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2010 Regional Forum “Governance, Regulation and Financial Crime Prevention”

Opening Remarks

by

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I would like to thank the sponsors, the International Governance and Risk Institute for inviting me to provide some opening remarks to what should be a most stimulating forum, given the impressive array of presenters.

Your seminar theme is about “**financial crime prevention**” and while many of your sessions would be on money laundering and terrorist financing, I am pleased to see that the forum will cover other areas of financial crime.

I would like to make some brief comments on some aspects of corporate financial crime which appear to be on the increase in Trinidad and Tobago. I will also say something about anti-money laundering efforts here in Trinidad and Tobago.

For convenience, financial crime is defined to cover any non-violent crime resulting in financial loss. This definition will easily cover fraud on the public, credit card fraud, improper self-dealing, stock market manipulation and other breaches of fiduciary trust. Money laundering is clearly an important category of financial crime.

Obviously, I will look at the issue from my vantage point as regulator.

The recent massive destruction of financial wealth in the US and Europe (most notably ENRON and WorldCom but there were others) raised the profile of corporate financial crime. In the last two years or so, we have been introduced by Madoff and Stanford. What all of these have in common is a breach of **fiduciary trust** whereby depositors or investors were bilked of considerable sums by unscrupulous operators who were reckless with other peoples' money, driven by greed and self-dealing.

In recent years, we in the Caribbean have had our own high profile examples of financial crime, of various levels of sophistication.

Some of you may remember the "Fantasy Tours" a pyramid scheme which collected more than TT\$100 million in a year before its inevitable collapse. A similar scheme in Jamaica, PLUS, is estimated to have raked in between US\$100-500 million. There was one in Grenada reported to have cost investors an estimated US\$30 million.

It is worth noting that both in Trinidad and Tobago and Jamaica, it was not only the lower-income or the financially naïve that were caught in the net. In fact, several people, who considered themselves financially

astute and who should have known better were also drawn in and swindled of their savings.

But the principle of **baiting depositors with unreasonably high rates of return** is not confined to pyramid schemes but from time to time can also be found in the formal financial sector. Over the years, a few institutions, in various branches of the financial sector, have sought to increase market share by offering significantly higher than market interest rates, which cannot be sustained by the returns from their asset portfolios. They are then forced to attract new deposits to meet maturing liabilities – a process that is not sustainable. This is what is called a **ponzi scheme** and it is a serious financial crime. This **modus- operandi contributed to the demise of several finance houses in the 1980s**. Some institutions have experimented with the model since, also with disastrous consequences for depositors and policy-holders.

The evolution of the financial sector toward conglomerate structures has increased the opportunities for financial crime, particularly if the various units of the conglomerate are not operated at **arm0s-length**. What happens sometimes is that depositors' funds are used to sustain unprofitable businesses, rather than invested according to acceptable risk management practices. This type of operation (a kind of self dealing) has sometimes resulted in significant losses for the depositors and constitutes a financial crime.

And then there are the more common practices that many individuals face in their lifetime. The unscrupulous insurance agent or investment fund manager who deliberately promises an **unsuspecting client**, more than could be delivered; who tells you that your principal is guaranteed when it is not; who tells you that your premiums will never increase when the fine print says otherwise: the insurance company which refuses to pay your claim even though you kept up with your premiums. All these are financial crimes even though they are commonly not recognized as such.

It is almost always argued that these kinds of financial crimes occur because of weak financial regulation. Sometimes this is true, though it is only part of the story. It is true that, for the most part, our financial legislation has not kept pace with the evolution of the financial system and with the increasing sophistication of those who seek to commit these crimes. It is perhaps true that rather than the light touch approach, our regulatory regimes should be more aggressive, more pro-active, more interventionist.

However, in the final analysis, updated legislation, more rules and even tighter regulation are not sufficient to prevent most types of financial crime. In the US, notwithstanding the most updated legislation and the most efficient regulation, **Madoff and Stanford happened.**

International experience, as well as experience here at home, suggests that strengthening corporate governance is critical to combating financial crime. A corporate environment in which there is an effective system of controls and where management is accountable to their Boards and Boards accountable to their shareholders is one in which financial fraud and other financial crimes will be less likely to flourish. Good corporate governance serves as an early warning system to corporate and financial abuse. The fact that many of our firms are not listed, and are private or family partnerships does not remove the need for good governance.

Every financial institution operating in Trinidad and Tobago will extol the virtues of good governance, even when their actual operations may indicate otherwise. It is time that good governance ceases to be the background noise and becomes the main music. Checks and balances are needed to rein in excesses, including financial crime and these controls must be exercised at all levels, at the level of the Board, the management and very importantly, **at the level of the external auditor.**

A few words about money laundering ...

I fully agree with the important focus it has been given in this forum because I am convinced that we, in Trinidad and Tobago, need to take our anti-money laundering efforts up **several notches**.

The reality is that as the advanced countries tighten their anti-money laundering regimes, criminals could be expected to target small countries like ours, which have less-robust defenses.

To our credit, we have embarked on a comprehensive program to upgrade our financial infrastructure in general and our anti-money laundering regime in particular. We have a new Financial Institutions Act; we are close to introducing new legislation for the insurance and the credit union sectors and we have brought in money remitters under the central bank's purview.

In the last few months, we have brought our AML/CFT regime closer in line with international requirements. Our immediate challenge is to ensure that there is effective enforcement of the existing measures and to broaden the regulatory perimeter for AML/CFT to non-financial businesses and professions such as lawyers, accountants and real estate agencies.

You are going to hear all you need to know about financial crime and anti-money laundering during the course of this very impressively-designed forum. Make full use of the knowledge that you will acquire and on your return to your work-place share what you have learnt. Financial crime including anti-money laundering and anti-terrorist financing is not only for the regulator; it is everybody's business and we all need to do our part if we are to reduce its incidence.

Thank you.

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