Draft Opening Statement for Minister Donohoe

Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach – 19 January 2022

I thank the Chairman and the Committee members for the invitation to appear before the Committee today to discuss a number of issues, including Covid-19 related supports and the sale of AIB shares.

I am joined by my officials;

- Mr Joe Cullen, Principal Officer with responsibility for Income Tax and the Employment Wage Subsidy Scheme, and
- Mr Brendan O'Leary, Principal Officer, Insurance and Pensions Policy.

Wage Subsidy Schemes

Firstly, in relation to the Covid-19 supports for businesses, the Employment Wage Subsidy Scheme (EWSS) together with its predecessor, the Temporary Wage Subsidy Scheme (TWSS), represent a substantial and key part of this Government's response to the current crisis. The schemes have played a central role in supporting businesses, encouraging employment and helping to maintain the link between employers and employees.

In money terms, the overall support provided to-date by EWSS and TWSS combined is almost €10 billion. In the case of EWSS alone, over €7 billion has been provided comprising direct subsidy payments of €6.123 billion and PRSI forgone of €956 million to 51,900 employers in respect of over 706,700 employees.

In addition, the Covid Restrictions Support Scheme (CRSS), a targeted support for businesses significantly impacted by restrictions introduced by the

Government under public health regulations to combat the effects of the Covid-19 pandemic, has provided support of €713 million to over 25,000 premises.

The EWSS legislation, enacted by the Oireachtas, places the administration of the scheme under the care and management of Revenue, which includes ensuring that this very significant investment of public funds is properly allocated to eligible employers. The legislation also incorporates important safeguards to ensure that the EWSS is correctly claimed by companies.

It was considered that the best metric to determine the impact of the public health restrictions was a decline in turnover and Revenue is rigorous in its structured programme of checks to ensure the eligibility of businesses for subsidy payments under EWSS and will pursue any instances where a business fails to qualify for the scheme for whatever reason. The Covid schemes are characterised by a high degree of compliance by beneficiary firms.

Companies paying Dividends

On the matter of companies who were in receipt of such support and subsequently paid dividends to their shareholders, I would state at the outset that I am not at liberty nor would it be appropriate for me to comment on the affairs of an individual taxpayer.

While the question of what dividends a company may or not be in position to pay to shareholders is a matter outside the current legislative remit of the scheme, as I have previously indicated I will keep this matter under review and assess if it would be appropriate to introduce any further conditionality into the scheme. I am strongly of the view that it would be important that any changes are proportionate and would not undermine the overarching policy rationale underpinning the scheme, which is to maintain employment. Over 700,000 employments have been supported by the EWSS and it is important that we do not lose sight of this important end goal.

I would stress that the overwhelming majority of companies that have participated in the wage subsidy schemes did so because they genuinely believed they would need support at that point based on the effect of the pandemic on their business.

Some companies subsequently had a strong financial year and ultimately considered that the State support was not required by them and returned the support received to Revenue. I would strongly encourage other companies who are in a similar situation to consider their position.

Future of Supports

As the Committee Members will be aware, in light of the necessity to reintroduce public health restrictions last December, the higher rates of EWSS were extended for a further two months across December and January. The EWSS was also re-opened from January 1st for certain businesses who otherwise may not be eligible. These enhancements are beneficial to all sectors of the economy and in particular those sectors most severely impacted by the pandemic, including the hospitality, arts and entertainment sectors.

The CRSS was also extended to 31 January 2022 and enhanced so that businesses that have been significantly restricted from trading can now qualify for the scheme; the turnover reduction criteria was also increased from no more than 25% to 40% of 2019 turnover, and new businesses established between 13 October 2020 and 26 July 2021 are now be eligible to apply for the scheme. These changes were made in recognition of the challenges facing businesses in the sectors directly impacted by public health regulations.

I and my Government colleagues have always committed that there will be no cliff-edge to supports for businesses while accepting that such supports cannot continue indefinitely. In that vein, we continue to monitor developments and consider options for the future of supports for impacted sectors.

Business Interruption Insurance

Turning now to the issue of business interruption insurance I would like to begin by noting that the majority of such policies in place did not provide business interruption cover in relation to COVID-19. Ultimately this is a legal, contractual matter between the relevant counterparties and in some cases has been the subject of litigation. Nonetheless, for the smaller number of policies that did provide such cover, it became apparent that some insurers deducted the value of State supports from claim settlements. Such deductions would appear as having been justified as being in-line with the established insurance principle of indemnity. Nevertheless, the Government was concerned that such action could be seen as representing a subsidy for insurers and furthermore, was not in-line with the prevailing spirit under which these extraordinary supports were provided.

My Department examined this issue firstly in terms of the prevailing relationship between State supports and insurance claims. It appears that in most instances, this issue does not arise because well-established measures already exist whereby State supports are not provided if losses are already covered by insurance, or where they are, they can be refunded to the State through official channels. Consideration was then given to whether the Government could legislate to ensure that the COVID-19 moneys retained by insurers were returned to the State. However, having received legal advice, it was determined not to enact legislation seeking to retrospectively recover the amounts deducted by insurers.

There is a lack of transparency around this general issue and therefore the Insurance (Miscellaneous Provisions) Bill, which is currently being drafted, includes as a clear, practical response two provisions directly linked to this.

The first will clarify that the Central Bank may collect for the purposes of the National Claims Information Database (NCID) data in relation to any State supports deducted from final settlement amounts. This enhanced transparency, building on the positive impact of the NCID, will enable us in the future to make better, evidence-based policy decisions to help ensure that this situation does not arise again, thus protecting the public interest. The second, pro-consumer provision will require insurers in the interests of transparency to inform policyholders of any such deductions of public moneys from final settlement amounts.

I note that there has been some discussion about the approach taken in the UK. The Financial Conduct Authority (FCA) advised that insurers should make a case-by-case assessment as to whether it is appropriate to make such deductions, considering the nature of the support and the terms of the policy. Here, the Central Bank's general approach is aligned with this FCA advice.

It is important to recall that at the start of the pandemic a core aim was to provide payments to the many businesses that needed them as quickly as possible. Objectively, I think we can agree this was achieved. However, there are lessons to be learnt about deductions by insurers. Accordingly, the Insurance (Miscellaneous Provisions) Bill 2021 will provide a robust, new framework to provide information on this practice. This, along with the policy learnings from this crisis will enable the Government, when developing new supports, to help ensure that this does recur.

I would also note that the test cases in relation to this issue are ongoing, and the courts are currently considering issues of quantum with a judgment expected soon. Accordingly, I am unable to comment further on these cases at this time.

Insurers must take a "customer first" approach to these matters, in line with the Central Bank's guidance on resolving issues around business interruption insurance. My door remains open to further engaging constructively on this issue.

The Government is continuing to prioritise a wide-range of actions in the insurance space, through the Action Plan for Insurance Reform. This aims to secure a more sustainable and competitive insurance environment for all groups, including businesses. The Implementation Report published last July showed that significant work had been made in this regard, including significant measures such as the implementation of new Personal Injuries Guidelines. I expect that the next Implementation Report, due in the coming weeks, will note the positive developments which in time should be reflected in insurance for businesses, as well as community, voluntary and sporting organisations.

Sale of AIB Shares

In relation to the AIB Trading Plan, I announced to the market on 21st December 2021 of my intention to sell part of the State's 71.2% directed shareholding in AIB over the next six months by the way of a trading plan. The trading plan will be managed, on behalf of the State, by Bank of America Merrill Lynch.

The Government believes that banking is an activity that should be provided by the private sector and that taxpayer funds which were used to rescue the banks should be recovered and used for more productive purposes. My announcement on 21st December 2021 in relation to AIB is further progress in the Government's policy of monetising its remaining stakes in the banks and returning them fully into private ownership.

A total of €29.4bn was invested in AIB, BOI and PTSB over the period 2009 to 2011. To the beginning of November 2021, €19.5bn has been recovered in cash by way of disposals, investment income and liability guarantee fees.

In the case of AIB, the State invested €20.75bn and has recovered €10.62bn leaving a deficit of €10.13bn. As at 10th January 2022 (the day before the trading plan was launched), the State's remaining equity stake in AIB was valued at c. €5bn.

I have instructed Bank of America Merrill Lynch to target that up to, but no more than, 15% of the expected aggregate total trading volume in AIB is to be sold over the duration of the trading plan. This is to ensure that the State as seller does not disturb trading in the price of the shares on any given day. The number of shares sold each day will depend on market conditions, amongst other factors.

The trading plan has been designed to handle volatility in the share price. We will only be selling a small amount of shares each day and a floor price has been built into the plan below which shares cannot be sold. So the important outcome is not the price on a particular day but what on average is achieved over the duration of the plan.

This trading plan will enable us to start reducing our stake in AIB again for the first time since the IPO in 2017. I expect the pace of share sales to be slower than what we've seen at Bank of Ireland, but it is important that we make further progress on what will be a multi-year journey. I will keep other sale options open, including larger block trades or directed buybacks from AIB itself should these opportunities present themselves.

In terms of usage of the sales proceeds, it is important to highlight that no new income will be generated from the plan and the transaction should be viewed as a switch in State assets i.e. from shares to cash.

Conclusion

I thank the Committee once again for the invitation to appear today and I look forward to the discussion.