MoJ for legal vetting	MoJ
	Submit amendments to the LGA and other laws to the Cabinet and NA	Minister/ MoLG

96. **Whichever approach is taken, it is desirable that the bills be drafted by a small technical working group composed of officers from the key departments of the MoF and lawyers from the Ministry of Justice (MoJ).** Although the process to draft the bill varies across countries, if the MoF officers and the MoJ lawyers team up, it has the advantage that the quality of the legal drafting can be enhanced and the following legal vetting by the MoJ can be facilitated.

97. **Emphasis should be given in consultation with key stakeholders, including the NA, on the Bills.** Because PFM is a complex area with multiple interconnected processes involving many different institutions, consultation with stakeholders is necessary to ensure that the drafts address stakeholders' concerns and are consistent with other PFM-related laws. Consultation within the MoF could take place after the drafting team prepares an initial version of the Bills. Consultation with key stakeholders outside the Ministry, such as the Auditor-General's Office, the MoLG, the Decentralization Secretariat, the Zambia Public Procurement Authority, and key line ministries, could be launched after a consensus on the bills has been broadly reached within the MoF. Consultation with key stakeholders in parliament, such as members of the Economic Affairs, Estimates, and PACs, should take place once these internal consultations have been completed and appropriate revisions made.

98. **TA would be beneficial to facilitate the preparation of the integrated PFM law or the revised PBB and PFA.** In order to complete successfully the reform of the current legal framework according to the revised roadmap, further TA from headquarters or AFS can be considered. In particular, the follow up mission would be advantageous in assisting the technical working group in drafting the integrated PFM law or the revised PBB and PFA. From time to time, desk based TA from headquarters can also be provided, for example to review and give input to, the policy note prepared by the technical working group.

99. **The new legal framework will require capacity to be strengthened in the MoF, MPSAs, and local governments if the new laws and regulations are to be implemented efficiently and effectively.** Revisions to the PFM Reform Strategy should, therefore, be considered. Changes may also be required to strengthen the organizational structure of the MoF in areas such as fiscal risk analysis; consolidation of fiscal reports at the general government level; the oversight of local governments, SOEs, and GAIs; and strengthened cash and debt management functions, where the respective roles of the MoF and the BoZ also need to be clarified. Consideration could be given, for example, to splitting the existing functions of the Investment and Debt Management Department into two departments or units; one responsible for cash and debt management, the other with the management of public investment and oversight of SOEs and GAIs.

100. **Recommendation 3.2.** If the twin-track approach is followed, the PBB and PFA should be drafted by a single technical working group, follow an integrated preparation process, and be submitted to the Cabinet and the NA concurrently.

101. **Recommendation 3.3.** The MoF should revise and adopt a roadmap for preparation of the PBB and PFA, or an integrated PFM Bill, which includes consultation with key internal and external stakeholders, including the NA.

102. **Recommendation 3.4.** The MoF should establish a small technical working group composed of officers from the ministry's key departments, and lawyers from the MoJ to prepare the PBB and the PFA, or an integrated PFM Bill.

103. **Recommendation 3.5.** The MoF should revise the PFM Reform Strategy to include the MoF's restructuring for the implementation of the new legal framework.

C. Revisions to Other Laws and Subsidiary Legislation

104. **The current legal framework for debt management needs to be revamped and made consistent with the revised PFM legal framework[43].** There are more than ten laws

[43] Revision of the debt management laws is included as a priority in the MoF's *Strategic Plan, 2012-2016*,

relating to debt management, most of which were adopted in the 1960s, and there has been no major amendment to these laws since they were adopted. As discussed in Section II D of this report, these laws set up various limits, controls, and other requirements for different types of borrowing and have not been consistently applied. In addition, they include several outdated provisions, such as those relating to the Crown Agents, and do not provide adequate legal backing to the current debt management practices (e.g., the preparation and implementation of a MTDS). In order to provide a coherent and consistent legal framework for debt management, it is necessary to modernize and consolidate the existing laws. This could be achieved either by replacing the existing laws with debt management provisions included in the integrated PFM law (or the Public Finance Management Bill (PFMB)) or a separate Public Debt Management Act[44].

105. **The legal framework for local government finance also needs to be revised in light of the government's fiscal decentralization strategy.** As noted earlier, the finance chapter of the current LGA does not adequately take account of the implications of fiscal decentralization; does not provide legal backing for the current oversight practices of the MoLG; and is silent on the MoF's oversight role. To address these gaps and weaknesses in the legal framework, the amendments to the LGA could be tabled before the NA together with the integrated PFM bill (or the PBB/PFA)[45].

106. **Other PFM-related laws may also need to be revisited.** These laws include, for example, the Bank of Zambia Act, 1996, the Public Audit Act, Cap. 378, the Public Procurement Act, 2008, and the Public-Private Partnership Act, 2009. Because these laws focus on the establishment of specific institutions and relevant technical issues, they should remain separated from the integrated PFM law (or the PBB/PFA). However, they need to be made consistent with the integrated PFM law (or the PBB/PFA), which should also make appropriate references to them. The same technical working group established to draft the new law should examine whether the PFM related laws noted above and the laws to establish individual statutory bodies (e.g., the National Road Fund Act, 2002), includes any conflict with the integrated PFM law (or the PBB/PFA).

Objective 2V.

[44] Some countries in the African region included the debt management provisions in the PFM laws (e.g., Kenya, South Africa, and Uganda), while others have the separate public debt management law (e.g., Sierra Leone and Tanzania).

[45] Alternatively, the finance chapter of the LGA could be shifted to the integrated PFM law (or the PBB). This approach, however, carries the risk of overloading the PFM law with provisions in many complex areas. Some countries in the African region have adopted a separate Local Government Finance Act, but this approach may create problems in ensuring that the two laws are consistent.

107. **The revised legal framework for PFM should focus on general principles such as the roles and powers of the key institutions, the guiding principles for PFM operations, and the main deadlines and outputs in the budget and accounting calendars.** Zambia follows a common law system where the laws are more general and less detailed than those in countries following a civil law approach. In addition, an overly detailed law is likely to reduce users' understanding of the legal framework, and lessen the efficiency of its implementation. Because a PFM law typically remains unchanged for more than ten years, including detailed provisions may also constrain the government's ability to make improvements in the way the law is implemented in practice. Operational issues, such as the detailed control over the payment and accounting processes and the details of cash, asset, stores, and liability management, should be prescribed by the regulations.

108. **Recommendation 3.6.** The MoF should include provisions on debt management in the revised legal framework, or prepare a separate Public Debt Management Act to replace the existing laws on this subject.

109. **Recommendation 3.7.** The technical working group on the PFM legal framework should prepare amendments to the LGA jointly with the MoLG, and also review and prepare amendments to other PFM-related laws.

Annex I. Zambia: List of Laws and Regulations Related to Public Financial Management

Constitution of Zambia
Bank of Zambia Act, 1996
Development (United Kingdom Government) Act, Cap. 362
Development Bond Act, Cap. 379
Financial Regulations, 2006
General Loans (Guarantee) Act, Cap. 358
General Loans (International Bank) Act, Cap. 365
General Loans (Mediobanca) Act, Cap. 376
General Loans and Stock Act, Cap. 350
Government Securities Act, Cap. 357
International Bank Loan (Approval) Act, Cap. 372
International Bank Loan Act, Cap. 375
Loans (Authorization) Act, Cap. 355
Loans and Guarantees (Authorization) Act, Cap. 366
Local Authorities (Financial) Regulations, 1992
Local Government Act, Cap. 281
Local Loans (Registered Stock and Securities) Act, Cap. 353
Minister of Finance (Incorporation) Act, Cap. 349
National Road Fund Act, 2003
Public Audit Act, Cap. 378
Public Finance Act, 2004
Public Procurement Act, 2008
Public-Private Partnership Act, 2009
Treasury Bills Act, Cap. 348
Zambia Development Agency Act, 2006
Zambia Revenue Authority Act, Cap. 321

Annex II. Zambia: Gaps and Weaknesses in Current Public Finance Act and Recommendations

Outline	Current PFA?	If yes, weaknesses and gap?	Recommendations
Part I - Preliminary			
Definitions	Yes (2)	The classification of institutional units and the definitions of "general revenues", "public funds", and "public money" are unclear. A definition of "Treasury Single Account" does not exist.	Include in schedules, a list of institutions included in MPSAs, "grant aided institutions" (GAIs) and "state-owned enterprises". Define clearly "general revenues", "public money", and "Treasury Single Account".
Scope of application	No		Provide clearly that the law applies to all MPSAs, GAIs, local governments, and SOEs.
Part II - Institutional responsibilities			
NA and PBO	No		Specify the NA's responsibilities of the NA in scrutinizing the fiscal framework, approving the budget, and overseeing budget execution. If a PBO is to be established by the PFM law, specify its roles and stipulate its independence.
President and Cabinet	No		Specify the President's and the Cabinet's roles in the PFM system.
The Minister	Yes (3)	Provisions on responsibilities are scattered among several laws, similarly for ST, controlling officers, accounting officers, etc.	Consolidate in to a single act.
Establishment of the Treasury	Yes (4)	Possibly outdated.	Consider removing from the law.
The Secretary to the Treasury	Yes (5,6)	The functions of the Treasury under PFA 5 seem to overlap with those of the Secretary to the Treasury under PFA 6.	Consolidate PFA 5 and 6 to remove overlap.
Controlling officers	Yes (7)	The PFA is not clear about their qualifications and relationships with the respective line minister.	Clarify the issues mentioned in "weaknesses and gaps".
Accountant-General	Yes (8)		
Accounting officers	Yes (9)	The functions of accounting officers overlap with those of controlling officers.	Clarify the separation of duties between controlling and accounting officers.
Internal auditor	Yes (10,11)	It is not mentioned what standards apply to internal audit.	Require internal audit to be conducted in accordance with internationally accepted standards.
Audit committee	Yes (12)	It is not mentioned to whom an audit committee reports.	Clarify that an audit committee reports to a controlling officer (or in case of a GAI, to the board of the GAI).
Auditor General	Yes (44 to 46)	The independence of the Auditor-General is not mentioned.	Stipulate the independence of the Auditor-General in line with the draft new Constitution.

Outline	Current PFA?	If yes, weaknesses and gap?	Recommendations
Boards of GAIs and SOEs	No		Specify the responsibilities of the boards of GAIs and SOEs for their internal control and financial management.
Parent line minister	No		Specify the responsibilities of the parent line minister for supervising the implementation of sector policies and plans by GAIs and SOEs.
Bank of Zambia	No		Defines roles of the BoZ in relation to the TSA and debt management.
Part III - Macroeconomic and Fiscal Framework			
Fiscal principles	No		Specify the principles of prudent and transparent fiscal management.
Fiscal objectives	No		Require the Minister to specify in a fiscal strategy statement, the fiscal objectives and targets at the beginning of the tenure of the new government.
Monitoring of fiscal performance			Require the Minister to submit an annual fiscal strategy report to the National Assembly, reporting on progress against the government's fiscal objectives and targets.
Deviation from fiscal objectives	No		Require the Minister to submit to the NA, a report on corrective measures when there is significant deviation from fiscal objectives.
Macroeconomic and fiscal forecasts	No		Specify indicators to be included in the macroeconomic and fiscal forecasts and the coverage of the fiscal forecasts.
Annual fiscal strategy report/Green Paper	No		Require the Minister to submit to the Cabinet, the Green Paper for approval and to the NA for scrutiny by a specific deadline. Require the NA to debate and comment on it within a specific timeframe.
Fiscal risk statement	No		Require the Minister to prepare annually a fiscal risk statement.
Coordination with national and local development plans	No		Require MPSAs, local governments, and GAIs to prepare medium to long term development plans according to resource availability.
Part IV - Budget Preparation and Approval			
Budgetary principles	No		Specify the budgetary principles, such as annuality, universality, specificity, and unity.
Unit of appropriations	No		Specify the unit of appropriations and require the MoF to set a target date for moving toward an output or program-based appropriation.
MTEF	No		Require the Minister to prepare a MTEF that will include spending ceilings that are binding for year 1 and indicative for years 2 and 3.
Budget calendar	No		Specify the key steps and deadlines in the budget calendar.
Budget documents	No		Specify the contents of budget documents, including a fiscal risk statement.

Outline	Current PFA?	If yes, weaknesses and gap?	Recommendations
Public investment management	No		Specify principles, procedures, and institutional responsibilities for appraisal, selection, and implementation of public investment projects.
Power of the NA to amend the budget	No		Limit the NA's power to amend the budget, in line with the new draft Constitution.
Temporary budgets	Yes (16)		
Lapse of appropriations	Yes (16)	A relationship with carryover of capital expenditure is not mentioned.	Clarify that an appropriation lapses at the end of the financial year unless its carryover is authorized by the ST.
Supplementary budget	No		Require the prior approval of supplementary budget by the NA when unbudgeted expenditure is being made, unless it is authorized by presidential warrants for unforeseen and urgent expenditure under Constitution 115(2)(d).
Excess expenditure and presidential warrants	No		Allow excess expenditure to be reguralized only by the supplementary budget and discontinue an excess expenditure appropriation. Set out a strict ceiling on presidential warrants under Constitution 115(2)(d).
Virement	No		Set out virement rules and prohibit reallocation between different votes without approval of supplementary budget.
Contingency Fund	Yes (24)	There is no ceiling on the Contingency Fund or limit to its replenishment, and there is no requirement of the supplementary budget.	Address issues mentioned in "weaknesses and gaps".
Carryover	No		Specify rules and conditions on carryover of appropriations.
Part V - Treasury Management			
Consolidated Fund	Yes (13)		
Deposits of revenues	Yes (15)		
Release of funds	Yes (17)		
Bank balances at the end of a financial year	Yes (19)		
Retention of non-tax revenue	No		Establish a restriction on retention of non-tax revenue through an appropriation-in-aid or otherwise.
Cash planning and reporting	No		Require the ST to issue an annual cash plan at the beginning of a financial year and update it on a rolling basis. Specify obligations of MPSAs and GAIs to submit to the ST cash plans and reports.
CMC	No		Require the ST to establish a CMC.
Treasury Single Account	No		Require the ST to establish a TSA and conclude with the BoZ an agreement on the management of the TSA.

Outline	Current PFA?	If yes, weaknesses and gap?	Recommendations
Banking arrangements	Yes (20)		
Funds and Working Accounts	Yes (25)	The meaning of "funds and working accounts" is not clear.	Address the issue mentioned in "weaknesses and gaps".
Aided Projects	Yes (28)		
Part VI - Asset and Liability Management			
Debt management	No		If the existing laws relating to the debt management are to be replaced with the provisions included in the new PFM law then: specify the Minister's sole authority to borrow on behalf of the government; require the approval of the NA for borrowing exceeding a threshold; require the Minister to establish debt ceilings in regulations; clarify the respective roles of the MoF and BoZ for the public debt management and specify a coordination process; and require the ST to prepare a MTDS.
Guarantees	No		If the existing laws relating to the debt management are to be replaced with the provisions included in the new PFM law then: specify the Minister's sole authority to provide guarantees on behalf of the government; specify scope of entities which can be guaranteed; require the approval of the NA for guarantees exceeding a threshold; require the Minister to establish ceilings on guarantees in regulations; and specify the MoF's responsibility to monitor outstanding guarantees.
Loss of public money or stores	Yes (29)		
Part VII - Budget Execution			
Commitment controls	No		Specify commitment control rules and its relationship with procurement and cash plans.
Multiannual commitments	No		Specify control over multiannual commitments, including the approval of the MoF.
Half-year budget performance reports	Yes (3)	The content of the report or the process for the NA to scrutinize, it is not specified.	Require the Minister to submit to the NA and publish, at the end of every June, a half-year budget performance report to assess (i) progress in budget execution and (ii) compliance with fiscal objectives. Require also the Minister to submit to the NA the supplementary budget according to the report.

Outline	Current PFA?	If yes, weaknesses and gap?	Recommendations
Part VIII - Accounting and reporting			
Accounting standards	Yes (5)	The law refers only to "generally recognized accounting practices" and does not specify who sets accounting standards applicable to MPSAs, GAIs, local governments, or SOEs.	Make reference to "internationally accepted accounting standards". Specify the responsibilities of the MoF to set accounting standards.
Chart of accounts	Yes (5)	The MoF has no power to determine CoA of local governments.	Specify the powers of the MoF to determine uniformed CoA of MPSAs, local governments, and GAIs.
In-year financial reporting	No		Specify the broad contents, timeline, mode of publication, and use of monthly, quarterly, and half-yearly financial reports from MPSAs, local governments, GAIs, and SOEs.
End-year financial reporting	Yes (7,34,38)	The timeframe of end-year financial reporting from MPSAs or GAIs is not specified.	Establish a uniformed accounting calendar for end-year financial reporting by MPSAs, local governments, GAIs, and SOEs.
Financial reports of the government	No		Specify the timeframe and contents of the financial report in line with the new draft Constitution.
IFMIS	No		Require MPSAs, local governments, and GAIs to develop and maintain compatible IFMIS systems.
Part IX - Oversight of GAIs and SOEs[46]			
Division I - Grant Aided Institutions			
Establishment of a new GAI	No		Establish a process to assess the financial implications of a proposal to establish a new GAI, and require the MoF to provide an opinion on it.
Budget preparation and approval	No		Require all GAIs to submit the budgets to the MoF for approval by a specific deadline.
Borrowing	No		Require borrowing of a GAI to be approved by the MoF.
MoF's representations at the boards	Yes (34)		

[46] If the finance chapter of the LGA is to be shifted to the new PFM law, this part should include a separate division on local governments.

Outline	Current PFA?	If yes, weaknesses and gap?	Recommendations
Division II - State-owned enterprises			
Establishment of a new SOE	No		Establish a process to assess the financial implications of a proposal to establish a new SOE, and require the MoF to provide an opinion on it.
Financial targets	No		Require all SOEs to establish financial targets, including dividends payment, in accordance with the government policy. Require also the MoF to monitor the financial targets through SOEs' quarterly reports.
Budget preparation and approval	No		Require all SOEs to submit their budgets to the MoF for approval by a specific deadline.
State-owned mining companies	No		Establish transparency requirements in relation to resource revenues of state-owned mining companies.
Part X - Sanctions			
Surcharge	Yes (30 to 33)		
Fines and imprisonment	Yes (50)		
Organizational sanctions	Yes (39)	It is not clear what measures the MoF can take for sanctions.	Specify a broad range of sanctioning measures to be imposed on MPSAs, local governments, GAIs, and SOEs.
Part XI - Miscellaneous			
Regulations	Yes (52)		
Repeal, savings, and transitional provisions	Yes (53,54)		

Note: Column of "Current PFA"; Yes - There is a relevant provision in the PFA 2004 (bracket; number of section); No - There is no relevant provision in the PFA 2014.

Annex III. Proposed Outline of a Single and Twin-Track Approach

Single-Track Approach

Integrated PFM Act

Part I.	Preliminary
Part II.	Institutional Responsibilities
Part III.	Macro-Fiscal Framework
Part IV.	Budget Preparation & Approval
Part V.	Treasury Management
Part VI.	Asset & Liability Management
Part VII.	Accounting, Reporting, & Audit
Part VIII.	Oversight of GAIs and SOEs
Part IX.	Sanctions
Part X.	Miscellaneous Provisions

Twin-Track Approach

PBB		New PFA	
Part I.	Preliminary	Part I.	Preliminary (reference to PBB)
		Part II.	Institutional Responsibilities
Part II.	Macro-Fiscal Framework		
Part III.	Budget Preparation & Approval		
		Part III.	Treasury Management
		Part IV.	Asset & Liability Management
		Part V.	Accounting, Reporting, & Audit
Part IV.	Oversight of GAIs and SOEs		
Part V.	Sanctions (Organizational)	Part VI.	Sanctions (Personal)
Part VI.	Miscellaneous Provisions	Part VII.	Miscellaneous Provisions

Annex IV. Zambia: IMF Fiscal Affairs Department's Comments on the Draft Planning and Budget Bill, 2015[47]

The mission's analysis of the government's proposed "twin-track" approach to strengthening the legal framework for budgeting, planning, and PFM, and its recommendations on the overall architecture of the PFM legal framework, are contained in Section III of this Report. This Annex comments on specific aspects of the draft PBB.

General Comments

The bill includes some welcome improvements to the existing legal framework—for example, in relation to clarifying the role of the NA in budget preparation and oversight; strengthening the independence of the AG; clarifying current practices in relation to the management of supplementary budgets and excess expenditure; a provision for a mid-term review of the annual budget; and a provision that would require the cost of all new Bills to be estimated before their submission to the NA. However, the question arises as to where some of these provisions would be better dealt with in the proposed revisions to the PFA 2004 (discussed in Section III of this report).

Two-fifths of the draft bill (including most of parts II and III[48]) is devoted to describing the institutional and procedural arrangements for preparing the NDP. These provisions are highly detailed, and many of them might be more appropriately included in regulations or a procedures manual on national planning. In particular, the multi-layered institutional arrangements seem overly complicated and resource intensive. It should be possible to streamline the planning cycle and reduce its length from three years to substantially less.

The bill should set out at the beginning the fundamental macro-economic and fiscal principles and objectives of the legislation (for further details, see Section IIA of this report). The current draft includes very few provisions relating to macro-fiscal policy (e.g., sections 4.1 and 40). A much stronger emphasis should be given to the principles of sound fiscal policy and the management of fiscal risks; the need for the government to set fiscal objectives and rules (e.g., in an annual fiscal Strategy Report presented to the Cabinet and the NA); the prudent management of natural resource revenues; and a common set of medium-term macroeconomic and fiscal projections that underpin the NDP, the Medium-

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[47] These comments are based on a draft of the Bill that was submitted to the mission on May 8, 2015.

[48] Part II (sections 9–18) covers the National Socio-Economic Vision and National Development Plan; part III (sections 23–31) the Institutional Framework for the Development Plan and Budget Framework. These sections comprise 21 of the 50 pages of the bill, excluding the preliminaries and schedules.

Term Budget Plan (MTBP), and the annual budget. Several other countries of the region (e.g., Liberia, Namibia, Kenya, Sierra Leone, Swaziland, and Uganda) have included such a framework in their new (or proposed) laws on budgeting and public finance.

The bill could include stronger provisions requiring the government to establish robust procedures for preparing a pipeline of well-designed and well-appraised development projects that can be financed from the budget, external resources, or Public Private Partnerships (PPPs). This is a critically important function that would add substantial value to the planning process, and would provide a direct link with the budget. It would require strengthening both the economic and financial appraisal of investment projects (referred to only briefly in the bill), together with other aspects of public investment management.

Detailed comments

(i) Responsibilities of the Minister

The draft bill includes provisions (section 5) that describe the responsibilities of the Minister in regard to the preparation of the Green Paper, the MTBP, the annual budget, macroeconomic and fiscal forecasts, tax policy, and other matters. In Section III of this report, however, it is argued that the responsibilities of the Minister and other key players in the PFM and budget process should be consolidated in one law, namely the PFMA or the revised PFA.

(ii) Definitions and terminology

Discussion of the budgetary and financial oversight of statutory bodies, GAIs, and SOEs should be expanded.

Several terminologies are used throughout the bill, and are not fully consistent with the Constitution or the PFA (e.g., "extra-budgetary fund", "grant aided institutions, "public body", "Central Government entity", and "appropriation-in-aid"). It is important that a common set of definitions and terminologies be used in all laws and regulations dealing with budgeting and PFM.

(iii) Coverage and unit of appropriation

The coverage of the bill should extend beyond the budgetary central government to all entities of general government and effective oversight of the wider public sector.

The unit of appropriation (e.g., line items, activities, programs) is not clearly defined.

(iv) Documentation

The purpose of various official documents referred to is not clearly explained—e.g., the Budget Framework Paper, the Green Paper, and the MTBP. The relationship between the MTBP and the MTEF should be clarified.

(v) Role of the NA on the MTBP

The bill (section 44) states that the MTBP will be prepared and laid before the NA "in the form of a White Paper". Does this mean that it will set spending ceilings that are legally binding for the future two years? If so, what is its relationship with the annual budget and the Appropriation Bill? If the MTBP does not have the status of a law, in what sense can the NA make amendments to it?

(vi) End-year carryovers

The carry-over of unspent appropriations is not mentioned in the bill, though permitted under the Constitution—Article 115(2e)—and implemented in practice, and supposed to be appropriated as supplementary expenditure.

(vii) Credit to public institutions

The purpose of part VIII of the bill in regard to the provisions on credit to public institutions is unclear. If the discussion is referring to the approval of borrowing and government guarantees, the subject might be better included in the MoF's proposed review of the laws on public debt.

(viii) External audit

The bill (part IX) includes some welcome enhancement of the Auditor-General's independence in relation to the protection of his office's budget from the uncertainties of the annual budget process, the status and remuneration of his staff, and clarity on his role in submitting reports to the NA. However, it is unclear why these provisions are included in the PBB rather than as amendments to the PAA.

(ix) Enforcement

The bill is silent on the powers to sanction officials and organizations in relation to financial irregularities and breaches of the PFM laws and regulations (see also Section IIF of this report). Surcharges under the PFA are not actively imposed, and the bill might need to include more effective measures such as organizational sanctions. In doing so, the bill should not create overlap with criminal or disciplinary sanctions available under other laws.