

Public Accounts Committee

Opening Statement of Patrick Casey on Behalf of the Central Bank

Introduction

Mr. Chairman, by way of introduction, my name is Patrick Casey and I head up the Special Resolution Unit (SRU) in the Central Bank. SRU carries out resolution related activities in accordance with the Governor's instructions covering credit unions, banks and investment firms. SRU is located in the Central Banking pillar of the Central Bank, and for legal reasons it is "operationally separate" from the Financial Regulation area, which is responsible for the regulation and supervision of licenced firms. Given my resolution related role, I hope to be able to address your questions on the Credit Institutions Resolution Fund (the "**Resolution Fund**"), and in particular the three resolution cases which have been undertaken to date within the credit union sector.

I am joined by Fergal Power who is the Head of Division for Financial Control and Procurement. He is responsible for financial reporting matters, and is here to assist in addressing your questions concerning the Resolution Fund and in particular its annual accounts.

Ireland's resolution regime

As this Committee is aware, the passing of the Central Bank and Credit Institutions (Resolution) Act 2011 (the Resolution Act) by the Oireachtas placed Ireland's domestic resolution regime on a statutory footing in late 2011¹.

The purposes of the Resolution Act include the provision of a resolution regime - for the management of failed or failing credit institutions - that is effective in protecting the Exchequer, the stability of the financial system and the economy, maintaining public confidence and protecting the interests of depositors. The Resolution Act specifies the powers of the Central Bank in relation to resolution matters, powers which are exercisable by the Governor, subject to High Court approval.

The Purpose of the Resolution Fund

The Resolution Fund was established under the Resolution Act, and the Central Bank is responsible for the management and administration of the Resolution Fund.

¹ At present, Ireland's domestic banks fall outside the remit of the Resolution Act, as they fall within the remit of the Credit Institutions (Stabilisation) Act 2010. As such, the Resolution Act applies only to international owned banks operating in Ireland, and to credit unions and building societies. From early 2015, it is anticipated that all banks licensed to operate in Ireland will fall within the remit of the Irish legislation transposing the EU Bank Recovery and Resolution Directive.

The Resolution Act expressly restricts the utilisation of Resolution Fund resources to²:

- paying a financial incentive to a transferee under a High Court-approved transfer order;
- providing capital for a State controlled bridge bank; and
- discharging any resolution-related costs incurred by the Central Bank itself.

Contributions to the Resolution Fund

Contributions to the Resolution Fund comprise: (i) fully refundable monies contributed by the Minister for Finance, and (ii) non-refundable levies raised from the credit institutions industry under regulations issued by the Minister. On 23 December 2011 the Minister contributed €250 million to the Resolution Fund. The Minister has also made regulations to provide for the raising of levies from the credit institutions industry – to date there have been two levy periods³, with c. €19 million collected during those levy periods, of which credit unions contributed c. €14.1 million. The current balance in the Resolution Fund is €239 million.

Statutorily requirements to undertake resolution action with fund resources

In the context of the credit union sector, EU State Aid approval⁴ for the use of fund resources is only available to support resolution action by means of a transfer order of all asset and liabilities of a failed or failing firm⁵. When a transfer order is proposed as a means to address a firm's difficulties, the following steps must be undertaken, *inter alia*:

- in line with EU State Aid principles, the Resolution Act requires the Central Bank to conduct a competitive bid process concerning the transferring assets/liabilities to ascertain market value;
- the Governor, on behalf of the Central Bank, must decide whether the “intervention conditions” under the Resolution Act have been met, and whether a transfer order is “necessary in all of the circumstances”, representing a very high legal threshold requiring the exhaustion of all other available options. The Resolution Act stipulates that an immediate winding up of the distressed firm must not be in the public interest, including that it is more cost effective to transfer the distressed firm than to liquidate it;
- the Minister for Finance must be formally consulted and must approve the provision of any financial incentive to a transferee under the Resolution Act; and
- Finally, the High Court must approve a transfer order, and it must therefore be satisfied that the detailed legal tests under the Resolution Act have been met in the circumstances of the case.

² The Resolution Fund can also be used to remunerate an Assessor or Valuer appointed under the Resolution Act, and to provide any compensation that either of those officers may direct. The resources of the Resolution Fund cannot be used for any other purpose.

³ the Credit Institutions Resolution Fund Levy Regulations 2012 and the Credit Institutions Resolution Fund Levy Regulations 2013. Credit Institutions Resolution Fund Levy Regulations 2014 covers a third levy period.

⁴ State aid SA.38985 (2014/N) – Ireland “5th prolongation of the Credit Union Resolution Scheme H2 2014”

⁵ There is a limited carve out exception relating to the exclusion from transfer of the firm's premises

Conclusion

To conclude, when the Central Bank undertakes a resolution action in accordance with the Resolution Act, the resources of the Resolution Fund can only be used to fund any financial incentive under strictly prescribed circumstances.

While the Central Bank is responsible for undertaking resolution action under the Resolution Act, the Minister for Finance must approve all financial incentive payments drawn on the Resolution Fund, and the High Court must grant the transfer order. While the Central Bank is responsible for the management and administration of the Resolution Fund, the Minister for Finance retains the power to raise levies from industry to replenish the Resolution Fund's resources.

It is also important to note that as a consequence of the three resolution cases undertaken in the credit union sector to date (see Appendix for further detail), no depositor has lost their savings.

Finally, given the underlying sensitivities involved, I am precluded from discussing any specific cases that may or may not be with the Special Resolution Unit for resolution.

I thank the Committee for the opportunity to present details on the Resolution Fund and our resolution processes, and I am happy to answer any questions you may have in that regard.

Appendix

Use of Resolution Fund resources to resolve failed or failing firms

Resolution Fund resources have been utilised on three resolution cases concerning credit unions:

- A. Newbridge Credit Union Limited: under a transfer order of the High Court relating to the transfer of the assets and liabilities (excluding the premises) of Newbridge Credit Union Limited to permanent tsb Group Holdings p.l.c. (ptsb) dated 10 November 2013, the Minister for Finance agreed to provide ptsb with a financial incentive from the Resolution Fund. A financial incentive agreement prescribes in detail the terms of the incentive provided to ptsb from the Resolution Fund. At transfer, c.€23 million was paid to ptsb to cover the existing balance sheet shortfall. Under the financial incentive agreement, ptsb has been provided with additional protections of up to c. €30.9 million to cover restructuring & integration costs, transferring liabilities and a 50/50 profit and loss sharing arrangement in respect of the performance of the transferring loan book. To date, c. €1.1 million has been paid to ptsb under these additional protections (c. €0.3 million for transferring liabilities and c. €0.8 million for restructuring costs, and no payments have been made from the Resolution Fund in respect of integration costs and loss sharing). It should be noted that the Minister for Finance, in agreeing to the provision of this financial incentive, committed to the ring-fencing within the Resolution Fund of up to c. €53.9 million, the maximum amount potentially payable to ptsb under the financial incentives agreement.

- B. Howth Sutton Credit Union Limited: under a High Court approved transfer order of 5 March 2014, the assets and liabilities of Howth Sutton Credit Union Limited were transferred to Progressive Credit Union Limited. The Minister for Finance approved the payment of a financial incentive in cash amounting to €2.15 million to Progressive Credit Union Limited. No further liability is owed to Progressive Credit Union Limited.

- C. Berehaven Credit Union Limited: The High Court granted a winding up order concerning Berehaven Credit Union Limited on 23 July 2014. Depositors' cheques, drawn of the Deposit Guarantee Scheme, were issued within 7 days. No financial incentive was payable from the Resolution Fund in that case.

Central Bank resolution related costs

In all three cases referred to above, the Central Bank has discharged its resolution-related costs against the Resolution Fund totalling c. €2.3 million. This is split between legal costs of €2.1 million, other adviser costs of €0.1 million and advertising & audit costs of €0.1 million.