



UBA Chairman's speech

The Stakeholders' Dialogue with the Judiciary and Law Enforcement Agencies on 22 February 2017 at Sheraton Hotel, Ball Room B

PROTOCOL

- The Principal Judge of the High Court of Uganda, Hon. Justice Dr. Yorokamu Bamwine
- The Inspector General of Police, Major General Kale Kayihura (OR His representative)
- The Executive Director, Supervision, Bank of Uganda, Mrs. Justine Bagyenda
- The Deputy Director Financial Intelligence Authority
- The Representative from the Office of the Official Receiver
- Bank CEOs present
- Members of the Uganda Police Force
- Members of the Judiciary
- Representatives of Law Enforcement Agencies
- All invited guests in your respective capacities
- Ladies and Gentlemen, all protocol observed

WELCOME ON BEHALF OF UGANDA BANKERS' ASSOCIATION

I would like to take this opportunity to welcome you all this morning to this important meeting and thank you for taking time off your busy schedules to be with us today to deliberate on how we can work together to reduce financial crime and improve on the management of risk within the banking sector in Uganda as well as overall enforcement of law & order within our environment.

PURPOSE OF MEETING

Like other sectors, the banking sector faces a number of challenges/risks from bad loans to crime and fraud among others and this has triggered responses from the general public that paint a picture of a sector that is risky, with issues like breach of confidentiality as regards customer information coming into the debate.

We would like to reassure the guests present here and the general public that maintaining confidentiality of customer information in the banking system is key and is cardinal in the practice of banking, including ensuring safe custody of customer deposits and all related information pertaining to the customers.

The banking sector works in collaboration with various agencies from regulatory, investigative and law enforcement including police to respond to and address the risks that I highlighted above.

We extend our appreciation to the Judiciary, Uganda Police Force and other Law Enforcements Agencies & Authorities for the support rendered each time we have reached out to you and believe this collaboration can be strengthened to achieve greater results for the entire sector and the economy.

We recognize that combating crime and fraud cannot be done by just one institution but requires us to join hands and it is for this reason that Uganda Bankers' Association has organized this dialogue to bring us together in one forum where we discuss how to strengthen our collaboration to address challenges/issues within the financial sector as a whole and the banking sector in particular.

I would like to highlight some of these issues that are of concern to us that this meeting should deliberate on;

On the judicial front, we have had several instances

1. There are instances where orders are made by court without some parties being given an opportunity to be heard. A case in point is where an eviction was given by court, eviction carried out with the assistance of police and later the said eviction was reversed by court, without giving the Bank an opportunity to be heard.
2. Delayed hearing of claims worsening the case backlog in the courts. There are also claims which have taken more than 5 years to be heard or disposed of due to adjournments.

3. Issuance of interim orders by Registrars in relation to securities. The Commercial Court has handed down a number of decisions giving guidance on the mandatory requirement to pay 30% of the debt sum (as provided for in the Mortgage Regulations) prior to the granting of an interim order. In spite of clear guidelines by Judges, Registrars issue interim orders almost as of right ignoring the mandatory requirement for payment of the 30% even when cited.

Lack of understanding on how the banking sector works

Judicial officers need to be sensitized on how the banking sector works and its role in the economy. Continued adverse judgements seem to stem from the inability of the courts to appreciate how banking operates, for instance many judicial officers do not seem to appreciate that Financial Institutions are a business that borrows money to lend or that lending has a cost implication or that granting of needless injunctions ultimately costs the depositor his money. *Failure to appreciate the value of time in banking*

- Judicial officers need to be sensitized about the urgency of disposing bank cases from the provisioning aspect of the bank. Delayed handling of cases worsens the impact caused by non-performing loans and erodes capital which often brings about collapse of financial institutions.

- Closely related to provisioning, Courts usually shy away from awarding costs or similar damages they would award to a litigant suing a bank.

There have been instances where a company took out facilities and charged all its assets to the bank. The company's directors then sold nearly all the company's equipment, banked the proceeds on personal accounts, wired the money to other destinations and left the country. Clearly the intention was to defraud lenders.

We have instances where a company took large facilities and charged its assets to the bank. A small group of the directors incorporate a new company that takes over the assets of the company and accused the other of fraud. It is apparent that such schemes are meant to defraud the bank.

There have been other instances where interference by other related governmental offices like the office of RDCs offer protection to defaulters, in total disregard to processes for foreclosure in line with the law.

In such instances, the Police should be able to provide support to enforce the court order.

In spite of the challenging instances highlighted above, there has also been numerous cases where the resoluteness of Courts of Law & Police have gone a long way in prevailing over fraudulent transactions, a practice we applaud. Provision of protection during receiverships is one such instance which is appreciated by banks.

While Banks reinforce their own internal controls, we remain committed to work with the various law enforcement agencies, and to carry on this collaboration and work to strengthen every party involved in combating crime & reducing risk.

On the Criminal front, where law enforcement agencies like the police play a central role, the need for close collaboration is very pertinent.

There is need for

- Collaboration in assembling evidence & prosecution.
- Collaboration in maintaining confidentiality throughout the investigative process.
- Collaboration in management of information and engagement of stakeholders especially the media.
- Collaboration in sharing information for preventive and educational purposes.

Banks have been exposed to fraudulent schemes which has seen some banks defrauded by its clients in what we call “white collar crime”. Unfortunately for some of the affected banks, these cases were not given the attention that they deserved and this was attributed to limited capacity at the law enforcement end.

Cybercrime is a fast growing mal-practice with ability to defraud and move monies to safe locations within a very short time. The rise in use of smart technologies has increasingly come with equal measure of risk that we as stakeholders must constantly be on high alert for.

Cyber-attacks now top the list of threats and this disruptive trend is expected to continue. In Uganda previously restricted banking systems are now integrated with billers, aggregators, 3rd party payment systems, teleco mobile systems, governmental systems all of which increase vulnerability. It is therefore important to establish a framework where risk & cyber security challenges & safeguards are discussed and managed and knowledge therein shared. The key issue here would then be to build capacity be it at Police, Judiciary, and the various other collaborative agencies both regulatory & at the enforcement level.

Money laundering is becoming more and more sophisticated with funding for terrorism channeled through the most humble & modest methods to avoid suspicion.

Counterfeit money, goods & services are affecting numerous business and threatening their survival.

Police capacity to investigate such 'white collar' crime is constrained from a skill & complexity of the web of crime mostly through sophisticated ICT channels & complex documentation and involvement of senior & technical personnel including directors.

These are the areas that call for collaboration, capacity building and continuous learning.

CONCLUSION

In conclusion, It is therefore obvious that knowledge, information sharing and collaboration would complement our various roles and make it easier to combat crime than working in isolation.

I therefore look forward to fruitful deliberations today and trust that by the end of this dialogue, we will all be better equipped to mitigate risks caused by fraudsters.

At this junction, allow me welcome the Principal Judge to make his remarks.