LAGOS CHAMBER OF COMMERCE AND INDUSTRY

LCCI CAUTIONS BANKS ON THE PROPOSAL TO PUBLISH THE NAMES OF DEBTORS

PRESS RELEASE

Deposit money banks have in the last couple of weeks, served notices of their intention to publish the names of 'Delinquent Debtors' in at least three national newspapers in compliance with the directive of the Central Bank of Nigeria [CBN]. The publications will include the names of the directors, subsidiary companies and related parties, and would be quarterly. In addition such companies and their subsidiaries will be barred from the foreign exchange market.

Given the adverse consequences of non-performing loans for the stability of the financial system, the risk to depositors' funds and the sustainability of the banks, there is perhaps a compelling reason to take some drastic actions to avoid the grave consequences of mounting bad loans. Non-performing loans in the banking system is currently estimated at over N400 billion.

However it is important to avoid sweeping generalizations and examine the context of default on a case by case basis. There are varying causal factors for loan default which has to be taken into account in matters of this nature.

The LCCI recognises two broad categories of debtors. There are defaults that have arisen as a result of genuine business failure [some of which are irreversible] which affected the capacity to repay; and there are defaults that have arisen as a consequence of deliberate intent not to repay. The latter borders on character quality, which is what the Know Your Customer [KYC] concept is meant to address. It is important to distinguish between these two categories of debtors in order to guide the choice of debt recovery strategy. Some of the possible factors in business failure in recent years include, but not limited to, the following:

i. Shocks and dislocations which arose from the sudden depreciation in the naira exchange rate and the attendant shocks to business, especially businesses with high exchange rate exposure.
ii. Sudden drop in crude oil prices which had a significant impact on petroleum product importers. Investors in the upstream oil and gas sector are also victims of the collapse of oil prices. Many are yet to recover till date. Some banks have huge exposure to this sector.
iii. Power sector investors are grappling with whole lot of issues ranging from gas availability, energy theft, billing issues quality of assets, legacy debts etc. Banks' exposure to them is also high.
iv. Defaults caused by import duty waivers granted by government, which put many businesses at very serious competitive disadvantage.
v. Rampant smuggling and counterfeiting of products as well as importation of fake and substandard products which created severe competition issues for manufacturers.

vi. Sudden changes in fiscal policy especially import tariffs, import prohibitions, import duty waivers, policy reversals on incentives etc.

vii. Huge indebtedness to contractors by governments at all levels which had impeded the ability of contractors to repay the loans from the bank. Combined indebtedness to local contractors by the federal, state and local governments is well in excess of N1 trillion [one trillion naira].

viii. Prohibitive interest rates and charges by banks [some of which are in dispute] which increases the risk of default and have a compounding effect on outstanding indebtedness of businesses.

ix. Security issues in parts of the country that jeopardized many businesses and investments in those areas. Many projects had to be abandoned as a consequence of security breaches in parts of the country.

x. Stock market collapse which led to huge losses by investors in the capital market and the consequent inability to service margin loans.

The foregoing are some of the real business environment challenges to which investors have been exposed in recent years and some of these could have resulted in unintended loan defaults.

The second category of debtors have deliberate plan to default. This class of debtors took loans and from the very beginning did not intend to repay. This is of course the more disturbing scenario which borders on criminality and impunity. In some of these instances it may be difficult to exonerate the banks as the credit appraisal processes may have been compromised. The degree of banks' culpability should be ascertained and this should attract appropriate sanctions. There are bad borrowers and there are bad lenders! The CBN should deal with both sides of this equation and be seen to have truly done justice. Corporate governance issues in the financial system should be fixed. There is need for better use of Credit Bureaus to reduce the incidence of serial debtors.

There are global best practice principles in debt recovery. Publishing names of debtor companies and their directors in national newspapers is unorthodox and unprofessional. Due consideration should also be given to the legal implications.

Entrepreneurship is about risk taking. Sometimes profits are made, at other times losses are suffered. It will be unfair to portray business failure as an act of criminality, which is what the publication of names connotes. The reputational cost to such businesses is also very high. In any event, loans are supposed be collaterised and a foreclosure invoked in the event that such loans are not redeemed. This is the best practice approach to debt recovery.

The private sector is the engine of growth in any dynamic economy. Entrepreneurs have a very strategic role to play in wealth creation and generation of employment. We should not discourage investors from taking risks and should refrain from actions that could undermine the spirit of enterprise in the Nigerian Economy

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