

DÁIL ÉIREANN

AN COMHCHOISTE UM AIRGEADAS, CAITEACHAS POIBLÍ AND ATHCHÓIRIÚ

JOINT COMMITTEE ON FINANCE, PUBLIC EXPENDITURE AND REFORM

Dé Céadaoin, 24 Deireadh Fómhair 2012

Wednesday, 24 October 2012

The Joint Committee met at 2 p.m.

MEMBERS PRESENT:

Deputy Richard Boyd Barrett,	Senator Paul Coghlan,
Deputy Michael Creed,	Senator Aideen Hayden.
Deputy Pearse Doherty,	
Deputy Sean Fleming,	
Deputy Joe Higgins,	
Deputy Heather Humphreys,	
Deputy Kevin Humphreys,	
Deputy Peter Mathews,	
Deputy Michael McGrath,	
Deputy Michael McNamara,	
Deputy Dara Murphy,	
Deputy Kieran O'Donnell,	
Deputy Arthur Spring,	
Deputy Brian Stanley,	
Deputy Billy Timmins,	
Deputy Liam Twomey,	

DEPUTY CIARÁN LYNCH IN THE CHAIR.

Business of Joint Committee

Chairman: As the committee meeting is being broadcast by UPC on channel 207, is it agreed we defer private session until the end of the meeting? Agreed. I remind members, witnesses and those in the Visitors' Gallery that all mobile phones must be switched off. If they are not switched off they will interfere with the sound quality of today's broadcast and any later broadcasting of today's proceedings. Apologies have been received from Deputies Mary Lou McDonald and Dara Murphy.

Before we hear the opening statements of the witnesses, I remind members of Standing Order 57 on *sub judice*. Members are advised not to stray into matters which are before the courts. If a member wishes to deal with a matter currently before the courts, the principle of notice under Standing Order 57(4) should be observed in order that the Chairman is not placed in the position of deciding, without due consideration, whether the *sub judice* rule applies.

Role and Functions: Discussion with NAMA

Chairman: I welcome Mr. Frank Daly, chairman, Mr. Brendan McDonagh, chief executive officer, Mr. Donal Rooney, chief financial officer, Mr. Ronnie Hanna, head of asset recovery, and Mr. John Mulcahy, head of asset management, from the National Asset Management Agency. The format will be that Mr. Daly and Mr. McDonagh will make opening remarks, which will be followed by a question and answer session.

I remind members, witnesses and those in the Visitors Gallery that all mobile phones must be switched off. I wish to advise witnesses that by virtue of section 17(2)(l) of the Defamation Act 2009, they are protected by absolute privilege in respect of their evidence to this committee. If witnesses are directed by this committee to cease giving evidence a particular matter and they continue to do so, they are entitled, thereafter, only to qualified privilege in respect of their evidence. Witnesses are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable. Members are reminded of the long-standing ruling of the Chair to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official by name or in such a way as to make him or her identifiable.

I call Mr. Daly to make his opening presentation.

Mr. Frank Daly: With the Chairman's agreement, could Mr. McDonagh go first because there is a sequence to our presentation?

Chairman: Certainly.

Mr. Brendan McDonagh: I congratulate the Chairman on his recent appointment and thank him for the invitation to address the committee. This opportunity is timely in light of a number of developments since we last spoke to this committee in March. In particular, I intend to focus on our 2011 financial results, published over the summer, which highlight the significant prog-

ress that we are making towards achieving our strategic goals. I will also talk briefly about the measures we are adopting to support recovery in our housing and commercial property markets. In his address, our chairman will brief the committee on the progress we are making towards our ultimate objective, which is repaying our debt, and the wider contribution we are making towards economic recovery.

Perhaps the most important measure of NAMA's performance is cashflow generation, and this remains very strong. From inception to the end of 2011, we had generated cash receipts of €6.1 billion from debtors, which was applied towards interest and loan repayment. That cash includes not only the proceeds of asset disposals by our debtors and receivers but also recurring income, such as rent, generated by assets controlled by debtors. The strong cash performance - we ended 2011 with cash and qualifying liquid assets of €3.8 billion having repaid €1.3 billion in debt during the year - has enabled us to remain firmly on course to meet our debt repayment targets. Our results also highlight our strong continuing business performance. This includes asset sales approvals in 2011 of €5.6 billion. Total sales approved stand at €10.5 billion; €6.2 billion have completed and there are more than €2 billion in the pipeline. Another €2 billion of sales approvals have not completed for various reasons. By the end of September 2012, we had also approved new credit advances for working and development capital of €1.6 billion, reflecting our commitment to invest in the assets securing our loans where it makes commercial sense to do so.

The headline result from our annual report and financial statements for 2011 is that we made a profit of €247 million. This was after providing for an impairment charge of €1.27 billion in 2011, bringing our cumulative provision for 2010 and 2011 to €2.75 billion, which reflects conditions in the property markets and principally the Irish market. I would also point out, however, that at the end of 2011, we had significant unrealised surpluses on our books which aggregated to about €1.8 billion. The board has prudently decided that these surpluses should not be reflected in the agency's income statement until they are realised in cash terms.

Our strong financial performance of 2011 has continued into 2012. Last week, we published our financial accounts for the second quarter. The accounts show that NAMA made a net profit of €89 million during the quarter and, after taking account of an impairment charge of €129 million, we achieved €222 million net profit for the first half of the year. The accounts also show that cash receipts from inception had increased to more than €8 billion by the end of June. Of this, €5.2 billion was generated from asset disposals and €2.9 billion related to "non-disposal" activity, reflecting intensive management of the assets securing our loans. Cash receipts had, by mid-October, increased further to €9.5 billion - €6.2 billion from disposals and €3.3 billion from recurring income.

I informed the committee in March that, through our engagements with debtors, we had secured €384 million in unpledged security through charges over previously unencumbered assets and the reversal of asset transfers to connected parties. In the intervening period, we have secured an additional €130 million in unpledged assets, bringing the total to €514 million. This has been achieved with consensual debtors. We are continuing to pursue debtors to obtain further unpledged security. In the case of debtors who are not working consensually with us, this includes going through the courts where appropriate. To date, we have initiated cases in the Irish and English High Courts and in the US courts for the reversal of asset transfers, including residential property, shares and other assets. We have also made two formal complaints to the Garda Bureau of Fraud Investigation arising from a possible failure by debtors to disclose their assets and liabilities fully in their statements of affairs to the agency. The intentional provision

of false or inaccurate information to NAMA is a criminal offence. The Garda and the Director of Public Prosecutions will ultimately take a view whether to pursue these complaints.

The impact of debtors declaring bankruptcy in the UK has also attracted recent attention, including parliamentary questions from members of this committee. The comparatively shorter duration of bankruptcy in the UK compared with Ireland is not a source of concern for NAMA as the bankrupt's unsecured assets remain in the control of the bankruptcy trustee long after the discharge from bankruptcy. Any failure to make full disclosure may result in the period of bankruptcy being extended beyond the one year period until such time as the bankrupt party co-operates. Furthermore, our experience is that the bankruptcy regime in the UK is well established and that trustees under the system possess extensive powers to compel the production of both legal and banking information on a cross-border basis. These powers have been used in cases involving NAMA debtors to uncover significant undeclared properties and other assets, and we are assisting the bankruptcy trustee in continuing to pursue a number of debtors who may have thought they had put themselves and their assets beyond reach.

We are all aware that Irish banks and other banks in the Irish property market currently have little appetite for lending for Irish commercial property, and that is compounding difficulties in an already moribund market. As part of our strategy to facilitate the investment of funds from abroad into the Irish commercial property market, we also signalled our intention earlier in the year to establish qualifying investor funds, QIFs, when tendering for investment management services. QIFs provide NAMA with the option of assembling portfolios based on asset types and geographic regions in a way that is attractive to international investors. We remain on course to launch at least one QIF before the end of the year.

NAMA's initiatives complement measures introduced by the Minister for Finance in last year's budget, including concessions on stamp duty and capital gains tax and also certainty on the issue of upward-only rent reviews. Given the importance of the property market in terms of Ireland's economic recovery, we suggest that other avenues should also be explored. The introduction of real estate investment trusts, REIT, legislation is one option. The Minister for Finance's statement that he will keep the possibility of introducing a REIT structure under review is welcome. NAMA, as a market participant, is positive on the subject of REITs because of their potential as an additional monetisation channel for the Irish commercial and residential markets. We have also, since our inception, advocated extending the recently published residential property price register to commercial property transactions in terms of sales and leases. This would provide greater transparency. Despite the reduced global appetite for real estate investment, we are beginning to see movement in the Dublin commercial market as evidenced by increasing buyer inquiries and transactions, reflecting both a desire among institutional investors to spread their real estate risk over wider geographic areas and improving sentiment towards Ireland and the attraction of higher yields at a time when global bond yields are declining.

The resuscitation of the residential property market is an equally intrinsic requirement for sustained economic recovery. Responding to this, last year's budget introduced specific and time-limited mortgage interest relief measures for first-time buyers and other categories of owner-occupier buyers in the residential market. For NAMA's part, in May of this year, we launched a deferred-payment mortgage initiative as a means of encouraging some potential clients to purchase residential property. On the basis of the lessons learned in the pilot phase, during which residential units with a combined value of €9 million were sold, the NAMA board has agreed to extend the initiative on a phased basis in order that it applies to some 750 houses

within our residential property portfolio. In line with this decision, last week we announced the launch of the next phase of the initiative which sees its extension to a further 180 houses in 12 counties. I am glad to report we have had more than €1 million worth of sale since it has been launched.

We do not believe there is a one-size-fits-all panacea for the problems in the residential market, largely because the factors affecting one segment of the market differ so much from the factors affecting another. Recognising this, in the apartment market, our focus is on renting. Since acquiring the loans, tenants have been secured for about 4,000 previously vacant apartments in Dublin and we are continuing to invest in completing unfinished apartment blocks in areas such as Sandyford in response to the strong rental market in these locations. In total, close to 10,000 apartments and houses within our portfolio are now rented with an annual rent roll of €100 million. We are looking at the option of facilitating the sale of entire blocks of apartments to equity firms that have teamed up with property management specialists and that are interested in purchasing apartments on a bulk basis. Of the 4,000 vacant residential units in our portfolio, a substantial number are close to being made habitable and will shortly be available for sale or rent, depending on the detail of the asset disposal and asset management plans agreed with individual debtors and receivers. We are, in particular, working to exploit the synergy between our overriding commercial remit and demand for social housing provision in areas where our debtors and receivers hold vacant properties.

NAMA has identified approximately 3,800 units for social housing. Approved housing bodies have assessed about 2,000 of these units and have confirmed demand for 1,200 of these houses and apartments. The first of them will be tenanted in the final quarter of this year under the social housing leasing initiative. The additional units identified are now being examined by the housing bodies. Delivery has been slow and we decided an innovative approach was required. We established a special purpose vehicle to acquire and directly lease properties to public entities in an attempt to streamline the process.

As a general observation on the residential property market, we are seeing some signs that the market in Dublin is bottoming out. However, it would not be a surprise if price indices gave mixed signals in the near future at least, with sentiment towards property oscillating in line with developments in the wider economy and with developments in Europe more generally.

I refer briefly to progress in the area of rent abatements on certain commercial leases, which regularly attracts attention from Members of the Oireachtas. NAMA approves requests for rent easement or abatement from its debtors where a tenant demonstrates that the rent payable under the lease is in excess of current market levels and that the viability of the business is, as a consequence, threatened. As of the end of August, NAMA had received 271 rent abatement applications, of which 206 were approved, just four were refused, nine were ineligible as they did not refer to NAMA properties, and the remaining 52 were under active consideration. Since the start of the year, NAMA has approved cumulative rent reductions to tenants of over €6 million and the total rent savings to date since inception of this initiative equates to approximately €9.7 million with a further €3.4 million currently under review. A guidance note on the matter is on our website.

Criticism of NAMA on the grounds of transparency does not stand up to serious scrutiny when comparing NAMA with other commercial State bodies and with the banks effectively under State control. I have appended a matrix to this address to illustrate the point. It is clear that NAMA publishes more information on its performance and activities than any of its peers. No other peer body is required to publish quarterly accounts and none is required to produce an an-

nual statement of objectives, activities and resources as NAMA is required to do, under section 53 of the Act, three months before the end of each financial year. We have been in operation for less than three years and have already been subject to two detailed special reports from the Office of the Comptroller and Auditor General. In 2012 to date, NAMA has been the subject of over 300 parliamentary questions submitted to the Minister for Finance. The Chairman and I appear before this committee and the Committee of Public Accounts whenever required to do so. Today is our third appearance this year.

I cannot see how we can be any more transparent without breaching our statutory obligations to debtors under sections 99 and 202 of the Act and by reference to banking confidentiality and data protection law generally. These obligations are binding on us. Even if it was not the case, however, providing detailed information on debtors and their property would be commercially counterproductive for the taxpayer. In this respect, NAMA is being subjected to a standard that is not applied elsewhere. There appears to be no similar demand that the banks, whose financial performance represents an ongoing exposure for the taxpayer, should be subject to the same degree of transparency as NAMA. The IDA does not reveal details of its discussions with prospective investors in Ireland, nor does it spell out the financial details of deals completed, nor are commercial State agencies required to disclose commercially sensitive information. To do so would be to undermine their work on behalf of the taxpayer. There seems to be a view that NAMA should be subject to a commercially disadvantageous regime of disclosure that does not apply to other commercial State agencies or publicly owned banks.

The Legislature has set NAMA a commercial mandate under section 10 of the Act. We consider that we are as transparent as we can be within the constraints imposed by the mandate. In terms of disposing of assets, we are competing with a number of banks in Ireland and elsewhere that are heavily engaged in deleveraging their property loan exposures. Those banks will not be required to disclose commercially sensitive information in the public domain but they would benefit greatly from any similarly sensitive information that NAMA was required to disclose, as indeed would potential purchasers of assets under NAMA's control. The only certain loser would be the taxpayer. Many of those who advocate greater transparency by NAMA may not be aware that this would be an unintended consequence. For the taxpayer, however, it would be a very real and costly consequence and would run counter to our commercial objective to achieve the best achievable financial return. Unless the Legislature changes the law and dictates otherwise, the interests of the taxpayer should remain our foremost objective.

Before concluding, I refer to the controversy caused by the actions of a former employee of the agency who has cast a shadow over our work in recent months. We have recruited over 200 staff in NAMA to date and, as chief executive, I know of the excellent work that has been done by my colleagues over the past three years in terms of recovering and enhancing value on behalf of the taxpayer. I speak for everyone at the agency when I say how angry and disappointed we are at what has happened. There is a real sense of disbelief among my colleagues that the agency's reputation and its commercial interests could have been put at risk so gratuitously in these circumstances but there is also a determination that we will not be diverted or distracted from the crucial work that needs to be done over the coming months and years.

We are well on the way towards achieving key milestones despite the difficult economic circumstances here and internationally since we came into existence. This is important not just for NAMA but for the State in general in the context of the troika programme and Ireland's return to sovereign debt markets. Finally, I publicly recognise and thank all my colleagues, the board and the staff for their unstinting dedication in delivering on NAMA's mandate to date. I

assure the committee we will continue to do so to the very best of our abilities. We are part of the solution, we did not create the problem.

Chairman: Before calling Mr. Daly, is it agreed the committee will publish both opening statements on the committee website? Agreed.

Mr. Frank Daly: I thank the Chairman for allowing me to speak. My statement is being circulated but we had to get legal clearance for some of it, which accounts for the delay. I congratulate the Chairman on his appointment and I thank the committee for the invitation to appear before it. I fully endorse the CEO's concluding comments on the anger felt by the NAMA board and staff arising from the activities of an ex-employee of the agency, Mr. Enda Farrell. I am conscious that, as a result of ongoing investigations, I am restricted in how I can discuss these matters but I wish to be helpful to the committee on the issue.

In early August of this year, we became aware that Mr. Farrell had acquired a property belonging to a NAMA debtor and that it was being suggested that the transaction had been financially advantageous to him and had been approved within the agency. On hearing the allegation, we immediately requested our internal auditors, Deloitte, to review the events surrounding the transaction, to ascertain whether Mr. Farrell had breached protocols and to look at how the matter had been dealt with internally. The Deloitte review quickly established a number of important facts. At no time had anyone within the agency authorised Mr. Farrell to purchase the property in question. Mr. Farrell had not enjoyed any financial benefit from the transaction as the price paid was in line with an independent valuation given for the property to the vendor. Deloitte concluded, on the basis of this, that the price paid was in line with market value so there is no question of a sale at undervalue. Not only was the transaction not approved in NAMA, Mr. Farrell had failed to disclose the transaction to the agency at any time, either prior to or following the transaction, as he was required to do.

As part of the review, we asked Deloitte to carry out a forensic search of Mr. Farrell's e-mail account and the search uncovered evidence that confidential data may have been taken by him without authorisation from NAMA. As a result, NAMA and the NTMA instituted High Court proceedings against Mr. Farrell and his wife seeking a number of injunctive orders, including an Anton Piller order directing the defendants to deliver all documents, communications and materials that contained confidential information relating to NAMA. On 3 September 2012, the High Court granted the order sought and ordered that proceedings be heard *in camera* until further order of the court. When, at NAMA's request, the *in camera* order was lifted on 12 September and, armed with evidence that a criminal offence may have incurred, NAMA informed the Garda Síochána of its concerns and findings on the same date, referencing section 202 of the NAMA Act. We also reported the matter to the Data Protection Commissioner. The agency is fully co-operating with the Garda Síochána and the Data Protection Commissioner. Proceedings are before the High Court on 5 November. I have no doubt members of this committee have a legitimate interest in the findings and recommendations of Deloitte and in the measures we are taking as a consequence. The first general point to make is that the board has accepted all of the recommendations in the Deloitte report. Based on legal advice, we are precluded from publishing the report in full. I am committing today, however, that we will publish details of the report as soon as we receive legal clearance.

Today I would like to outline some of the key issues raised and how we propose to address them.

Deloitte found there had been no financial benefit to Mr. Farrell arising from this transac-

tion. At the time of the transaction, in mid-2011, there was no requirement that all properties controlled by NAMA debtors and receivers should be openly marketed. Notwithstanding this, the practice in the vast majority of cases was to ensure properties were openly marketed. Since October 2011, NAMA policy has been that all properties should be openly marketed, recognising that in certain limited circumstances, this may not be practicable. One of the Deloitte recommendations was the board should consider revising the existing personal account transaction policy.

The position at the time of the transaction in 2011 was that NAMA staff were prohibited from making direct investment in commercial property, regardless of the identity of the vendor. While they could acquire or sell residential property, they should not engage in investment activity that might in any way endanger or adversely affect the business or reputation of NAMA, or which might conflict with or interfere with the performance of their duties on behalf of NAMA. Accepting the recommendation made by Deloitte, the board has now introduced a revised personal account transaction policy for NAMA staff. This requires pre-approval to be sought for the purchase of any property. The property is then checked against NAMA's property register. If NAMA has an interest in the property and it is commercial property, the transaction is prohibited. If the property is residential and intended for use as a principal private residence, pre-approval to purchase must be obtained and it must be shown the property has been openly marketed. Accordingly, where NAMA has an interest in a property, the only sort of purchase that may be approved is that of a residential property for use as a principal private residence.

To reiterate, there is an outright prohibition on the purchase of NAMA-related property by NAMA staff, except in the case of a property intended for use as a principal private residence and in that case, pre-approval is required and the property concerned must have been openly marketed. Furthermore, NAMA is introducing a general requirement that all purchasers of property in which NAMA has an interest declare if they, or a person closely connected to them, is a NAMA officer. The board is also of the view that the same policy should apply to staff in participating institutions in respect of assets managed by those institutions where the staff in question have access to NAMA information. NAMA is following up with each of the participating institutions on this point. The board has also directed that further compliance training be scheduled for all NAMA staff in light of this episode. This is already under way and as I speak has been completed by 85% of the 226 current staff assigned to NAMA.

I will now talk about confidential data removed from the agency. As we stated at the time, and as I now wish to reiterate, we regard any breach of data security with the utmost concern. We have launched a major review of data security and of data access within the agency and of data transmission to external parties that have a business need to receive data from us, for example, service providers such as accounting firms and the like. The security processes in place in NAMA, which are derived from those of the NTMA and from which there has not been a single recorded instance of data theft in its 21 year history, are extremely robust. No organisation, short of installing systems, processes and restrictions that would totally compromise its capability to conduct its business with even the minimum of effectiveness, can absolutely guarantee it will not have a theft of data. We can be sure, however, that our objective is to ensure that as far as possible there is no scope for a recurrence of the breaches that have been identified in this case and there will be no want of effort or investment in that.

I appreciate the committee might want to discuss that breach of confidentiality further, but the last thing we would wish to do is in any way compromise the Garda investigation that is underway. In due course we expect to be in a position to discuss the issues further with the

committee and we will be happy to do so.

I do not for one minute underestimate the seriousness of this episode for the agency and our reputation but some of the suggestions that have been made about the potential damage to our work have been exaggerated to say the least. As far as information which, in our assessment, would be of limited value to potential counterparties may have found its way to third parties, it is our best judgment at this stage of our investigation that it has not been used thus far to the detriment of the agency and that it is unlikely to prove commercially damaging to the agency at any point in the future. We are also reasonably satisfied at this stage that it has not been prejudicial to any of our debtors and it remains our objective to ensure this continues to be the case. We are at an advanced stage in identifying the extent to which the information was circulated and we are encouraged by the level of active co-operation we are getting from the parties who received the information.

For the committee's information, I can say that other than Mr. Farrell, there has been only one employee subject to investigation. At this stage I am legally advised that in the interests of due process, I am precluded from commenting further until the investigation has been completed. It is only reasonable, however, to point out the wider context in which these issues have arisen. This agency has developed in less than three years from a start-up operation with five staff to a massive business with €74 billion of loans to manage. By virtue of our visibility and the commercial mandate that has been given to us, we must be seen to be above reproach and we fully accept that. I would ask, however, that the committee bears in mind there are few businesses and organisations, public or private, that do not at some stage find themselves dealing with some of the employee issues we had to face recently. We will learn from the experience, as a healthy organisation should, and we will redouble our efforts to ensure there is no recurrence.

It is ironic, as we focus on Mr. Farrell's actions, that looked at purely from a business perspective, the last few months have seen us record some significant achievements, including the net profit reported for the 2011 financial year and the continuing strong financial results for the first half of 2012, which have just been referred to by the CEO. No one in NAMA is downplaying recent events but in the interests of maximising the return to the taxpayer, we must retain our focus on our core business and the challenging objectives that face us.

I will finish by highlighting two of those objectives, namely, debt repayment and our investment in the Irish market. These are pivotal to our confidence that NAMA will at the very least break even over its projected life. On debt repayment, our target is to redeem at a minimum all of our senior debt. Our first milestone on this is to redeem €7.5 billion by the end of 2013, just 14 months away. This is important because it derives from the primary mandate given to us by the Oireachtas of recovering on behalf of the taxpayer the consideration paid for the loans we acquired, but also because it is one of the key metrics that influences the perception of Ireland held by international investors and the ratings agencies in the context of our return to the sovereign debt markets. As if that were not enough, it is also monitored closely by the troika and influences its view of Ireland's progress. To date we have redeemed €3.25 billion of that debt. Our current cash and liquid asset balance, and our strong cash generation capacity, leaves us in no doubt as to our ability to meet the end 2013 target of redeeming €7.5 billion in senior debt. That will be €7.5 billion off the backs of the Irish taxpayer.

Repaying debt, although important, is not our only purpose. We have a vital role to play in encouraging activity in the market and doing what we can to underpin re-emerging investor interest in Irish property - and it is re-emerging. We have previously announced we intend to invest at least €2 billion in capital to enhance and develop assets in Ireland controlled by our

debtors and receivers. We are seeing the emergence of development opportunities including, for instance, the Dublin office market, where the demand for grade A, centrally located office accommodation, is expected to outstrip supply within a few years. There are also emerging shortages in certain segments of the residential market, particularly in the Dublin family home market.

We also announced that we would make a further €2 billion of NAMA vendor finance available to prospective purchasers of commercial properties controlled by our debtors and receivers. Last year investment transactions in Irish commercial property totalled €200 million. Against this backdrop, €2 billion in NAMA vendor finance is a substantial injection of capital and we are confident it will promote a significant increase in activity.

The NAMA board has recently completed a detailed review of its strategy based on analysis of the composition of the portfolios securing our loans and on projections of disposal proceeds, recurring income and investment. Based on this review we can reaffirm our expectation that NAMA will, at the very least, break even over its projected ten year life span. This is grounded in our expectation of a sustained recovery in the Irish economy and in the banking sector over a medium term horizon and our confidence that this will produce the modest recovery in Irish commercial and residential property prices that NAMA will require in order to achieve the primary commercial objective which has been set for it by the Legislator. We consider engagements such as these with the committee a very important part of our work. I thank the Chairman and the committee for their attention.

Chairman: I thank Mr. Daly and note that Mr. John Mulcahy has joined us. I understand he was delayed for reasons outside his control. Twelve or 13 members are indicating they wish to contribute. I will be vigilant in ensuring that members pursue a line of questioning. If they move to Second Stage statements I will bring their contribution to a speedy conclusion. In regard to the Deloitte & Touche investigation, I wish to ask a number of questions which Mr. Daly may be able to clarify, given the comprehensive statement he has given to the committee. Following the Deloitte report examination does he now know all the recipients to whom the information was leaked? Does he know the full extent of the information revealed and is it the case that the detail of every NAMA property was released in this case? Will he clarify if it was a master spreadsheet of all the loans acquired by NAMA and all the properties acquired by NAMA as security for loans which was leaked, or was the information less than that? Will he also clarify for the committee the estimate of the public loss or gain to third parties on that one transaction of information? Will he tell the committee what procedures were in place which failed to highlight the conflict of interest or the transference of information? Will he outline if the procedures have been rectified?

Mr. Frank Daly: I will be careful in my replies, particularly in regard to the leaking of information.

Chairman: That is the reason I am asking about the procedures.

Mr. Frank Daly: Do we know all of the recipients of the information? Yes, at this stage of our investigation we believe we have identified all of those. Mr. Farrell sent 33 e-mails to his wife. That was the way in which the information got out of NAMA because, effectively, he could not have sent it out any other way because of the IT and the other security restrictions that are in place. His wife appears to have forwarded those 33 e-mails to Mr. Farrell's personal account. Beyond that, we believe Mr. Farrell would have sent information to fewer than ten parties, which we have identified to date, and we do not believe there are any other to come but

we are not yet finished with this investigation. Those parties would have received partial or limited information. In some cases it would have been Mr. Farrell's own view of the property world and would not necessarily in all cases have used NAMA data. I should say that most of the people who did get the information are co-operating fully in the sense that they are confirming that the data they received was not copied or not forwarded or used and that it has been preserved as required by the court injunction.

On the question of what got out, again I want to be careful because we are still in a court process and under a Garda investigation, but no sensitive financial data got out. There is no possibility, therefore, of fraud or identity theft because we are not a bank. We have loan accounts but we do not have bank accounts. What Mr. Farrell took was information about 2009 valuations in NAMA. This was NAMA data, not debtor data. It is material that is useful to have but it is certainly not critical. He sent that out to himself, via his wife. He did not send it in full anywhere beyond himself. He may have sent extracts from it; that is all I can say about that.

Mr. Farrell also took information about loans acquired by NAMA, including the acquisition value. That is sensitive information obviously because it is confidential data under sections 99 and 202 of the NAMA Act. It is historic now but the important point is that there is no evidence that he sent that anywhere beyond himself-----

A Speaker: By e-mail.

Mr. Frank Daly: -----by any way. We have no evidence that he sent that-----

Chairman: Sorry excuse me, through the Chair, Mr. Daly, please.

Mr. Frank Daly: The Chairman will appreciate the reason I am being careful. That is the extent of what we believe he has taken. The Chairman asked about the estimate of public loss or gain to third parties. Is that in regard to the house transaction?

Chairman: In terms of this being confidential financial information, does that create an exposure in that there may be a loss in the valuation of those assets?

Mr. Frank Daly: I will go back to what I said in my statement that we have no reason to believe at this stage it has compromised NAMA's commercial interests or we have no reason to believe that it is prejudicial to any debtor interests. We have no reason to believe that has happened to date and certainly we will be making every effort to ensure it does not prejudice or compromise that in future. In regard to procedures in place that failed, is that in regard to the leaking or the-----

Chairman: I understand there was a screening process as to how e-mails were being transacted. Has the screening process changed?

Mr. Frank Daly: First, I must say that the process is extremely tight. If one was in NAMA and wanted to do this, the more obvious way would be to try to download it on to a memory stick which is totally prohibited - one just cannot do it - or to try to send it out as a file to one's own personal e-mail account. One simply cannot do it. Given that we obviously we have a day-to-day working relationship with companies such as Ernst & Young, where his wife worked, Mr. Farrell sent it to her at their corporate account. That is how it escaped.

We have instituted a review of IT security. We have to be proportionate in our response because we cannot tie ourselves up in such knots that we will be back here before the committee

ROLE AND FUNCTIONS: DISCUSSION WITH NAMA

explaining why we are not doing transactions, undertaking business and getting bureaucratic or non-commercial. I can assure the committee that in so far as there is anything to be done - it is reasonably limited - it will be done as a consequence of that.

Chairman: To conclude with some supplementaries on the issue. I assume, Mr. Daly has asked those parties who received that information to return it, for what it might be worth, even if it was communicated electronically. He said an investigation was carried out on whether it may have travelled on to other people. Is that investigation closed or is there an ongoing investigation that there may be other parties or entities within the structure that may need further examination? Have those who received the data been excluded from other transactions dealing with NAMA? Are they people with whom NAMA will have a difficulty in doing business in the future or has there been a prohibition on NAMA dealing with them? Is it an offence to receive or retain data which is confidential to NAMA, which was the case in this situation? The issue of private purchases by staff was mentioned. Mr. Daly referred in his statement to things being retrospectively dealt with and stated that it is now only possible for NAMA staff to acquire properties in which they propose to reside. Prior to the putting in place of this protocol, were properties acquired by NAMA staff?

Mr. Frank Daly: On the Chairman's final question, apart from in the Farrell case, we are not aware of the purchase of any other NAMA property by a NAMA member of staff. The case mentioned is the only one of which I am aware. The only NAMA property which any staff member could ever hope to acquire is a principal private residence and only with prior approval and if the property has been openly marketed. There are no exceptions in this regard.

Chairman: Perhaps Mr. Daly would respond to my other questions in relation to third parties receiving NAMA information and if that is an offence.

Mr. Frank Daly: As far as I am aware, it is not an offence for third parties to receive the information. The Chairman asked whether third parties are required to return the information. The order deriving from the court proceedings is that they undertake not to copy, disseminate or use the information and must preserve it. I presume at some stage it would be returned.

Chairman: I thank Mr. Daly for his response to my questions.

Deputy Michael McGrath: I welcome Mr. Daly, Mr. McDonagh and their colleagues from the agency to the meeting. I would like to take up where the Chairman left off. Mr. Daly mentioned that one of the files which Mr. Farrell sent to himself via his wife contained information on the price paid by NAMA for loans and stated that there was no evidence that information had made its way to any third party. Does Mr. Daly accept that information would be extremely valuable to any prospective purchaser of assets from NAMA, as it would provide such person with critical information in regard to the price paid by NAMA for the loan and would be a strong indication of the price which NAMA might accept for the property? Would Mr. Daly accept that this would be the case if that information did get out, despite that he has no evidence that this occurred?

Mr. Frank Daly: I must reiterate that there is no evidence that Mr. Farrell sent the information to anyone beyond himself via his wife. I agree that the information is sensitive. However, at this stage it is, to a certain extent, historic information. During previous appearances at this committee and elsewhere we were asked if NAMA's price is always the acquisition value and if we ever deviate from that, to which our response was that at the end of the day we are in the property market right now and what matters and is important is the price we get now. The in-

formation is important although not vital. The fact that we are now in a state of awareness that this information could be out there - we do not believe it is - makes us very careful.

Property prices and valuations are not totally dependent on the value we placed on them in November 2009. What is important is the current market value. Anyone engaging with us in regard to the sale or purchase of property has his or her own way of evaluating prices and values, as does NAMA. We do not always go back and look at the value of a property in 2009, concluding that the correct price at a particular time is a particular figure minus or plus X.

Deputy Michael McGrath: Has the agency sold assets for less than the price it paid for respective loans?

Mr. Frank Daly: In general?

Deputy Michael McGrath: Yes.

Mr. Frank Daly: Yes. We have also sold many properties at prices greater than that which we paid for them.

Deputy Michael McGrath: I will not go into the Farrell case in any detail. However, I find one matter bizarre. NAMA engaged Deloitte to undertake a review of this case. Mr. Daly stated in his submission that Deloitte undertook a search of Mr. Farrell's e-mail account and uncovered evidence that confidential data may have been taken by him without authorisation from NAMA. Why, rather than referring this matter to the Garda Síochána immediately, did NAMA go to the High Court seeking an Anton Piller order to secure documents, communications and materials from Mr. Farrell? I assume NAMA was anxious to recover the data and information. I hope that in doing so, nothing was compromised. Surely it was a matter for the Garda Síochána when Deloitte discovered e-mails had been sent out?

Mr. Frank Daly: We wanted to do two things, namely, to recover the data and to ensure there was a *prima facie* case to take to the Garda Síochána. I refer the Deputy to the chronology on this matter. We became aware of this on 2 August. The following day we commissioned Deloitte to carry out its investigation. I include in this regard the property transaction. It was during the Deloitte forensic examination of that transaction that an issue first came to light in terms of whether confidential information might have been removed from the agency. Deloitte commenced its investigation on 6 August and commenced a forensic analysis of e-mails on 12 August. By way of providing an idea of the scale of this task, Deloitte retrieved 164,000 e-mails sent by or to Mr. Farrell between 2005 and 2012, which was not considered an unusual amount of traffic. In respect of the period from end 2009 to March 2012, the time during which Mr. Farrell was with the agency, Deloitte retrieved 92,000 e-mails. These were then narrowed down on the basis of key word searches to 42,000, which Deloitte had to print, analyse, collate and read to determine the extent of the problem. Of those 42,000 e-mails, only 33 were of concern. I am trying to give the committee an idea of the scale of the investigation.

Deputy Michael McGrath: We need to move on.

Mr. Frank Daly: It was only at this point that we had *prima facie* evidence to take to the Garda. We went to court in the meantime to get the Anton Piller order to go to Mr. Farrell's house to search his premises and gain access to his computer, memory sticks and documentation. We executed that search on 3 September. On 12 September, when all of the work in terms of collating the information had been completed, which was when we first had strong evidence, we took the matter to the Garda Síochána and Data Protection Commissioner.

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From the moment we got a sniff of what might be going on, the board and management were determined that if there was a breach of confidentiality in NAMA we would take the matter to the Garda Síochána. We also told Deloitte that there must be nothing done in terms of going to the courts or their conducting their investigation that would compromise a Garda investigation. That was a *sine qua non*. There has been no indication to date from the Garda Síochána or Data Protection Commissioner that anything we did has caused such compromise.

Deputy Michael McGrath: On what date did Deloitte first inform NAMA that it had found evidence that confidential information had been removed from the agency? As I understand it, that happened on some date in August.

Mr. Frank Daly: It would have done so following its initial forensic search of e-mails on 12 August. That search was widened on 23 August.

Deputy Michael McGrath: Yes. It took NAMA a further month before notifying the Garda Síochána. NAMA took on the role of the Garda as an investigator after it had been informed that confidential information had been removed.

Mr. Frank Daly: We had a commercial responsibility to protect our own data and to retrieve it where possible. We did so in the clear knowledge that we would later take the matter to the Garda, having given a clear guidance to everyone not to compromise the Garda investigation. The outcome was satisfactory.

Deputy Michael McGrath: I would like to move on now to the overall performance of the agency. How confident is Mr. Daly that NAMA will recover, at least, the amount paid for loans and operational costs of running the agency? That is the key question.

Mr. Frank Daly: I refer the Deputy to the strategy review carried out by the board earlier this year. One of the key outcomes was our confidence about it. I will not go into all of the details on why this is but we have a very clear view now of our portfolio and where and what it is. A total of 71% of it is made up of investment-grade assets. A high proportion of our assets are in Dublin and Cork in very good locations. Most of our London assets are in the south east, which is a prime market. A total of 95% of our assets in Northern Ireland are either in Belfast or the east with very little in the west which would be the most challenging area. The results outlined today by the CEO with regard to our cash flow to date and our potential for future cash generation give us confidence. The other figure to be put on the table is the total impairment charge we have taken, which is €2.88 billion. Obviously nobody can forecast future impairment charges but we have taken the bulk of the impairment charges. I am sure there will be some in future along with the figure outlined by the CEO of unrealised gains. We considered it prudent not to include them in the balance sheet today.

Deputy Michael McGrath: Mr. Daly remains quite confident NAMA will achieve-----

Mr. Frank Daly: I am very confident we will achieve redemption of all of our senior debt plus the carrying costs plus the overheads. We will try to do even better than this.

Deputy Michael McGrath: Previously Mr. Daly spoke about the lifestyle of some of the top NAMA debtors and that he wanted to see some changes. Is he satisfied with what he has seen so far? Will he assure the committee that NAMA does not support the payment of personal drivers or personal security provision for some of the top debtors? Will he assure the committee such things do not happen with NAMA support?

Mr. Frank Daly: I can assure the Deputy we work with debtors either on a consensual basis or by putting them into receivership, which is enforcement. Once they go into enforcement other parties become involved. Those with whom we work consensually amount to approximately two thirds of our debtors, which is a much brighter prospect than we would have thought several years ago. We are very forensic with regard to the overheads they can remove from a business. In some cases these have been reduced by 75% or 50% of what they were in the good years, if I can call them that. These are the normal overheads of a business such as paying staff, insurance and electricity costs. We monitor very closely what they remove from the business for their own lifestyle. We all have various definitions of lifestyle but we certainly do not sanction anybody having a personal driver or personal security. That said, neither can we get into the day-to-day business of monitoring every penny some of these people spend.

Deputy Michael McGrath: NAMA is paying for it in a sense.

Mr. Frank Daly: Not necessarily. Many of these people still work with other financial institutions and may be funded from elsewhere. We cannot do much about this. We provided figures previously and we can update them today on the total cost of overheads being removed from businesses and within this the number of individuals who take a particular salary. Perhaps the most important figure is that all of the NAMA managed debtors, which is the bulk of them, manage approximately €61 billion of debt. The total overhead and receiver costs with regard to these are €215 million to date. The principal salaries for people in these businesses amount to €15.5 million and relate to 168 individuals. To bring this down to a salary band, the vast bulk, or 112, of these people earn between nothing and €50,000. I do not think it can be said we fund extraordinary lifestyles. The rationale we have expounded here and elsewhere on this is that it is best commercially for NAMA and the taxpayer if these people are prepared to work with us and run their businesses, which they know.

Deputy Michael McGrath: On the question of off-market sales, which I have raised with the agency previously, Mr. McDonagh referred to there being total sales approved of €10.5 billion, and through parliamentary questions it was revealed this relates to approximately 3,500 individual properties. Mr. McDonagh stated that since October 2011, NAMA policy has been that all properties should be openly marketed except in certain limited circumstances where this may not be practicable. Will Mr. McDonagh give us a sense of how frequently and in what percentage of cases off-market sales or private deals take place, where properties are not advertised and not put up for sale in the open market? NAMA states it is not the seller and that the debtor appoints a selling agent, but in reality NAMA calls all the shots and pulls the strings. It is the seller and the beneficiary of the proceeds so I do not accept this argument. Will Mr. McDonagh give us a sense of the level of activity in off-market sales and those with a proper public competitive bidding process?

Mr. Brendan McDonagh: The answer to the parliamentary question was that approximately 3,500 properties were sold. These are completed sales which amount to just over €6 billion. Of these 3,500 properties, fewer than 200 were sold in non-open market transactions for various reasons.

Deputy Michael McGrath: Does Mr. McDonagh defend this practice? Does he feel this option and flexibility need to be retained even though not doing so would remove any suspicion of private deals where people can benefit and where the price achieved is not necessarily the best price? I know he stated NAMA gets an independent valuation, but no one knows what the value of property is today unless one puts it on the open market.

Mr. Brendan McDonagh: There can be circumstances where legal issues arise and there is no choice, for example, because the incumbent has a deal in place where he or she gets the first option on a property. Everything is subject to independent valuation. Looking at the sales of properties in the NAMA portfolio, of the €6 billion achieved, only approximately €800 million has been achieved in the Irish market, with the rest of the sales taking place elsewhere in quite liquid markets. Therefore, there is more of a market comparator to determine whether an independent valuation is fair. We must be satisfied we achieve fair value for properties and it is very important to us in terms of our procedures.

Deputy Michael Creed: I welcome Mr. Daly, Mr. McDonagh and their colleagues. How did NAMA become aware of the issues with regard to Mr. Farrell? This question is relevant. Was it flagged by an outside party and, if so, does this reflect on NAMA's IT security systems? In his address Mr. Daly mentioned that to the best of his knowledge the details of fewer than ten properties were forwarded electronically by Mr. Farrell to his wife and subsequently to his private e-mail account. Is it not the case that NAMA cannot be certain that the information was not communicated verbally or printed and disseminated in other forms? That is a critical issue. The real issue is the residual debt that will be left by the loan portfolio holders when their arrangements have been worked out, which we are led to believe will be completed by 2020. Is there not a danger that NAMA has been exposed to litigation by the residual debt holders based on a possible compromise in the context of the possible dissemination of the information and what NAMA subsequently acquired for their portfolios, which might have been greater had that information not been so widely disseminated? Whereas Mr. Daly can say now that the information had not been forwarded electronically, he cannot say definitively that it has not been communicated in a variety of other ways, which could compromise the best interests of the organisation and, ultimately, the taxpayer.

I have two other questions on this issue. Is it not abundantly clear that the two lessons that need to be learned from this are that no NAMA staff member should be allowed to purchase any property in a NAMA portfolio and that this prohibition should apply to all other third party organisations with which NAMA deals? This step could immediately ease the situation. It should be pointed out in black and white that no NAMA staff member or member of a third party organisation which deals with NAMA is entitled to purchase properties of this ilk.

I was interested in Deputy Michael McGrath's line of questioning in terms of the advertisement of properties for sale. The dogs in the street know that there is huge concern in Cork about vast tracts of agricultural land in the ring of Cork city that were sold without any advertising. This type of concern brings the organisation into disrepute. I am not interested in undermining NAMA. I want it to succeed. However, these issues need to be dealt with properly. No NAMA employee or employee of an associated institution or organisation should be entitled to acquire NAMA properties, the sale of which must be advertised. Perhaps Mr. Daly would respond to those issues, following which I have one further question to ask.

Chairman: By way of clarification of my earlier question, are the ten individuals who acquired the information now banned from further business with NAMA?

Mr. Frank Daly: The answer to the question about whether NAMA had been made aware of this confidentiality issue by an outside source is "no". What we were made aware of from the outside source was the sale of the property at Sundays Well. It was as a result of our own forensic examination or Deloitte's investigation into that transaction that we became aware of the leaking of confidential information. That information did not come from outside; it came from our own analysis of the property transaction.

Deputy Creed referred to my saying that fewer than ten e-mails had been forwarded electronically. I can categorically assure the Deputy that the information did not get out in any other way. As a consequence of our actions in the court, Mr. Farrell has made a sworn affidavit as to the extent of what he disseminated and in which he indicated that nothing other than what we currently have a handle on, which are the e-mails I referred to, was disseminated. We found no evidence of anything else in our examination of Mr. Farrell's house and so on. I am convinced of the fact that the limit-----

Chairman: I must remind Members and witnesses to be mindful of challenging information currently before the courts.

Deputy Michael Creed: I do not intend to pursue the matter any further.

Mr. Frank Daly: On the residual debt and the danger of exposure to litigation and so on, as I said in my statement, we do not believe that any of this has been prejudicial to the interests of debtors and do not believe that will be the case in the future. The biggest defence of this at the end of the day will be that properties will be openly marketed. As such, the value will be the value. Whether this applies to a property being marketed next week or in five or ten years time, that will be the situation. We do not believe our debtors will be prejudiced.

The Deputy also asked whether there should be a blanket prohibition on the purchase by NAMA staff of properties. This issue was discussed by the board. Following much consideration, we took the view that, in one circumstance, NAMA staff could purchase a property, namely, if it is to be their principal private residence, provided there was prior approval to do so and there was full visibility of it in the organisation, right to the top, and that the property was openly marketed. There would never be a situation in which we would exempt a property from the requirement to be openly marketed. We felt this was a proportionate response. There are 240 people employed in NAMA and a further 500 in the participating institutions. NAMA controls approximately 13,000 residential properties. I know there are other properties on the market and, as such, NAMA is not the be-all and end-all in this situation. In terms of people wishing to access a principal private residence, however, we believe our response has been proportionate. We are comfortable with that.

Reference was made to a particular transaction in Cork, which I think has been dealt with fairly extensively by way of response to parliamentary questions. I do not intend to go into the detail in that regard. In case there is any doubt, there was no question of any NAMA staff member or other member of staff connected with it being involved in that transaction.

Deputy Michael Creed: I appreciate that. I would like now to move on to a separate area of questioning. NAMA controls virtually all the main players in the construction industry that were active in the decade prior to its establishment. Given the level of control NAMA has, in terms of activity in the construction industry, what engagement has it had with Enterprise Ireland and the IDA in terms of an inventory of the availability and location of suitable properties to facilitate the efforts being made in particular by them in attracting foreign direct investment here?

NAMA deals in the main with property of developers who were building houses. I assume some of those developers were also involved in a range of other construction activity. Mr. Daly referred in his opening address to the emergence of development opportunities, including the Dublin office market where demand for grade A, centrally-located office accommodation is expected to outstrip supply within a few years. The reality in provincial Ireland, including

Galway, Limerick and Waterford, where there was substantial foreign direct investment, is that there is no accommodation available for foreign direct investment wishing to locate in those areas. The construction sector was critically involved in the provision of this advanced accommodation that could be marketed as suitable locations in this regard.

Does NAMA have sufficient working capital to release to developers to allow them get involved in this area? I suggest there is some headroom in Dublin and very limited headroom in Cork. The efforts of Enterprise Ireland will soon be hamstrung by the virtual non-availability of this type of accommodation owing to the fact NAMA has not released sufficient working capital to allow development in this type of construction activity. I acknowledge that work is ongoing on completion of unfinished estates, apartment blocks and so on. The area of advance factory construction, however, needs to be stimulated. Has NAMA sufficient working capital to allow this? Is it working with Enterprise Ireland in this regard? As I understand it, alarm bells are ringing in terms of the level of availability of this type of accommodation.

Mr. Frank Daly: I removed a sentence from my opening statement in an effort to shorten it for the committee. I regret doing so now because that sentence stated clearly that NAMA wants to be active in any area where there is an emerging business need, so that when business needs accommodation, it will be available for it, courtesy of NAMA or NAMA developers. We are, and have been for some time, in regular communication with the IDA. The reference in my opening statement to prime office space in central Dublin derives directly from an IDA view that there is a shortage of such accommodation which will be required in the context of foreign direct investment. There is a lead-in time in terms of planning and preparation, and in many cases revised planning is needed. We are very active in that currently.

This is not confined to Dublin; it is anywhere there is a need. Nevertheless, it must stand up commercially in our view and we must analyse a business case that comes from a debtor or others on the basis of need and whether it will pay or ultimately enhance our asset or loan if we get involved. There is no issue about our capacity in funding terms, and that goes back to the very strong cash position in which we find ourselves today and the very strong cash generation we expect over a few years. It comes down to analysing need and ensuring that NAMA can get a return out of the process.

I have said before that much bad money, lending and investment has been evident over a number of years in this country and we are there to sort out the consequences. The worst possible mistake we could make is to fall into the same trap. With Galway, Limerick or Waterford - my own county - if there is a need and the business case stands up, it will certainly be examined. We are working with Enterprise Ireland and recently had a meeting with Forfás. We have also had meetings with Property Industry Ireland, so we are very conscious of those needs.

Deputy Michael Creed: My first supplementary question relates to the former issue with regard to Mr. Farrell. Has NAMA communicated with the principals of the loan portfolios in a proactive manner with regard to the information disseminated to assure them? I have a question in respect of the expertise available to the NAMA board. It seems there is very little expertise from developers who have knowledge of the nuts and bolts of the construction industry. Many of these people led us into much difficulty but we must move on to restore activity in the construction sector and expertise on how and where to kick start projects and get the best return is required. Does NAMA have that kind of critical practical expertise on its board?

Mr. Frank Daly: I will answer a question that the Chairman asked me twice but I never got around to it.

Chairman: I was wondering if I was in the room.

Mr. Frank Daly: I had not forgotten. The Chairman asked me if a number of people would be banned from transactions with NAMA in future. We cannot say that because these parties received information they are culpable in any way or that there was malicious intent. It does not seem that any of them actually used the information. We do not have a ban list as such. Every time we go to the market, even for consultancy or business services, the process is done through public procurement. Parties would come in and make their pitch. I would not say we would ban the parties but we are very conscious of what has happened.

With regard to communications with debtors, two or three debtors have quite understandably been in touch to seek assurances. We have written to them and the matter is on a holding basis. The Data Protection Commissioner in particular is taking a keen interest in whether any personal data has emerged from this and we need to progress that engagement. It would certainly be our intention to communicate with all of them, and I would be confident of assuring them that what has happened does not prejudice matters. This only applies to affected debtors.

There is a wide range of expertise on the board of NAMA, including people with experience in insolvency, asset management agencies and the property sector. I do not regard the board as the sole repository of expertise; there are 226 staff members in NAMA and many of those have expertise in the type of areas mentioned by the Deputy. I made the point a while ago that we are working consensually with two thirds of our debtors. I have said before that not all 850 debtors in NAMA set out to ruin the country or themselves, although they made mistakes. That we are working consensually with a number means we believe they have a contribution to make and they have the type of expertise mentioned by the Deputy. In such consensual work, NAMA has access to an expert view at any time if we want it, and there is a good level of capacity in that respect.

Deputy Pearse Doherty: I welcome our guests. There are a number of topics I wish to go through and I will try to be as brief as possible in questioning. I understand the restrictions with regard to Mr. Farrell and those activities. Who brought it to the attention of Mr. Daly that Mr. Farrell had bought a NAMA property?

Mr. Frank Daly: It was brought to our attention by an inquiry from Mr. John Mooney of *The Sunday Times* on 2 August.

Deputy Pearse Doherty: It is clear from today's presentation that if it were not for the media inquiring about the issue, it would possibly not have been addressed by NAMA. That issue led NAMA to discovering that sensitive commercial information had been taken and was released to the person's wife and potential investors in NAMA. If there had not been a media focus on NAMA, this would never have come to light. Is that correct?

Mr. Frank Daly: The immediate way in which it came to light was through the examination of the property transaction. I cannot say for definite if it would have come to light otherwise. I must be careful. If Mr. Farrell was disseminating this information, I have little doubt that at some stage - it is a small country - we would have got wind of this.

Deputy Pearse Doherty: It is quite interesting to hear that the ten parties who could possibly buy from NAMA in future would not be blacklisted, given that not one of them approached NAMA and indicated that an employee had given up sensitive information. If an e-mail lands on a desk with the prices at which NAMA purchased the properties from the banks, surely an

upstanding person with the interest of NAMA and the country at heart would notify Mr. Daly that there was a rogue employee in the operation. There should be serious questions asked about why NAMA is not ruling out working with these parties in future.

Mr. Frank Daly: We should be careful. Of the people to whom the information was sent, some were not involved in this at all. Mr. Farrell sent the information in that instance without any encouragement. I will take the case of Ernst & Young. The material was sent to Mr. Farrell's wife at Ernst & Young but there is no suggestion that the company was in any way involved or remiss in this case; it has been extremely helpful and co-operative in that regard. With some of the other cases I am disappointed that there was no action but we cannot set up a ban list. I hinted in my reply that we go through a procurement process and take a view of the type of people with which we wish to deal.

Deputy Pearse Doherty: In a parliamentary question reply and again today, NAMA has indicated that the information which was disseminated would not do commercial damage to NAMA. Mr. Daly has spoken about that at length. The last time Mr. Daly was before the committee he addressed the issue of greater transparency and how the public generally wants to know the value at which these loans were bought and are sold. He said:

Greater transparency would mean that we would have to reveal our hand to the very people that we are in negotiations with, potential purchasers of NAMA loans and underlying property. This would be commercially foolhardy. It would be like showing one's hand to an opposing player in a card game.

Does Mr. Daly still dispute the fact that Mr. Farrell's action has left NAMA potentially exposed and naked, with regard to its dealings with investors, given that it cannot categorically rule out that the information did not get out through other means or that any employee in NAMA was not communicating sensitive information by other means, orally, for a period?

Mr. Frank Daly: I am very confident about the probity and integrity of NAMA staff in general. I would not believe that there is any of this going on in NAMA by other members of staff. I shall go back to my statement on the potential damage or potential commercial exposure. All I can say to the Deputy is, at this stage of the investigation, we do not believe there has been commercial damage to NAMA and we do not believe that there is prejudicial damage to our debtors. I acknowledge that there is reputational damage and none of us wants to be here today explaining it away. As far as I can see at this stage, this is a one-off incident where somebody very deliberately set out to circumvent the controls in place at NAMA.

Deputy Pearse Doherty: I shall pick up on Mr. Daly's earlier contribution. Is this the second investigation into a member of NAMA? How many current members of NAMA are suspended or have been suspended in the past?

Mr. Frank Daly: I have received very clear legal advice on what I have said in my statement on the one other investigation. I really should not go further than that. I hope the Deputy will understand.

Deputy Pearse Doherty: That is okay. Has there only been one other investigation in NAMA?

Mr. Frank Daly: I really do not want to go further. If the Deputy is hinting in any way that there are widespread suspensions or investigations in NAMA, that is absolutely not the case.

Deputy Pearse Doherty: I seek clarification. Mr. Daly mentioned earlier that this is only the second investigation in NAMA. I want him to clarify that there have been no other investigations regarding staff in NAMA since its establishment.

Chairman: I shall interject. I refer members to Mr. Daly's opening statement. I shall summarise it by saying that an investigation carried out also led to an indication of another individual which is presently under examination.

Mr. Frank Daly: No. I have not said that.

Chairman: Okay.

Mr. Frank Daly: I do not want to link anything here. All I am saying is that there is one other investigation going on in NAMA at the moment.

Chairman: Okay.

Deputy Pearse Doherty: My question was not on current investigations because I did listen to what Mr. Daly said. My question relates to the operation of NAMA. Since it was founded, have there been other investigations and suspensions within NAMA? I know there are two current investigations. What about in the past?

Mr. Frank Daly: No. I want to be clear. I am saying there is one investigation going on at the moment which will come to a conclusion, one way or another, in due course.

Deputy Pearse Doherty: That is fair. The people are entitled to due process. There is a predication of due process.

Mr. Frank Daly: They are entitled to due process. I am very constrained in what I can say.

Deputy Pearse Doherty: I appreciate that. With regard to the sale of loans to ICG-Longbow, NAMA's former head of lending is now employed with the company. Can the delegation inform us whether ICG-Longbow approached NAMA or was it the other way around? Were the loans offered competitively?

Mr. Frank Daly: I shall leave that question to the chief executive. I will say that, at the beginning, the reality is that the former staff member of NAMA had absolutely nothing to do with ICG-Longbow at the time the transaction was carried out.

Mr. Brendan McDonagh: NAMA had only 50% of that loan and the other owner of the loan approached NAMA.

Deputy Pearse Doherty: I do not want to cast aspersions on NAMA staff or former staff members. There is a Garda investigation into an existing member of NAMA who gave out sensitive information. There is a practice of former members of NAMA at a very senior level moving on. I am talking about the head of lending who now works for a company that bought loans off NAMA in the past. Now we know that the company approached NAMA. I am not casting aspersions on the investigation.

Chairman: Please do not, Deputy.

Deputy Pearse Doherty: I am worried about the practice of people moving from NAMA to companies that have bought from NAMA. How do we ensure that information is not passed on before people take up employment in companies? I encourage NAMA to examine the matter

in more detail.

I shall deal with some smaller issues. NAMA has demolished one housing estate so far, the Gleann Riada housing estate. It was appallingly constructed and the neighbouring privately-owned estate is also in serious difficulties. How many housing estates have been or will be demolished in the foreseeable future? Does the delegation have any information on the matter?

Mr. Brendan McDonagh: The Deputy will be aware that the Department of the Environment, Community and Local Government, along with local authorities, categorises all housing estates into categories 1 to 4. Category 4 is the worst and there were about 150 on the list, for which NAMA had exposure to 29 and Gleann Riada was one of that 29. The Deputy is right. We made a decision, in conjunction with Longford County Council, that the only viable solution was to demolish the estate because it was not safe and was poorly constructed.

With regard to the remaining estates on the list of 29, we believe that the issue can be resolved with additional moneys. We will work with the relevant local authority to get site resolution and will deal with the issues.

The category 3 list consists of about 1,200 estates and NAMA has an exposure to about 130 of them. My understanding is that there is possibly one of the 130, following our engagement with a local authority, that is not solvable without demolition. It still remains part of the list.

Deputy Pearse Doherty: Can Mr. McDonagh identify it?

Mr. Brendan McDonagh: I cannot. The Deputy will appreciate that it is a sensitive issue. We will do whatever needs to be done. The board of NAMA is committed to putting the money into resolving the matter because this is a very difficult situation for the people who live there.

Deputy Pearse Doherty: I wish to make two final points. At the last committee meeting we discussed developers and their wages. I know that the delegation dealt with the issue, in some form, earlier today. At the last meeting, Mr. Daly said that one or two developers received in excess of €200 in wages.

Chairman: It was €200,000.

Deputy Pearse Doherty: Yes. I wish it were €200. They received an annual wage of €200,000. Can Mr. Daly inform the committee whether NAMA has successfully reduced the wages for those individuals? I know that he made a general statement but I would appreciate if he could inform the committee about those individuals.

Mr. Frank Daly: No, we have not sought to reduce their wages. Again, we allow overheads to be taken out of the business for all sorts of reasons, including paying the salaries to the principals. In those two cases and without identifying the individuals - and this is probably what I said the last time - they are managing and working with us. Effectively, they are managing enormous enterprises on our behalf. The commercial reality is that it is much more advantageous for us, and ultimately for the taxpayer, to have them working with us and doing that work rather than the business of putting in property managers, receivers or whatever. I know that it is an unpopular decision but it still represents the best outcome for NAMA.

Deputy Pearse Doherty: I do not accept that. We are pressed for time and I shall move on to another substantial issue. NAMA informed the Minister and he informed me through his reply to my parliamentary question that NAMA has sold off €1.9 billion in loans so far to date.

I pursued the same line of questioning on debt write-down or debt forgiveness for developers with the delegation at our last meeting. It is clear that NAMA's stated policy is that there is no debt forgiveness for developers. The delegation went quite far in its previous comments to the committee to state that it wants to see every cent of the €72 billion of the loans recouped, and not just the €30 billion that was paid for them.

Regarding the €1.9 billion of loans sold, these are sold by NAMA to another agency. The other agency, or whoever holds the loans, has no responsibility. If NAMA purchased €72 billion worth of loans for €30 billion, the book value and the price paid were substantially different. Having sold €1.9 billion worth of loans, NAMA made a profit of just under €90 million, meaning it sold them for substantially less than the initial book value yet the company that now owns them has no requirement to pursue the full value. Even if it does, NAMA will never get the full value of the loan. Let us use the example that I am a NAMA debtor with a loan of €100 million owned by NAMA. If NAMA purchased the loan for €40 million and sold the loan to a third party for €41 million, there is no way NAMA will be able to pursue me to the end of the earth for the remaining €59 million. NAMA has sold €1.9 billion of loans and it is a case of debt forgiveness for developers. NAMA will not be able to get back the full loan book value of those loans. I ask the witnesses to explain that in the context of the previous questions. Have these loans been put on the market in a competitive way?

Mr. Brendan McDonagh: I will answer that question. I would love to sit here today and say the underlying collateral in the €1.9 billion of loans was worth €1.9 billion or more but it is not. Typically, the value people paid for the loans is the value of the underlying collateral. In those instances, the buyer of the loans pays us. Hypothetically, in the example of the €100 million par debt loan Deputy Pearse Doherty gave, if we bought it for €40 million and sold it for €41 million, that is effectively the value of the collateral today and what one would get if one sold the underlying collateral. If we sell it to a third party, such as a private equity house, the third party will decide about whether to continue with the borrowing and trying to get the rest of the money back if the debtor has it. The reality is that the debtor does not have it. Once one sells on a contractual position, one cannot control what someone will do with it. Our preference is to sell loans but, within the loans sold for €1.9 billion, where the loan is a par debt repayment, par debt is what one gets back. Our preference is to have a process whereby loan sales are exposed to the market and people bid on it.

Deputy Pearse Doherty: That is NAMA's position but it means NAMA is not pursuing certain developers, who owed the loans, for the full value of the loan. This means NAMA has cut its cloth and has decided it was not going to get back the full value and so it will sell off the loans. In my example of a loan of €100 million taken out from Anglo Irish Bank or wherever, purchased by NAMA for €40 million and sold to a third party, there is a write-down of 59% in that case. I am not saying that my example happened. These are substantial write-downs by NAMA and whether the third-party pursues the developer is immaterial because it will not benefit the taxpayer. Under section 10 of the Act, NAMA is challenged with getting back the money paid for the loan, at a minimum, but to recoup the full value of the loan, making up the €72 billion the Irish State paid to the banks through recapitalisation. At an early stage, NAMA is calling it quits on a number of these loans.

Mr. Brendan McDonagh: We must realise the value of the portfolio. NAMA acquired loans from institutions where there is no additional recourse to the debtor. In that instance, all one gets is the value of the underlying collateral. Effectively, one never gets the difference back. In the situations that typically arise, many of the loans can be non-recourse loans and we

are also dealing with trying to get the best value for the asset. Some people want to buy loans rather than the property because they want to make use of it for tax planning purposes. That is part of day-to-day operations. NAMA is not the only operation in the world selling loans. Other banks are selling loans and exactly the same situation arises. We are trying to maximise the return provided by the value of the collateral underneath the loan and trying to ensure we get full value for it.

Deputy Pearse Doherty: I will try to finish up on this point. When NAMA was set up by the previous Government, there was a lot of outrage. I do not blame the officials of NAMA, who are charged with securing a return to the State. There was outrage that developers were going to walk away with a reduction in the debt they owed to banks such as AIB, Anglo Irish Bank and Bank of Ireland. It was categorically said that this would not happen, that it would not be a write-down for developers and that the loans were purchased at a reduced level, with the developers to be pursued to the end of the earth for the full amount. What has happened with €1.9 billion of loans being sold is that the developers, or at least the State, has written off a portion of that money. It is a write-down for developers because the third-party may not pursue them, as NAMA is mandated to, in order to recoup all of the €72 billion.

It is important to be honest. This is happening at a time when hundreds of thousands are looking for the banks to give them a write-down. They did not cause any problems in terms of the economic crisis and cannot get leeway from the banks yet an institution of the State, NAMA, is selling loans at a write-down and crystallising a loss on the NAMA books.

With regard to personal guarantees, for how long is NAMA pursuing personal guarantees?

Chairman: I am under time constraints. I will ask Mr. McDonagh to respond and I will move onto Deputy Kevin Humphreys. Deputy Pearse Doherty's colleague, Deputy Brian Stanley, can take up his questions.

Mr. Brendan McDonagh: NAMA's policy is to pursue personal guarantees to the fullest extent possible. We look for sworn statements of affairs and we consider whether the debtor is co-operating. If the debtor is not giving us his additional assets, we will pursue him. If the debtor co-operates with us and helps us to realise the maximum value of the loan exposure, we will look at whether he has assets left at the end. If he has no assets left, there is no point in pursuing personal guarantees. If he has assets left or if anything emerges, we will hold him in a period of probation in which we reserve the right to go after it. When the debtor is working with us, we want the assets handed over if he has any. The evidence today is that we have received over €500 million worth of assets from people who did not want to give them up in the first place. They have decided that the only way they will survive is if they hand over assets. If the debtor has assets that have not been declared, we will conduct asset searches and go to the courts to pursue the debtor. We are doing everything possible to get as much as possible out of this in the interest of the taxpayer.

Deputy Billy Timmins: On a point of information-----

Chairman: The Deputy can give me a question, not a point of information. I called Deputy Humphreys.

Deputy Billy Timmins: On the sequence of speakers-----

Chairman: No, we are going from Government member to Opposition member. I will come back to Deputy Billy Timmins after we hear from Deputy Boyd Barrett.

Deputy Billy Timmins: I just wanted to know the sequence.

Chairman: The sequence will be Deputy Kevin Humphreys, either Deputy Boyd Barrett or Deputy Higgins, Deputy Timmins, Deputy Sean Fleming, Deputy Spring, whoever is left from Deputy Boyd Barrett or Deputy Higgins, Deputy Mathews, Deputy Stanley, Senator Hayden and Deputy Dara Murphy, if he returns. My apologies to Deputy Timmins.

Deputy Kevin Humphreys: I will try to take this in a different direction. I thank the witnesses for their submissions and their efforts in trying to answer the questions in full. It was stated that credit advances of €1.6 billion has been dispersed by NAMA. May I have a breakdown of the figure that shows how much of that money has been spent in the Republic?

Mr. Brendan McDonagh: In term of NAMA's credit advances, I believe that €800 million is being applied in Ireland and about €800 million is outside Ireland.

Deputy Kevin Humphreys: May I clarify an issue that arose in an earlier question? With regard to the €15.5 million that has been paid to the 168 people managing the properties, has Mr. McDonagh a maximum, average and minimum figure so that we can work out what sort of ballpark figures are involved. Does NAMA makes efforts to ensure that those in receipt of these salaries are tax compliant?

Mr. Frank Daly: As I mentioned earlier, of the 168 individuals, 29 are on a salary of between €0 and €49,000; 73 earn between €50,000 and €99,000; 38 earn between €100,000 and €149,000; 25 between €150,000 and €199,000 and three people earn €200,000.

Deputy Kevin Humphreys: Are they all tax compliant?

Mr. Frank Daly: Obviously, we would expect any debtor to be tax compliant. It is a matter for the Revenue Commissioners to inform our organisation and to ensure they are. We have a good working relationship with the Revenue Commissioners.

Deputy Kevin Humphreys: Are these individuals asked for a tax compliance certificate prior to payments being made?

When Deputies are elected, one of the conditions is that-----

Mr. Frank Daly: These are not direct payments from NAMA in any case. This is revenue coming into the company from which overheads are taken, including salaries, but we would expect all our debtors to be tax compliant. We would not wish to be faced at any stage in the future with the Revenue Commissioners indicating that they are not.

Deputy Kevin Humphreys: Are there checks to ensure that individual are compliant?

Mr. Frank Daly: There are checks by the Revenue Commissioners.

Deputy Kevin Humphreys: Regarding the special purpose vehicle for social housing, when is that expected to come on line? When will those 1,200 units be delivered and have we a time frame for that?

Mr. Brendan McDonagh: We had identified more than 3,800 properties to the housing associations and we were getting frustrated at the length of time it was taking to be processed. Our debtors have the properties on their hands, and there is a strong private rental market. They were asking me how long did they have to hold the properties because they could get them

rented. One of the issues was the delivery mechanism. The housing associations must find an approved housing body which will do the long-term leasing and they then seek funding approval from the Department of the Environment, Community and Local Government. Some of our debtors and receivers were also not over enthusiastic about allowing this to happen. Having consulted on how to speed up the process, it was decided that we would buy the property from the debtor-receiver, relieving him of that difficulty on the basis that the approved housing bodies identified they wanted properties in the areas and they had the approval of the Department of the Environment, Community and Local Government. We hope that by the end of this year that somewhere between 300 or 400 of those units could be delivered. Once the process is set up, the delivery will be much quicker. We hope that by this time next year the majority of the houses requested by the approved housing bodies - providing they have the funding from the Department of the Environment, Community and Local Government - will be processed and that well over 1,000 and perhaps 1,200 will be delivered through this mechanism by this time next year.

Deputy Kevin Humphreys: Is it the intention that NAMA will control the special purpose vehicle?

Mr. Brendan McDonagh: Yes, effectively we will buy the properties and put them on to NAMA's balance sheet and then we would lease them. As I said, one of the issues is that the debtor and receiver were less enthusiastic and did not want to do a lease with the approved housing body. We decided to buy the properties from the debtor-receiver and get them out of the picture when we would then be able to deal with the approved housing body.

Deputy Kevin Humphreys: Is it NAMA's intention to sell on the special purpose vehicle to approved housing bodies?

Mr. Brendan McDonagh: Absolutely. Part of the lease that has been approved by the Department of the Environment, Community and Local Government and is now with the Irish Council for Social Housing provides that the approved housing bodies get the option to buy the property at market value two thirds of the way through the 20 year lease.

Deputy Kevin Humphreys: Will Mr. McDonagh confirm that it is his hope that by this time next year, 1,200 units will filter into social housing?

Mr. Brendan McDonagh: Yes, absolutely, Deputy. We are trying to work as fast as the approved housing bodies require the units. We wanted to ensure that the delay was not at our end but we can go as fast as the approved housing bodies.

Deputy Kevin Humphreys: I accept that. Mr. McDonagh has given me a very clear answer. Money has been made available to finish off development sites. In my area of Dublin I see a pent-up demand for new office blocks and new apartments. The demand for rental properties in central Dublin is very high. Has NAMA a plan to release money or to invest in developing its brownfield sites in the short-term, as anecdotal evidence suggests there is a built up demand in silicon dock and other places in the Dublin area? Are there concrete plans at this stage for such developments?

Mr. Brendan McDonagh: As the Chairman stated earlier, one of the issues that our debtors and receivers faced was that the planning permission for their sites was not viable in the current environment. We have engaged extensively with the four local authorities in Dublin and have had a very good engagement with them. We outlined the issues that needed to be addressed.

First, that the current planning permission was not viable and could that be addressed. We have had a very favourable response. The second issue was that development levies were set for boom times but were not relevant for today's market. The local authorities have been very responsive and have looked at reducing the development levies by up to 25% to 26%, which helps the whole process.

We reorganised NAMA earlier this year and created a new asset management division under my colleague, Mr. John Mulcahy. We have brought a business plan to the board for that asset management division, so that subject to the planning and development levies being sorted out and an increase in demand, we would see ourselves looking at the funding of the development of potentially more than a million sq. ft of grade A office space in Dublin and up to 5,000 residential units in the next three to four years. Where there is a proven demand, we will make money available, because it makes commercial sense to do so.

Deputy Kevin Humphreys: It is welcome that people with specific expertise are now being seconded to Departments and Government bodies. I know there is a code of practice and confidentiality. Does NAMA maintain a register where their staff can declare their interests? How does NAMA manage, for example are there issues of good governance when people from the private sector take up a position on secondment with it?

Mr. Brendan McDonagh: This is managed quite effectively under section 45 of the Act which deals with the issue of conflicts. We might need a person for a specific project. The person who takes on this job may be on secondment for a short period and we treat them as a NAMA employee. They must go through all the compliance procedures undertaken by any NAMA employee. They are subject to all the same provisions regarding conflict, compliance and confidentiality as any full-time NAMA employee.

Deputy Richard Boyd Barrett: I thank the NAMA officials for carrying on for so long. I would like to place my questions in the context of Mr. McDonagh's point that NAMA is much more transparent and accountable than the banks. While I agree with that point, it is not a brilliant achievement on the part of NAMA in the light of the level of arrogance and contempt that the banks show when they come to this forum and the staggering lack of interest they seem to have in the country's wider economic plight. One hopes NAMA will be different. I acknowledge that the officials' comments demonstrate they are conscious of the wider picture beyond a pure commercial mandate to get in the money. Regardless of the unfortunate circumstances that led to the establishment of NAMA - we all wish there had not been such circumstances - I emphasise that I see NAMA as an opportunity to have a State institution which is more accountable than the banks and potentially accountable to the national and the public interest to address the country's disastrous property market. That can have a positive outcome or a not so positive outcome.

Chairman: I remind the Deputy that he should ask questions.

Deputy Richard Boyd Barrett: Absolutely. This is what I want to ask about. I suspect many people share my fear that the number of social housing units will be relatively paltry. I wonder whether the officials think that is a legitimate fear. In any case, the State will not gain from these units - the approved housing bodies will. Is it not the case that the net objective of NAMA is to get the money back and refloat the property market? Is it not the case that the result of NAMA will be to put many of those who got us into this mess back in business? That is what alarms me when I hear that NAMA is employing 62 of the biggest developers in the country who have helped to wreck the economy and paying them over €100,000 a year. It might be

excusable for it to employ them if they have certain skills. Am I right to say we are paying them that money, even though, in most cases, they will regain ownership of their property portfolios at the end of this process? Is it not the case that NAMA is holding out to them the option of being back in business if they repay their loans? I find it problematic that we are paying them to help them to get back into business. Have I given a fair assessment of what NAMA is doing?

By contrast, the social dividend of NAMA's activities is minimal. Mr. Daly has said NAMA has provided approximately 1,100 social houses and has an objective of providing approximately 4,000 such houses. Will he clarify whether that is what we are getting? Given that there are over 100,000 people on the property waiting list, should we not be entitled to expect more than 1,100 social houses from NAMA? Does Mr. Daly think the State will get good value, given that the approved housing bodies which will be given responsibility for these social houses are private entities, or certainly not State entities? Much of the money they will be using to lease the property from NAMA will be State money, in effect, that comes through private bodies in the form of rent allowance payments.

As I understand it, the approved bodies are housing associations. Some of them are for-profit bodies, while some of them are not-for-profit bodies. They are not part of the State system. They will lease the properties. Mr. Daly has said NAMA will give them the option to buy them. Is that right? These properties could be used to give people social housing, with rental revenues coming back to the State in the long term, but the net effect will be the other way around. We will be handing over properties that we currently control. They will be out of our control. The rental revenue will go to these bodies rather than coming back to the State. I do not think that is good value for money from NAMA's point of view. It is definitely not good value from the point of view of the State and its citizens. If we keep the assets we have, a long-term rental revenue stream will come back to us. If it is good business for them, why is it not good business for us? Why are we disposing of them?

I will not go into the details of the Farrell case because Mr. Daly has explained it very well. It is obvious that he cannot elaborate on the investigation. It can be added to other similar instances such as the case of a former senior lending officer now working for a firm which bought loans from NAMA. As NAMA disposes of these assets to developers and property investors, is it not inevitable that it will create conditions that give rise to potential conflicts of interest and the possibility of corruption? If we kept the commercial and housing property in State hands, we would not have that problem. We could rationally organise the commercial property market in the interests of fostering enterprise and business, etc. We could use the residential properties to house the 100,000 people who are on waiting lists. Why can we not house more people? In what sense is it good for the State for us to be disposing of this property? It is going out of our hands. Private investors, rather than the State, will ultimately benefit from it. That is really the point.

I would like to comment on the issue raised with regard to the person who worked for NAMA but is now working for one of these purchasers. Should there not be a cooling off period of a minimum of two years before someone who has worked for NAMA is allowed to work for a company which has the potential to benefit from its engagement with NAMA? Such a person should not be allowed to take up a job with a private entity which could possibly benefit from his or her previous involvement with NAMA, or the knowledge that person might have taken with him or her for a minimum of two years. Would that not be a reasonable requirement?

I would like one of the representatives of NAMA to clarify some numbers. I understand 10,000 of NAMA's properties are rented and that 3,800 of its properties are being used for

social housing. Is that it? How much more is there? Why is there not more? That is what I really want to know. Will the officials tell us how much residential property NAMA has in total? Does NAMA expect any more of its housing stock to be used as social housing? We have been told that NAMA has “identified approximately 3,800 units for social housing” and has “confirmed demand for 1,200 of these houses and apartments”. Why is there a delay in meeting the demand that has been confirmed?

Mr. Frank Daly: My colleague, Mr. McDonagh, will deal with the social housing figures. I will respond to something Deputy Richard Boyd Barrett said at the beginning of his contribution. It is not the net objective of NAMA to put developers back in business or to create a property market that is anything like the market that was in place here in the earlier years of this decade. The objective of NAMA is at a minimum to recoup the €32 billion that we paid for the loans in the interests of the taxpayer. That is our key objective. Earlier in my statement I noted that this would represent €32 billion off the backs of the taxpayers of this country. Deputy Boyd Barrett referred to a social dividend and that would represent a huge dividend and one of the best possible outcomes that NAMA can deliver for the people.

There was a question about whether people will regain ownership if they repay their loans. I believe few of the debtors we have will get back into the ownership situation they were in previously. However, if people repay in total their loans to NAMA we cannot stop them from getting back into business. Other Deputies made the point earlier that we will still need a property sector and a development sector in the country in future.

In the middle of this discussion Deputy Boyd Barrett referred to the Enda Farrell case and the loan purchase by ICG-Longbow and he fused together these with remarks about the objectives of NAMA being to rebuild debtors and so on. The reality is that the individual who joined ICG-Longbow did so long after that transaction was done, some nine months afterwards in fact. NAMA is like any other organisation in that people will come and go and they have a right to go and earn a livelihood at some stage in future. The conflict of interest restrictions that apply while they are staff of NAMA do not die the day they walk out the door, they stay with them in perpetuity. There is a limit to what we can do in this regard.

However, I wish to put on record that we have no evidence in respect of any transaction or any move of any person who was in NAMA and who now might be working for someone else that such a person compromised his or her position or NAMA because of the use or the carrying of information he or she might have had while a member of NAMA. It is important to put this on the record for the staff of NAMA and for those who have left NAMA. Obviously, I am not talking about the particular case that has been referenced earlier.

A question was asked about social housing. We work with housing associations but it is not up to NAMA to set the social housing policy of the country. We have enough to do without doing that and that is for others to do. Within the structure and policy in place we will do our best to deliver and that is what we have been doing. The chief executive might clarify some of the numbers.

Mr. Brendan McDonagh: I will provide a breakdown of the 3,800 units that we have provided to the Department of the Environment, Community and Local Government and the Housing Finance Agency. In the case of approximately 1,300 of the 3,800 units, the demand has not yet been confirmed by the Housing Finance Agency to NAMA. The housing agency has not fully analysed them. There is no demand for approximately 450 units. This is because the local authorities have for their own reasons stated that they are not required. We will put

approximately 600 of the 3,800 units on a list and give it to the housing agency. They have not been chosen because either they have been rented to the private sector or they have been sold.

This leaves a residual 1,500 properties with which we are currently active and we are examining them in terms of identifying what to do. We expect these units to come through in the coming 12 months. The Deputy asked why there are not more properties in NAMA. The loan portfolio we bought had properties hanging out of it but there were different types of properties hanging out. There are 800 debtors in NAMA. Some of them were involved in house building and some were not. Some were based in Ireland and others were not. This is what is available to play with in terms of the completed stock. We would much prefer if we could sell off all that stock and we do not mind who buys it. However, it does not appear that there is money available from the State to buy the stock at this stage and this seems to be the only option available. The policy decision of the Government seems to be the promotion of a long-term leasing option, but that is not something I can control.

Deputy Richard Boyd Barrett: I accept that point. It is a Government policy decision but I am keen to ascertain the facts. Mr. McDonagh is saying that this is all we will get in terms of social housing.

Mr. Brendan McDonagh: We are doing as much as we can. I would not mind if all 14,000 units ended up in that situation. It would be a big contribution. I am as aware as anyone else of the figures, of the people on waiting lists and of the demand for housing. I am simply saying that we cannot magic up more than what is there. In the case of what is available, we have done our best to make as much of it available as possible. We are keen to see a delivery of it to alleviate a difficult problem.

Deputy Richard Boyd Barrett: Perhaps it is better to put it this way. There is no reason the State could not purchase that property or write down what NAMA must hand back to the State, on the basis of NAMA transferring it to the State. That arrangement could be made. However, the anticipation of NAMA is that there will not be much more than that.

I was not suggesting that there was a conflict of interest. Frankly, I do not know any of the details and I am not making any suggestions either way but the point is that potential exists if there is not an adequate cooling off period. There is nothing to stop it if what NAMA is in the business of doing can potentially confer significant commercial advantage on a person.

Chairman: I am trying to accommodate everybody. We are approximately 15 or 20 minutes into the discussion. Deputy Boyd Barrett has made his contribution and has been talking for 13 or 14 minutes. Will he conclude, with a couple of questions in order that I can bring in some other contributors?

Deputy Richard Boyd Barrett: Does the deputation not believe a cooling off period of approximately two years following a period working for NAMA would be appropriate?

Mr. Frank Daly: I believe we must be proportionate. If we were to put it to someone that he or she could not work for two years it would cost us a good deal of money.

Deputy Richard Boyd Barrett: I am referring to working for companies engaged in that business.

Mr. Frank Daly: Cooling off periods cost money. The reality is we have no reason to believe that the small number of people who have left NAMA since its foundation have in any

way compromised NAMA or used their knowledge to disadvantage NAMA. In an ideal world one might introduce a two year cooling off period but the reality is that, for a start, we would have to pay such people for the two years. Is that what the Deputy wants? Does he want people who leave to be paid by NAMA for one or two years after they go? I think we should be proportionate.

Deputy Billy Timmins: I will refer to three issues briefly. It is important to realise that we all want NAMA to succeed. The question is to try to ensure we protect the interests of the taxpayer and the State in the process. Mr. Daly noted that 500 NAMA staff work out in the institutions or are based in the institutions. Can we have a breakdown of these staff? For example, how many personnel are in the NAMA unit in the Irish Bank Resolution Corporation, IBRC? Is NAMA satisfied with the service it is getting from the main players, including IBRC, AIB, Bank of Ireland and any other financial institution? Does NAMA have any service level agreements with these institutions? Are some of the units in the institutions more efficient than others? Has NAMA had any reason in recent times to voice concern to the institutions at the co-operation or efficiency of any of the units?

One important factor for success in banking and financial services is confidentiality. My understanding from reading newspapers in recent months is that some business plans belonging to some of the people NAMA is dealing with may have been leaked to the media. I am not referring to the two cases mentioned. One newspaper, in particular, carried a few stories. It appears that the business plans submitted to NAMA have been leaked. I ask the delegates to comment and say whether an internal investigation is being undertaken to determine how this information was made public. It is very difficult to see how NAMA can succeed if people do not have confidence that business plans will be confidential. It was stated Ernst & Young was one of the ten recipients of the information from Mr. Farrell. Who were the other nine recipients?

Mr. Frank Daly: The 500 staff are not NAMA staff; they are bank staff working in the IBRC, AIB and Bank of Ireland. We can supply the committee with accurate figures. There are approximately 200 staff in the IBRC, 200 in AIB and 100 in Bank of Ireland. Section 131 of the Act provides for service level agreements with all of the participating institutions which govern the way in which the institutions service NAMA and the loans they manage on its behalf. We have a very close working relationship with and a firm hold on these NAMA units in the three institutions. NAMA people are in the institutions as part of the teams and there is considerable oversight. Day-to-day issues will arise in any relationship, but at this stage we do not have significant issues with the performance of the units. One issue that arises from time to time has to do with turnaround times for credit and sales requests which we monitor very closely. In respect of the 195 debtors managed by NAMA, the average turnaround time is about 4.7 working days, while it is a little longer in the institutions, at seven days. We are always trying to improve on these times.

Deputy Billy Timmins: Is there a variation between the three institutions?

Mr. Ronnie Hanna: It is pretty even between the three. We monitor this aspect very closely.

Mr. Frank Daly: We continually try to improve this aspect.

Deputy Billy Timmins asked about the confidentiality of business plans and leaks to the media. I am aware of a case where the media seemed to have got hold of a business plan or elements of one. I can say with absolute certainty that it did not come from NAMA. I have no doubts about this. None of the business plans in the cases referred to by the Deputy has come

from NAMA.

Deputy Billy Timmins: Are legal cases pending against NAMA on the grounds of confidentiality?

Mr. Frank Daly: I am not aware of any.

Deputy Billy Timmins: Is Mr. Daly quite sure there were no leaks from NAMA?

Mr. Frank Daly: I am quite sure.

Mr. Brendan McDonagh: We have investigated that case. We have carried out a full trawl of our email system and extensive interrogations. It did not come from NAMA.

Deputy Billy Timmins: Ernst & Young was one of the ten recipients of the information from Mr. Farrell. Who are the other nine?

Mr. Frank Daly: We are not in a position to name them. That is part of the ongoing investigation. The case will be heard in the High Court on 5 November. In fairness to Ernst & Young, it has been categorised as a recipient. I emphasise that the individual who is an employee of Ernst & Young is Mrs. Farrell.

Deputy Billy Timmins: Point taken. I take it that in the Ernst & Young case it was sent to the individual. In the other cases was the information sent to individuals or the institution *per se*?

Mr. Frank Daly: Primarily to individuals, but I do not want to speak further about that.

Deputy Sean Fleming: I welcome the delegates to the meeting. I wish to raise a number of topics. NAMA completed two business plans earlier this year. How many plans are there? Mr. McDonagh said in his opening statement that NAMA had referred two cases to the fraud squad as the debtors had not adequately disclosed information to NAMA. Are these business plans completed?

Mr. Brendan McDonagh: We received close to 800 business plans because we have 800 debtors. These plans have all been completed. The bigger debtors have more complex business plans. The two debtors whose cases were referred to the fraud squad have had enforcement actions taken against them. They are being investigated by the Garda Síochána.

Deputy Sean Fleming: I wish to recap. I refer to the par value of the loans versus what NAMA paid for them. I ask the delegates to describe the percentage write-down. What is the par value?

Mr. Brendan McDonagh: It is €74 billion. We paid €31.8 billion for the loans. That is a 57% discount.

Deputy Sean Fleming: I wish to refer to a few items in NAMA's quarterly accounts - the section 55 NAMA accounts presented to the Minister. Both Mr. Daly and Mr. McDonagh signed the statement on 21 September. The quarterly report on the accounts for the second quarter is for the period up to 30 June 2012. On that date the amount due to NAMA on debtor loans was €72.4 billion. The NAMA book value of the loan portfolio was €24.8 billion. Are the delegates familiar with this document? It shows that the loan book at the end of June - the most recent period for which figures are available - was valued at €24.8 billion against the par

value of €72.4 billion. That indicates a write-down of 66% compared to a write-down of 57% on loans taken in over a period. I refer to the last paragraph on page 2 of the document which shows the performance of the portfolio based on acquisition value of 29%; it is 19% of the original par value. The final sentence reads: “It should be noted that as NAMA disposes of income generating assets, the performance of the loan portfolio may deteriorate”. Are we witnessing that situation? I know the percentage has not changed this year on the performing loans. The delegates seem to be saying that if NAMA disposes of its good liquid assets up front, especially in the United Kingdom or the United States, it will be left with a rump and the performance of what remains may deteriorate. This is what NAMA stated to the Minister. This is shown in the figures because NAMA provided for a write-down of 57% on the current loan book and this figure has increased to 66%, based on NAMA’s valuation of its accounts. Do not talk about unrealised possibilities because they can be accounted for when they occur. The accounts presented to the Minister show a write-down of 66% on what remains, which is worrying. I have a few questions about the accounts.

Acting Chairman (Deputy Arthur Spring): Would the Deputy like answers at this point?

Deputy Sean Fleming: Yes, on these specific points.

Mr. Brendan McDonagh: The figure of €24 billion is the net impairment value as at the end of June. There is a figure of almost €2.9 billion in terms of impairment. That gives a coverage figure of about 10% on the books. We also disposed of about €2 billion worth of loans, which brings the figure of €74 billion down to €72 billion. I will describe it as an experience between the Deputy and me at the Committee of Public Accounts.

Deputy Sean Fleming: We will not talk about the matter of interest today.

Mr. Brendan McDonagh: We have been tracking the 19% performance figure. I do not believe that is a real measure of what NAMA is about because it is effectively based on a par debt which is continually increasing when it should be based on what we paid for the loans. We are obliged to report it in this way because that is what is required under section 55 of the Act.

I will provide an example for the first six months of the year. We realised EIR income in our accounts of approximately €609 million. We actually took in cash amounts of €596 million. The 19% performance rate only generates €345 million of that. However, we also took in cash - an additional €290 million - in respect of loans which are partially performing or which were advanced to debtors who are not being enforced against. The real performance rate of the loan book of NAMA would be approximately 35% as opposed to 19%. The chairman, Mr. Daly, and I felt it was important to make the point to the Minister - and also to the wider public domain in view of the fact that section 55 is easily accessible - that if NAMA continued to sell its income-producing assets willy-nilly, it would end up in a situation where it would have no income coming in but where it would still have liabilities to service. How do we address that? First, we try to ensure all the vacant properties in our portfolio are income producing pending sale. Second and more important - this was not the position when we acquired the loans - is that the debtors give us the rental income that is coming in. We have, therefore, captured over 90% of the rental income relating to the loans.

When we inherited the loans there was a phenomenon whereby debtors were collecting rental incomes but were not using these to pay their banks.

Deputy Sean Fleming: I understand that.

Mr. Brendan McDonagh: By capturing all the rental income, we have improved the position. At present, our recurring income is running at approximately €100 million per month or €1.2 billion per annum. As a result of the fact that our operational and interest rate costs are quite low, if we never sold another property, we would still have surplus cash per annum of €700 million. If we sell properties for between €3 billion and €4 billion next year, we will probably knock the best part of €150 million to €200 million off-----

Deputy Sean Fleming: Yes, that is fine. I am pleased that NAMA still has some money available in the first six months for current impairments. Up to now, it has been addressing those impairments at the end of each year. I have two other questions to ask in respect of this particular document.

Acting Chairman (Deputy Arthur Spring): The Deputy should be aware that we are under pressure with regard to time.

Deputy Sean Fleming: I am moving faster than most other members. I am not making speeches, I am posing straight questions. Will our guests indicate the purpose of the IBRC repurchase agreement scheme of €15 million? This is detailed on page 12. People will be intrigued why NAMA was obliged to take the Minister for Public Expenditure and Reform to the District Court in Longford to obtain an order of entry and maintenance in respect of a particular building. Why was it necessary to take a Minister to court in the first half of this year? Would the Minister not agree to hand over the key to the building or did someone lose it? The poor old Minister, Deputy Howlin, had to be dragged down to Longford District Court.

Mr. Frank Daly: It was nothing personal.

Deputy Sean Fleming: We know that. I would ask NAMA to go easy on the Minister in the future.

Mr. Brendan McDonagh: There was a health and safety issue in respect of that site. We could not enter it legally because the company involved had been struck off and we could not, therefore, obtain a section 14 order to allow us to carry out the health and safety works on the site. It used to be the case that when a company was struck off, its assets became vested in the Minister for Finance. I understand that function is now part of the public expenditure and reform portfolio.

Deputy Sean Fleming: Could the Minister for Public Expenditure and Reform not have volunteered the key to the building to NAMA?

Mr. Brendan McDonagh: It was just a procedural matter in the context of section 14.

Deputy Sean Fleming: Is it often the case that companies with which NAMA is dealing are struck off?

Mr. Brendan McDonagh: Yes.

Deputy Sean Fleming: I had not heard that before.

Deputy Sean Fleming: How many of the 800 companies involved in NAMA's business cases have been struck off and no longer exist?

Deputy Ciarán Lynch resumed the Chair.

Mr. Brendan McDonagh: We ensure that most of the debtors with whom we are working - two thirds of the debtors by number - keep their companies up to date with the Companies Office. We incur necessary expenses to ensure they keep their filings up to date. Sometimes debtors who have not yet been enforced against but who will not co-operate with NAMA allow their companies to be struck off. Where they are struck off, it is necessary to get the company to restate it before one can do anything. This is not a major difficulty but it is quite a time-consuming process. We probably were obliged to work with 50 or 60 companies in the lifetime of NAMA to date to have them relisted with the Companies Office.

Deputy Sean Fleming: Was NAMA required to go to the District Court in circumstances where it wanted to access the properties of any of those former companies?

Mr. Brendan McDonagh: Yes, especially in situations where the particular debtor would not, perhaps, co-operate with us.

Deputy Sean Fleming: That is interesting. Will Mr. McDonagh briefly outline NAMA's dealings with local authorities? NAMA has sites in many locations throughout the country which can be used by local authorities for community and social purposes. Is there much happening in that regard? Does NAMA have agreements in place to allow local authorities to use such properties? How is a decision made in respect of the value of such properties? Is it based on what NAMA paid for them?

Mr. Brendan McDonagh: We deal with the City and County Managers Association. We also deal with individual local authorities. Our door is open if a local authority or the Department of Education and Skills wants to talk to us about particular matters. We do whatever we can to facilitate them. If a local authority makes an approach and if we can reach an agreement about whether it wants either to rent or buy a property, we proceed on the basis of whatever is the market value of that property. I do not believe there has ever been an instance where, when we have been approached, we have not done our best to accommodate a local authority.

Deputy Sean Fleming: On NAMA's annual statement for 2013, which appeared on its website this afternoon, and following on from what Deputy Timmins said, will Mr. McDonagh outline the fee structure that is in place with AIB, Bank of Ireland and the IBRC? According to the document to which I refer, the total amount in this regard for next year will be €64 million. Reference is also made to a fee up to a maximum of one tenth of 1%. Is that based on the par value or the-----

Mr. Brendan McDonagh: Yes.

Deputy Sean Fleming: That would be an amount of the order of that to which we referred earlier, namely, one tenth of €70 billion. That cannot all be managed by the staff in the organisations to which I refer. This is the only instance in which NAMA is relying on the original par value. In every other instance, it proceeds on the basis of what it paid. Is it overcompensating in this case and is that a fair price?

Mr. Brendan McDonagh: This was part of the agreement struck in the context of the EU state aid approval relating to NAMA. In other words, the original banks had to be compensated if they were going to be our primary servicers. The agreement was that the amount involved would be a maximum of ten basis points, 0.1%, or cost recovery, whichever is the lesser. If banks incur more than ten basis points, then they are obliged to absorb the cost. If they incur fewer than ten basis points, then they only charge us for cost recovery. I am happy to say that

all three institutions are operating below the ten basis points.

Deputy Sean Fleming: Has NAMA audited the position in this regard?

Mr. Brendan McDonagh: Yes.

Deputy Sean Fleming: Is it satisfied that it is not being overcharged?

Mr. Brendan McDonagh: Yes.

Deputy Sean Fleming: That is good. How many of NAMA's major debtors are operating outside the State?

Mr. Brendan McDonagh: Does the Deputy mean that they are working for NAMA or that they are working for themselves outside the State?

Deputy Sean Fleming: No, people who owe NAMA money.

Mr. Brendan McDonagh: Who owe us money?

Deputy Sean Fleming: Yes. Are most of the people who owe NAMA money still-----

Mr. Brendan McDonagh: No. I do not have an exact figure but, as far as I can recall, between 130 and 140 of the 800 debtors in NAMA are not Irish at all.

Deputy Sean Fleming: To start with.

Mr. Brendan McDonagh: They are foreigners who borrowed money from Irish banks.

Deputy Sean Fleming: Okay. I accept that NAMA has a particular legal remit. As I have stated previously, however, it is trying to work out these assets as best it can for the State and to recover what it paid for them. The IBRC is doing the same thing. I am of the view that there would be merit in merging the two organisations. It is possible that there could be an amount of unhealthy competition between NAMA and the IBRC which could, ultimately, be detrimental to the taxpayer. When NAMA is pursuing debtors in the context of trying to obtain agreements, does it consider the views of the IBRC or any other financial institution which may also be owed money by those to whom I refer? Is NAMA intent on obtaining the best deal possible for the taxpayer rather than trying to obtain such a deal for itself? Does consideration of matters of this nature come within NAMA's remit?

Mr. Brendan McDonagh: It is part of our remit to obtain the best return on the loans.

Deputy Sean Fleming: That is one of the reasons-----

Mr. Brendan McDonagh: That is a statutory obligation. Clearly, there are very few instances where we have not acquired the whole debtor connections of those in NAMA.

Deputy Sean Fleming: What was the largest amount NAMA collected in the past year or two? What were its biggest two or three achievements in terms of cash? Mr. McDonagh must know that off the top of his head.

Mr. Brendan McDonagh: There was one transaction where we got in about €800 million.

Deputy Sean Fleming: Where was that?

Mr. Brendan McDonagh: London.

Deputy Sean Fleming: What are we talking about here?

Mr. Brendan McDonagh: That was the sale of three five-star hotels in London.

Deputy Sean Fleming: Okay. Let us talk about that. That was NAMA's biggest transaction to date where it got in about €800 million. What was the book value? What did NAMA pay for that? Did it make much profit on that?

Mr. Brendan McDonagh: I do not want to talk about individual transactions but we did make a profit on that.

Deputy Sean Fleming: I accept Mr. McDonagh might not want to go too far on this and I noted the little nudge there. Is there commercial sensitivity about this? It is now history. NAMA has a legal remit to look after its organisation and the IBRC has a remit to look after its organisation and sometimes the unhealthy possible competition between the two might result in one getting the better of the other in terms of recovering its money. I put the following straight question to Mr. McDonagh - has Mr. McDonagh a view on whether NAMA's single largest transaction to date that he mentioned could in some way have disadvantaged another State organisation, IBRC, owned by the taxpayer in terms of it collecting its debt? Could NAMA's action have had excellent good news from its perspective but have had some collateral potential damage in terms of the collectability of other debts owed to another organ of the State? What is Mr. McDonagh's view on that?

Mr. Brendan McDonagh: I do not believe so.

Deputy Sean Fleming: Mr. McDonagh does not believe so. For the record, the IBRC will appear before the committee next week and I will be asking its representatives the same question on that. Some people would think there is a case that there can be competition between the two organisations.

There was a court case involving Coroin Limited, the hotel group, and NAMA officials would have given public evidence of that. Is that correct?

Mr. Brendan McDonagh: Yes.

Deputy Sean Fleming: There is a document on the public record of the courts in England. Therefore, there is nothing confidential about this. It is not *sub judice*. It is a previous case. I want to read an extract from the public court record of what was stated in the summing up, and I can provide this to anybody who wishes to have it after the meeting. It is on the public court record. It states Mr. Hennigan and Selina Dicker from NAMA then spoke to Mr. Peters, Mr. Hooper and Mr. Faber on 27 January. It further states that on 28 January Mr. Peters e-mailed Mr. Hennigan and Ms Dicker saying, "Thank you for time yesterday on our conference call". It states, "Richard, Dick and I found it most helpful". It further states, "Clearly, you have a wealth of knowledge regarding Coroin Limited and its shareholders in some of the latter's much wider debt and security positions than we would have possibly hoped to have obtained in the relatively short period of time we have been involved". It also states, "We appreciate your most kind offer to assist us in getting up the learning curve".

Mr. McDonagh can tell me if I am wrong on this but it could appear from this that NAMA representatives were discussing a company's business with other people, perhaps to the detri-

ment of one of its clients. I read that extract from the court record. Is Mr. McDonagh aware of this?

Mr. Brendan McDonagh: We are aware of the transcripts. We read the transcripts every day of-----

Deputy Sean Fleming: Has Mr. McDonagh any problem with what, on the face of it, appears to be a breach of confidentiality, with some of his staff - this was recorded in open court - clearly discussing people's business with third parties? Has he a problem with that?

Mr. Brendan McDonagh: First, the loans concerning that hotel at the time - I have to be careful what I say because this is subject to appeal - were NAMA loans and second, what the Deputy read is a counter party's view of a conversation, and I do not believe that what has been maintained is correct.

Deputy Sean Fleming: NAMA's representative in the court contradicted that and it is on the public record subsequently. I have not read the full transcript of the court proceedings. What Mr. McDonagh has just said to us is that he, as the chief executive of the NAMA, contradicts the version in that e-mail that was sent to his staff member. He does not accept the accuracy of what his staff member received. Did his staff member not contradict that during the examination in court?

Mr. Brendan McDonagh: I do not believe so.

Deputy Sean Fleming: Yet Mr. McDonagh contradicts it here months later.

Mr. Brendan McDonagh: All I can say to the Deputy is that based on my view of what he read out, I actually do not believe that to be the case.

Chairman: Can I clarify one thing before we proceed with this because it is the subject of an appeal. Deputy Fleming is using the transcript from the court and is taking-----

Deputy Sean Fleming: It is a matter of public record.

Chairman: I know that but the Deputy is taking a particular reference point from one witness who has contributed to the case. Has he read the full transcript of both sides or positions that were given on this?

Deputy Sean Fleming: I am not here to answer your questions.

Chairman: If the Deputy is going to pursue a line of questioning-----

Deputy Sean Fleming: I asked Mr. McDonagh the question and-----

Chairman: I know but-----

Deputy Sean Fleming: -----I said, if the Chairman was listening, that I did not read the full transcript. I said that 30 seconds ago.

Chairman: I would be mindful that the Deputy has not read the full transcript and-----

Deputy Sean Fleming: I said that.

Chairman: -----is selecting sections from it.

Deputy Sean Fleming: I asked Mr. McDonagh to tell me if I was wrong on this. I opened the conversation on this by saying that I had not read the full transcript and that I was just going to quote this from it. Mr. McDonagh said he disagreed with the transcript and that is fine. That was not said in open court but he is saying it here now. All I will say on that, and I will conclude on this point, is that these issues possibly highlight a point I made at previous meetings, possibly with Mr. McDonagh at the Committee of Public Accounts. I think NAMA and the IBRC are in a similar space from the point of view of the Irish taxpayer and I believe it would be better - Mr. McDonagh cannot decide on a policy issue, he has to work within the legislation but we are a policy committee - if the two organisations were under the one umbrella and working together rather than, on occasion, working to separate agendas.

Chairman: I will take Mr. McDonagh's concluding remark and then call Deputy Spring. Does Mr. McDonagh wish to add any further comment?

Mr. Brendan McDonagh: No, Chairman.

Deputy Arthur Spring: I welcome Mr. McDonagh to the meeting. My first question is on rental incomes. Mr. McDonagh indicated that 90% of all rental income of NAMA properties is being diverted directly to NAMA. Heretofore, I presume that a great deal of that rental income was not going directly to NAMA and that many of the accounts relating to properties, office blocks, shopping centres, etc., were held offshore in different parts of the Continent and further afield. In respect of how many of those accounts can NAMA be assured that money was not siphoned into loan accounts that were not NAMA related that were being paid off or, even worse, put on deposit in other parts of the world? That is the first question.

Mr. Brendan McDonagh: In terms of the NAMA portfolio overall, when we acquired it, 56% of the portfolio was in Ireland and 44% of it was outside Ireland. Clearly, some of that rental income related to properties outside Ireland. What we did, as part of the business plan process in terms of injury of property, was identify where the rental income was coming up, identify the cost involved in maintaining the property, note what was available and then we set about capturing as much of that as quickly as possible. As part of the process, where money was not being paid to a bank here, we asked questions as to where did the money go, what was done with it and, if it is on deposit and we could find it was, we asked that it be given back to us.

Deputy Arthur Spring: How many of those accounts has NAMA found that performed correctly and that money was put back into the bank accounts, etc? How many of them did NAMA find did not account for the money and what has NAMA done to pursue those?

Mr. Brendan McDonagh: I do not have that information to hand.

Deputy Arthur Spring: Is that the case? Has NAMA found that to be the case in some instances?

Mr. Brendan McDonagh: Absolutely in the some instances. There were situations where people were taking the rent and they were diverting it into different accounts but once we got through the business plan process with each of the debtors we made sure that the income that was coming off NAMA properties was going towards servicing NAMA loans as opposed to what I believe the Deputy is suggesting, going towards servicing a debtor's other loans in an institution. We set about the 80:20 principle of effectively targeting the big income first and getting that back and then working on the small amounts after that.

Deputy Arthur Spring: Is NAMA going to try to retrospectively get the moneys back?

Mr. Brendan McDonagh: Sometimes the money has been spent but if we know the money exists, I assure the Deputy we go after it.

Deputy Arthur Spring: Second, approximately how many of the 168 people currently on NAMA's books have businesses in receivership, in liquidation or have had administrators appointed to them?

Mr. Brendan McDonagh: In terms of the 168, they are consensually working with us. Effectively, they are not subject to receivership or whatever is the case. Once a debtor is subject to receivership, NAMA does not pay him or her. It would be up then to the receiver to decide whether he needed the debtor to work with him for a period after that. That would be our call.

Deputy Arthur Spring: Outside of the 168, therefore, there are additional people who could be in any of those situations who are being paid by the administrator or the receiver.

Mr. Brendan McDonagh: Yes, absolutely, if the administrator thought he would make use of them.

Deputy Arthur Spring: Effectively, that figure is a little larger.

Regarding the people NAMA is consensually dealing with, obviously it has had the write-down of the debt from the bank. Is there further debt write-down going on within that agreement because these people will not be subject to the rigours of an administrator, a receiver or a liquidator? Does NAMA have the autonomy, without circulating through the Department of Finance or anybody else, to further write down debt for that loan to be repaired?

Mr. Brendan McDonagh: We give an example of this in our annual reports. In terms of what we do with consensual debtors, we can do a restructuring of a debtor's loans. A debtor might owe €100 million and we might have bought the loan again, to use the example, for €40 million. We might restructure that loan into what we call a tranche A type loan, a performing loan, which might be, say, €45 million and then a tranche B loan, which is €55 million. The debtor would still owe €100 million. It is just the fact that we restructure his loans, and that is quite normal in banking.

Deputy Arthur Spring: Ultimately, however, he still owes NAMA. It is not in a position to write it off.

Mr. Brendan McDonagh: Absolutely, yes.

Deputy Arthur Spring: On personal guarantees, the people who own NAMA are the citizens of Ireland and they want to see fairness being administered as equally as possible. Regarding personal guarantees, Mr. McDonagh has just alluded to the fact that some rental income was sent to places it should not have been sent to or rather than paying off the debt of the burden that is placed on citizens, personal guarantees existed predominantly within IBRC loans that had been transferred to NAMA. To what extent will NAMA pursue those people? Many of the people who sought bankruptcy off these islands had assets, whether they be gifted to family members, beyond the reach of NAMA to family members. To what extent will NAMA pursue people for personal guarantees? I am not asking for a witch-hunt but an element of fairness to ensure people are not up and running again two or three years later compared to the reality of negative equity and the generation that is carrying mortgages. What timeframe has NAMA put on personal guarantees? I know it is doing that extensively but I want a timeframe on that and for it to be public knowledge that these people are not being let off.

Mr. Brendan McDonagh: On a personal level I assure the Deputy that if somebody has transferred assets to a third party, be they a family member or whatever, and we believe that they are our assets we will pursue them. We go through a process with a debtor to try to get him or her to return the assets to us consensually and as I said in my opening statement, we have got back over €500 million on that basis, but where people try to hide assets from us, and we suspect hidden assets, or they have transferred to third parties who will not return them, we openly say to them that we will pursue them through the courts and the evidence, which is in the public domain, is that we have done that.

Deputy Arthur Spring: How co-operative have the banks and the legal institutions here been in providing NAMA with information on the transactions they would have been involved in for those people and their extended groups?

Mr. Brendan McDonagh: In terms of the debtors we have, one of the fascinating features has been that from 2004 to 2007 many of our clients had great bravado and would have given statements of affairs to the banks at that time. We got access to those records. We would have looked at their statements of affairs that apply now and done a comparison between what was in their statement of assets then and now and done a reconciliation to find out to where those assets went and asked for explanations about where those assets went. We are quite diligent about that.

Deputy Arthur Spring: I can understand that from a gearing perspective but some assets were still outside of what they would consider to be group security, as we would call it.

Mr. Brendan McDonagh: Absolutely, but if the debtor does not give a correct sworn statement of affairs and we find out they have other assets we will pursue it, and we have done that.

Deputy Arthur Spring: It is comforting to know that is going on. When I worked with Merrill Lynch the New York securities exchange commission said that if anybody trading in shares, and property is very close to that, was doing the audited accounts or working at a high level they had to provide information to the groups they were working for to allow them be scrutinised to ensure insider trading was not happening. If NAMA has organisations working for it or if they are dealing with organisations to purchase properties, whether it is in funds or anything else, I would be concerned that could be perceived as insider trading. It would not be too much to ask for the legal firms and the accountancy firms NAMA is dealing with, and the receivers and liquidators, to ask their employees on a six monthly basis to provide information on any property related activities to NAMA. It could be done in a confidential manner and it would give people that extra reassurance we seek. It is just a suggestion.

Can Mr. McDonagh give me NAMA's overall outlook on the Irish property market? Is there anything the Government can do to assist NAMA further than what it is doing already? To what problem would that refer?

Mr. Frank Daly: On the property market, we said earlier today and in some statements we made recently that we would be cautiously optimistic about the property market now but that we do not believe the recovery will be a homogenous one across the country but that the signs are more positive. If we take the residential property market, in the Dublin area, and it may be in some pockets of the Dublin area, there are positive signs. Indeed, the latest Central Statistics Office figures out today indicate an increase in property prices in Dublin of over 2% while indicating that there is a drop elsewhere, but it is a very small drop. That is what we would see. On commercial property, there are some difficult areas but as we referred to earlier strong

demand for buying office space will emerge in certain areas, particularly in Dublin, in the next few years.

The other element of it is that the residential rental market is very strong. We have approximately 9,000 properties rented at the moment. We can rent them within-----

Mr. Brendan McDonagh: Ten days.

Mr. Frank Daly: -----ten days. The indications are positive but the last thing we want to do is fall into the trap that others may have fallen into over the years and talk up something that is not objectively based. Cautious optimism.

Deputy Arthur Spring: What is the biggest challenge NAMA is facing, and what can we do to assist it overcome that?

Mr. Frank Daly: What the Government did in last year's budget regarding the capital gains tax and mortgage interest relief, which has a limited time left in regard to stamp duty, has been helpful. When we are talking to potential international investors we would see in particular that the capital gains tax seven year holiday is part of what is influencing them to have a more positive view of the Irish property market.

Giving public advice to Government is always very tricky for a State organisation but obviously we would welcome the establishment of REITs and legislation for real estate investment trusts, which we mentioned earlier. The Minister has said the Department is looking at that.

Chairman: We will proceed to the second round of questions. Let me contextualise earlier questions, including that of Deputy Doherty, bearing in mind that the ultimate strategy of NAMA is to secure debt repayment and restructuring, as said by Mr. Brendan McDonagh in his opening statement. In applying this strategy, what would NAMA consider to be a success if a developer had a debt of €50 million on a shopping centre under control of the agency? Would the €50 million be recouped or repaid?

Mr. Brendan McDonagh: I would love to say we would get the €50 million back. If we acquired the property for €20 million and its value increased to €50 million, we would clearly have an unsustainable property bubble of the kind that led to the problem in the first instance. That would not be a good result. From our perspective, however, we would like to see sustainable recovery in the property market in line with the recovery of the economy. We would do our very best to get back the €20 million we paid for the property. If we could get more, that would be great, but it would be in no one's interest to have the value rise from €20 million to €50 million, which it was never really worth. If the value increased from €20 million to €25 million, for example, and the property were then sold, it would be a very good result for the taxpayer as there would be a gain of €5 million. However, the taxpayer will have lost on the other side because the banks would have had to have been capitalised in respect of the difference between €50 million and €20 million in the first instance.

Chairman: Could I take the example a little further? The developer's debt would be controlled by NAMA but the developer would continue to manage the centre, for which work he or she would be paid a salary. This relates to examples from this meeting. Would all the decisions by the manager be countersigned by NAMA? Would the developer operate independently? I refer to the setting up of retail deals, the putting in place of leases and the management of tenants day to day. The developer's interest would have changed fundamentally in that his relationship with his tenants would have changed quite significantly under NAMA. As Mr.

McDonagh stated, the value of the premises would have dropped from €50 million to €20 million. In Mr. McDonagh's opening address, he referred to the intensive management of assets in terms of securing a loan. How is this reflected in the example? Who would actually be running the show?

Mr. Brendan McDonagh: The reality is that if the bank were managing its loans properly, the owner would never have a free hand regarding leases in the first instance. When one would apply to have a lease approved, one would have to go to one's bank. We are ensuring this good practice applies. If an owner wants to get a new tenant, he should make an application to us stating the prospective tenant will pay a certain rent per annum. He would have to convince us this is best for the shopping centre.

Chairman: Is there a process involving co-decision?

Mr. Brendan McDonagh: Ultimately, the debtor would make the proposal to us and we would have to decide whether to agree to it. This has always been a feature of good banking. Perhaps during the boom, the banks stepped back and let the debtors carry out transactions without worrying as long as asset values were increasing.

Chairman: That relates to a point made by Deputy Fleming on the comparison of problems. In some cases, a landlord, or the developer, may be imposing upward-only rent reviews despite what the Minister for Finance, Deputy Noonan, stated in last year's budget speech. In one case in Cork, involving Harvey Norman and the Irish Bank Resolution Corporation, an effort is being made to apply an increase of 2% per year. What does NAMA do in such cases? Next week, we will be asking the Irish Bank Resolution Corporation what it is doing. What does NAMA do where landlords are trying to invoke upward-only rent review clauses?

Mr. Brendan McDonagh: It all depends on the strength of the covenant of the person in question and his ability to pay. In our guidance note, we always say that if a tenant cannot get anywhere with his landlord and believes the property in question is in NAMA, he has the option of contacting the agency directly. We then have the relevant parties engage in the process. As I stated, where people can prove inability to pay or where potential liability is affected, we examine the case. There is a difference sometimes between someone with one or two shops and a multinational organisation that has signed up to a contract willingly on the basis of upward-only rent reviews.

Chairman: I refer to circumstances in which there is a haemorrhaging of money despite what one may be earning in mainland Europe or the United States. The company here may be haemorrhaging money.

Mr. Brendan McDonagh: Yes.

Deputy Peter Mathews: Let me refer to the ownership of NAMA. In recent days, it was revealed that London-based Walbrook Capital purchased Irish Life's 17% stake in the special purpose vehicle, which owns 50% plus a share of the controlling ownership vehicle for NAMA. Do we know anything about Walbrook Capital or the probity of its promoters, directors and owners? Do we know about their integrity and abilities? Do we know anything about the fact that they could become predators of the assets in NAMA's portfolio? Have NAMA's owners a strict hands-off and brains-off policy regarding the portfolio of agency? Are the investors passenger investors?

I preface all my questions and remarks with the comment that I wish the delegates well

and the optimum outcome in their endeavours. In referring to the optimum outcome, I do not necessarily mean achieving top dollar because, as Mr. McDonagh explained, this is a damage-limitation exercise by a work-out organisation. We must think of all the broader interests and, to some degree, ensure those with ability and the right attitude are not killed off. One of the great Irish recoveries, the agribusiness recovery, pertained to Larry Goodman's group, Goodman International. With co-operation and consensual effort, Mr. Goodman was able to earn his way out of his guarantees and return to owning his business. That should not necessarily be precluded in this scenario if it leads to the optimum outcome for NAMA as an organisation.

When the price of assets being transferred from the banks into NAMA was struck in 2009, there was a further fall-off in valuations. We can see impairments mentioned in the accounts. The juiciest parts of the portfolio have tended to be the ones that have been sold or are being sold. The cashflow, while strong, amounting to €100 million per month, or €1.2 billion per year, could dry up primarily for two reasons. The first is rent-break clauses in lease reviews and the second is the falling off and failure of tenants.

I do not have time to ask all the questions in my head but I would like to touch on them. The issue of upward-only rent reviews will not go away because of our lease arrangements, which are unique in Europe. They were invented approximately 40 or 45 years ago. In the rest of Europe, leases are much shorter, and open-market rents prevail. We know this because Irish Life has a property fund in Paris in respect of which the break clause by Rexel will be operated, and the loan fund of 75% from PTSB will disappear, leaving shareholders holding their files and nothing more.

Mr. John Mulcahy: Of course, there are upward-only reviews in the United Kingdom.

Deputy Peter Mathews: In the United Kingdom, the Anglo-Saxon world. However, that does not obtain in the United States and elsewhere in Europe.

Mr. John Mulcahy: However, they demand compensation.

Deputy Peter Mathews: Yes, but indexation works with the economy.

I am a little concerned about conflicts of interest. The NAMA divisions in the IBRC, AIB and Bank of Ireland comprise 200, 200 and 100 people, respectively, and I note the accounting firms also have NAMA divisions. My concern about accounting and legal firms is that those firms which are doing work for NAMA have partners within them which also are partners in NAMA loan clients. They may not be identical persons, but one should remember the partners are jointly and severally liable for their firm's business in their professional firms, as well as being jointly and severally liable, unless they contract out of it, for their property development and investment interests. I am aware of firms which have partners which are partners in investment partnerships which are clients of NAMA. Perhaps this is not direct but through crossover liabilities and exposures. I am somewhat concerned that this is akin to the information leakage dangers in the agency.

The break-even projection on a ten-year lifespan is grounded on the expectation of a sustained recovery in the economy and the banking sector over a medium-term horizon. NAMA is confident that this will produce the modest recovery in Irish commercial and residential property prices that the agency will require to achieve the primary commercial objectives which have been set for it by the Legislature. Some observers state we are bouncing along the bottom in the economy. I suggest we are wobbling along the bottom and unless there is major debt

relief across the economy in respect of the three elements of national debt, household debt and corporate debt, we could even sink further. That is my reading of it and my question is whether the delegates agree. Are there points I have mentioned that they think require clarification?

Mr. Frank Daly: With the Chairman's agreement, we might split this between us.

Chairman: I recommend so doing.

Mr. Frank Daly: On what we know about Walbrook Capital, we know a process was gone through over a period of seven months or something like that to identify a potential investor for the Irish Life share in National Asset Management Agency Investment Limited, NAMAIL. As the Deputy is aware, this is because EUROSTAT expressed some reservations about the fact that when Irish Life & Permanent was taken into State ownership, the majority ownership of NAMA then became State-owned. That would have put NAMA back on the books, which everyone agrees would be something of a disaster.

Deputy Peter Mathews: Will Mr. Daly remind me of the other two shareholders?

Mr. Frank Daly: The other two shareholders are Percy Nominees Limited and New Ireland Assurance.

Deputy Peter Mathews: Is that not a subsidiary of Bank of Ireland?

Mr. Frank Daly: Yes. They own 17% each, totalling 51%. However, the crucial point is that NAMA has a veto. Even with our 49%, we have a veto over the activities of that special purpose vehicle, SPV. There was some media comment in recent days about Walbrook Capital regarding some criticisms made by the regulator in the United Kingdom. However, it is clear to us that the regulator was not criticising Walbrook Capital but Barclays for one of a number of reasons. It also is important to note this search for an investor was not conducted by NAMA but by Irish Life and the Department of Finance. However, because of the structure in place, NAMA must approve the new investors.

The Deputy mentioned making sure that not all of what one might call the entrepreneurs were killed off in this process. One can go back to the discussion about salaries and the discussion on the reason we are working with two thirds of the debtors. We are not out there with a mission to kill them off. We recognise that if this country has a viable future, development and the construction industry will be needed. A healthy property sector will be needed, that is, not the type we had in the last decade but a healthy, sustainable property sector. Consequently, one will not find a conflict between NAMA's objectives and endeavours to achieve an optimal outcome and the points made by the Deputy.

On conflicts of interest between the banks and the legal firms, we undoubtedly are highly conscious of that issue. In respect of our procurement of or engagement with any of these firms, there are all sorts of conflict issues. I note that section 45 of the Act stipulates that NAMA must make every effort to avoid or manage conflicts of interest and that it must declare any such conflict, actual or potential, to NAMA. This is something we very much police. Moreover, while I am not here to speak for the legal or accounting firms, my experience is that they take this issue quite seriously.

The Deputy asked about the reference in my opening remarks to sustained modest recovery. What we are talking about and the figure we have referenced consistently is a recovery over the lifetime of NAMA of approximately 10% in property prices from the 2009 base figures. We

believe it is reasonable to assume that will happen over NAMA's lifetime. It is the aforementioned 10% that will give NAMA the outcome we talk about, that is, at a minimum, getting the senior debt repaid, plus overheads, plus carrying cost. I hope we will get more than this.

Deputy Peter Mathews: I have one supplementary question. Mr. McDonagh alluded to the point that the banks were really bad about how they disbursed their money and the loan offer documentation, that is, the security on which they advanced money, was extremely fragile, as well as being highly vulnerable to challenge. I believe that cases are arising in which NAMA received loans and is sanitising a situation on behalf of the banks to improve and strengthen something that, had it remained within the banks, would have been highly vulnerable. In cases in which there are personal guarantees and exposures, it is important that if this is being done, there be a sense of fairness. I have been asked by people to examine examples in which I consider the banks advanced money on the security of secured assets, adding in personal guarantees, where cover on the valuation of the secured assets was three and four times the secured property value. They are now relying on guarantees on foot of what was very poor disbursement and very poor conduct where they did not actually care whether there were net liabilities or net assets at the time of disbursement. There is an absolute requirement that everything people may have had reasonably must come into the pot for collection. One must guard against a hijacking mentality on the back of sanitised security because NAMA has taken the loans. Does Mr. McDonagh see my point? It is important because it is easy to go on a witch-hunt trail.

Chairman: That was a statement rather than a question.

Deputy Peter Mathews: No, I expect he will agree.

Chairman: I note Mr. McDonagh nodded and I will take that as a reply.

Senator Aideen Hayden: I welcome Mr. Daly, Mr. McDonagh and Mr. Mulcahy back again before the joint committee. We have now met on a number of occasions. As I am sure the delegates are getting tired at this stage, consequently, I will pick on something that might be a little different.

In his opening statement I note Mr. McDonagh points out that NAMA does not believe in a "one-size-fits-all panacea for the problems in the residential market". I assume that consequently, because of their lack of salability, he notes that in the apartment market, NAMA's focus is on renting. He then continues by observing that since acquiring loans, tenants have been secured for 4,000 previously vacant apartments in Dublin. Mr. McDonagh then went on to note that at present, NAMA has 10,000 apartments and houses within its portfolio that now are rented, with an annual rent roll of €100 million. The first point that struck me was that a good number of them probably are in the Dublin region. The second point that struck me is that, on my figures, NAMA now controls one in every 25 rental properties in the State. When one considers that 20% of the Irish population lives in rented property at present, that makes NAMA quite a significant player in the rental market. While I acknowledge NAMA has an overriding commercial remit, it also has a social remit in the sense that, effectively, it belongs to the State and the assets must be realised for the benefit of the State. Of NAMA's 10,000 rented properties, can the witnesses provide members with a breakdown of those properties, whether they are one-bed, two-bed or three-bed units? I do not suggest they do so today. Of the aforementioned 10,000 units, what proportion are rented to recipients of rent supplement, by which I mean a State support for people in the rental sector provided by the Department of Social Protection?

There is significant concern about the activities of receivers in the rental market. As the wit-

nesses may be aware, there has been much publicity to the effect that, although they are receiving rents, they are not acting as landlords in the way landlords are expected to act. They are not maintaining the properties and are not dealing with situations when tenants find themselves, for the sake of argument, without water, heating or whatever it happens to be. What arrangements has NAMA made for the management of its 10,000 properties? I wish to ascertain how these properties are being managed. How are the interests of the tenants in those properties being protected?

As for the future of those 10,000 properties, I have a certain amount of experience of dealing with Dublin City Council and it strikes me that there is a difficulty for local authorities in obtaining rental accommodation scheme, RAS, properties, that is, properties that are leased for shorter periods of four or five years. To what extent are any of those 10,000 properties being made available to RAS? Can they be made available to RAS or how long is NAMA prepared to engage in leases for the aforementioned properties?

My next question relates to social housing. I very much applaud the establishment of NAMA's special purpose vehicle to expedite the delivery of social housing. Mr. McDonagh stated NAMA has identified approximately 3,800 units for social housing. Like many people, I am seriously disappointed that this is the best social dividend that could be derived out of what has happened. Of those 3,800 properties, have the 10,000 rented properties been reviewed as to whether they would be suitable for inclusion within the social housing agenda? Alternatively, have the 3,800 properties been identified from the balance of properties that have never been put into the rental market? Incidentally, when splitting out the units into three, two and one-bed units, it would be very helpful were the witnesses to indicate their location by local authority area in particular.

I acknowledge the witnesses are tired and I do not wish to detain them. My final issue pertains to the real estate investment trusts, REITs. I share the witnesses' interest in REITs and, on a note of warning, I was involved in some research a number of years ago into the engagement of institutional investors in the residential property market. The results were incredibly disappointing in respect of their interest and willingness to engage. Consequently, the witnesses should indicate the extent to which they believe institutions in Ireland have an interest in investing in property, be it commercial, residential or both. To what extent do they believe a REIT could be a vehicle for institutions outside of Ireland to become engaged in properties within Ireland? The witnesses should indicate what they believe would have to change. I am aware NAMA has been discussing this matter with the Minister for Finance. What specific changes in respect of tax treatment and so forth does NAMA consider to be necessary?

Chairman: I must ask the Senator to conclude. She has asked approximately 20 questions and it will take half an hour for them to be answered. Consequently, this is the last question I will take from her.

Senator Aideen Hayden: This is my last question. What tax changes does NAMA believe to be necessary for REITs to become a viable structure?

Chairman: If the information Senator Hayden has sought from the witnesses is not to hand, they should furnish it to the clerk to the committee in tabular format, if possible.

Mr. Brendan McDonagh: In respect of the rental market, I believe the statistics are available. I understand there is a rental market of somewhere between 250,000 to 300,000 units and the Senator is correct in that if we have 10,000 units, that equates to one in 25. As for the

breakdown of figures regarding type against location and the extent of rent supplement, I do not have that information to hand but we will try to compile it and write back to the joint committee to provide it.

As for receivers and rental markets, this is an issue we hear about a lot because people contact us about it. In every single case about which we have been contacted and where there was a problem, it was not a NAMA receiver. They were acting for another bank. I acknowledge that might simply be luck but we are clear that receivers must do the job properly. Moreover, if there are issues with the management company, there must be compliance with the Multi-Unit Developments Act. We are very clear about all these issues and sometimes there are very difficult issues to be resolved that we simply have inherited. We are highly conscious of making sure such issues get sorted out, although sometimes they are not easy to sort out. As for the properties that are being made available, as I told Deputy Boyd Barrett, we have a limited amount of stock and the problem is much bigger than that. In respect of the units NAMA has offered to make available, the term of the lease is for 20 years. We recognise that longer-term leases are required, especially for the housing bodies as that is how they get the best value out of the property.

The Senator spoke about REITs in terms of institutional interests and whether it would be domestic or international. I believe it would be a bit of both. The Senator also mentioned how her experience in this regard was not very good but, like anything, there are serious players who are institutional investors in REITs and who set up and run REITs. There are others who are opportunists and who simply perceive it as a money-making opportunity. One would hope the more serious players, who have experience in this regard, would be those who would do this.

As for the Minister for Finance and the tax changes, the major point about REITs, unlike everything else, is that depending on where the REIT is located, it is all down to the distribution of income from it. I understand that in some REITs, up to 90% of the net income must be distributed. The issue then revolves around a policy issue on what rate of tax applies, or not, as the case may be. These trusts are not very straightforward and different countries have set them up in different ways. They have worked quite successfully in the United States but have been less successful in the United Kingdom. I believe the latter is considering changing its structures again to try to get them to work better. NAMA is willing to participate in a forum with the Department of Finance to try to design one that would work best for the industry and would be the most productive in trying to create a REIT industry in Ireland that works, as opposed to one that is in place but which does not work at all, because that would not be in anyone's interest.

Mr. Frank Daly: In her remarks, the Senator referred to the question of whether investors, either at home or abroad, might also be interested in commercial property. Whatever about the possible advent of a REIT, that is one that could be tested sooner rather than later, because NAMA certainly hopes its first qualifying investor fund will be active early in the new year. That will test the appetite of investors.

Senator Aideen Hayden: More than for the residential sector.

Mr. Brendan McDonagh: That would be more for commercial.

Senator Aideen Hayden: What I am saying is it is more likely to be successful than the residential sector?

Mr. Brendan McDonagh: We certainly hope so.

Mr. John Mulcahy: There is interest in the residential sector. In the research to which the Senator referred, and it is developing in the UK as well, there is a recognition that rented accommodation will be a bigger feature of the future than it was heretofore.

On a word of historical caution, the institutions did not interest themselves in residential mainly because they were afraid of unfavourable legislation. Now what they are really looking for, and what this country has a good record in, is a stable environment, in other words, that when they buy they can reasonably foresee what the outturn will be. We have that environment here and there is renewed interest in the residential sector. That is quite important because the mortgage sector is stressed.

Senator Aideen Hayden: I would make one slight correction, that reputational risk was the big issue after Mespil flats.

On some of my other questions, who is managing NAMA's 10,000 rental units? Were those 10,000 evaluated as social housing options?

Mr. Brendan McDonagh: The majority of the residential units are being managed by debtors themselves, who took out the loans in the first place, built the units with a view to selling them, and when they did not sell we have been trying to get the debtor to get them rented.

On available units, as soon as units become available, if they are no longer rented, we constantly add to the list of the properties that could potentially be available for social housing. Last Christmas, we gave 2,000 units. During the summer, we gave another 1,500 units. Recently, we added 300 units. As the properties become available, we add them constantly to the list.

Chairman: Following Deputy Stanley, I will composite the last series of questions together because I have been around the house three or four times and every political party has contributed individually at least three times at this stage. When Deputy Stanley is finished his contribution, I will composite all remaining statements.

Deputy Brian Stanley: As far as I know, it is my party's second time to contribute.

If I could start with the position on the former employee, Mr. Daly mentioned that he is precluded from publishing the Deloitte report in full but that when he gets legal clearance he will do so. Can he also commit to publishing the independent valuation on the property that Mr. Farrell bought?

Will I go through a series of questions first or does the Chairman want me await a reply?

Chairman: If the Deputy can keep the questions short, there can be back and forth. He will still have the same amount of time.

Deputy Brian Stanley: I will keep them short. It is probably the quickest way.

Mr. Frank Daly: I reiterate the commitment to publish details of the Deloitte report. In fact, I would hope that we would be able to do that within a matter of weeks. We will look at, and I would just like to get a legal view on, whether we can publish the valuation as part of that process.

Deputy Brian Stanley: If NAMA is not legally precluded from doing so, will Mr. Daly publish the independent valuation on the property Mr. Farrell bought?

Mr. Frank Daly: I will have to look at the legal view. There are others who may have confidentiality issues with this. There was somebody who provided the valuation. It is not totally in our gift.

Deputy Brian Stanley: On the social housing question, there are 3,800 properties identified, and 2,000 assessed. There is demand for more than 1,200 but I understand the qualification which applies, that what NAMA is dealing with is the demand from the voluntary housing associations, and they have indicated to NAMA 1,200 properties between them and local authorities. I understand only 70 properties have been transferred to date. Mr. McDonagh might clarify that. What has been done to accelerate it? NAMA stated that there would be a further 300 by year end. What is being done to accelerate that and to let those houses?

This has been my first such meeting and I welcome the opportunity to be here. I thank the witnesses for the report and for the opening addresses of the chairman and CEO of NAMA which were very informative.

On the social housing issue, I have been trying to get my head around where the wheel stops. The taxpayer and NAMA take over these impaired loans on the housing stock. There is then a lease arrangement with a voluntary body or a local authority, and NAMA receives money from a lease over a ten year period under the social housing lease arrangement. Obviously, NAMA brings in money on behalf of the taxpayer as a public body. Mr. McDonagh mentioned, in a reply to one of the members, that the option to buy after 15 years exists. The taxpayer, through NAMA, takes on the liability of the loan in the case of social housing. At what point does the wheel come around so that the taxpayers receive bang for their buck? At what point is NAMA in a position to make good the public finances in terms of benefit to the taxpayer in State assets?

Mr. Brendan McDonagh: I think I know what Deputy Stanley is getting at and if I have not got it, he can always come back to me. In terms of the social housing, our figures show that there have been 133 delivered to date. We would wish there were many more and we would hope to have the best part of 400 delivered by year end. This is what we are working to achieve but the issue has been to get it set up and trying to find a way to deliver it quicker.

On the timing of the benefit to the taxpayer, the reality here is that NAMA paid bonds to the banks, the banks brought those bonds to the ECB, the ECB wants that money back and we must realise our portfolio. Any time that we can sell an asset where we think that we will get fair value for it, we will use that to sell the asset and get the cash to pay off the bonds to the banks so that they can reduce their liability to the ECB. I suppose the benefit to the taxpayer, as Mr. Daly outlined, is the quicker that we can get rid of what started out as almost a €32 billion contingent liability to the taxpayer and get it down to zero. Our plan is to get it down to zero by 2020. We will only get it down to zero by 2020 through two sources: first, by keeping our costs low and taking as much rental income off the properties until they are sold and second, by selling the underlying properties or the loans themselves. That is how it works. I hope that explains it to the Deputy.

Deputy Brian Stanley: My next question is related. Of the €32 billion in bonds, €30 billion were secured bonds and €2 billion were unsecured. As I understand it, Mr. McDonagh would be confident of recouping the secured bonds. In the case of the €2 billion subordinated bonds, it is more or less an aim of NAMA to recoup them. In that regard, there would be a concern that NAMA, and ultimately the taxpayer, could take a hit on those €2 billion in bonds. Have we any way of assuring ourselves? To date, unfortunately - I wish it was otherwise - unguaranteed bonds in other quarters were secured and were paid up in full but in this case the

liability has the potential to come back on the State and the taxpayer. What guarantees can we get that this liability of €2 billion in unsubordinated bonds will not fall back on the taxpayer?

Mr. Brendan McDonagh: Deputy Stanley is correct in the figures, although he has slightly rounded up. There is approximately €30 billion in senior bonds and €1.6 billion in subordinated debt. Our objective is to pay off the two amounts combined. As Mr. Daly stated, we are confident that we will pay off the senior debt and we are reasonably confident we can pay off the sub-debt as well. Sitting here today, 2020 is a long time away. The economy is recovering and one would hope that by 2020 the economy would have recovered much better. The banks have also been recapitalised to deal with the fact that we may not pay off the full subordinated debt and they have taken provisions against it. In their published accounts they value NAMA subordinated debt at about €500 million for the €1.6 billion we have given to them, but over time as we meet our objectives and pay off senior bonds, no doubt they will write up that figure from one third to par. We certainly have the objective that we will pay off all of our debts and that there will be no residual cost to the taxpayer.

Deputy Brian Stanley: I refer to commercial properties and the fact that NAMA has taken on responsibility for the loans against them. These properties are lying vacant and being vandalised. For example, in Portlington, there is a large factory which at one stage provided significant employment, but it lies vacant in a good location with security on it ceasing one year ago. It is being vandalised, but NAMA and, ultimately, the taxpayer have secured the loan on it. Nobody wants anything to be vandalised, particularly when it causes problems locally. What steps can the agency take to secure properties such as this and lease or sell them? Has there been engagement with IDA Ireland, Enterprise Ireland or anybody else who is interested in moving on to the properties? Nobody wants assets to deteriorate; therefore, they should be secured. NAMA is trying to protect its own interest in them and that of the taxpayer. What is being done to rent or sell them? What efforts are being made to move them on?

Mr. Brendan McDonagh: Unfortunately, that can be a regular enough occurrence.

Deputy Brian Stanley: That is why I raised the issue.

Mr. Brendan McDonagh: First, if the debtor is involved, we try to get the debtor to secure the site and we will provide funding. If the debtor is not co-operating for whatever reason - that sometimes can be the most difficult issue and we consider there is an issue, in respect of which we also talk to the local authority - we have to go to the District Court to get an order under section 141 of the NAMA Act which effectively allows us power of entry to secure the site. Sometimes when people say it is a NAMA property, it is not always the case and if it not, we try to tell people that it is not our property. However, if it is - Deputy Sean Fleming made reference to this issue - we go to the District Court to get a section 141 order to say we can have legal entry, that we are not trespassing and that we need to go in and secure the site. If there is a problem, we have no interest in it worsening. We believe in trying to solve it and if somebody is interested in a particular site, whether it be a local authority or IDA Ireland, we are more than willing to talk.

Deputy Brian Stanley: Has NAMA gone to IDA Ireland regarding properties such as the one I described? Is it being proactive?

Mr. Brendan McDonagh: Yes, we talk to IDA Ireland the whole time. Mr. Mulcahy actively engages with it, probably every couple of weeks.

Mr. John Mulcahy: Yes, and it tells us when it has any special requirement. The Deputy probably read that we were involved in the Kerry Group transaction in Naas, but it came to us. At a minimum, we try to make sure it is aware of everything we have on the market. Where there are special situations, we try to see if there is anything within the portfolio and bring it to the market. We have very good liaison with it. There is also good liaison whenever there is a difficulty with terms and conditions and moving a transaction along or speeding it up. We regard it as part of the national effort.

Senator Paul Coghlan: I join others in welcoming the delegation. I wish the officials well in their operations on behalf of the taxpayer. I accept, as I believe every member of the committee does, that they are operating within the law, but they will be aware of what some Members in these Houses allege to the contrary under privilege. The agency experienced one obvious blatant breach of confidentiality through e-mails and the issue has been pursued in the proper way. Were there other breaches?

Chairman: That matter has been covered.

Senator Paul Coghlan: Mr. McDonagh can assure us that the agency has been as transparent as possible within the law. Some members of the media seem to be favourably disposed to reporting the agency's detractors and their more outlandish allegations. How do the officials handle the necessary rebuttals?

How many hotels are on the agency's books because of defaulting on loans? Mr. McDonagh will be aware of the non-level playing field allegations made by non-NAMA hotels, particularly in when it comes to price cutting and advertising budgets. What is his response? Will the agency sell these hotels and, if so, when?

Deputy Michael McNamara: I understand NAMA has 10,000 rental properties. Approximately 3,000 properties have been identified for social housing purposes. Are some of the properties identified for social housing purposes among the 10,000 rental properties? If not, why not? Mr. McDonagh has said that of those identified, a certain number have been examined by housing authorities. What reasons, if any, were given by them for not purchasing the properties? When will the remainder be examined by them?

Deputy Kieran O'Donnell: I have only one question which relates to my area and it is unlikely to have been covered. What funds does the agency have available for investment in capital projects? The issue of the lack of availability of suitable properties, particularly for inward investment, is pertinent in both Limerick city and county. I refer, in particular, to finishing fitted out units as distinct from core units and the scope NAMA has in this regard. I am familiar with the NAMA legislation because I put it through on behalf of Fine Gael and debated it at length with the late lamented Brian Lenihan. I know it from the cradle to the grave. It has a number of key components. The first is to get the banks lending, but that has not happened. It was to have a socioeconomic remit, especially in the area of social housing. It was put forward in terms of an economic dimension. I am specifically referring to the economic dimension. Is new legislation needed to give NAMA the scope for extra spending? There is great scope in that area. I ask Mr. Daly to outline the level of funding available and whether legislative change is needed. This is purely about fitted-out units. I am specifically talking about my constituency of Limerick city and also County Limerick, but there would obviously be wider implications throughout the country.

Mr. Frank Daly: We will divide the questions if that is acceptable. In response to Senator

Coghlan, I believe other breaches and the issue of transparency have been dealt with. I reiterate that we are investigating this single breach.

Chairman: I wish to make an interjection. Earlier today Mr. Daly gave a very detailed presentation on the matter and I can pass that on to Senator Coghlan, which should cover that.

Senator Paul Coghlan: I thank the Chairman.

Mr. Frank Daly: The Senator spoke about media reporting. Over the past year or so the media commentary has been more positive and balanced. We occasionally get a few broadsides. At times we might think, as the Senator put it, that some of our detractors are given a platform. He asked what we do to rebut that. Sometimes we are constrained by confidentiality. It works both ways. There are times when we would love to breach it just to rebut some of the more spurious stuff that is put out there. We try to get the facts out there. If allegations are made against us in terms of probity or confidentiality, as the Senator knows, we chase it up and ask people to give us the facts, which we investigate. If there is any substance to them, we will deal with them, but there has not been in one particular case, as the Senator well knows.

Senator Paul Coghlan: It is neither put up nor shut up.

Mr. Frank Daly: Deputy O'Donnell asked about the level of funds. Our recent announcement in two sections, with €2 billion available for capital investment-----

Deputy Kieran O'Donnell: Is it €1.6 billion or €2 billion?

Mr. Frank Daly: It is €2 billion available over the next four years in Ireland for capital investment. Some €2 billion is also available for vendor finance, which is a potential injection of €4 billion into the Irish economy, on top of the €1.6 billion we have approved. The Deputy mentioned three items at the end - bank lending, the socioeconomic dimension and the economic dimension. That is a major factor in the economic dimension. There is not a restriction. We are not short of funds for that. We do not have to borrow. There is a borrowing capacity in the National Asset Management Agency Act but we do not need to use it.

Deputy Kieran O'Donnell: I am putting it very simply. There are shell buildings under the remit of NAMA. Does NAMA have the capacity-----

Mr. Frank Daly: We have the capacity and the funding, but it has to be a realistic commercial case.

Deputy Kieran O'Donnell: There is no impediment at this point-----

Mr. Frank Daly: There is no impediment.

Deputy Kieran O'Donnell: ----- for NAMA to invest, for example, €2 million to fit out a-----

Mr. Frank Daly: We would not put a figure into any category.

Deputy Kieran O'Donnell: No, I am just giving an example.

Mr. Frank Daly: We have said publicly that funding is not the issue. The issue is getting viable business cases put forward, and we would welcome those.

Most of the other questions relate to the housing area. Going back to Deputy O'Donnell's

three points, on the socioeconomic one, housing is definitely one area. There are other areas regarding engagement with the education sector and the health sector. Getting the banks lending again is something everyone around this table would desire, but I do not believe the full responsibility can be laid at NAMA's door.

Deputy Kieran O'Donnell: That is not the point I was making. When NAMA was envisaged-----

Mr. Frank Daly: I understand that.

Deputy Kieran O'Donnell: -----it was proposed to clean the balance sheets of the banks to enable them to lend.

Mr. Frank Daly: Exactly.

Deputy Kieran O'Donnell: The banks have not played their part in that.

Mr. Frank Daly: It must be remembered that we provided €32 billion to the banks.

Deputy Kieran O'Donnell: Correct - NAMA bonds.

Deputy Peter Mathews: What is the cost of those? What is the coupon rate? It is variable based on LIBOR, is it not?

Mr. Brendan McDonagh: It is the six-month EURIBOR rate.

Deputy Peter Mathews: What is that rate at the moment?

Mr. Brendan McDonagh: It is approximately 0.6%.

Deputy Peter Mathews: That is for nothing from their point of view.

Mr. Frank Daly: It is a question for others as to what the banks did with the €32 billion.

Deputy Kieran O'Donnell: It is not a criticism of NAMA.

Chairman: Representatives of the banks will be before us next week and Deputy O'Donnell can ask them.

Mr. Brendan McDonagh: I will deal with the remaining questions. Senator Coghlan asked about the hotels that are in NAMA. When we started off, we acquired loans with 121 hotels. At this stage we have only managed to offload about six of them and we have 115 left. The Senator raised the old chestnut about complaining about NAMA hotels. I often hear people say on radio shows that a particular hotel is a NAMA hotel. I feel like ringing in myself, except I would not want to be identified, and saying that it is not actually a NAMA hotel at all.

Senator Paul Coghlan: It is Bank of Scotland.

Mr. Brendan McDonagh: Or perhaps someone else's. We have been quite upfront about this. Complaints were made to the Competition Authority about NAMA hotels. We met the Competition Authority and provided it with all the information it wanted and it then pursued the case. We were able to prove to it that we do not support hotels that are not sustainable. They have to wash their own face. Sometimes the most difficult case is where that is not happening for whatever reason. When we inherited it in 2010, we thought the hotel sector would be a massive problem. Certainly in the past year with the increase in tourism, because it is a function of

volume, occupancy rates are much improved from where they were in 2010. Mr. Hanna will correct me if I am wrong, but I believe they are now running at between 60% and 70%. Once they get through a certain amount, they actually recover their costs. I hope that deals with that.

Deputy McNamara asked about the 10,000 units for social housing. The majority of them are rented through the private sector. We have agreed to conduct analysis and come back to the committee, breaking out the detail of the portfolio. As houses become available, we add them to the list, as I said to Senator Hayden. This year we have added another 300 since the 1,500 we did in June. Once they become available, we ask if they are suitable for that. The Deputy asked why they were rejected by the local authority.

Deputy Michael McNamara: The other question was whether some of those identified for social housing were rental properties.

Mr. Brendan McDonagh: Yes, absolutely. They have to be almost ready for occupation because otherwise they are of no use to the-----

Deputy Michael McNamara: Are some of them currently rented?

Mr. Brendan McDonagh: Yes. Some of them then become available because they are no longer rented. It depends on the location and the strength of the market. If there is a very strong private rented sector there, they get snapped up very quickly, but at other times they might be in locations where it is not so strong.

Deputy Michael McNamara: Are some of them rented and transferred to housing authorities subject to an existing leasehold interest?

Mr. Brendan McDonagh: Some of them can be. The Deputy asked why the local authorities might reject them. There are various reasons but the most common reason is the local authorities claiming there is already too much concentration of social housing in a particular location and for the sake of the socioeconomic mix, they do not want any more. We do not decide that. It is decided by the local authority with the housing associations. I hope that answers the Deputy's question.

Chairman: We will bring matters to a conclusion. I will allow some brief supplementary questions.

Deputy Peter Mathews: On the arithmetic side, the vendor finance is becoming a growing source of revenue and is an asset from bank point of view of NAMA. What rate of interest is charged on that? For what term is the vendor finance provided?

Mr. Brendan McDonagh: Typically our vendor finance is for a term of five years and usually we do it with six-month EURIBOR with a minimum margin of 2.5% - the deals we have done to date have had a margin of 3%.

Deputy Peter Mathews: The margin of 2.5% is clear gross profit.

Mr. Brendan McDonagh: Yes.

Deputy Peter Mathews: Well done. Keep it up.

Deputy Kieran O'Donnell: NAMA pays the banks a six-month EURIBOR rate.

Mr. Brendan McDonagh: The rate is 0.6%, but so the Deputy understands-----

Deputy Kieran O'Donnell: Do they get a margin?

Mr. Brendan McDonagh: No. For the Deputy's information, to protect us in case interest rates increased we have used the financial crisis to hedge our interest rates. As interest rates decreased we swapped markets. For approximately four years we have had an average interest rate cost of approximately 1.5%. While we pay 0.6%, we have hedged and we are protected from interest rates suddenly increasing.

Deputy Peter Mathews: What did they start at when NAMA bonds were issued?

Mr. Brendan McDonagh: When NAMA bonds were issued the interest rate was approximately 2.5%.

Chairman: That concludes questions. As agreed at the beginning of the meeting we will now go into private session.

The joint committee went into private session at 6 p.m. and adjourned at 6.05 p.m. until 10 a.m. on Wednesday, 31 October 2012.