



Gníomhaireacht Náisiúnta um Bhainistíocht Sócmhainní  
National Asset Management Agency



13 December 2011

Mr. Ted McEnery,  
Clerk,  
Committee of Public Accounts,  
Leinster House,  
Dublin 2.

Dear Mr. McEnery,

Thank you for your letter of 6<sup>th</sup> December following my response to the Committee of 23<sup>rd</sup> November which provided additional information in respect of the particular matters raised following NAMA's appearance before the Committee on 26<sup>th</sup> October.

I enclose further responses having regard to the transcript of the PAC meeting of 1<sup>st</sup> December.

Yours sincerely,

**Brendan McDonagh**  
Chief Executive Officer

Responses to issues raised

1. *Principals in receipt of €200,000 salaries from Debtor businesses.*  
*A further clarification note was requested regarding the two chief executives of NAMA debtor connections in receipt of annual salaries of €200,000 from their businesses and whether they are resident in the Republic of Ireland and pay their personal income tax here.*

NAMA confirms that two individuals, who are the principal shareholders of businesses which are two of the top three most substantial NAMA borrowers, are being paid Chief Executive Officer salaries of €200,000 per annum by their businesses. This money is being paid out of overhead budgets approved for the businesses by NAMA as part of the business planning process.

Questions raised at the Committee of Public Accounts appearance on 26 October 2011 about the tax residency of these two individuals were answered at the time without the benefit of having all the information requested to hand and therefore my answer on the day offered to check the precise position and revert; I stated at the time “I understand that they are resident in the State for tax purposes but I can check it for the Deputy.”

NAMA would not in its ordinary course of business have an awareness of the tax residence status of any individual. This status therefore had to be validated with the individuals involved. Tax residency of an individual is a matter for that individual and the Taxation Authorities in the relevant jurisdiction and it is not a matter over which NAMA has any influence or control.

In response to a letter from the Clerk to the Committee dated 9<sup>th</sup> November I replied (in my letter dated 23<sup>rd</sup> November) that one of the two chief executives in question is tax resident in the UK. I understand this is because his principal business interests and assets are in the UK which results in him spending the majority of his time working in that jurisdiction.

NAMA has acquired the loans of some 800 borrowers, a significant number of whom are neither Irish resident nor Irish citizens. I estimate that approximately 15% of the 800 NAMA borrowers are not Irish citizens or tax resident in Ireland. This is not surprising given that 43% of the loan portfolio is outside Ireland.

It should be noted that while the tax status of an individual NAMA borrower would not be a matter for consideration by NAMA, NAMA is required to exchange information with the Irish Revenue Commissioners and provide them with such information that they may request on NAMA Debtors for the performance of their duties. This is in accordance with section 204 of the NAMA Act, as amended by section 154 of the 2010 Finance Act. NAMA has provided such information to the Revenue Commissioners.



Responses to issues raised

2. *Interest roll-up*

**A note providing details of the number of loans where interest is being rolled up or zero interest is being charged, to include the value of such loans.**

**Further clarification was requested in respect of the number of loans where zero interest is being charged or interest has been rolled-up.**

In the run-up to the current banking crisis, when Banks were making property development loans, they frequently offered borrowers additional loan facilities from which they could “pay” their interest. This enabled the banks to maintain the status of the development loans as ‘performing’ so that the Bank could recognise such interest as income in its own financial statements.

NAMA does not engage in such accounting practices and considers loans where (1) interest is not actually paid but is capitalised (added to the loan balance) or (2) where zero interest applies, to be **non-performing** i.e. we do not recognise rolled up unpaid interest as income in our financial statements.

My response to the Committee of 23<sup>rd</sup> November sought to give as full a response to the question which I believe had been posed in respect of the roll-up of interest. In particular I sought to outline to the Committee the number and value of non-performing loans, which includes all loans for which no interest payments are currently being received from the borrowers.

My response outlined that, as at 30<sup>th</sup> June (the date of our last Government released Section 55 report to the Minister for Finance), NAMA had 8,613 non-performing loans with a par debt of €54.8 billion. The term par debt refers to the original value of the borrowings / debt from the bank rather than the price NAMA paid for the loans.

It further outlined that, of these 8,613 loans which we deem to be non-performing, 199 loans with a par debt balance of €1.857 billion are “Current Non-Cash Loans”. This means that, although no interest is being received on these loans, they are not *technically* or *legally* in arrears because the original contracts agreed by the banks in respect of these loans allowed the interest to be capitalised (added to the loan balance) or the account has a zero rate of interest applying to it. While they may not be *technically or legally* in arrears, we still think it prudent to include them in our non-performing loan calculations.

The split requested of the “Current Non-Cash” loans between loans where the banks agreed zero interest is being charged and loans where the banks agreed that interest is being capitalised is as follows:

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### Responses to issues raised

Current Non-Cash Split	No. of Loans	Par Debt at 30 June 2011
		€m
Capitalised Loans	184	1851
Zero per cent loans	15	6
	<u>199</u>	<u>1857</u>

### 3. *Loan interest*

**A note outlining how interest is calculated on loans, to incorporate technical details and information on whether the debtor is paying the interest on the original value of the loan or on the marked down value.**

**A further financial breakdown was requested in respect of the difference between the interest chargeable on the original loans taken over by NAMA and the amount recognised by NAMA in its accounts in respect of the same loans.**

It may be worth opening on this issue by stating that there is a significant difference between (1) how NAMA deals with debtors on a day-to-day basis in respect of their loans and the legal obligations and (2) how NAMA reports for accounting purposes in its financial statements.

As stated in my previous written response, NAMA is required to prepare its financial statements in accordance with International Financial Reporting Standards (IFRS) and these standards set down clear requirements as to how institutions like NAMA can report on their performance during a period.

In respect of interest, the accounting policy adopted under IFRS requires interest income to be recognised in its financial statements in accordance with the **Effective Interest Rate (EIR) methodology**. Under this EIR methodology interest income in our financial statements must be recognised based on the acquisition (marked down) value of NAMA's loans of €31.7 billion (not the par debt balance of €74 billion) and the expected future cash flows in respect of these loans.

The interest recognised by NAMA in its income statement ("P&L") is in accordance with the Effective Interest Rate methodology, as required under Accounting Standards reflects NAMA's expectations that its acquired loans will be paid down primarily through cash received from the future disposal of the related properties which are security for the loans acquired.

NAMA does not recognise income in its financial statements based on the contractual interest being accrued on the nominal or original par value of the loan.



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As we have advised in our various published quarterly accounts since 31 March 2010, a very significant portion of NAMA's loans are not performing (77% are non performing as at 30<sup>th</sup> June 2011). While it remains our objective to recover as much of the original loans as possible, the agency cannot anticipate based on current property values – for accounting purposes – that NAMA will recover the original par value of the loans (as it paid €31.7 billion for €74 billion of par loans) together with accrued interest. Therefore accounting standards do not permit the recognition of income based on the interest accrued on the €74 bn par debt / original par value of the loans.

During 2010, NAMA recognised interest income on its loans of €448m in its audited income statement (P&L) of its financial statements in accordance with the Effective Interest Rate methodology. The interest accrued in accordance with the original terms of these loans (par debt) in the same period is estimated at €770m. It must be stressed that as far as borrowers are concerned, they continue to legally owe all of what they borrowed in par debt terms and the associated accrued interest. This interest continues to be charged to the debtors in accordance with their contractual loan agreements unless and until the loans have been restructured but it is not recognised in NAMA's financial statements as it would not give a true and fair view.

During 2010, since the acquisition date of the loans, NAMA received total cash of €734m from borrowers which included the proceeds of sale of property of €363m and other loan cash receipts of €371m. For the purposes of NAMA's 2010 audited financial accounts, this cash received was applied against the interest recognised in its P&L during the period of €448m with the balance of €286m (€734m – €448m) being applied to reduce the principal balance on acquired loans.