

## AFRICA RISK CONSULTING

### Kenya Monthly Briefing October 2020

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#### Kenya Summary 20 October 2020

*President Uhuru Kenyatta (2013-present) continues to grapple with the Covid-19 health crisis while turning his attention to the task of re-building Kenya's economy. The Monetary Policy Committee (MPC) of the Central Bank of Kenya decides to keep the central bank's rates stable as it assesses the impact of Kenyatta's economic initiatives in stabilising the country's economy. Chief Justice David Maraga creates a constitutional crisis by advising that parliament be dissolved over its failure to enact the Gender Bill to comply with Constitution of Kenya 2010 provisions that no gender has a two-thirds majority in elective positions.*

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#### Kenyatta focuses on rebuilding Kenya's economy as Covid-19 continues to spread

As Kenya's total confirmed cases of **Covid-19** surpassed 40,000 in October, President **Uhuru Kenyatta** (2013-present) grapples with containing the virus while planning the country's economic recovery.<sup>1</sup> To continue to manage the spread of the virus, Kenyatta announced on 23 September that the country's nationwide curfew would be extended for 60 days, albeit an abridged curfew between the hours of 11pm and 4am. Kenyatta did, however, help the hospitality sector in its recovery by lifting the ban on alcohol sales in restaurants and bars.<sup>2</sup> The **World Health Organization** reports that as of 19 October, Kenya has reported 44,881 cases of Covid-19 and 832 Covid-19 deaths in its population of roughly 52.6 million.<sup>3</sup>

Although measures to contain the spread of Covid-19 are likely to be in place in Kenya for some time, stabilising the country's economy in a sustainable manner has clearly become the new focal point for Kenyatta. As part of this plan, Kenyatta announced that the tax concessions made during the height of the pandemic, which included a reduction in income tax levels and a reduction in value added tax from 18% to 16%, would continue until January 2021.<sup>4</sup> The government is also trying to add liquidity into the property market via **The Retirement Benefits Mortgage Loans Amendment Regulations, 2020**. These new regulations will allow Kenyans to access up to 40% of the money in their pension fund to purchase residential property.<sup>5</sup> However, economic reprieve is limited, with **Central Bank of Kenya (CBK)** governor **Patrick Njoroge** announcing on 1 October that the six-month debt repayment holiday would not be extended further.<sup>6</sup> Additionally, the **Kenya Revenue Authority (KRA)** has not bowed to requests by the country's manufacturing sector, and instead announced plans to increase taxes on 31 goods in line with inflation.<sup>7</sup>

Soft financing is playing a part in Kenya's economic recovery. During Kenyatta's state visit to **France** in early October, the president signed loan agreements worth KSh17.91 billion (\$165m) from France and the **European Union (EU)**.<sup>8</sup> However, in an indication that the country is cautious about accepting too much debt assistance, Kenya declined an offer from the **G20** countries to suspend KSh86.6 billion (\$797m) of repayments, fearing it would impact the country's credit rating. Analysts have already voiced concern at the alarming rate that the country has been taking on debt during the

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<sup>1</sup> The Nation, 8 Oct 2020

<sup>2</sup> The Nation, 23 Sep 2020

<sup>3</sup> WHO Covid19 dashboard, accessed 20 Oct 2020

<sup>4</sup> Business Daily, 21 Sep 2020

<sup>5</sup> The Standard, 24 Sep 2020

<sup>6</sup> The Standard, 1 Oct 2020

<sup>7</sup> Business Daily, 5 Oct 2020

<sup>8</sup> The Nation, 2 Oct 2020

Covid-19 pandemic.<sup>9</sup> Kenya has accepted KSh750m (\$6.9m) in aid assistance from the **United States Agency for International Development (USAID)** to help revive its tourism sector, which accounted for 9% of gross domestic product (GDP) in 2019.<sup>10</sup> Revival of the tourism sector will be critical for the future of partially state-owned **Kenya Airways**, which announced that it is expanding its offering into commercial drones as it tries to diversify and find other revenue streams during the protracted pandemic.<sup>11</sup> The airline has, however, had recent good news, with the expansion of flight routes and the re-commencement of its direct **Nairobi – New York City** flight as of 29 October.<sup>12</sup>

Kenya's economic road out of the Covid-19 woods is going to be long. The government is giving mixed messaging in its policymaking as to which initiatives it will subsidise and those it won't. What is clear, however, is that the focus on economic recovery is certainly front of mind for Kenyatta and his administration in the months ahead.

### Monetary policy committee holds central bank rate at 7%

The CBK's **Monetary Policy Committee (MPC)** announced at its bi-monthly meeting on 29 September that it would keep the central bank's rate at 7%, holding a stable rate since April.<sup>13</sup> The MPC said the decision to hold the central bank rate was made on the basis that:

*"... the package of policy measures implemented since March was having the intended effect on the economy, and will be augmented by the implementation of the fiscal measures in the FY2020/21 Budget".<sup>14</sup>*

CBK governor and MPC chairman Patrick Njoroge noted that Kenya continues to have sufficient foreign exchange reserves, currently holding enough to cover 5.22 months of imports.<sup>15</sup> Inflation remains stable at 4.4% and the rate of non-performing loans has increased, albeit modestly, from 13.1% in June to 13.6% in August. Many of these are attributed to personal loans and loans for the real estate, transportation and communications sectors, all of which have been negatively impacted by the overall economic downturn.<sup>16</sup>

Prior to every meeting, the MPC conducts a **Market Perception Survey** aimed at ascertaining the mood among the banking and private sector regarding key economic indicators.<sup>17</sup> In the MPC's most recent poll, 81% of banks surveyed expressed optimism about the status of the Kenyan economy, compared to 58% in the July survey. Banks responded that they were less likely to lay off staff in the coming months versus the two months prior and anticipated that credit growth in the private sector would increase for the remainder of 2020.<sup>18</sup> The MPC noted that 89% of hotels surveyed are now open for business, compared to just 35% in May.<sup>19</sup>

The central bank appears to be adopting a cautious tone, unwilling to make comments on potential further changes to the country's monetary policy. In terms of indicating what the near-term future holds for Kenya's economy, the MPC noted that it "*stands ready to take additional measures as necessary*".<sup>20</sup> During a period of unparalleled uncertainty, it is no doubt waiting to assess the impact of some of Kenyatta's recent policy measures, which include the decision to extend tax relief, increase liquidity in the residential housing market and the gradual acceptance of some further soft loan assistance from Kenya's partners including France and the EU (see above). The revival of the

<sup>9</sup> The Standard, 10 Oct 2020

<sup>10</sup> The Standard, 9 Oct 2020

<sup>11</sup> Business Daily, 16 Oct 2020

<sup>12</sup> Business Daily, 7 Oct 2020

<sup>13</sup> Focus Economics, 29 Sep 2020

<sup>14</sup> Focus Economics, 29 Sep 2020

<sup>15</sup> Central Bank of Kenya, Monetary Policy Committee, 29 Sep 2020

<sup>16</sup> Central Bank of Kenya, Monetary Policy Committee, 29 Sep 2020

<sup>17</sup> Central Bank of Kenya, Sep 2020

<sup>18</sup> Central Bank of Kenya, Sep 2020

<sup>19</sup> Central Bank of Kenya, Monetary Policy Committee, 29 Sep 2020

<sup>20</sup> Focus Economics, 29 Sep 2020

country's tourism sector will no doubt also play a key role in how the economy recovers, although compared to many of its **East African** neighbours, Kenya has a far more diversified economy. In neighbouring **Tanzania**, tourism traditionally accounts for close to 17% of GDP.

The rebound of Kenya's economy will depend on the economic measures taken within Kenya as well as the recovery of the global economy, as regions respond with varied social and economic measures to the pandemic. Currently, Kenya's economy is supported by the resilience of its agriculture sector and the normalisation of some exports.<sup>21</sup>

The next meeting of the MPC is scheduled to take place on 29 November, when further evidence from Kenyatta's economic management of the Covid-19 crisis will be in the spotlight and the MPC will no doubt continue to assess if it needs to cut rates.

### Constitutional gender quota crisis averted

Kenyatta's administration was nearly thrown into disarray by the recommendation of chief justice **David Maraga** that parliament should be dissolved due to the administration's failure to enforce the gender parity quotas outlined in the **Constitution of Kenya 2010**.<sup>22</sup> Specifically, Maraga accused the administration of failing to adhere to **Article 27(8)** of the **Bill of Rights**, which outlines that:

*"The State shall take legislative and other measures to implement the principle that not more than two thirds of the members of elective or appointive bodies shall be of the same gender."*<sup>23</sup>

Parliament was required to pass what is known as the **Gender Bill** to enforce this aspect of the constitution. However, ten years after the new constitution was enacted, parliament has defeated four attempts to pass the bill. The chief justice's recommendation is part of a long history of drama associated with the bill. In 2012, the **Supreme Court** gave parliament until August 2015 to enact the legislation, which it failed to do. The **High Court** issued similar advice to parliament in 2017, however it failed again to pass the bill in February 2019, when parliament failed to garner the required quorum of members of parliament (MPs) to vote on the bill.

The recent recommendation by the chief justice, who is due to retire in January 2021, is backed by petitions from the **Law Society of Kenya** and numerous former MPs.<sup>24</sup> According to lawyer **Nzamba Kitonga**:

*"From a constitutional standpoint, once the Chief Justice transmits his recommendation, the President is bound to act, and the Constitution allows him to act in one way only. That is something that has serious constitutional, legal and political consequences and the President would need to consult far and wide, including with the political leadership. But as to whether this president can follow through on the [chief justice's] CJ's recommendation is another matter."*<sup>25</sup>

Although the High Court suspended Maraga's recommendation on 24 September, the question of the administration's failings remains.<sup>26</sup> Analysts note that, if it had been successful, the chief justice's recommendation to dissolve parliament would have been the Supreme Court's second most important ruling after its decision to nullify the 2017 presidential election result.

An eventual passing of the Gender Bill will have significant implications for many of Kenya's key decision making entities. Many, including the cabinet, do not currently adhere to the quotas outlined in the constitution and the bill.

<sup>21</sup> Monetary Policy Committee, 29 Sep 2020

<sup>22</sup> The Standard, 21 Sep 2020

<sup>23</sup> AlJazeera, 17 Mar 2020

<sup>24</sup> The Nation, 21 Sep 2020

<sup>25</sup> The Nation, 21 Sep 2020

<sup>26</sup> The Standard, 25 Sep 2020

## Planner

20 Oct 2020 **(Kenya)** National holiday, **Mashujaa Day**

29 Nov 2020 **Nairobi (Kenya) Central Bank of Kenya** Monetary Policy Committee meeting

12 Dec 2020 **(Kenya)** National holiday, **Jamhuri Day**

31 Dec 2020 **(East Africa)** Current trade agreement between the **United Kingdom** and the **East African Community (EAC)** expires;

2022 **(Kenya)** *Daily Nation*. General elections to be held.

## Chronology

18 Oct 2020 **Nairobi (Kenya)** *The Standard*. President **Uhuru Kenyatta** calls on members of parliament (MPs) to support the **Building Bridges Initiative** when it is tabled in parliament;

16 Oct 2020 **Nairobi (Kenya)** *Business Daily*. Semi-state owned airline **Kenya Airways** is seeking to expand into commercial drones as it diversifies to support itself during **Covid-19**;

16 Oct 2020 **Nairobi (Kenya)** *Business Daily*. **Kenya's** economy contracted by 5.7% in the second quarter of 2020 due to **Covid-19**;

14 Oct 2020 **Nairobi (Kenya)** *The Standard*. The **East African Business Council** is asking that member states recognise each other's **Covid-19** certificates to minimise re-testing and backlogs at border towns;

13 Oct 2020 **Nairobi (Kenya)** *The Standard*. The **National Bank of Kenya** is to pay former chief executive officer **Munir Ahmed** KSh26m (\$240,000) for unfair dismissal;

10 Oct 2020 **Nairobi (Kenya)** *The Standard*. **Kenya** has forfeited KSh86.6 billion (\$797m) by declining an offer by the **G20** to have its debt repayments suspended, to avoid jeopardising its credit rating;

9 Oct 2020 **Nairobi (Kenya)** *The Standard*. The **United States Agency for International Development (USAID)** commits KSh750m (\$6.9m) to help revive **Kenya's** tourist industry;

8 Oct 2020 **Nairobi (Kenya)** *The Standard*. Cabinet secretary for sport Ambassador **Amina Mohammed** is knocked out of the race to become the next director-general of the **World Trade Organisation (WTO)**;

8 Oct 2020 **Nairobi (Kenya)** *The Nation* President **Uhuru Kenyatta** signs into law the **County Revenue Allocation Bill 2020/21** after months of delays;

8 Oct 2020 **Nairobi (Kenya)** *The Nation*. Total confirmed cases of **Covid-19** surpass 40,000 in **Kenya**;

5 Oct 2020 **Nairobi (Kenya)** *Business Daily*. **Japan** and **South Korea** have rejected coffee from **Kenya** due to higher than permissible levels of the chemical ochratoxin;

5 Oct 2020 **Nairobi (Kenya)** *Business Daily*. **Kenya Revenue Authority (KRA)** increases taxes on 31 goods in line with inflation, despite pleas from the manufacturing sector to delay any price hikes;

2 Oct 2020 **Nairobi (Kenya)** *The Nation*. President **Uhuru Kenyatta** signs KSh17.91 billion (\$165 m) worth of loans from **France** and the **European Union (EU)** during his state visit to France;

1 Oct 2020 **Nairobi (Kenya)** *The Standard*. **Central Bank of Kenya** governor **Patrick Njoroge** announces that the six-month debt repayment holiday will not be extended;

1 Oct 2020 **Nairobi (Kenya)** *The East African*. President **Uhuru Kenyatta** and **France's** President **Emmanuel Macron** sign three bilateral deals during Kenyatta's state visit to France,

including a public private partnership for the construction of the **Nairobi-Nakuru-Mau Summit** highway signed between state corporation **Kenya National Highways Authority** and France-based construction company **Vinci Concessions**;

29 Sep 2020 **Nairobi (Kenya)** *Business Daily*. Remittances from **Kenya's** diaspora have increased by 10% in 2020 compared to the same period last year;

29 Sep 2020 **Nairobi (Kenya)** *Business Daily*. President **Uhuru Kenyatta** announces that tax concessions, including a reduction in the income tax rate and a reduction in value added tax, will be extended until January 2021;

25 Sep 2020 **Nairobi (Kenya)** *The Standard*. The **High Court** has suspended the recommendation of chief justice **David Maraga** that parliament should be dissolved due to the administration's failure to enact the **Gender Bill**;

24 Sep 2020 **Nairobi (Kenya)** *The Standard*. **The Retirement Benefits Mortgage Loans Amendment Regulations, 2020** will now make it possible for **Kenyans** to access up to 40% of their pension fund savings to purchase a residential property;

23 Sep 2020 **Nairobi (Kenya)** *The Nation*. President **Uhuru Kenyatta** extends the nationwide curfew by 60 days, albeit with an abridged curfew of 11pm - 4am, and lifts the ban on alcohol sales in bars and restaurants;

23 Sep 2020 **Nairobi (Kenya)** *The Nation*. Suspected **Islamic** terrorist organisation **Al-Shabaab** abducts three people in **Mandera County**;

21 Sep 2020 **Nairobi (Kenya)** *The East African*. The **United States (US)** is seeking **Kenya's** support for **Israeli** commercial and political interests, including a request that Kenya discourage the boycott, divest, sanction movement as part of the **US-Kenya** free trade agreement discussions;

21 Sep 2020 **Nairobi (Kenya)** *The Standard*. Chief justice **David Maraga** has advised President **Uhuru Kenyatta** to dissolve parliament after its failure to enact the **Gender Bill** and the gender parity quotas outlined in the **2010 Constitution**.

### About Africa Risk Consulting:

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