

Did Kimunya mislead House on bank?

CONTINUED FROM PAGE 3

CBK in February 2005 established that the bank had not corrected all the irregularities as advised by the CBK.

■ A follow-up inspection by the CBK in October 2005 revealed that the bank had still not complied with the CBK regulations, such as the classification of loans and the know-your-customer procedures.

■ Another inspection in April 2006, less than two months ago, uncovered that the bank was still engaging in malpractices including: account opening forms for

45 customers were not availed; the engagement in offshore money transfers involving splitting of transactions; cheques drawn on a customer's account were cleared through a lawyer's client account; and the same lawyer's account was being used as a trading account for some customers.

A draft of this report was forwarded to Charterhouse Bank on June 21, 2006.

According to CBK, during the 19 months between the interim report and June this year, a number of serious irregularities and malpractices continued,

money laundering included. It is clear from the above that the minister misled Parliament by deliberately omitting to tell the House about all of the above, yet it is detailed in CBK's affidavit of the same date. Not only is Mr Kimunya named as a defendant in the Charterhouse Bank case, but the CBK falls under his area of ministerial responsibility.

In his ministerial statement, Mr Kimunya blamed the suspended governor for inaction when he stated that "Dr Muleli did not act on the recommendations of the inter-agency task force to



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alleged malpractices at the institution yesterday. The bank's operations were suspended.

take action against Charterhouse Bank for one year and three months".

Contrary to what Mr Kimunya said, the governor's two letters tell a different story. He asserts that he acted on the relevant anomalies as per his mandate under the Banking Act. These are stated in the governor's letter of March 1, 2005. Charterhouse Bank was fined for violating the relevant sections of the Banking Act and given three months to obtain full identification records of the remaining customers.

As stated in the governor's letter to KACC of December 22, 2004, it is not within the governor's mandate under either the Central Bank of Kenya Act or the Banking Act to take action on violations which are covered under the Economic Crimes Act and the Kenya Revenue Authority's taxation legislation.

Mr Kimunya stated that "KACC and KRA continued with investigations into the matter against the mentioned firms that had accounts at Charterhouse Bank. The investigations are at different stages of completion and appropriate actions will be taken".

Not only has the inter-agency task force not met for more than 18 months, but a letter written by KACC's Dr J.P. Mutonyi, for the director/chief executive — and copied to the director of KACC — dated December 15, 2004, to the governor complains of the "hurdles we (KACC) are facing, especially with respect to obtaining records, information and explanations from Charterhouse Bank, which could delay the expeditious conclusion of our investigations and probably affect the eventual outcome". The KACC letter also asks for CBK's assistance "as the regulator" to intervene. This indicates that KACC could not continue with the investigations. A reply from the governor dated

December 22, 2004, not only advises KACC to "seek the advice of the attorney-general in respect of the hurdles you are encountering in the course of your investigations, especially having regard to the powers bestowed upon you by the statutes", but also points out that the Banking Act not only clearly demarcates CBK's regulatory functions, but also constrains it "with regard to disclosure of information in the course of inspections".

This correspondence shows KACC was having a problem carrying out its mandate under the Anti-Corruption and Economic Crimes Act of 2003, and so it is fair to ask: What, if any progress, has actually been made since then?

In light of the above Mr Kimunya should be required to outline to Parliament why he did not come out clearly on the malpractices that had taken place in Charterhouse Bank as per the CBK's affidavit, and why he never tabled any of the three letters that were tabled before the House last Thursday. The minister has acknowledged more than once that on March 20, 2006, he received the copy of the inter-agency interim report and a letter from the governor recommending that he cancels the licence of Charterhouse Bank. In spite of this, he did not act until more than three months later, and only after the interim report was tabled in Parliament.

If Mr Kimunya wishes to restore any credibility on this issue, he will need to take certain actions and come up with facts and figures sooner rather than later. One option is to immediately reinstate the inter-agency task force that performed the investigations on Charterhouse so that it can follow up on its interim

report of November 2004, and the report of June 2006, by the head of CBK's Financial Inspection Unit.

Another is to acknowledge that Charterhouse is being investigated for a raft of malpractices and the statutory manager should continue to run the affairs of the bank until the task force is in a position to know the extent of the malpractices. There is adequate provision for this under Section 34 of the Banking Act. A third option is to account fully to Parliament what KRA is doing to recover the relevant tax claims and arrears.

But Parliament also has some work to do, and questions to ask. One option could be to set up a select committee to immediately investigate what, if any, investigation and

action have been undertaken by KACC and the attorney-general and take remedial action to ensure they carry out their mandates as expeditiously as possible, now and in the future.

Considering the length and breadth of the possible scandal, and the fact that it cuts across the purview and duties of more than one committee, the select committee could investigate Charterhouse and related companies, then issue and submit a report and recommendations to Parliament.

Another job for Parliament is to demand that the AG immediately presents to Parliament the Proceeds of Crime and Money Laundering (Prevention) Bill of 2005, that has been sitting in his office for more than a year. A third duty is to ask the minister for Justice, Ms Martha Karua, to tell the House what KACC has or has not done regarding Charterhouse Bank, and what remedial action, if necessary, is being taken.

He did not cancel licence as advised, for three months

Handwritten signature

March 2006

RE PARAMOUNT UNIVERSAL BANK

Note for the Record

Wall Street Banking Corporation's dollar account (No 2629920) from March 1, 2005, closure has now been analysed. It shows that the account ceased to transfer dollars to New York via Paramount's nostro account on October 26, 2005. In the last three days before closure transfers of some US\$ 1.695 million were made.

Wall Street Banking Corporation did not have a Kenya shilling account; instead the Kenya shillings were dealt with through an account called Customer Credit O/S - FX (No 020501). This account has been analysed and the following has been noted:-

(i) The account shows extensive debits in the name of Wall Street whilst the credits are usually either described as Cash Credits or Outward Credit values with a date. Four days transactions from March 2005 are shown in the attachment. This shows that this account was credited and debited with Ksh. 72,350,500 and that the Wall Street dollar account was credited with US\$ 950,000 at an overall exchange rate of 76.158. Wall Street's dollar account shows transfers out of US\$ 250,000 on the first day, US\$ 400,000 on the second day and US\$ 300,000 on the forth day.

(ii) The two large deposits of 10 and 21 million shillings on this attachment are both bankers' cheques from the Solanki account at Barclays. This account is held by an employee of Sterling Forex Bureau and is credited with large amounts of cash and debited by either cheques or bankers' cheques. In this case the bankers' cheques were made out to Paramount Universal Bank Ltd not Wall Street.

(iii) Although Wall Street's dollar account was closed in October there are further transactions for Wall Street on November 7 and 15, 2005 totalling Ksh. 7,418,420.

(iv) The Customer Credit O/S - FX account is fairly quiet in November but activity increases in December. The increase in activity is in undescribed transactions - i.e. Up to December most transactions have a clear description of the beneficiary on the debit side of the account, as shown on the first attached sheet for March 2005. From December onwards these debit transfers do not show a beneficiary.

(v) These anonymous transactions increase through January and February 2006 as shown on the two further attachments. The first shows that in two consecutive days in January (11th and 12th) the amount transferred in and out is Ksh. 55,939,295.75, which at the prevailing rate of exchange for the period means that approximately US\$ 760,000 was being transferred out. The second sheet shows that on February 2, Ksh. 29,565,499.60 was transferred out, which at the prevailing rate of exchange for the day is approximately US\$ 400,000.

This account up to October shows very few transfers to other companies and individuals other than Wall Street. This increase in transfers (and only three days are attached as examples) in this current year would indicate that the Bank has in all probability recommenced operations with Wall Street or one of its nominees.

Paramount Universal Bank Ltd

Account 020501 - Customer Credit O/S - FX

Date	Value	Date	Particulars	Debit	Credit
3-Mar-05			FX Deal A/c Wall Street	5,762,500.00	
3-Mar-05			FX Deal A/c Wall Street	4,580,000.00	
3-Mar-05		4-Mar-05	Outward Credit Value: 4 Mar 2005		5,762,500.00
3-Mar-05			FX Deal A/c Wall Street	5,000,000.00	
3-Mar-05		3-Mar-05	Outward Credit Value: 4 Mar 2005		4,580,000.00
3-Mar-05			Cash Credit		5,000,000.00
3-Mar-05		4-Mar-05	Outward Credit Value: 4 Mar 2005		4,580,000.00
3-Mar-05			FX Deal A/c Wall Street	3,800,000.00	
3-Mar-05		4-Mar-05	Outward Credit Value: 7 Mar 2005		6,870,000.00
4-Mar-05			FX Deal A/c Wall Street	2,462,000.00	
4-Mar-05		4-Mar-05	Outward Credit Value: 7 Mar 2005		6,870,000.00
4-Mar-05			FX Deal A/c Wall Street	21,000,000.00	
4-Mar-05		4-Mar-05	Outward Credit Value: 7 Mar 2005		21,000,000.00
4-Mar-05			FX Deal A/c Wall Street	2,462,000.00	
4-Mar-05		4-Mar-05	Outward Credit Value: 7 Mar 2005		10,000,000.00
4-Mar-05			FX Deal A/c Wall Street	10,000,000.00	
4-Mar-05		7-Mar-05	Outward Credit Value: 7 Mar 2005		4,216,000.00
5-Mar-05			FX Deal A/c Wall Street	10,000,000.00	
5-Mar-05		5-Mar-05	Outward Credit Value: 7 Mar 2005		4,216,000.00
5-Mar-05			FX Deal A/c Wall Street	4,216,000.00	
5-Mar-05		5-Mar-05	Cash Credit Received Frm FX Deal A/c...		1,078,000.00
5-Mar-05			FX Deal A/c Wall Street	1,078,000.00	
7-Mar-05		7-Mar-05	Outward Credit Value: 7 Mar 2005		3,639,400.00
7-Mar-05			FX Deal A/c Wall Street	3,639,400.00	
7-Mar-05		7-Mar-05	Outward Credit Value: 7 Mar 2005		3,942,600.00
7-Mar-05			FX Deal A/c Wall Street	3,942,600.00	
7-Mar-05			FX Deal A/c Wall Street	3,942,600.00	
Total				72,350,500.00	72,350,500.00

Paramount Universal Bank Ltd

Account 020501 - Customer Credit O/S - FX

Date	Value	Particulars	Debit	Credit
11-Jan-06		Amount Recvd for Forex Deal		2,213,000.00
11-Jan-06		Amount Recvd for Forex Deal		2,536,000.00
11-Jan-06		Amount Recvd for Forex Deal		2,514,000.00
11-Jan-06		Amount Recvd for Forex Deal		3,426,679.75
11-Jan-06		Amount Recvd for Forex Deal		2,327,400.00
11-Jan-06		Amount Recvd for Forex Deal		3,396,090.00
11-Jan-06		Outward Credit Value: 12 Jan 2006	3,426,679.75	
11-Jan-06		Outward Credit Value: 12 Jan 2006	3,227,400.00	
11-Jan-06		Outward Credit Value: 12 Jan 2006	2,327,400.00	
11-Jan-06		Outward Credit Value: 12 Jan 2006	2,254,700.00	
11-Jan-06		Outward Credit Value: 12 Jan 2006	3,640,351.00	
11-Jan-06		Outward Credit Value: 12 Jan 2006	2,254,700.00	
11-Jan-06		Outward Credit Value: 12 Jan 2006	3,374,280.00	
11-Jan-06		Outward Credit Value: 12 Jan 2006	2,327,400.00	
11-Jan-06		Outward Credit Value: 12 Jan 2006	3,192,530.00	
11-Jan-06		Outward Credit Value: 12 Jan 2006	2,536,000.00	
11-Jan-06		Outward Credit Value: 12 Jan 2006	2,213,000.00	
11-Jan-06		Outward Credit Value: 12 Jan 2006	2,514,000.00	
11-Jan-06		Rcvd for Fx Deal		3,517,250.00
11-Jan-06		Rcvd for Fx Deal		1,804,015.00
12-Jan-06		Amount Recvd for Forex Deal		2,870,020.00
12-Jan-06		Amount Recvd for Forex Deal		2,609,200.00
12-Jan-06		Amount Recvd for Forex Deal		2,377,360.00
12-Jan-06		Amount Recvd for Forex Deal		2,261,440.00
12-Jan-06		Amount Recvd for Forex Deal		500,000.00
12-Jan-06		Amount Recvd for Forex Deal		2,586,486.00
12-Jan-06		Amount Recvd for Forex Deal		442,829.00
12-Jan-06		Amount Recvd for Forex Deal		1,804,015.00
12-Jan-06		Amount Recvd for Forex Deal for TT...		3,640,351.00
12-Jan-06		Amount Recvd for Forex Deal for TT...		2,254,700.00
12-Jan-06		Amount Recvd for Forex Deal for TT...		3,396,090.00
12-Jan-06		Amount Recvd for TT + Chrgs		3,192,530.00
12-Jan-06		Amount Recvd for Forex Deal for TT...		3,374,280.00
12-Jan-06		Amount Recvd for Forex Deal for TT...		3,517,250.00
12-Jan-06		Amount Recvd for FX Deal for TT...		3,507,580.00
12-Jan-06		Amount Recvd for Forex Deal for TT...		2,283,175.00
12-Jan-06		Amount Recvd for Forex Deal for TT...		2,304,910.00
12-Jan-06		Outward Credit Value: 13 Jan 2006	2,870,020.00	
12-Jan-06		Outward Credit Value: 13 Jan 2006	2,261,440.00	
12-Jan-06		Outward Credit Value: 13 Jan 2006	442,829.00	
12-Jan-06		Outward Credit Value: 13 Jan 2006	2,586,486.00	
12-Jan-06		Outward Credit Value: 13 Jan 2006	500,000.00	
12-Jan-06		Outward Credit Value: 13 Jan 2006	2,377,360.00	
12-Jan-06		Outward Credit Value: 13 Jan 2006	2,283,175.00	
12-Jan-06		Outward Credit Value: 13 Jan 2006	3,507,580.00	
12-Jan-06		Outward Credit Value: 13 Jan 2006	2,304,910.00	
12-Jan-06		Outward Credit Value: 13 Jan 2006	2,609,200.00	
Total 55,939,295.75 55,939,295.75				

Paramount Universal Bank Ltd

Account 020501 - Customer Credit O/S - FX

Date	Value	Date	Particulars	Debit	Credit
1-Feb-06	2,500,000.00		Outward Credit Value: 2 Jan 2006		2,500,000.00
1-Feb-06	2,460,000.00		Outward Credit Value: 2 Jan 2006		2,460,000.00
1-Feb-06	10,833.00		Outward Credit Value: 2 Jan 2006		10,833.00
1-Feb-06	400,000.00		Outward Credit Value: 2 Jan 2006		400,000.00
1-Feb-06	652,000.00		Outward Credit Value: 2 Jan 2006		652,000.00
1-Feb-06	300,000.00		Outward Credit Value: 2 Jan 2006		300,000.00
1-Feb-06	700,000.00		Outward Credit Value: 2 Jan 2006		700,000.00
1-Feb-06	500,000.00		Outward Credit Value: 2 Jan 2006		500,000.00
1-Feb-06	3,525,849.60		Outward Credit Value: 2 Jan 2006		3,525,849.60
1-Feb-06	1,832,140.00		Outward Credit Value: 2 Jan 2006		1,832,140.00
1-Feb-06	3,571,660.00		Outward Credit Value: 2 Jan 2006		3,571,660.00
1-Feb-06	3,485,620.00		Outward Credit Value: 2 Jan 2006		3,485,620.00
1-Feb-06	800,000.00		Outward Credit Value: 2 Jan 2006		800,000.00
1-Feb-06	10,833.00		Outward Credit Value: 2 Jan 2006		10,833.00
1-Feb-06	706,167.00		Outward Credit Value: 2 Jan 2006		706,167.00
1-Feb-06	1,441,500.00		Outward Credit Value: 2 Jan 2006		1,441,500.00
2-Feb-06	2,460,000.00		Amnt Recvd for Forex Deal	2,460,000.00	
2-Feb-06	2,250,000.00		Amnt Recvd for Forex Deal	2,250,000.00	
2-Feb-06	400,000.00		Amnt Recvd for Forex Deal	400,000.00	
2-Feb-06	800,000.00		Amnt Recvd for Forex Deal	800,000.00	
2-Feb-06	2,460,000.00		Amnt Recvd for Forex Deal	2,460,000.00	
2-Feb-06	2,250,000.00		Amnt Recvd for Forex Deal	2,250,000.00	
2-Feb-06	400,000.00		Amnt Recvd for Forex Deal	400,000.00	
2-Feb-06	800,000.00		Amnt Recvd for Forex Deal	800,000.00	
2-Feb-06	10,833.00		Amnt Recvd for Forex Deal	10,833.00	
2-Feb-06	706,167.00		Amnt Recvd for Forex Deal	706,167.00	
2-Feb-06	1,441,500.00		Amnt Recvd for Forex Deal	1,441,500.00	
2-Feb-06	1,832,140.00		Amnt Recvd for Forex Deal	1,832,140.00	
2-Feb-06	3,525,849.60		Amnt Recvd for Forex Deal	3,525,849.60	
2-Feb-06	700,000.00		Amnt Recvd for Forex Deal	700,000.00	
2-Feb-06	300,000.00		Amnt Recvd for Forex Deal	300,000.00	
2-Feb-06	500,000.00		Amnt Recvd for Forex Deal	500,000.00	
2-Feb-06	652,000.00		Amnt Recvd for Forex Deal	652,000.00	
2-Feb-06	3,571,660.00		Amnt Recvd for Forex Deal	3,571,660.00	
2-Feb-06	3,485,620.00		Amnt Recvd for Forex Deal	3,485,620.00	
2-Feb-06	3,514,300.00		Amnt Recvd for Forex Deal	3,514,300.00	
2-Feb-06	1,662,430.00		Amnt Recvd for Forex Deal	1,662,430.00	
2-Feb-06	1,435,000.00		Amnt Recvd for Forex Deal	1,435,000.00	
338,000.00				338,000.00	
3,514,300.00				3,514,300.00	
1,435,000.00				1,435,000.00	
1,662,430.00				1,662,430.00	
338,000.00				338,000.00	
3,514,300.00				3,514,300.00	
Total 29,585,499.60 29,835,499.60					