

**Opening Statement by Michelle Byrne, Head of Consumer Banking, BPFI, to the Joint Oireachtas Committee on Social Protection, Community and Rural Development and the Islands on the Safety Deposit Boxes and Related Deposits Bill 2022**

**21 June 2023**

Good morning Chairman, Committee members and thank you for the invitation to attend this morning.

I am joined by my colleague, Bernice Evoy, Solicitor and Head of Legal & Regulation in BPFI.

As you know, BPFI made a detailed submission to the Committee on the *Safety Deposit Boxes and Related Deposits Bill* on 19 May. In that submission, we welcomed the Committee's interest in understanding the sector's position and asked that the points we raised would be given due consideration as part of the process.

We also indicated our willingness to work with the Joint Committee and the relevant Departments to agree a workable and pragmatic approach to dealing with the issues arising and the legacy arrangements that exist regarding items held by members in safekeeping and in safety deposit boxes.

Without repeating in detail the points made in our initial submission in this Opening Statement, we very much welcome the opportunity to attend in person and to highlight the main concerns of the sector pertaining to the Bill as currently drafted.

Firstly, we reiterate the concern raised in our initial submission in relation to the need for indemnification across the entirety of the Bill, should members' compliance with the Bill result in legal challenge in the future. We note the indemnification proposed under Section 10 but believe this should go further. While depositors or their representatives would be able to reclaim any items in the future or any funds realised from the sale of items, the latter may be deemed insufficient in the context of any sentimental or emotional value attaching to the item.

Members also note concerns regarding the potential breach of the data protection and privacy rights of customers should items be accessed and/or sold without prior notification to the depositor or their representatives. It is important to note that the majority of items held by banks are more likely to be of personal importance than historical or cultural importance. The Deloitte Report of 2019 regarding its review of additional assets for potential inclusion in the Dormant Accounts Fund noted where "... 100 safety deposits belonging to deceased customers with no identifiable next of kin..." were opened by one institution, the items discovered included "... old currencies, title deeds, savings certificates, death certificates, marriage certificates, wills, personal correspondences, keys, photographs and one item of jewellery. None of the items were valuable."

While we do not discount the potential to find some items of significance, we expect that the majority would be of more personal importance than historical or cultural importance.

**To address the concern raised, we ask that the Committee gives consideration to the inclusion of indemnification or an “immunity from suit” for institutions across all provisions of the Bill.**

Secondly, the Bill as currently drafted proposes a lengthy and complex process for the registration, access, transfer and potential subsequent sale of the items. The concerns raised in our initial submission refer, with specific reference to *Section 6 (1) & (2)* in relation to the *Register of deposited property*; *Section 7* in relation to a *Notification Procedure*; *Section 8* in relation to the *Publication of notice*; and *Section 9* in relation to the *Examination of unclaimed property*.

We note the comments made to the Committee by a Department Official that the proposed register be limited to items of historical or cultural significance, and we urge the Committee’s consideration of this approach in an amended Bill. Such an approach would allow for a more manageable and focussed approach to documenting items of interest under the Bill.

We also note and welcome the comments made by the representative of the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media when she stated that her Department would be willing “... to consider ways to support the financial institutions in assessing the importance of items including through the development of a set of criteria which could be used by the institution to assess whether an object should be referred to the Director for consideration.”

**To address these concerns, we ask that Committee members consider:**

- **The time that will be taken to establish processes and procedures to comply with the Bill once enacted.**
- **A more focussed approach to the development of a Register of items.**

Lastly, in relation to the items held by banks, it is important to note that items are held in “safekeeping” or in “safety deposit boxes”. Some members only hold items in safekeeping while others hold items in safekeeping and in deposit boxes. In the case of “safekeeping” (or “safe custody” as referred to by some members), items are held securely e.g., in a secure room on behalf of a customer in an envelope/box/suitcase etc. In the case of items stored in a “safety deposit box”, these items are held in a locked facility, to which both the customer and the institution hold a key and both of which are required to open the box, and for which a customer may pay a fee.

The interchangeable use of language in the Bill may pose challenges to members in complying with the requirements of the Bill.

**To address this, we ask the Committee reconsiders the scope of the Bill to align with the agreed ISBAR approach, given the work already undertaken at industry level to meet these obligations, with perhaps a phased approach being the most effective way to implement the legislation. This would allow for full consideration of any legacy issues and the distinction that exists in some members in relation to “safekeeping” and “safety deposit boxes”.**

In this Opening Statement, I have outlined the main concerns arising in relation to the Bill as currently drafted, to include:

- The need for indemnification across the Bill.
- The complexities of some of the processes proposed in the Bill.
- The distinction that exists between institutions in relation to the holding of items.

Once again, I would like to thank the Committee for its engagement with the sector on this Bill. We are happy to remain engaged as the legislation progresses, to ensure a practical approach is adopted in the Bill that works for all impacted stakeholders.

My colleague and I would be happy to answer any questions you may now have.

Thank you.