BY DECEMBER LAST YEAR, MOBILE MONEY ACCOUNTS WERE OVER 21 MILLION WORTH SH44 TRILLION

New law seeks to protect microfinance consumers

By Nicholas Wassajja

Predatory non-deposit-taking institutions fleecing unsuspecting members remains a cancer in the Ugandan economy. There are still many Savings and Credit Co-operative Societies (SACCOS) that prey on people's hard-earned savings, despite efforts of local authorities to curtail such practices.

However, with the Tier 4 Microfinance Institutions and Moneylenders Act, 2016, there might be light at the end of the tunnel because the enacted piece of legislation does not only plug loopholes in the financial sector, but also offers a fallback position for the victims of abusive and deceptive institutions.

Bank of Uganda describes tier 4 as a non-deposit-taking financial institution, an approach that encourages broadening and deepening of the financial system and promotes the concepts of financial inclusion and sustainability.

The law that took effect on July 1 last year is a freshener, proposing a host of aspects in the sector ranging from licensing and regulation, to Islamic microfinance. However, key among them is the savings protection fund, which compels the Government to compensate members of the public fleeced by unscrupulous people.

According to Haruna Kasolo, the state minister for microfinance, the savings protection fund is aimed at boosting public confidence in microfinance saving and demonstrates Government's commitment to serve even the unbanked.

The new law will also require SACCOS at registration to maintain a certain amount of capital adequacy ratio that Kasolo says will form part of the savings protection fund to among others, cushion members and creditors against losses resulting from business risks that the financial institution might face.

"We want the regulator to protect our people from fraud. That is why the law provides for a protection fund, but there are also cases of financial risks, such as credit, bad investment, legislative, liquidity and competitive risks. So, this measure is for the safety of public confidence in these institutions, which in the long run, boosts inclusiveness," Kasolo says.

Capital requirements are often placed by banking regulators in order to ensure that a financial institution is able to sustain the withdrawal of deposits and operating losses without risking the money of the depositors.

To ensure this, the law requires that SACCOS with requisite equity threshold register and apply for licences from the Uganda Microfinance Regulatory Authority (UMRA).

UMRA has the mandate to regulate and supervise all institutions under the category of tier 4 and the licence of the SACCOS is subject to annual renewal. This means that the regulating authority can revoke the operation licence on grounds like fraud and insolvency.

The Act criminalises the furnishing of wrong information while applying for a licence, which requires UMRA to ensure that it is satisfied that the entity is incorporated as a registered company to avoid dealing with briefcase SACCOS.

Kasolo says the standards set for a non-deposit-taking institution are similar to those of SACCOS. Therefore, UMRA has to publish a list of those that have qualified for a licence each year through a widely circulated publication or the Uganda gazette.

World over, 2.5 billion adults are said to be unbanked. Of these, 2.2 billion that are found largely in Africa, Asia, Latin America and the Middle East do not use formal banks or any form of microfinance institutions to save or borrow money.

The Bank of Uganda financial inclusion report of 2014 notes that only 20% of adults in the country have access to formal banking services of which, only 17% are found in rural areas while 36% are in urban centres. However, the minister says with the new law securing public confidence in microfinance institutions, financial inclusion is set to grow.

Without regulation, unscrupulous deposit-taking institutions and money lenders will take advantage of micro business operators, like the man selling shoes in Owino market, by giving them loans at very high interest rates

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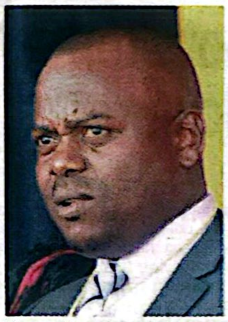
- The minister for microfinance in consultation with other stake holders has the power to set a limit of interest rate that can be charged by a money lender and the lender is required to provide a receipt to a borrower for every loan payment made all to protect the public from being fleeced.

TIER 4 MICROFINANCE INSTITUTIONS AND MONEY LENDERS ACT, 2016



Haruna Kasolo

Moneylenders sorted

The new law has a whole range of 23 sections that not only repeal the Moneylenders Act, but also set in motion regulations and offences for those in the underhand moneylending business.

UMRA has an overriding supervisory role through strictly elaborating the licence application process and enforcing offences, such as fines for operating moneylending businesses without being licensed. A person who does not adhere to the licence regulation, is liable to a fine of sh400m and sh800m on subsequent conviction.

The minister for microfinance in consultation with other stakeholders has the power to set a limit to the interest rate that can be charged by a moneylender and the lender is required to provide a receipt to a borrower for every loan payment made; all to protect the public from being fleeced.

Kasolo says in some cases, moneylenders have been charging an interest rate higher than that of banks, but this is going to be curtailed because the law also provides the ingredients of contracts between licensed moneylenders and borrowers.

He, however, urges that although many restrictions have been put on money lending, including advertisement of the business being illegal, people should borrow from their SACCOS. Instead of running for quick loans from moneylenders who manipulate the process in most cases.

"SACCOS should have easy to access loans without collateral security because people are borrowing against their savings and this in a way will help them access capital for investment, instead of running to thieving loan sharks," Kasolo said.

The minister notes that UMRA will also appoint an independent team of auditors that will be required to make spot checks on the financial institution's books of accounts to ensure their standing is sound.

Regulating Mobile Money

The ministry is also preparing ground to make a case for shifting the supervision of mobile money services from Bank of Uganda to UMRA, arguing that the emerging cases of mobile money service consumers losing their money are partly because of weak regulation, which calls for immediate action.

They note that because many of the mobile money transactions are micro in nature, UMRA should be given the mandate to regulate them, including the lending services that some telecom companies have rolled out.

Kasolo says unlike the central bank whose presence goes to only as far as the regional level, UMRA has the capacity to push regulation services for mobile money agents to as low as the village level to protect the rural masses from being fleeced.

In emerging economies like Uganda, digital financial platforms, such as mobile money have not only accelerated financial inclusion, but also changed the dynamics of the financial landscape. The World Bank's economic update report on Uganda shows that the rapid expansion of financial services has hit an all-time high — eight million adults having access to services — a growth largely attributed to the proliferation of digital financial platforms, such as mobile money.

However, the current legal regime mandates Bank of Uganda to superintend over microfinance deposit-taking institutions with a minimum capital of sh500m. Money transactions are regulated under the Financial Institutions Act, 2004. Therefore, all mobile money operators have to seek clearance from the central bank.

With official reports indicating that by December 2016, mobile money accounts were over 21 million worth sh44 trillion being transacted across the country, it poses a challenge for Kasolo's proposal.

Despite having issued mobile money guidelines in 2013, BoU's executive director in charge of, supervision, Justine Bagyenda admits that they have neglected the gap to regulate the mobile money business.

The Act also provides for self-help groups registered by authorities at the district and Islamic microfinance where the requirement for licensing such a business is proof that it will be conducted under Sharia law.

With the finance ministry setting out to establish the UMRA board at the close of 2017, what remains to be seen is whether the law will be implemented to protect the public from predatory microfinance institutions and moneylenders.