



TITHE AN OIREACHTAIS

**An Comhchoiste um Airgeadas, Caiteachas Poibli agus Athchóiriú, agus
Taoiseach**

Tuarascáil maidir le hIdirghníomhú le Cistí Infheistíochta

2018

HOUSES OF THE OIREACHTAS

**Joint Committee on Finance, Public Expenditure and Reform, and
Taoiseach**

Report on Engagement with Investment Funds

2018

32-FPERT-011

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INTRODUCTION

1. In this Report, the Joint Committee addresses difficulties it has experienced in examining the operation of entities commonly referred to as 'Vulture Funds' and makes recommendations in that regard.
2. For the purposes of this Report, the term 'Vulture Fund' is used to describe an investment fund which has purchased mortgage loans secured on Irish residential properties, typically at a discounted rate, which is not regulated by the Central Bank of Ireland (the Central Bank).
3. Credit Servicing Firms are typically firms that manage or administer credit agreements such as mortgages or other loans on behalf of unregulated entities such as Vulture Funds. The Consumer Protection (Regulation of Credit Servicing Firms) Act, 2015 ("the 2015 Act")¹ provides for a regulatory regime in respect of Credit Servicing Firms, bringing such firms within the Central Bank's regulatory remit. Relevant borrowers whose loans are sold to unregulated third parties maintain the regulatory protections they had prior to the sale, including the protections provided by the Central Bank's statutory Codes of Conduct.

VULTURE FUND ACTIVITY IN THE IRISH MORTGAGE MARKET

4. The Central Bank routinely publishes mortgage data in respect of 'non-bank entities'. Non-bank entities comprise both regulated retail credit firms and unregulated loan owners.²
5. In December 2017, the Central Bank published statistical data on mortgages in Ireland as at end-September 2017. The total number of residential mortgages in Ireland stood at 859,434, valued at €121 billion approximately.

¹ <http://www.irishstatutebook.ie>

² Central Bank of Ireland, Statistical Release 14 December 2017: *Residential Mortgage Arrears and Repossessions Statistics: Q3 2017*, page 10.

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Of that number, non-bank entities held 48,868 mortgage accounts for Principal Dwelling Houses (PDHs) and Buy-to-Let mortgages (BTLs) combined, valued at €9.3 billion approx.

6. Of the 48,868 mortgage accounts held by non-bank entities, unregulated loan owners or Vulture Funds held 18,092 mortgage accounts, valued at €3.98 billion approximately.³ Therefore, 18,092 Irish mortgage-holders are now customers of unregulated funds.
7. Anecdotal evidence suggests that a disproportionate number of complaints made to public representatives by mortgage-holders are mortgages-holders whose loans are now owned by Vulture Funds. For this reason and in the context of the Joint Committee's engagement on the banking sector generally, the Committee sought to meet with representatives of Vulture Funds and also Credit Servicing Firms which administer mortgage accounts on behalf of the unregulated Funds.

JOINT COMMITTEE ENGAGEMENT WITH VULTURE FUNDS

8. The Joint Committee formally invited representatives of the Vulture Funds and Credit Servicing Firms to meet with it for the purpose of discussing their Irish operations and to explore the extent to which the regulated Credit Servicing Firms are adhering to all statutory obligations, including the Central Bank's Code of Conduct on Mortgage Arrears (2013)⁴ in the management of Irish mortgage accounts. The Committee also wished to explore the adequacy of the safeguards in place for mortgage-holders whose loans are held by Vulture Funds, particularly in the context of future possible portfolio sales of Irish residential mortgages. This development is probable as domestic pillar banks strive to eliminate non-performing loans (NPLs) from

³ Central Bank of Ireland, Statistical Release 14 December 2017 : **Residential Mortgage Arrears and Repossessions Statistics: Q3 2017** , pages 11 and 12

⁴ <https://www.centralbank.ie/docs/default-source/Regulation/consumer-protection/other-codes-of-conduct/24-gns-4-2-7-2013-ccma.pdf?sfvrsn=4>

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balance sheets in line with EU policy direction as outlined by the EU Commission in a recent Communication on Completing the Banking Union⁵.

9. To date, representatives of Vulture Funds or Credit Servicing Firms have not attended before the Joint Committee. Pursuant to the Standing Orders of the Houses of the Oireachtas and in line with its Orders of Reference, the Joint Committee is empowered to consider and report on matters of policy for which the Minister for Finance is officially responsible. Government policy pertaining to the Irish financial services sector falls within the policy remit of the Department of Finance.

10. The Committee sought and received from the Department of Finance details of its engagement with the Funds industry, including Vulture Funds, from 2013 to 2016. The information provided is extensive, with approximately 125 relevant meetings listed. This demonstrates the level of interaction between Vulture Funds and the Department of Finance over those years.

11. Regulation of the financial services sector, including entities operating in the Irish mortgage market, is the responsibility of the Central Bank of Ireland. In evidence to the Committee on 18 January, the Governor of the Central Bank, Mr. Philip Lane stated that the Central Bank:

“would be very disappointed that any firm that has a serious presence here in Ireland would not come before the Committee to explain its behaviour... We think that firms with a serious role in the Irish economy have a social responsibility to account for themselves before the Committee”.

⁵ COM(2017)592 final : Communication on completing the Banking Union

REGULATION OF VULTURE FUNDS

12. The Consumer Protection (Regulation of Credit Servicing Firms) Act, 2015, places statutory obligations on Credit Servicing Firms. The Central Bank oversees compliance in this regard.

13. Currently, the law neither requires nor permits the Central Bank to oversee the activities of unregulated loan owners, the Vulture Funds. The Committee is of the opinion that this represents a gap in the current legislative framework.

RECOMMENDATIONS OF THE JOINT COMMITTEE

14. As stated, the Committee wishes to explore the adequacy of the safeguards in place for mortgage-holders whose loans are held by Vulture Funds, particularly in the context of likely future portfolio sales of NPLs. Unregulated loan owners or Vulture Funds have repeatedly declined invitations of the Joint Committee to meet with it for that purpose. This is in contrast to the extensive engagement such Funds have had with the Department of Finance.

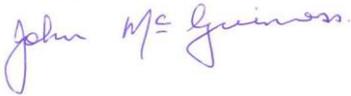
15. The Committee regrets the position of the Funds in declining such invitations from the Joint Committee.

16. The Committee concurs with the statement of the Governor of the Central Bank regarding the social responsibility of firms operating in the Irish economy to be accountable to Parliament.

17. Therefore, the Committee recommends that Government cease engagement with all unregulated loan owners or Vulture Funds until such time as these entities agree to meet with the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach for the purposes outlined in paragraphs 8 of this Report.

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18. Furthermore, the Committee recommends that the Government introduce legislation to provide for the regulation of entities that are currently unregulated – the loan owners operating in the Irish Mortgage Market.



John McGuinness, TD.
Chairman

8 March, 2018.

APPENDIX 1

Orders of Reference

a. Functions of the Committee – derived from Standing Orders [DSO 84A; SSO 70A]

- (1) The Select Committee shall consider and report to the Dáil on—
 - (a) such aspects of the expenditure, administration and policy of a Government Department or Departments and associated public bodies as the Committee may select, and
 - (b) European Union matters within the remit of the relevant Department or Departments.
- (2) The Select Committee appointed pursuant to this Standing Order may be joined with a Select Committee appointed by Seanad Éireann for the purposes of the functions set out in this Standing Order, other than at paragraph (3), and to report thereon to both Houses of the Oireachtas.
- (3) Without prejudice to the generality of paragraph (1), the Select Committee appointed pursuant to this Standing Order shall consider, in respect of the relevant Department or Departments, such—
 - (a) Bills,
 - (b) proposals contained in any motion, including any motion within the meaning of Standing Order 187,
 - (c) Estimates for Public Services, and
 - (d) other mattersas shall be referred to the Select Committee by the Dáil, and
 - (e) Annual Output Statements including performance, efficiency and effectiveness in the use of public monies, and

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- (f) such Value for Money and Policy Reviews as the Select Committee may select.
- (4) The Joint Committee may consider the following matters in respect of the relevant Department or Departments and associated public bodies:
- (a) matters of policy and governance for which the Minister is officially responsible,
 - (b) public affairs administered by the Department,
 - (c) policy issues arising from Value for Money and Policy Reviews conducted or commissioned by the Department,
 - (d) Government policy and governance in respect of bodies under the aegis of the Department,
 - (e) policy and governance issues concerning bodies which are partly or wholly funded by the State or which are established or appointed by a member of the Government or the Oireachtas,
 - (f) the general scheme or draft heads of any Bill,
 - (g) any post-enactment report laid before either House or both Houses by a member of the Government or Minister of State on any Bill enacted by the Houses of the Oireachtas,
 - (h) statutory instruments, including those laid or laid in draft before either House or both Houses and those made under the European Communities Acts 1972 to 2009,
 - (i) strategy statements laid before either or both Houses of the Oireachtas pursuant to the Public Service Management Act 1997,
 - (j) annual reports or annual reports and accounts, required by law, and laid before either or both Houses of the Oireachtas, of the Department or bodies referred to in subparagraphs (d) and (e) and the overall performance and operational results, statements of strategy and corporate plans of such

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bodies, and

(k) such other matters as may be referred to it by the Dáil from time to time.

(5) Without prejudice to the generality of paragraph (1), the Joint Committee appointed pursuant to this Standing Order shall consider, in respect of the relevant Department or Departments—

(a) EU draft legislative acts standing referred to the Select Committee under Standing Order 114, including the compliance of such acts with the principle of subsidiarity,

(b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,

(c) non-legislative documents published by any EU institution in relation to EU policy matters, and

(d) matters listed for consideration on the agenda for meetings of the relevant EU Council of Ministers and the outcome of such meetings.

(6) Where a Select Committee appointed pursuant to this Standing Order has been joined with a Select Committee appointed by Seanad Éireann, the Chairman of the Dáil Select Committee shall also be the Chairman of the Joint Committee.

(7) The following may attend meetings of the Select or Joint Committee appointed pursuant to this Standing Order, for the purposes of the functions set out in paragraph (5) and may take part in proceedings without having a right to vote or to move motions and amendments:

(a) Members of the European Parliament elected from constituencies in Ireland, including Northern Ireland,

(b) Members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and

(c) at the invitation of the Committee, other Members of the

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European Parliament.

- (8) A Select Committee appointed pursuant to this Standing Order may, in respect of any Ombudsman charged with oversight of public services within the policy remit of the relevant Department or Departments, consider—
- (a) such motions relating to the appointment of an Ombudsman as may be referred to the Committee, and
 - (b) such Ombudsman reports laid before either or both Houses of the Oireachtas as the Committee may select.

b. Scope and Context of Activities of Committees (as derived f Standing Orders) [DSO 84; SSO 70]

- (1) The Joint Committee may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders; and
- (2) Such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil and/or Seanad.
- (3) The Joint Committee shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Committee of Public Accounts pursuant to Standing Order 186 and/or the Comptroller and Auditor General (Amendment) Act 1993; and
- (4) any matter which is being considered, or of which notice has been given of a proposal to consider, by the Joint Committee on Public Petitions in the exercise of its functions under Standing Orders [DSO 111A and SSO 104A].
- (5) The Joint Committee shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—
 - (a) a member of the Government or a Minister of State, or
 - (b) the principal office-holder of a body under the aegis of a Department or which is partly or wholly funded by the State or established or appointed by a member of the

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Government or by the Oireachtas:

Provided that the Chairman may appeal any such request made to the Ceann Comhairle / Cathaoirleach whose decision shall be final.

- (6) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice given by the Chairman of the Select Committee, waives this instruction on motion made by the Taoiseach pursuant to Dáil Standing Order 28. The Chairmen of Select Committees shall have responsibility for compliance with this instruction.

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APPENDIX 2

Members of the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach

Deputies:

John McGuinness T.D. (FF) (Chairman)

Peter Burke T.D. (FG)

Joan Burton T.D. (Lab)

John Deasy (FG)

Pearse Doherty T.D. (SF)

Michael McGrath T.D. (FF)

Paul Murphy T.D. (Ind)

Senators:

Gerry Horkan (FF) (Vice-Chairman)

Paddy Burke (FG)

Rose Conway-Walsh (SF)

Kieran O'Donnell (FG)