

SPEECH BY REV. DANIEL OGBARMEY TETTEH, DIRECTOR-GENERAL OF SECURITIES AND EXCHANGE COMMISSION, GHANA, DELIVERED AS THE SPECIAL GUEST SPEAKER AT THE GIMPA LAW CONFERENCE 2020, ON THE THEME, “THE BANKING AND FINANCIAL CRISIS IN GHANA AND COVID -19: TOWARDS SUSTAINABLE REFORM”, HELD ON 6TH – 7TH AUGUST 2020.

The Rector of Ghana Institute of Management and Public Administration (GIMPA) and Chairman of this event; Dean of GIMPA Faculty of Law and Justice of the Court of Appeal of Ghana, Governor of the Central Bank of Ghana; Distinguished Faculty Members of GIMPA and GIMPA Law School; Distinguished Guests, Ladies and Gentlemen;

I wish to begin by expressing my sincere appreciation to the organizers of the GIMPA LAW CONFERENCE 2020 for the invitation extended to me to be a part of this conference as the Special Guest Speaker. I feel honoured and sincerely relish the opportunity. Permit me to also bring you felicitations from the Securities and Exchange Commission to the team behind this conference for putting it all together and selecting a theme that is both timely and relevant. The platform we are using for this conference speaks volumes of the times we are in precipitated by the unrelenting and ubiquitous Coronavirus with its attendant disruptive economic and social effects. If human history is anything to go by, we can have the blessed assurance that ultimately, the collective resolve and resilience of humanity and society anchored on divine providence that trumped challenges such as wars, natural disasters, pandemics and financial crisis in the past, would come into play again and change the current grim narrative associated with Covid-19.

It is not uncommon for humanity to deal with the scourge and ravages of one crisis or the other. Indeed, history is replete with crises including banking and financial crises that have occurred across several economies in several regions of the world under different guises, circumstances and with different impacts. Prime Minister Lee Hsien Loong of Singapore is quoted as saying that ‘At some point, there will be some other financial crisis. It’s in the nature of a capitalist system’. Jamie Dimon of JPMorgan Chase is reported to have answered his daughter who posed the question during the 2008 financial crisis: ‘What’s the financial

crisis?' that 'It's something that happens every five to seven years'. I am by no means trying to suggest that we should be on the lookout for the next crisis in Ghana; just saying that since a crisis has a tendency to recur, it's important what lessons we pick when we go through one and how it informs the actions we take so we are better prepared and equipped should we encounter another crisis. With my experience of the recent crisis in the financial sector in Ghana, I can identify with American businessman Howard Schultz who said that 'Managing and navigating through a financial crisis is no fun at all'. From the regulatory standpoint, it is imperative to perform a root cause analysis of the financial crisis in order to provide the necessary insight for troubleshooting and fixing the weaknesses of the system. Janet Yellen, a former chair of the US Federal Reserve is quoted as saying that 'A clear lesson of history is that a 'sine qua non' for sustained economic recovery following a financial crisis is a thoroughgoing repair of the financial system'. The financial system is central to the economy given the pivotal role it plays in capital mobilization and allocation necessary to fuel economic activity and engender growth so we have no option but to ensure that we protect and promote its health and vitality. That is why I find that the theme chosen for this conference is well appointed.

Mr Chairman,

The crisis we have experienced in the banking and financial sector over the last few years in Ghana was evidenced by liquidity constraints of the market intermediaries, a deterioration of asset quality, weak balance sheets, failure/inability to meet withdrawal requests of customers leading to a surge in customer complaints along with the potential threat of eroding the confidence of asset owners/liquidity providers in the financial system.

Mr. Chairman,

Since we are privileged to have the Governor of the Central Bank here to deliver the keynote speech, permit me to stay in my lane and make a few observations limited to the securities industry, a sub-sector of the broad financial sector in Ghana. The Securities and Exchange Commission picked up the signs of the looming crisis in the asset management industry from on-site inspections, a risk assessment study which highlighted worrying trends such as related party transactions, asset-liability mismatch, guaranteeing of returns and also complaints filed

at the Commission by investors who were having difficulty redeeming their investments placed with some of the fund management companies. The Commission held series of engagements with the affected fund management companies geared towards a resolution of their issues and by extension, to secure the protection of investors in line with our mandate. When it was evident after the series of engagements that these firms had failed to and were not in the position to perform their functions efficiently, honestly and fairly, the Commission took the decision to revoke the licences of 53 fund management companies, an action which was unprecedented in the history of the Commission. One of the International Organization of Securities Commissions (IOSCO's) 38 principles of securities regulation has it that there should be procedures for dealing with the failure of a market intermediary in order to minimize damage and loss to investors and to contain systemic risk.

At the time of revocation, our estimate of affected clients was in excess of 77,000 with assets under management valued at GHC8.08bn, out of which an estimated GHC5bn was considered as assets at risk given the underlying investments made. Post the revocation, we have received claims filed by affected investors in excess of 90,000 valued at GHC9.9bn. Validation of the claims filed by affected investors is almost 100% complete for the firms that we have full access to their records, liquidation orders for 22 firms have been secured and the Ministry of Finance has indicated Government's intention to support the process with a bailout package. It is noteworthy that the resolution pathway we have used differs from that used by the Bank of Ghana mainly because of differences in the powers granted by our respective enabling Acts. It is our firm expectation that we would be able to announce and implement the bailout package in the coming weeks to bring respite to affected investors and help galvanize the confidence of asset owners/liquidity providers in the financial system.

I would like to use the next few minutes, with your permission, Mr. Chairman to identify the main causes of the crisis and what mitigating measures the Commission has introduced or intends to introduce towards ensuring that the reforms are sustained. I would discuss the causes under five broad categories, namely:

- Structural issues
- Conduct issues

- Governance issues
- Financial Literacy issues
- Regulatory issues

Structural Issues: We have had the emergence of financial conglomerates within the financial sector but we did not have a framework for the supervision of such entities given the specialized structure for regulation in the financial sector in Ghana currently. This allowed for some of the firms to exploit regulatory arbitrage. In addition, we have a great deal of interconnectedness in the financial sector given the interactions and transactions among the institutions regulated by the BOG, NIC, SEC & NPRA. Cross exposures were rife so any counterparty default tended to have a cascading effect across the entire system. The establishment of the Financial Stability Council bringing together the regulators in the financial sector under the chairmanship of the Governor is a step which would help resolve these structural issues.

Conduct issues: Unfortunately, the crisis has brought to the fore the fact that there were some people being touted for success when in fact they did not understand their fiduciary duty and rather dabbled in a reckless and wanton dissipation of other people's money. The cardinal maxim of our industry which is "My word is my bond" appears to have been flung out of the window. Miss-selling, Unethical behaviour including diversion of client funds, Dishonesty including directing client funds to related parties without disclosure and Unprofessionalism including lack of adequate disclosure, asset-liability mismatch, lack of due care and diligence are examples of the conduct issues that fuelled the crisis. Our response is to prepare Investment Guidelines and Conduct of Business Guidelines to be issued to the market in the coming weeks. We also intend to urge the Ghana Securities Industry Association to require some standards of ethical behaviour of their members especially as we work towards giving them recognition as a self-regulatory organization.

Governance issues: Corporate governance is always at the heart of organizational performance and success. It was evident that the composition of boards was done on considerations other than competence and the value being brought to the table. Effectiveness

of the boards was compromised with infrequent meetings and the failure to set up board committees. Risk Management was largely non-existent or at best weak in majority of the firms while the investment management process was less than optimal (no investment committee to scrutinize investment decisions). Again, our response is the provisions in the yet-to-be issued Conduct of Business Guidelines which deals with the governance issues including fit and proper considerations as well as the approval of directors by the Commission. We also have a Corporate Governance Code for listed companies that would be issued in the coming weeks as well.

Financial Literacy issues: One of the sobering revelations of this crisis is the extent to which the lack of financial literacy impacted the behaviour of the liquidity providers. There were several instances of retirees breaching the diversification principle by placing all their retirement benefits in one basket. There was also little or no appreciation of the trade-off between risk and return leading to investors chasing rates with abandon. As a response, the Commission has developed an elaborate investor education plan and will collaborate with other stakeholders including educational institutions and the Ministry of Education/Ghana Education Service to ensure a sustained campaign to enhance financial literacy in our country.

Regulatory issues: One of the lessons that we have picked up is the need to strengthen the licencing framework for the industry seeing that it represents the entry point. The goal is to ensure a very robust licencing framework that would make it difficult for unfit persons to be admitted to operate in the industry. We have a new Licensing Guidelines to be issued which among other things raises the bar with regard to the minimum capital requirements. We have also taken note of some weaknesses in the current legal framework for the resolution of failed institutions so we are initiating steps to address that in our governing Act. We can also point to capacity constraints (Human, Financial & Technology) within the Commission which calls for urgent resolution. Another principle in IOSCO's 38 principles of securities regulation indicates that 'The Regulator should have adequate powers, proper resources and the capacity to perform its functions and exercise its powers'. Our Financial capacity is critical to the resolution of our human capital and technology constraints. We initiated a digitization program in 2019 and our expectation is that once we get through with

the procurement and implementation stage, our ability to effectively and efficiently supervise our licencees would be transformed. We are also on course to implement a risk-based supervision framework with the support of funding from the African Development Bank.

Mr Chairman, before I conclude my speech, may I make a few remarks concerning COVID-19 and its impact on the securities industry. We have noticed a mixed impact of Covid-19 on the industry. If you take the trading platforms, while volume and value of trading on the Ghana Stock Exchange (GSE) has been good within this period, that of the Ghana Commodity Exchange (GCX) has been adversely affected. In the case of assets under management, there seems to a balance between withdrawals and new investments. What is clear is the need for investment in ICT driven service delivery platforms. As someone has said, the new normal means that work is no longer a place you go but what you do. We expect our licencees to invest more in ICT and also take note of the potential threat of cyber risk. We expect our licencees to rely on ICT to ensure adequate disclosure and engagements with the investing public. As a Commission, we recently issued guidelines on holding virtual annual general meetings for the guidance of listed companies and market intermediaries and we expect that the firms would retain the option of using virtual platforms in addition to the traditional in-person meetings beyond the Covid-19 era. We have also given direction to the market to do electronic submissions to the Commission. Without doubt, this period also calls for all to interrogate the business and operating models in order to stay relevant.

Mr. Chairman and Rector of GIMPA, Dean of GIMPA Faculty of Law and Justice of the Court of Appeal of Ghana, Honourable Minister of Finance; the Governor of the Central Bank of Ghana, Distinguished Faculty Members of GIMPA and GIMPA Law school; Distinguished Guests, Ladies and Gentlemen;

There is no doubt in my mind that this conference would delve more into some of the issues I have touched on so let me conclude by congratulating African Centre on Law and Ethics (ACLE), GIMPA Faculty of Law, for putting this conference together and bringing all these important brains together to proffer lasting solutions to the problems in our financial sector. I wish to thank all distinguished guests, resource persons and participants for availing

yourselves for this virtual conference. I wish you all the best for successful, fruitful and rewarding deliberations. **Thank you for your attention and God bless us all.**