Opening Statement by Mr. Eoin Dorgan, Principal Officer in the Department of Finance, to the Oireachtas Committee on Rural and Community Development

Wednesday 6th March 2019

I would like to thank the Committee for inviting the Department to address it in relation to the matter of “Abandoned Safety Deposit Boxes, and the Law”. I am accompanied by Fidelma Cotter and we look forward to hearing the Committee’s analysis of the issue.

As per the Committee’s correspondence, the lead Department in relation to the Dormant Accounts Act is the Department of Rural and Community Development, so that Department will lead on any amendments to the Act. The Department of Finance will feed into possible amendments as part of the normal Government decision making process.

Safety Deposit Boxes

The Department of Finance's analysis is that the provision of safety deposit boxes is not a regulated activity and as such, neither the Department nor the Central Bank have detailed information on these activities. Given the limited information available, the Department welcomes any analysis that the Committee can make available.

To be of assistance in advance of your analysis being provided, I will briefly set out the primary rationale for financial regulation and supervision, which has two overarching objectives:

- Firstly, to protect consumers given the complexity of financial products and services, and the significant informational advantages that financial service providers have compared to the average consumer;
• Secondly, to protect financial stability and the wider economy, given the substantial negative employment and economic impacts from financial instability events.

Based on these core principles of financial regulation and supervision, it is difficult to justify the regulation of safety deposit boxes from either a financial consumer protection or financial stability standpoint as:

• Safety deposit boxes are a very simple product that all customers can comprehend, essentially there are no significant information asymmetries in favour of the provider of the product.

• Safety deposit boxes do not provide a financial stability risk as there is no ability for the providers of the service to leverage the contents of the boxes. If they were doing so, they would fall within the definition of providing a banking service and as such would be regulated.

Legislative Proposals
In the event of legislative proposals on this matter, it is likely that there will be cost implications for either the State or the private sector, and as such a cost – benefit analysis must be conducted. Obviously, given the multiple competing pressures on public funds, any costs to the Exchequer from proposals must be considered as part of the annual Estimates process in comparison with all Government social and economic programmes. If costs are to be imposed on the private sector, a clear policy and principles rationale will be required to justify legislative changes that have cost implications for private individuals and private companies. It is vital that the benefit to the common good is clearly articulated and preferably, quantified.

Differences with Dormant Accounts Fund
As set out in the Secretary General’s letter to the Joint Committee, there is a significant difference between dormant accounts (and similar assets such as unclaimed life assurance policies) and abandoned safety deposit boxes. The existence of dormant accounts in banks is generally of significant benefit to banks as these
dormant accounts offer perpetual liquidity to the bank, which is a very significant benefit especially in periods of financial stress. Whereas, the maintenance of dormant safe deposit boxes are generally a cost to banks as they must incur the cost of maintaining the deposits for no benefit, or a minimal cross selling benefit.

The benefits arising to banks, as opposed to the State, from dormant accounts was a key rationale for the Dormant Accounts Act, which brought dormant accounts under the management of the State for use in supporting community development projects but also ensured repayment of dormant accounts if the owner was subsequently identified. However, the inverse of that policy rationale would apply for safety deposit boxes, which are a significant cost to the holder, and would also be a cost for the State if they were to be taken into State ownership.

Other Considerations
There are a number of additional interlinked factors that require careful consideration in relation to any proposal to bring assets in safety deposit boxes within the remit of the Dormant Accounts Fund or to make the assets subject to statutory reporting:

1. Insufficient information
There is no information available to the Department or the Central Bank on the possible contents of safety deposit boxes in existence throughout the banking sector, or possibly the wider storage sectors. This makes it very difficult to accurately quantify the number of assets that could be covered by the extension of the Dormant Accounts Act (or other Acts) and the likely cost implications for the State and/or private parties.

2. Protection of delicate contents
The National Archives and National Museum will be better positioned to advise on how best to open and review the contents of these boxes given the passage of time will mean the majority of these assets will be in extremely poor condition. Also, the
potential transfer and/or cataloguing of these assets on the basis of a State instruction could cause damage, thus potentially making the State liable for any compensation.

3. Multiple asset classes
The contents of these deposit boxes could be a wide variety of assets, as opposed to solely “money/deposits”, which is currently the asset class covered by the Dormant Accounts Act, in terms of deposits and life assurance policies. The variety of assets would dramatically increase the administration costs for any extension of the Act as the assets will likely be physical assets that must be carefully handled, valued and stored, as opposed to merely deposits/cash, which is a single asset class and a store of value.

Also, in the event of people coming forward to claim assets, the State can always pay out deposits. However, if the State sold unique assets (in order to fund community development activities under the Dormant Accounts Fund), the State is unlikely to be able to subsequently replace the asset or satisfy the affected person with adequate compensation.

In addition to the costs of opening the boxes, there is an extensive transfer cost involved in taking control of the contents of safekeeping deposit boxes, as opposed to a straightforward bank transfer for dormant accounts.

4. Transfer of liabilities to the State
As mentioned previously, the private banks are liable for the safekeeping of these deposit boxes, which is most likely a loss making activity. Any proposal that the State take over ownership will transfer the cost of keeping these assets to the State.

5. Legal considerations
In addition to the above policy considerations, there are a significant number of complex legal considerations that others are best placed to advise on, such as the exact
If the Committee seeks to further progress this matter, it may be worthwhile to consider alternative statutes that would allow the State to access safety deposits in order to identify and take control of assets that could be considered to be key historic artefacts. Such an approach would likely provide a stronger public interest rationale and legal basis but would require a full cost – benefit analysis.

**Conclusion**
As stated above, the relatively limited available information on safety deposit boxes make it very difficult to conduct the necessary cost – benefit analysis. However, a high level consideration of the above issues indicate that it is difficult to see how a proposal to make safety deposit boxes subject to the Dormant Accounts Act or a statutory cataloguing requirement would pass a full ex-ante cost benefit analysis given the existence of definite costs and risks as compared to very uncertain benefits.

I hope the above analysis is of assistance to the Committee and we will attempt to answer any questions that the Committee may have.