

Michael Mambo Mukete: Role of the Bank of Namibia in consumer protection issues

Speech by Mr Michael Mambo Mukete, Assistant Governor of the Bank of Namibia, at the launch of Namibia Consumer Trust, Windhoek, 15 March 2011.

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Director of Ceremonies, and the Executive Director of Namibia Trust – Mr Michael Gawaseb,
The Chairperson of Namibia Consumer Trust – Mr Sandi Tjarondo,
The Board of Trustees of Consumer Rights Trust,
Distinguished Invited Guests,
Members of the Media,
Ladies and Gentlemen,

It is my great pleasure to be here today to witness the launch of Namibia Consumer Trust. My research indicates that this Trust is the first of its kind set up to advocate for the rights of consumers in Namibia. The launch comes at the most opportune time when many Namibians are finding themselves without appropriate avenues to find redress when their rights are infringed and often feel powerless to stand up against giants in the business and the financial sector.

It is with this view in mind that the Bank of Namibia regards this initiative as a welcomed development at a time when concerted efforts are made to assess the regulatory landscape for consumer protection measures. This is because there are dozens pieces of laws developed many decades ago, and most of them surely have outlived their usefulness. It will therefore take much determined effort and coordination not only from the audience in this room, but also across sectoral regulators and Government Institutions to address the inefficiencies in our existing laws. It is worth noting that the Law Reform And Development Commission has already issued public invitation to this effect and I wish to urge you all to participate in this indispensable exercise.

Director of ceremonies, Ladies and gentlemen

Allow me to ask a very rhetoric question, ***why should Financial Regulators be concerned about the right of consumers of financial services?***

Lack of information – or “information asymmetry” between consumers and Financial Services Providers places customers at a disadvantage. Consumer protection therefore seeks to level the playing field between suppliers and consumers of financial services. Financial services are in fact often complicated, while often involving large amounts of money for individuals. It is true that the need for consumer protection is not unique to the financial area. ***Nevertheless, there is a considerable difference in degree compared with most other areas, partly because it is often difficult even with hindsight to assess the quality of the financial services.***

In the Namibian case, the challenge we are facing is not only to protect the existing customers, but we need to put more effort in bringing the estimated 51% of the population excluded from the mainstream of financial services. It is against that background, that the Bank of Namibia has recognized the need to advocate for financial inclusion as one of its new key strategic focus. Director of Ceremonies, empirical research reveals that financial exclusion allied phenomenon are amongst others; lack of financial education, lack of consumer protection and therefore, financial discrimination; and the lack of suitable products and services. My speech today will focus mainly on consumer protection as the Ministry of Finance is going to present our collective strategy on financial literacy.

Director of Ceremonies, Ladies and Gentlemen,

Let me inform you of the role of the Bank of Namibia on consumer protection issues arising from financial services providers falling within its purview. There are many pieces of legislations directly administered by the Bank, which have a bearing on consumer protection. I will highlight them later in my speech when I introduce some of our initiatives and strategies aimed specifically to consumer of banking services. These laws allow the Bank, to among others, act as the prudential regulator and supervisor of commercial banks to ensure that customers' deposits and investments of are safe. Concomitantly, the Bank ensures that through its banking licensing process only "fit and proper" persons are permitted to own and manage banking institutions to prevent potential depositors to loose their money from scrupulous persons.

Director of Ceremonies, I am equally honoured to express myself on some of the **current and future initiatives pursued by** the Bank of Namibia in the area of consumer protection. **These include the recent enactment of the Banking Institutions Amendment Act of 2010, which enables the Bank to recommend to the Minister of Finance to issue regulations on unfair terms in contracts between commercial banks and their customers.** By its very nature, banking services often require that customers enter into agreements with banks. Sometimes unaware of their rights and without having been afforded an opportunity to study and agree to certain contractual terms and conditions, customers in their desperation for services sign these contracts, which in the end bind them for extended periods. These contracts are at present considered binding on customers, irrespective of how onerous, unreasonable or unexpected such terms might be.

As a banking regulator, the Bank of Namibia has an interest in encouraging standards of good banking practices whereby commercial banks act fairly and reasonably in relation to their customers. It is against this background that in addition to a possible regulation on unfair terms, the Bank is busy developing **Code of Good Banking Practice.** The Code shall set out the banking industry's key commitments and obligations to customers on standards of practice, disclosure and principles of conduct in relation to banking services. **Director of Ceremonies,** in terms of the best practices, the Code shall provide that contract between the commercial banks and customers shall have a clear, plain and simple terms, for the understanding of which no special knowledge is required.

A very good example to draw from is when President Obama signed the new Credit Card Bill of Rights into law, he challenged the industry to create a simple, easy to understand credit card agreement that you "don't need a law degree or a magnifying glass to understand." This means eliminating provisions and confusing terminology used by lawyers for reasons of tradition or habit, replaces the legalistic with plain-language, and introduces information design to enhance readability and comprehension. It is thus the intention of the Bank that contracts should be simple, short, and preferable designed to fit on one or two pages.

The other key aspect of this Code will be to enforce good lending practices by banks to avoid over-indebtedness. Banks will, therefore, be expected to act in the best interest of its customers by ensuring that they **Know** and **Understand** the customer's needs, only offer them products and services that are suitable to such needs, and provide them with information to enable them to make informed choices.

The Code will further require banks to have in place effective complaints handling procedures and appropriate timelines within which complaints should be dealt with. This also means that banks will be directed to be the first **"port-of-call"** to offer redress for customers, by having dedicated complaints desks to handle customer grievances.

At this juncture I wish to inform you that the Bank of Namibia, together with the Industry, will issue the said Draft Code of Good Banking Practice, during the course of this year for public comments. Therefore, **Director of Ceremonies, I humbly request the audience present in this room to spend time and do justice to all consumer protection initiatives, which we**

all agree are close to our hearts by providing extensive comments to the Bank on the Draft Consultative Paper.

Director of Ceremonies, Ladies and Gentlemen, The other initiative being pursued by both the Bank of Namibia and our sister Regulator, the Namibia Financial Institutions Supervisory Authority, is the establishment ***of Financial Services Ombuds Office,*** in terms of the Draft Financial Institutions and Markets Bill. This Office will be financed and resourced by the two institutions. It is expected to serve as an additional mechanism for redress for consumers who are aggrieved by their financial service providers.

Director of ceremonies, Ladies and Gentlemen

In another attempt to protect the consumers, the Bank of Namibia wish to use this unique occasion to once again warn the consumers against the persistent mushrooming of pyramid schemes and related schemes. These types of entities have started to proliferate in Namibia and ordinary citizens are continuously lured with unbelievable testimonies of opportunities on how to get themselves out of poverty. The downside is however, that entire families, households and even pensioners are targeted and may lose their hard earned cash and suffer at the hands of these schemes. In our efforts to protect consumer and the general public, the Banking Institutions Amendment Act of 2010 made the participation and operation of such schemes a criminal offence.

Before I conclude, Director of Ceremonies, kindly ***permit me the opportunity to inform the audience that in 2010, the Payment System Management Amendment Act was promulgated giving the Bank the mandate and authority to regulate bank fees and charges where necessary.*** Thus, the Act enables the Bank of Namibia to set standards to protect consumers from being exploited through exorbitant fees and charges.

Chronologically, I am sure the audience will agree that the starting point should be cash deposit fees which are main barriers for the majority of people wanting to open or maintain accounts with commercial banks. Accordingly, it is the Bank of Namibia's intention to focus on cash deposits fees for individuals and SMEs in 2011. The standard will also call for a compulsory introduction of ***a low-cost*** basic retail bank account, which should be treated ***as a public utility*** rather than a money making product for commercial banks. It is worth mentioning that some of the commercial banks already have in place a similar account. All these efforts, Ladies and Gentlemen, have built-in mechanisms geared towards enforcing consumer protection.

In conclusion, ***Director of Ceremonies,*** this initiative by Namibia Consumer Trust certainly has the potential to become the vehicle for large scale consumer protection initiatives. The Bank of Namibia is pleased to be associated with the launch of this initiative today. We are committed to maintaining and enhancing market confidence in a strong, fair and progressive way, but we cannot do this alone. Regulation is a complex balancing act and it is only through collaboration with other regulators, the industry and consumers that we can make it work for the financial system as a whole.

The Bank believes that a strong relationship with the Consumer Trust will enhance the important role you will play in influencing policy and strategic outcomes. My final message in this context is, therefore, an invitation to consider how we can support each other and develop stronger relationships, communicating with consumers together at a grassroots level to ensure that they are in a position to make informed and confident financial decisions.

I am sure it was long and difficult road to get where you are today, and the launch will certainly not remove all obstacles on the road ahead. I therefore wish to urge you to continue working hard towards your objectives of protecting and educating consumers in Namibia of their rights in all sectors of the economy.

Director of Ceremonies, Ladies and Gentlemen, I thank you for your kind attention.