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PARLIAMENT OF KENYA  
THIRTEENTH PARLIAMENT  
SECOND SESSION – 2023

JOINT REPORT OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND  
NATIONAL PLANNING OF THE NATIONAL ASSEMBLY AND THE  
STANDING COMMITTEE ON FINANCE AND BUDGET OF THE SENATE ON  
THE APPROVAL HEARING FOR MR. ANDREW MUKITE MUSANGI,  
NOMINEE FOR APPOINTMENT TO THE POSITION OF CHAIRPERSON OF  
THE CENTRAL BANK OF KENYA

 THE NATIONAL ASSEMBLY PAPERS LAID	
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TABLED BY:	HON JOSEPH MAKUAP, MP MEMBER OF THE COMMITTEE
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## LIST OF ABBREVIATIONS AND ACRONYMS

CBK	-	Central bank of Kenya
DCI	-	Directorate of Criminal Investigations
EAC	-	East Africa Community
EACC	-	Ethics and Anti-Corruption Commission
H.E.	-	His Excellency
HELB	-	Higher Education Loans Board
KRA	-	Kenya Revenue Authority
ORPP	-	Office of the Registrar of Political Parties

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## **CHAIRPERSONS FORWARD**

Article 231 of the Constitution establishes the Central Bank of Kenya, which is responsible for formulating monetary policy, promoting price stability, issuing currency and performing other functions conferred on it by an Act of Parliament and shall not be under the direction of any person or authority in the exercise of its powers or in the performance of its functions.

Section 11(2A) of the Central Bank of Kenya Act, Cap. 491 establishes the Offices of the Chairperson, who shall be appointed by the President through a transparent and competitive process and with the approval of Parliament. The Chairperson shall preside over all board meetings.

After receiving the message from H.E. the President on the nomination of **Mr. Andrew Mukite Musangi** for the position of Chairperson of the Central Bank of Kenya, the Speaker of the National Assembly and the Speaker of the Senate on Thursday, 17<sup>th</sup> August 2023 and Tuesday, 29<sup>th</sup> August, 2023 respectively issued a communication and directed that the approval hearing for the nominee for appointment to the position of Chairperson of the Central Bank of Kenya, be conducted jointly by both Houses of Parliament as required by the Central Bank of Kenya Act, Cap.491 Laws of Kenya.

The name of the nominee and his curriculum vitae were referred by the Speaker of the National Assembly to the Departmental Committee on Finance and National Planning and by the Speaker of the Senate to the Standing Committee on Finance and Budget. The Joint Committee held a preliminary sitting on Monday, 11<sup>th</sup> September 2023 to prepare for the approval hearing and to consider memoranda received from the public.

The aforementioned Committees complied with the constitutional and legal requirements and established procedures for the approval hearing. The Committees adhered to the provisions of Article 118(1)(b) of the Constitution on public participation and openness in carrying out the approval process. Notifications inviting the public to submit memoranda were placed in the mainstream print media on Friday, 1<sup>st</sup> September 2023 as required by Section 6(4) of the Public Appointments (Parliamentary Approval) Act, 2011.

The Committees conducted the approval hearing on Tuesday, 12<sup>th</sup> September 2023. In conducting the approval hearing, the Joint Committees were guided by the provisions of the Constitution, the Central Bank of Kenya Act, Cap. 491, the Public Appointments (Parliamentary Approval) Act, 2011 and the Standing Orders of the respective Houses.

The Committees made observations, contained in this Report based on constitutional and legal requirements as well as submissions of the nominee during the approval hearing. Further, the Committees were seized of the provisions of Article 231 of the Constitution read together with sections 11(2A) of the Central Bank of Kenya Act, Cap. 491.

The Committees' recommendation is based on the evidence and information from the proceedings during the approval hearing. The Committees recommend that, having considered the suitability, capacity and integrity of the nominee, and pursuant to Article 231 of the Constitution, section 11(2A) and section 8(2) of the Public Appointments (Parliamentary Approval) Act No. 33 of 2011, **the House approves the nomination of Mr. Andrew Mukite Musangi for appointment to the position of the Chairperson of the Central Bank of Kenya.**

The Committees wish to thank the Office of the Speaker of the National Assembly, the Office of the Speaker of the Senate, the Clerks of both Houses and their staff for the logistical support accorded to them during the approval hearing. The Committees are also grateful to the members of the public who sent memoranda and media for their involvement and coverage of the proceedings, thus enhancing accountability and transparency of the approval hearing exercise.

On behalf of the Committees, and pursuant to Article 231 of the Constitution, Section 11(2) of the Central Bank of Kenya Act, Cap. 491, Section 8 of the Public Appointments (Parliamentary Approval) Act, 2011, it is my pleasant duty to table the Report of the National Assembly Departmental Committee on Finance and National Planning, and the Senate Standing Committee on Finance and Budget on the joint approval hearing for **Mr. Andrew Mukite Musangi** the nominee for appointment to the position of the Chairperson of the Central Bank of Kenya for debate and adoption by the National Assembly.



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Hon. CPA. Kuria Kimani, MP  
**Chairperson**  
**Departmental Committee on Finance**  
**and National Planning**



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Sen. (Capt.) Ali Ibrahim Roba, MP  
**Chairperson**  
**Senate Standing Committee on**  
**Finance and Budget**

## PREFACE

### ESTABLISHMENT AND MANDATE OF THE COMMITTEES

1. Article 124(1) of the Constitution provides that each House of Parliament may establish Committees and shall make Standing Orders for the orderly conduct of its proceedings, including the proceedings of its committees.
2. The Departmental Committee on Finance and National Planning is established under standing order 216 whose mandates pursuant to the standing order 216(5) are as follows-
  - (a) To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
  - (b) To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;
  - (c) on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;
  - (d) To study and review all legislation referred to it;
  - (e) To study, assess and analyze the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;
  - (f) To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);
  - (g) To examine treaties, agreements and conventions;
  - (h) To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation;
  - (i) To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
  - (j) To examine any questions raised by Members on a matter within its mandate.
3. The Senate Standing Committee on Finance and Budget is established pursuant to section 8(1) of the Public Finance Management Act, 2012 and standing order 228 of the Senate Standing Orders, and is mandated to
  - a) Investigate, inquire into and report on all matters relating to coordination, control, and monitoring of the county budgets and examine -
    - i. the Budget Policy Statement presented to the Senate;

- ii. the report on the budget allocated to constitutional Commissions and independent offices;
  - iii. the Division of Revenue Bill, the County Allocation of Revenue Bill, the County Governments Additional Allocations Bill, and the cash disbursement schedule for county governments;
  - iv. all matters related to resolutions and Bills for appropriations, the share of national revenue amongst the counties, matters concerning the national budget, including public finance and monetary policies and public debt, planning, and development policy; and
- b) Pursuant to Article 228(6) of the Constitution, to examine the report of the Controller of Budget on the implementation of the budgets of county governments.



## MEMBERSHIP OF THE COMMITTEES

### The Departmental Committee on Finance and National Planning

4. The National Assembly Departmental Committee on Finance and National Planning comprises the following Members

- 1) Hon. CPA Kuria Kimani, MP, Molo Constituency (UDA Party) - **Chairperson**
- 2) Hon. Amb. Benjamin Lang'at, CBS, MP, Ainamoi Constituency (UDA Party) - **Vice-Chairperson**
- 3) Hon. Dr. Adan Keynan, CBS, MP, Eldas Constituency (Jubilee Party) - Member
- 4) Hon. Adipo Okuome Andrew, MP, Karachuonyo Constituency (ODM Party) - Member
- 5) Hon. David Mwalika Mboni, MP, Kitui Rural Constituency (Wiper Party) - Member
- 6) Hon. Joseph Maero Oyula, MP, Butula Constituency (ODM Party) - Member
- 7) Hon. Joseph Makilap, MP, Baringo North Constituency (UDA Party) - Member
- 8) Hon. Umul Kheir Kassim, MP, Mandera County (UDM) - Member
- 9) Hon. CPA Julius Rutto, MP, Kesses Constituency (UDA Party) - Member
- 10) Hon. Dr. Shadrack Mwiti Ithinji, MP, South Imenti Constituency (Jubilee Party) - Member
- 11) Hon. Paul Biego, MP, Chesumei Constituency (UDA Party) - Member
- 12) Hon. Joseph Munyoro, MP, Kigumo Constituency (UDA Party) - Member
- 13) Hon. Dr. John Namoit Ariko, MP, Turkana South Constituency (ODM Party) - Member

- |   |   |        |
|---|---|--------|
| 14) Hon. Mohamed Machele, MP, Mvita Constituency (ODM Party)        | - | Member |
| 15) Hon. George Sunkuyia, MP, Kajiado West Constituency (UDA Party) | - | Member |

**The Senate Standing Committee on Finance and Budget**

5. The Senate Standing Committee on Finance and Budget comprises the following Members-

- |   |   |                         |
|---|---|-------------------------|
| 1) Sen. (Capt.) Ali Ibrahim Roba, EGH, MP | - | <b>Chairperson</b>      |
| 2) Sen. Maureen Tabitha Mutinda, MP       | - | <b>Vice-Chairperson</b> |
| 3) Sen. (Dr.) Boni Khalwale, CBS, MP      | - | Member                  |
| 4) Sen. Tabitha Karanja Keroche, MP       | - | Member                  |
| 5) Sen. Joyce Chepkoech Korir, MP         | - | Member                  |
| 6) Sen. Mohamed Faki Mwinyihaji, MP       | - | Member                  |
| 7) Sen. Richard Momoima Onyonka, MP       | - | Member                  |
| 8) Sen. Shakila Abdalla Mohamed, MP       | - | Member                  |
| 9) Sen. Eddy Gicheru Oketch, MP           | - | Member                  |

## CHAPTER ONE

### 1.0 BACKGROUND

#### 1.1 The Central Bank of Kenya

6. Article 231(1) of the Constitution establishes the Central Bank of Kenya (CBK). The objects and functions of the CBK are set out in Article 231(2) of the Constitution as read together with sections 4 and 4A of the Central Bank of Kenya Act. The Bank is responsible for formulating monetary policy, promoting price stability, issuing currency and performing other functions conferred on it by the Central Bank of Kenya Act, Cap. 491.

#### 1.2 Report on the recruitment of nominees to be recommended for appointment to the position of Chairperson Central Bank of Kenya

7. Pursuant to the provisions of Article 231 of the Constitution and sections 10-12 of the Central Bank of Kenya Act, Chapter 491, the Public Service Commission invited applications from suitably qualified persons for the position of Chairperson of the Central Bank of Kenya in the print media and Commission website on 3rd May, 2023. The application period closed on 23<sup>rd</sup> May, 2023 with a total of thirty-one persons submitting their applications for consideration.

8. Six (6) candidates were shortlisted and interviews were conducted on 12<sup>th</sup> July 2023. The Chairperson of the Public Service Commission submitted the names of three candidates for consideration for appointment to the position of Chairperson of the of the Board of Directors of the Central Bank of Kenya.

#### 1.3 Communication of the Message from H.E. the President

9. Pursuant to standing order 42(1) of the National Assembly Standing Orders and standing order 47(1) of the Senate Standing Orders, the Speaker of the National

Assembly and the Speaker of the Senate on Thursday, 17<sup>th</sup> August, 2023, and Tuesday, 29<sup>th</sup> August, 2023, respectively conveyed a message from His Excellency the President on his nomination of Mr. Andrew Mukite Musangi for the position of Chairperson of the Board of Directors of the Central Bank of Kenya to the respective Houses

#### **1.4 Referral of Nomination to Committees**

10. In accordance with the provision of standing order 42(3)(c) of the National Assembly Standing Orders and standing order 47(3)(c) of the Senate Standing Orders, the respective Speakers referred the Message to the National Assembly Departmental Committee on Finance and National Planning and the Senate Standing Committee on Finance and Budget for consideration and reporting back to the House.

#### **1.5 Notification to the Public and the Nominee**

11. The Clerks of both Houses placed an advertisement in the local dailies on Sunday, 3<sup>rd</sup> September, 2023, notifying the public and inviting the nominee for the approval hearing to be held on Tuesday, 12<sup>th</sup> September, 2023 in accordance with section 6(3) of the Public Appointments (Parliamentary Approval) Act.

12. Further, the notification invited members of the public to submit any information on the suitability of the nominee in accordance with section 6(9) of the Public Appointments (Parliamentary Approval) Act.

## CHAPTER TWO

### 2.0 LEGAL FRAMEWORK

#### 2.0 The Office of the Chairperson of the Board of Directors of the Central Bank of Kenya

13. Section 10 of the Central Bank of Kenya Act, establishes the Board of Directors of the Central Bank of Kenya while section 11(1) provides that the Board constitutes-

- (a) a Chairperson appointed by the President;
- (b) a Governor;
- (c) the Permanent Secretary to the Treasury or his representative, who shall be a non-voting member;
- (d) eight other non-executive directors.

14. The appointment of the Chairperson of the Board of Directors of the Central Bank of Kenya takes into consideration the provisions of sections 11(7) and 14(1) of the Central Bank of Kenya Act. Section 11(7) provides that a person shall be eligible to be appointed a Director if he is a citizen of Kenya; and is knowledgeable or experienced in monetary, financial, banking and economic matters or other disciplines relevant to the functions of the Bank.

15. Further, section 14(1) provides for general disqualifications for all Board members as follows-

(1) No person shall be appointed as Chairperson, Governor, Deputy Governor or a Director who is—

- (a) a member of the National Assembly or a member of a local authority established under the Local Government Act (Cap. 265);
- (b) a salaried employee of any public entity (except on a secondment basis);
- (c) a director, officer, employee, partner in or shareholder of any specified bank or specified financial institution:

Provided that—

(i) paragraph (b) shall not be applicable to the representative of the Treasury;  
and

(ii) the President may in exceptional cases waive any of the above provisions with respect to any Director (other than the Governor or Deputy Governor) if it is in the interests of the Bank and likely to promote the objects of the Bank under section 4 of the Act.

## **2.1 Provisions of the Standing Orders**

16. Pursuant to standing order 42(1) of the National Assembly Standing Orders and standing order 47 of the Senate Standing Orders, the Speaker of the Senate and the Speaker of the National Assembly conveyed a message from His Excellency the President on the nomination of Mr. Andrew Mukite Musangi for appointment to the position of the Chairperson of the Board of Directors of the Central Bank of Kenya to the Houses on Thursday, 17th August, 2023 and Tuesday, 29th August, 2023 respectively.
17. The procedure of engagement for the Committees is set out in the Standing Orders of both Houses and the provisions of the Public Appointments (Parliamentary Approval) Act, 2011. It was resolved that the approval hearing should proceed as follows-
- (a) The approval hearing of the nominee proposed for appointment as the Chairperson of the Board of Directors of the Central Bank of Kenya would be conducted by the National Assembly Departmental Committee on Finance and National Planning and the Senate Standing Committee on Finance and Budget;
  - (b) The quorum of the joint sittings would be the respective quorum of each of the Committees as stipulated by their respective Standing Orders;
  - (c) Pursuant to the Fourth Schedule of the respective Standing Orders Rule 9(6) and (7) of the Houses of Parliament (Joint Sittings) Rules, unless a decision

is reached by consensus, any vote to be taken in the joint sitting of the Committees shall be by separate Houses. This would ensure that the numerical difference of the individual members representing the Houses in the joint sittings had no effect the decisions of the joint sittings of the Committees;

(d) The Committees having conducted the approval hearings, would submit a Joint Report to the respective Houses in the manner contemplated by paragraph 7 of Joint Rule No.9(8) of the Houses of Parliament (Joint Sittings) Rules; and

(e) The approval hearing process would be conducted in accordance with the provisions of the Public Appointments (Parliamentary Approval) Act, 2011.

## **2.2 Constitutional and statutory requirements in Parliamentary Approval of Public Appointments**

18. The Constitution and various statutes provide a clear framework for the conduct of parliamentary approval of public appointments. They are listed below:

- (a) Chapter 6 of the Constitution (leadership and integrity); Article 10 of the Constitution (national values and principles of governance); Article 124(4) of the Constitution (parliamentary approval of public appointments); Article 118 of the Constitution (public access and participation); Article 232 of the Constitution (values and principles of public service);
- (b) The Public Appointments (Parliamentary Approval) Act (No. 33 of 2011);
- (c) The Leadership and Integrity Act (Cap. 182);
- (d) The Central Bank of Kenya Act (Cap 491);
- (e) The Public Service (Values and Principles) Act (No. 1A of 2015); and
- (f) The Public Officer Ethics Act (Cap. 183).

### **2.2.1 The Public Appointments (Parliamentary Approval) Act (No. 33 of 2011)**

19. Section 7 of the Public Appointments (Parliamentary Approval) Act, 2011 provides for issues that the relevant House of Parliament is supposed to consider in relation to any nomination. These are:

- a) the procedure used to arrive at the nominee;
- b) any constitutional or statutory requirements relating to the office in question; and
- c) the suitability of the nominee for the appointment proposed having regard to whether the nominee's abilities, experience and qualities meet the needs of the body to which the nomination is being made.

20. Section 6 of the Public Appointments (Parliamentary Approval) Act provides direction on the conduct of an approval hearing. These are:

- (a) An approval hearing shall focus on a candidate's academic credentials, professional training and experience, personal integrity and background (section 6(7));
- (b) The criteria specified in the Schedule shall be used by a Committee during an approval hearing for the purposes of vetting a candidate (section 6(8));
- (c) Any person may, prior to the approval hearing, and by written statement on oath, provide the Clerk(s) with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated (section 6(9)); and
- (d) A candidate may, at any time, by notice in writing addressed to the Clerk(s), withdraw from the approval process and the candidate's nomination shall end (section 6(10)).

21. The period for consideration of nomination is spelt out in the Act. Section 8(1) of the Public Appointments (Parliamentary Approval) Act provides that both Committees shall consider the nomination and table their report to the House for debate and decision within twenty-eight (28) days from the date on which the notification of nomination



was given. Section 9 of the Act stipulates that where the House(s) does not meet the prescribed timelines, the nominee shall be deemed to have been approved.

22. Pursuant to section 6(8) of the Act, the criteria for vetting is comprehensively contained in the Questionnaire in the Schedule to the Act. The Questionnaire allows both Committees to obtain information on, among other things-

- (a) Name of the nominee—to enable both Committees to ascertain the regional background and ethnicity of the nominee;
- (b) Gender of the nominee—to enable both Committees to ascertain the gender of the nominee. This is to ensure compliance with Article 27(8) which requires the State to take measures to ensure that not more than two-thirds of members of appointive bodies shall be of the same gender;
- (c) Age of the nominee—to enable both Committees to ascertain compliance with the provisions of Article 55 of the Constitution on inclusion of the youth in public appointments;
- (d) Nationality of the nominee—to enable both Committees to ascertain the nationality of the nominee. This is to ensure compliance with Article 78 of the Constitution which requires certain State officers to be Kenyan Citizens;
- (e) Educational background of the nominee;
- (f) Employment record of the nominee;
- (g) Honours or awards given to the nominees;
- (h) Membership of the nominee to professional bodies;
- (i) Public office and political affiliations held by the nominee—to enable both Committees to ascertain whether the nominee holds office in a political party. This is to ensure compliance with Article 77(2) of the Constitution which precludes appointed State officers from holding office in a political party;

- (j) Information on whether the nominee has been removed from office under Article 75 of the Constitution which prohibits a State officer who has been removed from office under Article 75 (3) of the Constitution from holding any other State office;
- (k) Nominee's finances;
- (l) Outside commitments that the nominee intends to undertake while in office (if appointed). Article 77(1) of the Constitution prohibits a full-time State officer from participating in any other gainful employment;
- (m) Tax compliance status of the nominee;
- (n) Potential conflict of interest—Article 75(1) of the Constitution bars State officers from engagements or association that may give rise to conflict between official or public duties and personal interests;
- (o) Whether a nominee has been charged in a court of law in the past three years; and
- (p) Whether a nominee has been adversely mentioned in a report of Parliament or a Commission of Inquiry in the past three years.

23. The Questionnaire is largely formulated based on Constitutional and statutory requirements for State Officers and other considerations that are of importance to make a determination on the suitability of a nominee.

### **2.2.2 Constitutional Provisions**

24. The Constitution, in addition, sets out certain requirements regarding the appointment of persons to public office which include:

#### **Chapter Six on Leadership and Integrity**

25. The Committees, in determining the suitability of the nominees, took into consideration the provisions on leadership and integrity as outlined under Chapter Six of the Constitution. In particular, the Committee took cognizance of the following provisions-

- (a) Article 73(2) of the Constitution provides the guiding principles of leadership and integrity as follows-

- i. selection on the basis of personal integrity, competence and suitability, or election in free and fair elections;
- ii. objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favoritism, other improper motives or corrupt practices;
- iii. selfless service based solely on the public interest, demonstrated by
- iv. honesty in the execution of public duties;
- v. the declaration of any personal interest that may conflict with public duties;
- vi. accountability to the public for decisions and actions; and
- vii. discipline and commitment in service to the people.

(b) Article 75(1) of the Constitution that requires a State officer, whether in public or private life, to behave in a manner that avoids conflict between personal interest and public official duties and Article 75(3) of the Constitution that prohibits a State officer who has been removed from office under that Article from holding any other State office

(c) Article 77(1) of the Constitution that prohibits a full time State officer from participating in any other gainful employment.

(d) Article 77(2) of the Constitution that prohibits an appointed State officer from holding office in a political party.

(e) Article 78 (1) of the Constitution that disqualifies persons who are not Kenyan citizens and persons holding dual citizenship from appointment as State officers.

(f) Article 10(2) of the Constitution on national values and principles of governance

- (g) Article 10(2) of the Constitution provides for the national values and principles of governance which include patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people; human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised; good governance, integrity, transparency and accountability; and sustainable development.
- (h) Article 118 of the Constitution obligates Parliament to conduct its business in an open manner and that its sittings and those of its committees shall be in public; and that Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its committees. It also provides that Parliament may not exclude the public, or any media, from any sitting unless in exceptional circumstances the relevant Speaker has determined that there are justifiable reasons for the exclusion.
- (i) Article 124(4) of the Constitution provides that when a House of Parliament considers any appointment for which its approval is required under the Constitution or an Act of Parliament, the appointment shall be considered by a committee of the relevant House; the committee's recommendation shall be tabled in the House for approval; and the proceedings of the committee and the House shall be in public.
- (j) Article 232 of the Constitution provides for the values and principles of public service which include high standards of professional ethics; efficient, effective and economic use of resources; responsive, prompt, effective, impartial and equitable provision of services; involvement of the people in the process of policymaking; accountability for administrative acts; transparency and provision to the public of timely, accurate information; fair competition and merit as the basis of appointments and promotions; representation of Kenya's diverse communities; and affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service of

men and women; the members of all ethnic groups; and persons with disabilities.

### **2.2.3 The Leadership and Integrity Act**

26. The Leadership and Integrity Act provides a number of obligations to a State officer.

These are, among others: to respect and abide by the Constitution and the law, public trust, performance of duties in an honest and accountable manner, professionalism, financial integrity, not to engage in activities that amount to abuse of office, not to misuse public resources, accepting gifts that may compromise the officer's duties, wrongful or unlawful acquisition of property, and conflict of interest

27. In addition, Section 10 of the Leadership and Integrity Act, 2012 in particular provides that a State officer shall, to the best of their ability—

- (a) carry out the duties of the office efficiently and honestly;
- (b) carry out the duties in a transparent and accountable manner;
- (c) keep accurate records and documents relating to the functions of the office; and
- (d) report truthfully on all matters of the organization which they represent.

### **2.2.4 The Central Bank Act, Cap 491**

28. Section 11(7) of the Central Bank Act provides that a person shall be eligible to be appointed a Director if he—

- (a) is a citizen of Kenya; and
- (b) is knowledgeable or experienced in monetary, financial, banking and economic matters or other disciplines relevant to the functions of the Bank.

### **2.2.5 The Public Service (Values and Principles) Act**

29. Section 5 of the Public Service (Values and Principles) Act provides that a public officer shall maintain high standards of professional ethics, including, being honest; displaying high standards of integrity, transparency, accountability, respect to others, objectivity, patriotism, and observance of rule of law.

### **2.2.6 The Public Officer Ethics Act**

30. The Public Officer Ethics Act provides for obligations to be carried out by a public officer. These include professionalism, carrying out duties in accordance with the law, prohibition from unjust enrichment, avoiding conflict of interest, not using office as a venue for soliciting or collecting harambees; not acting for foreigners; care of property; political neutrality, not practicing nepotism or favoritisms, giving impartial advice, conducting private affairs in a way that maintains public confidence, bar from sexual harassment, and submission of declaration of income, assets and liabilities once every two years.

## CHAPTER THREE

### 3.0 PRELIMINARY CONSIDERATIONS IN THE APPROVAL PROCESS OF THE NOMINEE TO THE OFFICE OF THE CHAIRPERSON OF THE BOARD OF THE CENTRAL BANK OF KENYA

31. Pursuant to Standing Order 45(1) and 77(1) of the National Assembly Standing Orders and the Senate Standing Orders respectively, the Speakers of both Houses of Parliament referred the nomination of Mr. Andrew Mukite Musangi to the position of Chairperson of the Board of the CBK to the Departmental Committee on Finance and National Planning of the National Assembly and the Senate Standing Committee on Finance and Budget to conduct a joint approval hearing and table a joint report to the respective Houses of Parliament within the stipulated period.

#### 3.0 Clearance Requirements

32. Following the referral of the nomination to the Committees, the Clerks of both Houses of Parliament requested for information on the nominee from the following statutory agencies-

	<b>Institution</b>	<b>The nature of the information sought</b>
1.	Ethics & Anti-Corruption Commission	Compliance with Chapter 6 of the Constitution
2.	Kenya Revenue Authority	Tax compliance
3.	Higher Education Loans Board	Loans obligation
4.	Directorate of Criminal Investigations	Any criminal charge or conviction
5.	National Intelligence Service	Any other information in regards to integrity
6.	Office of the Registrar of Political Parties	Membership in any political party

### 3.1 Clearance Certificates

33. The Clerks of both Houses of Parliament received responses from various State agencies as follows-

- (a) by a letter dated 8<sup>th</sup> September, 2023, Ref: *KRA/5/1002/5(9606)* the Kenya Revenue Authority indicated that the nominee was tax compliant;
- (b) by a letter dated 7<sup>th</sup> September, 2023, Ref: *HELB/BR/112009/V/273* the Higher Education Loans Board indicated that the nominee was not a beneficiary of a GOK/ HELB loan;
- (c) by a letter dated 8<sup>th</sup> September, 2023, Ref: *EACC.7/10/5 VOL XXV (55)* the Ethics and Anti-Corruption Commission indicated that the nominee is not under any investigation nor has he been recommended for any prosecution
- (d) by a letter dated 7<sup>th</sup> September, 2023, Ref: *RPP/ORG/34 VOL. VII(26)* the Office of the Registrar of Political Parties indicated that the nominee is not an official of any fully registered political party;
- (e) by a letter dated 8<sup>th</sup> September, 2023, Ref: *DCI/CRO/SEC/6/7/2/AVOL.XIII/73* the Directorate of Criminal Investigations indicated that the nominee has negative results in the nominal index and criminal database; and
- (f) by a letter dated 11<sup>th</sup> September, 2023, Ref: *CI/NIS/SF/1 VOL 77 ( )* the National Intelligence Service indicated that their records do not reveal any adverse findings against the nominee.

34. Additionally, the nominee also presented before the Committees clearances from the Directorate of Criminal Investigations, the Higher Education Loans Board, the Ethics and Anti-Corruption Commission, the Kenya Revenue Authority and the Office of the Registrar of Political Parties.



### **3.2 Notification to the Nominee**

35. Pursuant to section 6(3) of the Public Appointments (Parliamentary Approval) Act, 2011 and by a letter dated Friday 1<sup>st</sup> September, 2023 Ref: *NA/SEN/JOINTCOMM/CORR/A/2023/022*, the Clerks of both Houses of Parliament notified the nominee of the date, time and venue for the approval hearing.

36. The nominee was required to present his original identity card, academic and professional certificates and other relevant testimonials. Additionally, the nominee was requested to bring clearances from the Ethics and Anti-Corruption Commission, Kenya Revenue Authority, Higher Education Loans Board and Directorate of Criminal Investigations and the Office of the Registrar of Political Parties.

37. Further, the nominee was required to fill and present to the Committees the questionnaire in the Schedule to the Public Appointments (Parliamentary Approval) Act, 2011.

### **3.3 Notification to the Public**

38. Section 6(9) of the Public Appointments (Parliamentary Approval), Act 2011, provides that, “any person may, prior to the approval hearing, and by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated”.

39. On Sunday, 3<sup>rd</sup> September, 2023, the Clerk of the National Assembly and the Clerk of the Senate jointly published an advertisement in the print media inviting members of the public to present written statements on oath referred to in section 6(9) of the Public Appointments (Parliamentary Approval) Act 2011. The written statements were to be submitted on or before Monday, 11<sup>th</sup> September, 2023 at 5.00 p.m.

40. Pursuant to Article 118(1)(a)(b) and (2) of the Constitution, section 6(4) of the Public Appointments (Parliamentary Approval) Act, 2011 and provisions of standing orders 198(1) and 222(1) of the National Assembly Standing Orders and the Senate Standing Orders respectively the same advertisement notified the public that the Departmental Committee on Finance and National Planning of the National Assembly and the Senate Standing Committee on Finance and Budget would conduct a joint approval hearing on Tuesday, 12<sup>th</sup> September, 2023.

#### **3.4 Committees' Meetings**

41. Prior to the approval hearing on Tuesday, 12<sup>th</sup> September, 2023, the Committees held a preparatory meeting to agree on the conduct of the approval hearing.

## CHAPTER FOUR

### 4.0 THE APPROVAL HEARING PROCESS

42. Mr. Andrew Mukite Musangi, the nominee for appointment to the position of Chairperson of the Board of Directors, Central Bank of Kenya, appeared before a joint sitting of the National Assembly Departmental Committee on Finance and National Planning and the Senate Standing Committee on Finance and Budget on Tuesday, 12<sup>th</sup> September, 2023 for the approval hearing.

43. In conducting the approval hearing the Committees were guided by the Constitution, the Central Bank Act (Cap. 491), the Public Appointments (Parliamentary Approval), Act 2011, the Leadership and Integrity Act 2012 and the Standing Orders of the respective Houses.

44. The Committees considered the nominee's academic qualifications, employment record and work experience, membership to relevant professional associations, previously held public office, political activities and affiliations, potential conflict of interest, suitability to the position, tax compliance, integrity and other thematic areas relevant to the duties and responsibilities of a Chairperson of the Board of Directors of the Central Bank of Kenya.

#### **The nominee's background**

45. The nominee informed the Committees that he is a Kenyan citizen, born on the 5<sup>th</sup> of March, 1971. He added that he is married with two children.

#### **Academic and professional qualifications**

46. He informed the Committees that he holds a Bachelor of Laws Degree from the University of Hull in the United Kingdom. In addition, he holds a Postgraduate Diploma in Law from the Kenya School of Law.

## **Employment Record and Work Experience**

47. The nominee stated that his working experience spans twenty-eight (28) years. He embarked on his legal career as an employee at Sheth and Wathigo Advocates and later opened his own law firm, Mukite Musangi & Company Advocates, in which he presently holds the position of Senior Partner. He also stated that he has provided legal services to players in the banking and financial sectors where he has advised on debt recovery and restructuring, bank securities and contract negotiation.

48. He further added that he currently serves as a Director on various Boards including Smart Application International Limited, GenAfrica Asset Managers Limited and Centum Investment Company PLC. He further indicated that he served as the Chairperson of the Public Procurement Regulatory Authority Board from 2018 to August 2023. He also served as the Chairperson of the Rift Valley Law Society Branch and the South Rift Region Local Committee of the Kenya Revenue Authority. The nominee also served as the Secretary and Vice-chairperson of the Governing Council of the Nakuru Business Association from 2005 to 2008.

### **Relevant experience for the position of Chairperson of the Board of the Central Bank of Kenya.**

49. The nominee informed the Committees that he has the relevant knowledge and experience in monetary, financial and banking matters based on his extensive experience in diverse sectors of the economy and his legal advisory services to players in the banking and financial sector.

### **Integrity and Leadership**

50. The nominee informed the Committee that as an Advocate of the High Court of Kenya, his entire career has been premised on adherence to high ethical and professional standards. He also emphasized the importance of openness, transparency and accountability in governance.

### **Financial net worth**

51. The nominee stated that his net worth is Ksh.1.18 billion. He added that his sources of income include; rental income, legal practice, Director fees from the Boards he serves on, dividends from shares and interests from bonds.

### **Vision of the nominee**

52. The nominee indicated that, if approved as the Chairperson, he would foster confidence in the Central Bank by promoting good governance, accountability and transparency in the operations of the Bank.

### **Conflict of Interest**

53. The nominee notified the Committees that he did not anticipate any situation that could result in a conflict of interest in the performance of his duties. However, if such a conflict were to develop, he stated that he would recuse himself and would not participate in the decision-making process or make any decision on a matter that compromises his integrity or that of the office he holds.

### **Political Activities and Affiliations**

54. The nominee informed the Committees that in 2017 he served as the Chairperson of the Jubilee Party National Elections Board and at the time was a member of the Jubilee Party. However, in 2019, his term as the Chairperson of the Board ended. The nominee further stated that he is not an official of any registered political party as supported by the information contained in the letter from the Office of the Registrar of Political Parties dated 7<sup>th</sup> September, 2023, Ref: *RPP/ORG/34/VOL.VII(26)*. The nominee also stated that he is currently not a member of any political party.

### **Fiscal Policy, High Cost of Debt and Inflation.**

55. The nominee indicated that the question of debt management requires addressing both monetary and fiscal policies. In his view investor friendly policies, support for export

businesses and creating a stable tax environment are some of the fiscal interventions that may be made. He further indicated that for central banks price stability, interest rate stability and currency stability contribute to effective debt management. For instance, this may involve increasing interest rates to control inflation.

56. Further, debt management is a perception matter. Negative ratings by credit rating agencies give a negative outlook on the economy. Stability builds confidence and feeds into the market reaction to the currency and to the trade environment.

### **Mergers and Acquisition of Commercial Banks**

57. The nominee informed the Committees that in his assessment the size of the Kenyan economy does not justify the existence of 42 banks. In this respect, he indicated that he would support a policy movement towards more mergers and acquisitions in the banking sector. He further added that when banks merge it increases their capital base, and reduces the risk of banks closures.

58. The nominee stated that whereas sharia banking has different revenue structures it nevertheless falls within the traditional sense of banking and has shown great growth and profitability globally. There is however need to develop skill levels within the Central Bank to understand and adequately support sharia banking.

### **Cooperation with other Central Banks**

59. The nominee advocated for more cooperation between the Central Bank of Kenya, Central Banks from other jurisdictions, the International Monetary Fund (IMF) and the World Bank. In his opinion, this will enable mass education on monetary issues and policies through information sharing to mitigate risks such as cyberattacks and provide platforms for early warning systems. In addition, the information shared on issues affecting other central banks will ensure sufficient service delivery to the public.

### **Efficiency and time management**

60. The nominee stated that his membership on other Boards and his position as a partner in his law firm will not affect how he effectively discharges his mandate as the Chairperson of the Board of Directors of the Central Bank of Kenya. He indicated that he had made arrangements to play a less prominent role in the running of the law firm and the businesses in which he has a proprietorship.

### **Climate financing.**

61. The nominee stated that climate financing is binary as it is both a financial and environmental issue and will require different entities of government to work together including the National Treasury, the Ministry of Environment and the CBK. Further, there are a lot of resources on affordable climate financing that Kenya could take advantage of. There are environmentally sound companies in the country and other entities that are entitled to carbon credit and Kenya is not trading at an optimum level. However, revenue in carbon trading is sequestered in the West and whereas heavy polluters are not in Africa we are bearing the brunt of climate change. He indicated that revenue from carbon trading can boost forex reserves for Kenya.

### **Oversight role of parliament.**

62. The nominee acknowledged Parliament's role to review and monitor public sector organizations and their policies, plans, programs and projects to ensure that they achieve expected results. He further informed the Committees that while maintaining its independence, the Central Bank must be open to scrutiny such that the people of Kenya should be aware of the Bank's activities.

### **Fraudulent Bank Withdrawals**

63. The nominee stated that CBK needs to strengthen the Fraud Investigation Unit and put in place robust interventions to protect customers' resources. He also informed the

Committees that if his nomination is approved, he will lay a lot of emphasis on tackling the issues of fraudulent withdrawals.

### **Cryptocurrencies and Digital Assets**

64. The nominee was of the view that a lot needs to be done to educate the public on cryptocurrencies and digital assets. The nature of cryptocurrencies is complex and most countries are yet to comprehend the systemic risks associated with the use of these currencies. He further stated that he does not intend to expose investors to risks associated with crypto assets. However, he proposed the development of the first central bank-backed digital currency that would be fast and secure in the settlement of transactions.

### **East Africa Monetary Union**

65. The nominee noted that the adoption of a common currency is well overdue as it promotes a stronger and larger market by eliminating currency risks, promoting free trade and flow of goods and services and eliminating conversion costs in trade. He further stated that economically developing nations benefit from a stable currency and the removal of currency barriers which would lead to increased trade among nations.

66. The proposed East African Common Currency Member countries would worry about unpredictable currency rates. Further, the nominee stated that a common currency can also make the EAC a more attractive destination for investors as it provides a stable and predictable economic environment.

### **Transparency in decision-making at the Central Bank**

67. The nominee acknowledged that transparency enables the Central Bank to build public trust and confidence. He further noted that the signals that come out of the Bank set the tone for the public and investors on the global economic outlook and its effect on the Kenyan economy. Therefore, CBK should be transparent regarding both their decisions



and conclusions reached in monetary policy meetings, as well as about the view of the Bank on the development of the economy.

#### **African Continental Free Trade Area**

68. On the African Continental Free Trade Area, the nominee informed the committee that by removing trade barriers and tariffs on goods and services within the African continent, Kenyan businesses gain access to a larger market, Kenyan exporters can benefit from reduced trade costs and promote economic diversification.

## CHAPTER FIVE

### 5.0 COMMITTEES' OBSERVATIONS AND FINDINGS

#### 5.0 COMMITTEES' OBSERVATIONS

69. The Committees, having considered the nominee's filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, 2011, curriculum vitae and oral submissions during the approval hearing, made the following observations regarding the suitability of Mr. Andrew Mukite Musangi for appointment to the position of Chairperson of the Board of Directors of the Central Bank of Kenya—

- a) THAT the nominee holds a Bachelor of Laws Degree from the University of Hull in the United Kingdom. Additionally, he holds a Postgraduate Diploma in law from the Kenya School of Law. He has also attended various trainings on corporate governance.
- b) THAT the nominee has twenty-eight (28) years of work experience including legal practice and legal advisory services to players in the banking and financial sectors. The nominee has also served on various Boards both in the public and private sectors.
- c) THAT Mr. Andrew Mukite Musangi is a Kenyan citizen and therefore satisfies the requirements of section 11(7)(a) of the Central Bank of Kenya Act, Cap 491.
- d) THAT the nominee has served as legal advisor to a number of commercial banks in matters relating to contract negotiation, debt recovery and restructuring, securities instruments preparation review and registration. The nominee therefore has in-depth knowledge and experienced in monetary, financial banking and economic matters which meet the qualifications of a member of the Board of Directors of the Central Bank of Kenya as required under section 11(7)(b) of Central Bank of Kenya Act.

- e) THAT the nominee is a member of the Law Society of Kenya, Commonwealth Lawyers Association, Kenya Institute of Directors and a Member of Nakuru Business Association.
- f) THAT the nominee owns and is Senior Partner at Mukite Musangi and Company Advocates which has provided legal services to various commercial banks in Kenya. The Committee is cognizant that this may lead to a conflict of interest if the nominee is appointed to the position of Chairperson of the Board of CBK. Therefore, the Committee recommends that upon the appointment of Mr. Andrew Mukite Musangi as Chairperson of the Board of CBK, the law firm of Mukite Musangi and Company Advocates ceases to represent any commercial bank or financial institution regulated by the Central Bank.

## **5.1 COMMITTEES' FINDINGS**

70. The Committees, having considered the nominee's filled questionnaire pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, 2011, curriculum vitae and oral submissions during the approval hearing, made the following findings on the suitability of Mr. Andrew Mukite Musangi for appointment to the position of the Chairperson of the Board of Directors of Central Bank of Kenya—

- a) THAT the nominee's academic qualifications, professional training and experience comply with the requirements of section 6(7) of the Public Appointments (Parliamentary Approval) Act, 2011 and section 11(7) of the Central Bank of Kenya Act, Cap.491.
- b) THAT the nominee owns and is Senior Partner at Mukite Musangi and Company Advocates which has provided legal services to various commercial banks in Kenya. The Committee is cognizant that this may lead to a conflict of interest if the nominee is appointed to the position of Chairperson of the Board of CBK.

- c) THAT, the nominee does not hold office in any political party and hence satisfies the provisions of Article 77(2) of the Constitution. This was confirmed by the Office of the Registrar of Political Parties.
- d) THAT, the nominee meets the requirements as per Chapter 6 of the Constitution on leadership and integrity having been issued with clearance certificates by the relevant statutory agencies (EACC, KRA, DCI, ORPP and HELB).
- e) THAT, no memorandum was presented to the Committees contesting the suitability or otherwise of the nominee for appointment as Chairperson of the Board of Directors of Central Bank of Kenya.
- f) THAT, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of the provisions of Articles 75(1) (*conflict of interest*), Article 76 (*financial probity*), Article 77 (*restriction on activities of State officers*) and Article 78(2) (*dual citizenship*) of the Constitution.

## CHAPTER SIX

### 6.0 COMMITTEES' RECOMMENDATION

71. Having considered the suitability, capacity and integrity of the nominee, and pursuant to section 11(2A) of the Central Bank Act (Cap 491), sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), standing order 216(5)(f) of the National Assembly Standing Orders and standing order 77(3) of the Senate Standing Orders, the Departmental Committee of Finance and National Planning of the National Assembly and the Standing Committee of Finance and Budget of the Senate recommends that the National Assembly and the Senate APPROVES the nomination of Mr. Andrew Mukite Musangi as Chairperson of the Board of Directors of the Central Bank of Kenya.
72. The Committee further recommends that upon the appointment of Mr. Andrew Mukite Musangi as Chairperson of the Board of Directors of Central Bank of Kenya, the law firm of Mukite Musangi and Company Advocates should seize to represent any commercial bank or financial institution regulated by the Central Bank of Kenya.



THE NATIONAL ASSEMBLY  
13TH PARLIAMENT - SECOND SESSION (2023)  
COMMITTEE ON FINANCE & NATIONAL PLANNING

ADOPTION LIST

Date: 13/09/2023

Venue: Pavillion Hall, Garden Inn  
Hilton Hotel



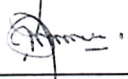
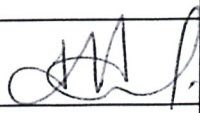

**AGENDA:** I undersigned adopts the joint report of the Departmental Committee on Finance and National Planning of the National Assembly and the Standing Committee on Finance and Budget of the senate on the approval hearing for Mr. Andrew Mukici Musangi, nominee for appointment to the position of Chairman of the Board of Directors of the Central Bank of Kenya

No.	NAME	SIGNATURE
1.	Hon. (CPA). Kuria Kimani, MP - Chairperson	
2.	Hon. (Amb). Benjamin Kipkirui Langat, MP - Vice Chairperson	
3.	Hon. Dr. Adan Keynan Wehliye, MP	
4.	Hon. George Sunkuyia Risa, MP	
5.	Hon. (CPA) Joseph Macro Oyula, MP	
6.	Hon. Andrew Adipo Okuome, MP	
7.	Hon. David Mwalika Mboni, MP	
8.	Hon. Joseph Makilap Kipkoros, MP	
9.	Hon. Joseph Kamau Munyoro, MP	
10.	Hon. (CPA) Julius Kipletting Rutto, MP	
11.	Hon. Paul Kibichiy Biego, MP	
12.	Hon. Umul Ker Sheikh Kassim, MP	
13.	Hon. Dr. Shadrack Mwiti Ithinji, MP	
14.	Hon. Dr. John Ariko Namoit, MP	
15.	Hon. Mohamed Soud Machele, MP	

**ADOPTION OF THE JOINT REPORT OF THE DEPARTMENTAL  
COMMITTEE ON FINANCE AND NATIONAL PLANNING OF THE  
NATIONAL ASSEMBLY AND THE STANDING COMMITTEE ON FINANCE  
AND BUDGET OF THE SENATE ON**

**THE APPROVAL HEARING FOR MR. ANDREW MUKITE MUSANGI,  
NOMINEE FOR APPOINTMENT TO THE POSITION OF CHAIRMAN  
OF THE BOARD OF DIRECTORS OF THE CENTRAL BANK OF KENYA**

We, the undersigned Members of the Senate Standing Committee on Finance and Budget, do hereby append our signatures to adopt this Report-

	<b>Name</b>	<b>Designation</b>	<b>Signature</b>
1.	Sen. Capt. Ali Ibrahim Roba, EGH, MP	<b>Chairperson</b>	
2.	Sen. Maureen Tabitha Mutinda, MP	<b>Vice-Chairperson</b>	
3.	Sen. (Dr.) Boni Khalwale, CBS, MP	Member	
4.	Sen. Tabitha Karanja Keroche, MP	Member	
5.	Sen. Joyce Chepkoech Korir, MP	Member	
6.	Sen. Mohamed Faki Mwinyihaji, MP	Member	
7.	Sen. Richard Momoima Onyonka, MP	Member	
8.	Sen. Shakila Abdalla Mohamed, MP	Member	
9.	Sen. Eddy Gicheru Oketch, MP	Member	

1 Support Mando ni  
Nakuru in the Sugar  
Sector

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