



Capacity

Advocacy

Sustainability

Media

Fund Management

ANNUAL REPORT 2013

ADVOCACY FUND
Supporting Private Public Dialogue



THE BUSINESS

MINISTRY OF FOREIGN AFFAIRS OF DENMARK
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The Business Advocacy Fund

The Business Advocacy Fund (BAF) was established in 2006 to support business associations to engage in effective public private dialogue and to advocate change in public policy with the objective of improving the business environment in Kenya. Through dialogue, associations aim to hold government to account in its delivery of its economic policies.

The objectives of BAF are delivered through four key activities: building the capacity of business associations to engage in dialogue and advocacy; supporting dialogue and advocacy with funding and mentoring; assisting associations to become sustainable so that they can engage in advocacy over the long term; and raising awareness via the media of the importance of the private sector for wealth and job creation and thus of the need to create a conducive business enabling environment.

The Fund's expectation is that an improved enabling environment will lead to a more vibrant and competitive private sector, investing more and creating more jobs, and stimulating more men, women and young people to start businesses.

New face of advocacy in Kenya

The 2013 general election saw the implementation of the 2010 Constitution which introduced major changes in Kenya's governance structure, with the introduction of decentralised government in 47 new counties, each with its own Governor, Executive Committee and County Assembly and, at national level, a Senate alongside the National Assembly. Successful devolution is a major challenge as functions that affect the local economy have been transferred from the national government to the counties.

The introduction of county governments requires more dialogue from more associations: BAF is responding by widening its outreach to Business Membership Organisations (BMOs) that either have an advocacy agenda in several counties (e.g. agriculture) or are county based and want to put forward policy proposals to their respective county administrations.

In 2013, BAF initiated ambitious interventions to support county advocacy through the process of establishing county dialogue platforms and later supporting advocacy on specific county legislation. In addition, we pursued a strategy of establishing BMO networks and sector-based alliances. The intention is that they will address issues that affect businesses in their sectors.

Continued need for advocacy support

Support to BMOs has been increasing steadily with each year, more grants being provided to BMOs, many of which have not been previously supported, to address a wide range of policy issues. In 2013, a total of 62 enquiries for advocacy grants were received of which 43 were found to be eligible. Further development of the concept notes resulted in 37 grants to 14 BMOs approved by the BAF Board committing KShs. 154 million.

Six of the approved grants were to professional societies to develop anti-corruption agreements and statutes for various professionals.

Nine grants were directed to counties with the outcome sought being the identification of county business agenda and the establishment of dialogue mechanisms, eventually, in all 47 counties. The dialogue mechanisms in the form of Governors' Round Tables (GRTs) are expected to be key points of engagement between the private sector and the county governments. These interactions are expected to improve the relationship between the public and private sectors and position the private sector to be able more effectively to influence county administrations.

Other milestones achieved in the year include:

- BAF supported associations engaged in over 350 dialogues and consultations with government;
- Associations published 35 research reports and 32 policy positions resulting in 20 policy wins;
- Some 388 people from 56 associations participated 637 times in 37 training programmes;
- There were some 277 articles in the media totalling more than 18,000 column centimetres.

While BAF supports policy and regulatory change, the challenge in Kenya has always been implementation and enforcement of changes to the business environment. BMOs are now much more aware of the need to ensure that their advocacy leads to both implementation and enforcement.





Building capacity for dialogue and advocacy

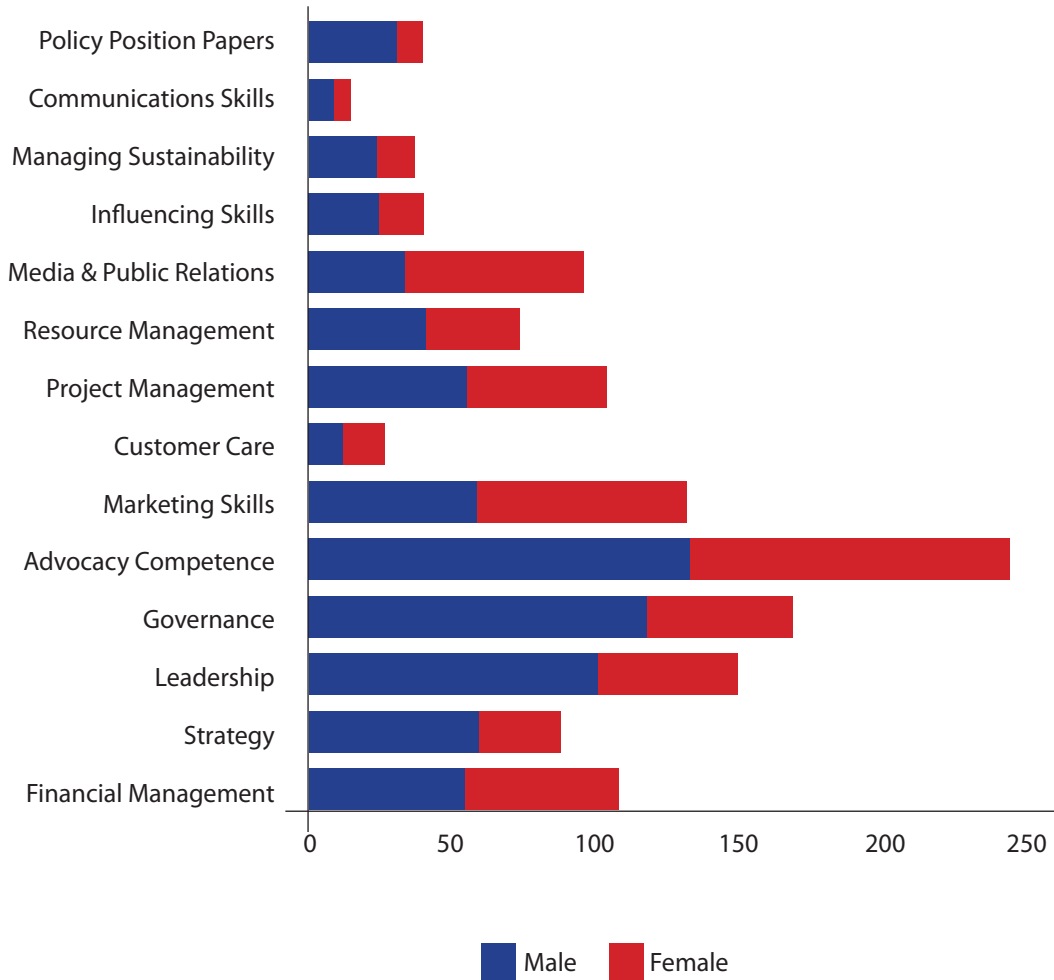
Successful advocacy requires people who are competent, credible and objective in their approach to advocacy. BAF therefore provides skills building opportunities through training, mentoring and coaching.

Training is delivered on advocacy, organisational and management competences. BAF views these as key to the sustainability of BMOs so that they are able to implement their core mandates, manage their resources, implement projects and represent their members' interests effectively.

The aim of BAF's capacity building component is firstly to build advocacy skills in research for advocacy, writing policy position papers, media and public relations and developing effective influencing tactics – all to enable BMOs to influence public policy. Secondly, the Fund offers courses aimed at enhancing management skills and competences in the key areas of governance, planning and management practices, leadership, resource mobilisation, communication, financial management and good human resources practices (including integrated performance management).

From the start of phase II to the end of December 2013, BAF provided training to 1,310 participants of whom 43 per cent were women. The range of training courses and participation is shown in figure 1.

Figure 1: Participation in training 2012-2013



Funding dialogue and advocacy

In 2013, BAF strategically supported the private sector at county level to engage in dialogue with county governments with an intention to ensure successful implementation of devolution with minimal negative impacts on businesses.

BAF worked with national and regional BMOs which have county presence, either as branches or fully devolved units, to identify county BMOs. Six key BMOs with sufficient county presence were supported to develop county engagement mechanisms through collaboration with other county-based BMOs. The focus in this initial engagement was to identify existing BMOs in the counties and seek to form alliances and coalitions. Some 284 county-based BMOs were identified in 33 counties and BAF is now working with many of those through county coalitions. This number is expected to grow as we interact with the other 14 counties.

There has been increasing demand for professionals to be more proactive in addressing malpractice in their respective industries through self-regulation. This led to an increase in enquiries from professional associations seeking BAF support to develop and lobby for enactment or improvement of legislation regulating them.

Examples of advocacy projects funded in 2013 include:

Supporting devolution:

BMOs guide for engaging devolved government

The Kenya Association of Manufacturers (KAM) spearheaded a process of harmonising BMO infrastructure across the counties to promote dialogue and advocacy. In partnership with the Kenya National Chamber of Commerce and Industry (KNCCI), Kenya Private Sector Alliance (KEPSA), United Business Association (UBA), Federation of Kenya Employer (FKE) and Kenya National Farmers' Federation (KENAFF), KAM organised a BMO CEOs' conference

that brought together the CEOs of key BMOs from across the country with 82 organisations represented. The conference discussed frameworks for dealing with business issues in counties setting the stage for the establishment of GRTs intended to place BMOs at the centre of county government discussions on business climate issues. To support this process, KAM summarised the discussions from the conference into a “National BMO Guide for Engaging the Devolved Government”.

The Guide provides a framework and common approach for BMOs to engage the government at county level. This guide is an important document to support BMOs to understand:


- The structure of devolved government and the functions of the two levels of government;
- The structure of county government and administration and the different roles of county organs and officers;
- The advantages of advocacy through county and regional coalitions.

County Business Governors’ Round Tables

A concerted effort from both the Government (central and county) and the public is necessary to ensure successful devolution – particularly as it relates to the business climate. Early in the year, the private sector initiated a proactive process of structured engagement with county administrations.

This engagement was expected to take place through BMO coalitions in the counties and GRTs. The main objectives are:

- To share the business agenda for the county;
- To engage with the county on local legislation to ensure proper consultation takes place and then that acceptable legislation is developed;
- To support the implementation of devolved functions;
- To support the transition process;
- To ensure civic education amongst the county administration and the business community for effective devolution.



BAF supported six BMOs including KAM, KNCCI, KENAFF, KNCCI-Trans Nzoia County, Mombasa & Coast Tourist Association (MCTA) and Kenya Livestock Marketing Council (KLMC), to establish GRTs in all the 47 counties. These BMOs have branches or chapter offices in several counties and they took the lead to facilitate the dialogue process.

County agriculture business agendas

The ability of the farming sector effectively to engage with government is limited. KENAFF has continued to look for ways to engage with the government in order to advocate the interests and concerns of its members. This is even more crucial given that agriculture is one of the fully devolved county functions. Currently, KENAFF's membership is spread over 43 counties and comprises 1.84 million farm families structured into 9,000 farmer groups, 36 apex Commodity Associations, 16 Cooperative Societies and some corporate farming entities.

In an effort to represent its members more effectively, KENAFF wants to organise itself to take advantage of the county governments so its members' issues are considered more carefully. With a research grant from BAF, KENAFF developed policy positions on agriculture issues in 20 counties spread across Kenya's Agri-Ecological Zones (AEZ). The key issues identified through the business agendas include: lack of adequate extension services; access to markets; quality and cost of inputs; post-harvest infrastructure (produce storage); land related issues; over reliance on rain fed agriculture; climate change related issues; lack of irrigation infrastructure; security concerns; infrastructure and human-wildlife conflict.

With these priority policy positions, called the Agriculture Business Agenda (ABA), in hand KENAFF expects to substantially improve engagement and advocacy at the county level.

Supporting professionals

Anti-Corruption Memorandum of Understanding (MoU)

One of the mandates of the Association of Professional Societies of East Africa (APSEA) is to promote ethics and integrity in the conduct of professionals. The majority of APSEA members (which are BMOs) have developed codes of conduct to regulate their professions. However, lack of adherence to professional codes of conduct is a challenge currently faced by professional societies and thus there is a need constantly to monitor and evaluate the extent to which these societies actually promote ethics and integrity.

As the chair of the professional sector of the National Anti-Corruption Plan (NACP), one of APSEA's activities is the development of codes of conduct in professional organisations. APSEA received a BAF grant to complete an earlier process initiated with the Ethics and Anti-Corruption Commission (EACC) to draft a Memorandum of Understanding (MoU) between APSEA and EACC to implement the NACP.

With a strengthened role in the NACP, APSEA will be able to contribute effectively in the fight against corruption. Reduced prevalence of corruption is in line with one of the strategies in Vision 2030 "Transparency and Accountability". Better enforcement of professional codes of conduct is expected to lead to improved professionalism and thus better delivery of services.

Land Administration and Management Surveyors' Bill

Land is recognised by the Constitution as the prime factor of production that should be managed and administered in an equitable, efficient, productive and sustainable manner. While self-regulation of professionals in the land sector is a concept appreciated elsewhere and is quite evident within the other commonwealth countries, Kenya is yet to develop the necessary legislation to facilitate self-regulation of land professions.

Institution of Surveyors of Kenya (ISK) is made up of four Chapters comprising Building Surveyors, Geospatial Surveyors, Land Administration & Management Surveyors, and Valuer & Estate Management Surveyors. Of the four chapters, three have or are in the processing of developing their own legislation. The Land Administration & Management Surveyors (LAMS) chapter does not have its own legislation. ISK received BAF support to develop the LAMS Bill and subsequently lobby for its enactment.

To ensure that the much needed land reforms are attained in Kenya, land administration is critical. It is therefore anticipated that the proposed LAMS Act will introduce the land administration management surveyors' registration board which will implement mechanisms to ensure that all surveyors are properly qualified and thus weed out unqualified personnel as well as monitor the conduct of its members to ensure that all services are delivered to an appropriate standard. The structure of self-regulation in the LAMS Act will give disciplinary powers to ISK's professional practice and ethics committee to handle disciplinary issues and unethical conduct reported by the public and between the professionals.



Quantity Surveyors' Bill

The professions of Quantity Survey (QS) and Architecture (Arch.) are both regulated under the Architects and Quantity Surveyors Act Cap 525 which was enacted in 1934. Some 80 years later, both professions have advanced extensively and as a result have transformed the built environment.

The current boom in the built environment, especially now that there will be more development in the counties as devolution takes shape, has seen the need to develop more specific regulatory frameworks and thus the need to have separate legislation for the two professions. This, as identified in Vision 2030's Medium Term Plan II, will ensure that the professionals will be able to regulate their own affairs and cover wider (and modern) areas in the built environment which are currently not covered by the Act.

The Institute of Quantity Surveyors of Kenya (IQSK) started the process of drafting the Quantity Surveyors' Bill (QS Bill) back in 2007. The resulting draft QS Bill has been reviewed several times in subsequent years but has not made any significant progress. BAF supported IQSK to partner with the Architects and Construction Project Managers (CPM) to agree on separate legislation for the professions. They also have the support of the Board of Registration for Architects and Quantity Surveyors and the relevant Ministry, to ensure that separate legislative frameworks for the Quantity Surveyors, Architects and CPMs are drafted in a satisfactory manner before they are published in parliament.

Alternative Dispute Resolution (ADR) Bill

Alternative Dispute Resolution (ADR) has gained recognition and acceptance around the world as a speedy, inexpensive and efficient method of resolving disputes. In most countries where it is used, ADR has been seen to work well to resolve many, if not most, commercial disputes which would otherwise have gone to the courts for decision.

In Kenya, ADR is also fast gaining preference as an alternative to the conventional adversarial litigation. However, there is no single legislation that deals with ADR. The Task Force on Judicial Reforms (2010) recommended ADR as a sure means of reducing the backlog of cases in court and ensuring speedy and affordable access to justice. BAF supported the Chartered Institute of Arbitrators, Kenya Branch, to undertake a process of developing a legislative framework to establish a dispute resolution and complaints mechanism with appropriate ethical infrastructure for ADR practitioners.

Outcomes of successful advocacy

An impact assessment was undertaken to review projects that have reported some success between 2012 and 2013. A selection of these successes were reviewed to assess the level of impact and three are highlighted in this report.

The PGA ensures re-vitalization of Pyrethrum flower production

The Pyrethrum Growers' Association (PGA) has been in the fore front lobbying for the revival of the pyrethrum sector since 2010. In the early 1990s Pyrethrum flower production was a thriving industry; in 1993 alone 221 tonnes of pyrethrum extract were produced. However, the industry was governed by the Pyrethrum Act 1963, which was outdated and did not necessarily apply to modern day practices. Farmers also lacked the incentive to grow pyrethrum: a significant number of Government arrears owed to farmers were left outstanding and there was only one purchaser of Pyrethrum extracts – the government run Pyrethrum Board of Kenya (PBK). These two factors significantly constrained the sector, resulting in extract production dropping to just 10 tonnes in 2007.


Although, the government had made several commitments to remove constraints on the Pyrethrum sub-sector, a revised Pyrethrum Bill, drafted in 2000, was still awaiting Parliamentary debate in 2010. PGA hoped to reinvigorate the sector further and with the help of BAF funds PGA advocated for the re-drafting and enactment of the Pyrethrum Bill 2012, which was signed into law in January 2013.

As a result of PGA's advocacy efforts the amended law included provisions encouraging the liberalisation of the sector and that ensured farmer representation on a newly established Pyrethrum Board. Thanks to the PGA, the Government also allocated more than KShs. 500 million (\$5.6 million) to pay arrears owed to farmers too. Since the implementation of the Act, an estimated 60,000 farmers have replanted Pyrethrum and production has increased by 250 metric tonnes.

Kitale becomes business friendly thanks to KNCCI

The Single Business Permit (SBP) had been introduced in Kitale to streamline the processing of business permits. The by-law was meant to provide the business community with a clear understanding of permit rates, as well as





the permit process. However, initial efforts to implement the SBP initiative had been unsuccessful, due to a lack of compliance with SBP regulations on the part of the Municipal Council.

The Kenya National Chamber of Commerce and Industry (KNCCI-Kitale) sought funds in 2012 to advocate for the effective implementation of the 'Single Business Permit' (SBP). The KNCCI first conducted research on SBP compliance. They found that the local council only complied with SBP policy 65 per cent of the time because junior officers did not understand the rules and procedures required. Based on these findings the KNCCI reassessed the implementation of the SBP. A new fee schedule was subsequently agreed. Furthermore, a chamber member was relocated to the county level administration to support local staff and advise local businesses, helping ensure compliance with the SBP.

The outcome of these efforts was the correct implementation of the SBP which greatly improved the business permit application process. Permits now take less than 30 minutes to process, instead of 10-15 days. This has led to more business owners complying with permit regulation. In turn, compliance rates have jumped from 40 per cent to 80 per cent.

Businesses no longer gain from bribing officials, as it is cheaper, in terms of time and money, to pay for the business permit. This has led to a threefold increase in the revenue from business permits to the council. Furthermore, KNCCI-Kitale's membership has increased from 300 members in 2007 to 2000 members in 2013, strengthening the organisation's advocacy position. With the introduction of county governments, KNCCI Kitale now hopes to extend its efforts to ensure the gains made on SBP are not reversed in the new dispensation.

KAHC ensures hotel prices are customer friendly

In 2011 the National Environment Management Authority (NEMA) required strict compliance with the Environmental Management and Controls Act (EMCA). In practice this meant all hotels and restaurants needed to have three water management licences to operate legally – all of which cost the same irrespective of an establishment's size. The licences needed to be renewed on an annual basis costing each business KShs. 315,000 (\$3,550) per year. The Kenya Association of Hotelkeepers and Caterers (KAHC) wanted to reduce the cost of compliance with NEMA regulations to ensure that smaller businesses remained competitive.

With the help of BAF funds, in 2012, KAHC arranged a round table with government representatives enabling them to influence the drafting of new regulations which were successfully gazetted as the EMCA (Water quality) Amendment regulations 2012 in subsidiary legislation by the Legal Notice No. 85 of 2012. This resulted in the introduction of a tiered licence fee system proportionate to the size of the establishment and a change in reporting procedures – businesses now only need to report quarterly, rather than on a daily basis significantly reducing the cost of compliance.

It is estimated that these policy changes have reduced operating costs for small, independent businesses saving each one approximately KShs. 75,000 (\$1,000) per year. Based on these changes it is estimated that the hotel industry has saved more than KShs. 68 million (approximately \$0.75 million) in licensing fees and an estimated KShs. 250 million (\$2.8 million) on payroll. These savings have helped the hotel industry maintain customer friendly prices, encouraging Kenya's tourism industry remains globally competitive.



Sustainability support

BAF provides support to BMOs to enhance their ability to provide adequate services to their members and represent their interests. In many instances, this requires that they improve their revenue base, increase membership and enhance organisational ability to deliver their mandate.

To date, thirty five (35) BMOs have been offered sustainability support from the Fund. A total of 27 Revenue Support Grants (RSGs) committing a total of KShs. 127 million have been approved to 22 BMOs.

To monitor progress, BAF undertakes regular analysis of BMO capacity through 'Diagnostic Assessments' and quarterly reports. The analysis shows that BMOs are progressing positively. In 2013, the analysis showed that the number of registered members in 11 BMOs has increased by more than 30 per cent. It also showed that six BMOs have increased the number of members paying annual subscriptions by over 30 per cent. In addition, 19 BMOs supported through RSGs have introduced or improved fee paying services used by both members and non-members.

In many instances, BMOs need support to undertake strategic reviews; prepare business plans and RSG applications. Additional support is required in the form of coaching and mentoring during the implementation of their business plans. This support is given through consultants and as a result over 66 per cent of sustainability projects assessed are wholly meeting their objectives.

Some of the sustainability projects supported in 2013 include:

African of Cotton and Textile Industries Federation (ACTIF)

BAF supported ACTIF in the development of key products that would contribute substantially towards ACTIF's financial sustainability. These include design and roll out of Origin Africa annual event, development of Cotton Africa Magazine and developing capabilities for project management for a fee. ACTIF achieved some milestones including Origin Africa product development in partnership with East Africa Trade hub; participating in trade exhibitions

showcasing member products to potential buyers; recruiting new members and developing an online trade directory. At the close of the year, ACTIF had increased paid membership by 90 per cent (from 22 to 52 members).

Kenya Healthcare Federation (KHF)

KHF received BAF support to improve the association's communication with its members and increase programmes through strategic partnerships to cater for member needs. As a result, KHF has been able to establish a functional secretariat to coordinate programs and member affairs. It has also been successful in building solid partnerships in the year that helped to deliver increased training to its members. KHF has been at the forefront in reducing the skills gap in the healthcare market through linking youth with available training opportunities and mentorship to suit the needs of their potential employers (KHF members). In 2013, KHF was able to increase access to training for healthcare programmes through partnership programmes as well as increase membership by 40 per cent (from 28 to 46).

Kenya Veterinary Association (KVA)

KVA sought BAF support to improve and deliver training programmes for its members. Through this support, technical skills would be delivered through Continuous Professional Development (CPD) programme and non-technical training would be offered through management, business and soft skills training. KVA has also improved communication with members through additional staff to strengthen the secretariat. As a result, KVA increased its membership by over 100 per cent (from 548 to 1107) and has provided various CPD training courses over the year to its members throughout the country.

Kenya National Chamber of Commerce and Industry (KNCCI)

In March 2013, KNCCI conducted national elections with support from BAF through the Kenya Private Sector Alliance (KEPSA). This restored the governance arrangements in the Chamber nationally and in 47 branches around the country which had been absent for many years. In the latter part of the year BAF financed a forensic investigation of the national office's financial position and provided financial support to restore the balance sheet position of the Chamber. BAF also provided support to carry out a complete review and rationalisation of its staffing arrangements. This will enable the Chamber to begin 2014 with a stronger financial position, a new management team so that it could retrieve its position in the Kenyan advocacy space as a key BMO representing business, particularly medium and small business, on business climate issues.

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Media and raising awareness

The Fund expects that BMOs will be able to secure media coverage specifically related to their advocacy projects. The challenge, however, is to increase the amount and quality of media coverage focusing on the business enabling environment (BEE).

In 2013, the Fund set out to develop a media strategy based on an analysis of existing coverage of BEE issues. This suggested that there is significant coverage, but that there is an issue in the quality of the coverage. The strategy will therefore focus on improving the quality of coverage. The strategy includes objectives to raise awareness amongst business journalists of a range of issues affecting the business climate, to introduce them to a range of resources when writing about BEE and to encourage them to write articles that are balanced and fair. This will include encouragement for journalists to become more proactive and seek out BMOs to ask for evidence and comment. It will also explore ways to encourage journalists to participate in continuing professional development to sustain the breadth and quality of their reporting.

In addition, BAF will make more efforts to support BMOs to engage effectively with the media. If successful, the outcomes will be improved BMO competence in the preparation of press materials and their relationships with the media, together with a greater understanding of the workings of media houses to achieve higher quality reporting of their policy positions. The intention is that coverage should be more influential on policy makers and decision makers.

A further outcome will be increased awareness in the media of both the importance of the BEE and with more incisive, balanced and independent reporting, the opportunity to generate and publish more BEE related articles that are newsworthy and that will raise awareness of the importance of the role that the BEE plays in people's daily lives.

BAF in figures

	2013	Phase II to date
Advocacy project applications by volume	40	82
Advocacy project applications by value	155m	244m
Advocacy approvals by number of projects	37	77
Advocacy approvals by value	154m	245m
Advocacy disbursements by value	81m	130m
BMOs supported	14	41
Projects completed	12	14
Sustainability projects approved	16	29
Sustainability projects approvals by value	101m	114m
Sustainability project disbursements	94m	120m
Increased subscription revenue	10m	15m
Increased services revenue	74m	86m
Capacity building expenditure	6m	13m
Participants in training programmes	388	717
Dialogues and consultations by supported BMOs	358	478
Policy proposals published by supported BMOs	32	58
Alliances & partnerships developed	302	429
Number of articles in the press	277	387
Policy changes	20	25



Governance and fund management

Seven members serve on the Board of BAF. They are William Lay, (Chairman); Jennifer Barassa, CEO, Top Image Ltd; Kiprono Kittony, CEO, Capital Real Time Ltd; Betty Maina, CEO, Kenya Association of Manufacturers; Dr Geoffrey Mwau, Economic Secretary, Ministry of Finance, Government of Kenya; Lisa Karanja, Regional Director, Private Sector & Civil Society, TradeMark East Africa and Joe Okudo, Programme Manager/DBP Partnerships, Danish Embassy.

Danida contracted a partnership of Coffey International Development Ltd (Coffey) and Irwin Grayson Associates through an international tender process to manage BAF.

The Fund management team comprises Clive Davis as the Fund Manager with overall responsibility for the management and delivery. Mary Nyoike is the Organisation Development Manager with responsibility for capacity building and sustainability outputs, including advocacy training. Kariuki Waweru is the Advocacy Manager. Ruth Gathee is the Finance and Accounting Manager with responsibility for contracting, grant and management expenses accounting and general administration. Eunice Kiondo Leshao is the Office Manager responsible for office management, enquiries management and communications.





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