DÁIL ÉIREANN

AN COMHCHOISTE UM AIRGEADAS, CAITEACHAS POIBLÍ AND ATHCHÓIRIÚ

JOINT COMMITTEE ON FINANCE, PUBLIC EXPENDITURE AND REFORM

Déardaoin, 07 Samhain 2013

Thursday, 07 November 2013

The Joint Committee met at 305 p.m.

MEMBERS PRESENT:

Deputy Richard Boyd Barrett,	Senator Thomas Byrne,
Deputy Michael Creed,	Senator Paul Coghlan,
Deputy Regina Doherty,	Senator Aideen Hayden.
Deputy Timmy Dooley,	
Deputy Alan Farrell,	
Deputy Sean Fleming,	
Deputy Simon Harris,	
Deputy Joe Higgins,	
Deputy Kevin Humphreys,	
Deputy Michael McGrath,	
Deputy Dara Murphy,	
Deputy Jonathan O'Brien,*	
Deputy Kieran O'Donnell,	
Deputy Arthur Spring,	
Deputy Brian Stanley,	

* In the absence of Deputy Pearse Doherty.

In attendance: Deputies Peter Fitzpatrick, Peter Mathews and Shane Ross.

DEPUTY CIARÁN LYNCH IN THE CHAIR.

The joint committee sat in private session until 3.13 p.m.

Scrutiny of EU Legislative Proposals

Chairman: No. 8 on the agenda is the recording of decisions taken at the Sub-Committee on European Scrutiny - Finance and Expenditure on Thursday, 7 November. This is purely technical as the joint committee wishes to record the recommendations agreed to at the meeting. The following recommendations were proposed to the joint committee. On Schedule A, it was recommended that COM (2013) 520 warranted further scrutiny - will be carried out later today; that COM (2013) 450 did not warrant further scrutiny; while COM (2013) 679 was noted for adoption. On Schedule B, it was recommended that COM (2013) 213 and COM (2013) 293 did not warrant further scrutiny. Are the recommendations of the sub-committee agreed to? Agreed.

Sitting suspended at 3.14 p.m. and resumed at 3.15 p.m.

Local Property Tax: Discussion with Revenue

Chairman: I understand this meeting is being broadcast on two cable networks. I ask members to switch off their mobile phones because they cause much interference and I will have members of the public e-mailing to say there is distortion of the sound.

The next item on the agenda is matters relating to the payment of the local property tax for 2014. I welcome from the Revenue Commissioners Ms Josephine Feehily, chairman, Mr. Michael Gladney and Ms Vivienne Dempsey. The format of the meeting will be that Ms Feehily will make some opening remarks which will be followed by a question and answer session. I thank Ms Feehily for coming before the joint committee at such short notice. The invitation only went from the secretariat to her on Monday morning and I certainly appreciate the time she has made available to us. Given the debate we will be having, I also welcome the extension of the deadline to next week.

By virtue of section 17(2)(*l*) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. However, if they are directed by it to cease giving evidence on a particular matter and continue to do so, they are entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected to the matters under discussion should be given and asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against a person or an 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 ask Ms Feehily to make her opening remarks.

Ms Josephine Feehily: I thank the Chairman for giving me the opportunity to make a short opening statement. I propose with his agreement to broadly cover the questions raised in the clerk's letter relating to the local property tax and to leave the detail for further discussion.

It is important to recap that this is a new tax, with new concepts and new language for many of Revenue's customers. It is also a new tax for us in Revenue and the largest extension of the

self-assessment system in the history of the State. In approaching the design of the administrative system for local property tax we were very conscious of concerns which had been outlined by taxpayers about payment of the household charge and decided to offer the widest range of payment options we could for customers. We also sent earlier this year to all property owners an individual copy of a booklet explaining the tax and the payment methods.

When I last appeared before the joint committee in May in the context of an attempted credit card fraud, I was able to advise it that our approach was proving to be very successful. It resulted in a compliance rate of 89% by late July, which has now risen to 91%, in other words, returns for 1.6 million properties, plus local authority and social housing.

Property owners can choose from seven payment options. It is important to point out that all of these payment options were successfully used in the first filing period this year. Data showing the range of options chosen by taxpayers were circulated in advance to committee members. For example, over 10% of the tax paid was paid by phased payment by monthly direct debit. Less than 1% was paid by phased payment by deduction at source from salary, pension or certain Government payments. A total of 24% was paid by single debit authority, a mandate to Revenue to debit one's bank account once. Just under 15% was paid by credit card. Debit cards, which are quite different in nature from credit cards, comprised 36.7%, cheques and postal orders comprised 6% and cash or other methods through service providers comprised 7%.

I have been asked to address the structure, timing and operation of LPT for 2014. The Finance (Local Property Tax) Act 2012 (as amended) sets out how the tax is to be administered. Apart from the half year of 2013, the timing provided for in the law is the same each year. The liability date is 1 November if one is a property owner on that date, the return filing date is 7 November and LPT is payable on or before 1 January. In accordance with our normal practice, Revenue allows extra time for people who file online until 27 November. In accordance with the law, the tax is payable on or before 1 January or an agreed payment arrangement is entered into with Revenue to pay it in 2014. Unless filing is completed in November, Revenue cannot offer the options of phased payments over 12 months or 52 weeks because these need to be set up and instructions have to issue to the employer in time. In our experience, many employers do their January payroll run in the middle of December. We also have to write to all our direct debit customers in December before we can activate the 2014 direct debits, in accordance with the rules governing direct debits.

Beginning on 21 October, Revenue began writing to approximately 988,000 property owners relating to LPT for 2014. In accordance with the law, we did not write to those who had previously claimed exemption or deferral or those who had selected the phased payment options of deduction at source or direct debit. We placed advertisements in national and provincial newspapers, provided a briefing note which was circulated on the Oireachtas intranet system in the week the letters were being received and we provided spokespersons for national and local media, and so on. I think we assumed that people might still have their LPT booklets and that there had been so much printed and said about this tax only five or six months ago, that people would be somewhat familiar with the concepts and language, so we pared the letter back to its absolute basics. Clearly this was a mistaken assumption on our part.

Committee members will be aware that to facilitate people who need some more time to decide on their preferred payment option, we have extended the filing date for paper filing to next Thursday, 14 November. As always, returns postmarked on the closing date will be regarded as being on time. I was asked to address the question of premature payments. By law, this does not arise because the tax is payable on or before 1 January. As a matter of practice it cannot

arise because the choice is entirely with the property owner. In this regard, it is important to say that the payment options operate in exactly the same way as they did earlier this year. Generally speaking, with one exception to which I will return, people seemed to understand them and used them, if not happily because paying any tax is unlikely to generate happiness, then certainly without difficulty. In the telephone calls we received last April and May the issues which are suggested to be causing confusion and concern at present hardly arose at all. We did not have issues about credit card dates or the STA. We had no advance warning from the last campaign that these apparent misunderstandings might have existed.

I mentioned that there was one exception. A reasonably small number of people contacted us to say that they did not realise the debit card or credit card options would hit their accounts immediately. We responded to this by adjusting our system to alert them in our communications and in our online LPT system. We did this as a customer service initiative and to highlight the cash flow advantages for them of other payment options which we are making available. In reviewing the papers for this meeting, it occurred to me that if the alert had added "You may wish to pick another option" it would have been more helpful in terms of clarifying the options. The purpose of the option was to alert them to the fact that this would happen because that is how cards work. We suggested implicitly - perhaps we should have made it explicit - that they might like to pick another option.

This brings me to the kernel of the issue it seems to me the committee invited me here to discuss, in which regard I would like to make a number of key points. Our job in Revenue is to collect taxes and duties for the Exchequer in accordance with the law. Our approach to collecting tax is informed by our responsibility to secure revenues for the State effectively and efficiently. Effectiveness includes reducing as far as possible opportunities not to pay. Efficiency includes not imposing unnecessary cost or burden for either the State or the taxpayer.

As a service we are offering seven different payment options for LPT which allow property owners to decide whether to pay now, next year or in phased payments. From a customer service point of view, we wanted to ensure that property owners were fully informed about the implications of their choices when making that decision in a clear and transparent way. As committee members will see from the preliminary data which I have circulated, large numbers of property owners are successfully filing returns and selecting payment options. When this morning's post is included, returns have now been made in respect of 205,000 properties. When combined with the payment options which are rolled over from 2013, this gives us a compliance rate of 35%, which is very good with three weeks to go to the online filing date.

Nobody has to pay LPT before 1 January 2014, unless he or she chooses to do so. Many taxpayers are telling us that they want this option and the figures support this view. For those who do not, there are five other ways to pay in 2014 providing both phased and single payment options. The choice is with the taxpayer but they have to tell us now.

Chairman: I again thank Ms Feehily for the promptness with which she appeared before the committee and I appreciate the postponement of the deadline for people to file their returns. I propose that we allocate 12 minutes for the first round of questions, eight minutes for the second round and five minutes for the third round, following which we will do a wrap up. Is that agreed? Agreed. Is it correct that approximately 1 million households use the debit card and credit card payment system?

Ms Josephine Feehily: The figure is considerably lower than that.

Chairman: I understand the figure is 988,000.

Ms Josephine Feehily: I circulated the figure to the committee yesterday. The amount of tax collected is a good comparator for the number of tax payers. Approximately 36% of the tax collected was by debit card.

Chairman: A further 16% paid by credit card, totalling approximately 50%.

Ms Josephine Feehily: Exactly, but they are quite different. The number of property owners is approximately 1.6 million and our register lists 1.95 million properties. Half of the number of owners is approximately 800,000.

Chairman: There are seven payment options but the most popular appears to be the single lump payment by debit card or credit card.

Ms Josephine Feehily: I would phrase it differently. The Chairman is correct about the lump sum but I would put the debit card and the SDA together because they both give us authority to take the money from taxpayers' current accounts now or on a date they designate. The credit card is a different animal.

Chairman: I will return to the question of how debit cards and credit cards work. For this evening can we agree that a one-off payment by either debit or credit card is the preferred option of those paying the local property tax?

Ms Josephine Feehily: Fine.

Chairman: Okay. Ms Feehily is correct that there are six other options, such as salary deductions. I have received correspondence from all over the country that suggests there is an equity issue. Those who state their intention to pay by credit or debit card are paying before everybody else. Ms Feehily is correct when she says the payment is due on 1 January but in other cases she allows for the payment to be made after 21 March. Why must the credit and debit card payments be removed immediately?

Ms Josephine Feehily: I repeat that I am intrigued as to why we did not have this issue in July when exactly the same conditions existed. The filing date was 28 May and the payable date was 1 July, and nobody seemed to get bothered. We do not hold credit card data, nor do we want to, nor should we. If somebody enters their credit card information it is exactly the same as any other website transaction for airline or concert tickets or whatever. It goes off our site into a service provider company-----

Chairman: It is called merchant agreement.

Ms Josephine Feehily: -----which does all that, sends us an authorisation and the account is debited.

Chairman: So the Revenue has a merchant agreement. I will not name the company for obvious reasons.

Ms Josephine Feehily: It is the Government contract.

Chairman: The Revenue has a merchant agreement with a banking company. There is a coding system in that merchant agreement. If I were to book a holiday this afternoon to travel abroad for St. Patrick's weekend, and if I were to use one of our Irish airlines such as Ryanair

or Aer Lingus, departing on 15 March, that sum would be taken from my account immediately. If, however, I were to book a hotel with an online hotel agency, it would put a hold on my account and on the date of my arrival at the hotel, or if I failed to notify them that I was not arriving, that sum would be deducted. That is just a system of coding. The merchant company the Government has engaged, if that is the case - we can clarify that later - can establish a code for the Revenue. I understand the Revenue can modify the merchant agreement in place so that credit card details can be given and payments removed on a particular date. Is that not the case?

Ms Josephine Feehily: It is not the case in the contract we have. I am not sure those hotel bookings work exactly like that. Any time I have used them they have taken a certain amount of money immediately, and when one turns up at the hotel one has either already paid in full or they immediately ask for one's card. I am not sure it is as simple as the Chairman suggests at all. We do not have that kind of contract. We operate within the Government contract.

To return to the question of the difference between debit card and the date of 21 March for single debit authority. As I outlined in my opening statement, one of our responsibilities in Revenue is to take steps to secure the revenues in a way that reduces the opportunity for non-payment. The difference between the two methods, from Revenue's point of view, is a single debit authority, which is filed on time, gives us the authority to go to a person's bank account once only. We can then make a concession on the time because we have the person's authority to dip their account without returning to them for permission. We have operated this system for many years in the context of self-assessment. It works very securely, safely and cheaply. There are no transaction charges. It is a much simpler, safer and more secure option than getting us into the business of holding and exchanging credit card data.

Chairman: So we are discussing a financial IT systems process, not a legislative process, and there is nothing in the legislation insisting on payment before Christmas. I understand there is no impediment to the Revenue getting a property owner's credit card details and processing payment at a later date. The advice I have received through the secretariat from two card payment processors taken at random from the Irish Payment Services Organisation, IPSO, website is that there are three very developed types of processes. First, for bookings such as hotels or pick-up tickets for a bus or a concert they allow for a zero charge validation to ensure the bona fides of the card holder. They guarantee that the person booking is the card holder and if that person decides to cancel, there is no charge to them.

The second type is for variable charges such as utility bills, phone services and motorway tolls. Many people use the M50. The old toll gate was a serious problem. It now uses a credit card system. The third type is for monthly or quarterly charges such as subscription charges or charitable donations. This would allow somebody with a debit or credit card to not only have the lump sum payment taken out once in the year the tax is due but have it staged to remove the tax on a monthly basis. We are talking about a systems as opposed to a legislative issue.

Ms Josephine Feehily: I am sorry, it is broader than that.

Chairman: Give me an explanation.

Ms Josephine Feehily: There are issues regarding systems, cost, security and data protection. I am satisfied that we would not rush to offer this because of the risks involved. The Data Commissioner would ask us very hard questions because we do not need to offer this system.

Chairman: There is a compliance rate of 91% according to the figures Ms Feehily has

given us today. This is a customer service issue. If half of the customers wish to pay through this system, the system should be made as compliant as possible. While the secretariat may have put the word "premature" in the letter I would have edited it. I would see that a withdrawal of the payment in a period when the payment is not due as being premature. We can argue the semantics later.

My examination of this shows that the Data Commissioner sees no difficulty with this. If the Revenue has information from the Data Commissioner saying he has concerns with it, I would like to hear it this afternoon. Will Ms Feehily give this consideration? Perhaps it is impossible to do it because it is a new tax. People came into the system in July paying a half year sum and probably the majority of people out there, particularly PAYE workers, do not engage with the Revenue as much as private business people do, so there is a learning curve for all of us. In terms of improving the Revenue's customer services, if the system cannot be changed for this year, can consideration be given to changing it for next year?

Ms Josephine Feehily: I would never refuse to consider changing things for next year. I will undertake to examine anything the committee would like us to examine for next year. It is important not to think this is simple. We have very big data holdings and a very close relationship with the Data Commissioner. I do not have information from him about this but we know the Act very well. Does the Chairman think taxpayers would be happy giving us their credit card details and letting us dip whenever we like? To be honest-----

Deputy Timmy Dooley: They know everything else about us so they might as well have it.

Chairman: Taxpayers give their credit card details to iTunes, Amazon, they give them out every day of the week.

Deputy Peter Mathews: It is for single debit payments. They know all the details.

Chairman: It is for single debit payments.

Ms Josephine Feehily: The really interesting thing about the single debit-----

Chairman: Will Ms Feehily let me complete?

Ms Josephine Feehily: I beg the Chairman's pardon.

Chairman: The issue is options and choices. I am not suggesting they be demanded to do that but given the option to choose it. The Revenue has very successfully provided a range of options. If this option was provided, it would be up to the taxpayers whether they want to choose so or not. Is a charge incurred greater than the payment if somebody pays by credit or debit card? Is a charge paid for the transaction?

Ms Josephine Feehily: Yes, 1.49%. They are alerted to that before they choose.

Chairman: Is there an additional charge of 1.49% of using one's credit card?

Ms Josephine Feehily: Yes, it is just what merchant acquirer charges and other taxpayers should not pay for the cost of somebody using their credit card when we have six other options. We apply that across all our taxes; this is not just for LPT. Any charges are passed on.

Chairman: In the agreement, that charge is broken down between four entities - the financial house the money is coming out of, the Revenue, the acquirer and the gateway. I am not

sure what the breakdown is but am I correct that Revenue receives a percentage of the 1.49% charge?

Ms Josephine Feehily: No, absolutely not.

Chairman: Does Revenue get any percentage of it?

Ms Josephine Feehily: No.

Chairman: So the fee goes to the gateway, the bank and the acquirer.

Ms Josephine Feehily: I do not know precisely which it goes to within those three but we certainly do not get to keep any of it.

Chairman: Revenue is not getting any of it.

Ms Josephine Feehily: No.

Deputy Michael McGrath: I welcome Ms Feehily and her colleagues, Ms Dempsey and Mr. Gladney. I thank them for appearing the committee at short notice.

The net issue is that if people choose the debit or credit card payment method, they will have to pay in advance of the calendar year to which the liability relates and I have some sympathy for the Revenue because it is working within the confines of legislation. The fact that people paid the 2013 liability only four months ago and are now being asked an 18-month liability within a period of four months is a sore point for many people and that has led to much of the anger and concern they have expressed.

The payment in advance issue is a direct consequence of the legislation. While it does not state that the Revenue has to take the money before the calendar year, if the Revenue tries to comply with the various dates set down in the legislation operationally and if, as Ms Feehily says, Revenue is obliged not to retain credit or debit card details, then those transactions must be put through immediately. Is the option open to the organisation to have a two-part process for people who wish to pay by debit or credit card to signal that before the filing date in November and then return in the new year to provide the card details for the transaction to be effected?

Ms Josephine Feehily: If we were to do something like that, the person in question would have to think about going back in on New Year's Eve, which is not a day people would necessarily be thinking about their tax for the following day and I would not be doing our job of securing the revenues for the State effectively if we said to people, "You can tell us now and you can come back in on New Year's Eve to pay", but, more important, we would deprive those people of the opportunity to spread their payments evenly over the year. The reason we were out there talking to people at the end of October is to give the maximum opportunity to them to avail of phased payments over 52 weeks or 12 months. That is why we need to know now in order that we can put the various payment systems in place. While the Deputy might say that somebody could say he or she will come back on New Year's Eve or New Year's Day to pay with his or her credit card, there is a small but significant number of people who change their mind during the year. One can change one's payment option any time. If the Deputy changes his mind on 2 January, we will be lucky if we can get his direct debit up for the middle of February or if he is monthly paid for his March payment through employment deductions. It is risky. Why would one?

I keep coming back to the fact that if somebody is uncomfortable about paying before 1

January with a plastic card, we provide an alternative called the single debit authority, which is identical to a debit card. A customer has to give us less information and do it with fewer clicks on the website and we are giving that category as a concession until 21 March because I am satisfied in terms of my governance responsibilities that I have the authority to collect that money so the money is secure.

Deputy Michael McGrath: If the Revenue required people who wish to pay with a debit or credit card to give those details in the new year, that does not necessarily mean it is removing the option for other people to pay by direct debit over 12 months because when they indicate in November that this is their preferred option, Revenue could require them to provide their account details and so forth then in order that it can commence the 12 monthly deductions in January. No cash would be taken from them until January. The notion of preliminary tax is par for the course for the self-employed or companies. They understand it but it is an alien concept for PAYE taxpayers. People might not like the property tax but they accept it is a liability they have to meet and they will meet it in the year the liability falls due. Revenue has to find a way of changing the current procedure. If the legislation said that the Revenue shall not deduct any money from property owners until the calendar year to which the liability relates, would Ms Feehily then have to comply with that and not deduct money, for example, the previous November?

Ms Josephine Feehily: Clearly, if the legislation said we could not deduct money, we could not do so. That would certainly mean we would not give people options to pay before Christmas using plastic cards. The interesting thing about that is we have 205,000 returns. The other thing that is interesting is that half of those returns to the extent that they are processed - it is not half of the 205,000 because they are not all processed yet - are choosing the single debit authority. They are understanding well how to use the March option.

Deputy Michael McGrath: How many have taken the debit or credit card option?

Ms Josephine Feehily: A total of 5% credit card and 15% debit card.

Deputy Michael McGrath: That is 20%.

Ms Josephine Feehily: With an alert that jumps up and says this will happen with all the discussion that has been around for the past week or so.

Deputy Michael McGrath: Approximately 40,000 have paid.

Ms Josephine Feehily: They are making a choice. Mr. Gladney can tell the committee based on speaking to his staff and the staff in Abtran who are answering the phones that a significant proportion of people are saying, "I want to get this out of the way so that I know how much money I have left. I want to plan my spending and I want to pay it now. How do I do it?". Clearly, if the law said we could not and should not then we would not.

Deputy Michael McGrath: Revenue would have to find a way to implement that.

Ms Josephine Feehily: It is not so much that we would have to find a way but taxpayers might not have the same range of choices. That is the only thing I would be concerned about.

Deputy Michael McGrath: I am sure they would not mind not having the choice of paying it now.

Ms Josephine Feehily: I do not know. Some people seem to want to dispose of this.

Deputy Michael McGrath: Approximately 40,000 have as of today had their debit or credit cards debited for the LPT.

Ms Josephine Feehily: At their choice.

Deputy Michael McGrath: Absolutely. With regard to why Revenue cannot retain the card details and put the transaction through in the new year, is that a contractual issue with the payment provider?

Ms Josephine Feehily: It is a contractual issue for now. As the Chairman asked, we will certainly look at it but I do not want to mislead the committee. While I will look carefully at it, I would be concerned about us getting into the business of retaining that kind of data. I would need all sorts of assurances in light of things that happened in other businesses in the past week or so. We would have difficulty satisfying ourselves that we needed to retain the data when the single debit authority, which is a simple, safe, secure solution, is an option. We are not sure we need it. We would have difficulty with the Data Protection Commissioner in that regard.

The comparison with iTunes and so on is not the same because there is a recurring relationship. One is topping up every week. Each time, one clicks that one accepts the terms and conditions. If somebody gave us their details and a year later we come back and ask about the card details he or she gave us the previous year, it would be more complex. The issue is certainly contractual but security, data and privacy issues also arise. I would have to have a good discussion both with ourselves, our IT people and our audit committee to see if it is a risk we need to take.

Deputy Michael McGrath: I refer to penalties relating to returns. There has been considerable confusion and public commentary on the issue. I know that Revenue has extended by one week the deadline for paper filing, which is welcome. However, what will be the Revenue approach to people who miss the filing deadline? Will it take a lenient approach given that there has been such confusion?

Ms Josephine Feehily: I acknowledge that confusion seems to have particularly impacted on paper filers, as Mr. Gladney's staff would confirm. Our compliance rate to date is 80% online. The paper filers have been listening and suddenly realised that they were out of time which is why we extended it yesterday. I can assure the Deputy we will be reasonable where we can. Penalties will not be imposed in any event without us making contact with people in advance. When people use the word "penalties" they do not quite understand. When I talk about penalties, I am talking about penalties in the law.

Deputy Michael McGrath: Yes.

Ms Josephine Feehily: People who do not file leave themselves open to the mandatory deduction - if they do not file or they do not pay. We will be looking at this very early in January and we will, as we did this year, move quickly to mandatorily deduct the tax. Penalties, as penalties, absolutely I give that commitment.

Deputy Michael McGrath: Ms Feehily indicated that the compliance rate for the 2013 liability is approximately 91%, which is a high rate. However, it still leaves approximately 150,000 property owners who have not complied. What approach is Revenue taking with those? I know a few Deputies who refused to pay the tax have had their salaries deducted. Is the net closing on the 9% or 10% who have not paid?

Ms Josephine Feehily: I explained previously that our priority in the beginning was to establish the tax and establish the register, and we have been doing that. When we only have to do this once, as we will next year - this year we had to do it all twice - the staff who are merrily answering the telephones now will be available to us for compliance campaigns and they will begin very early in the new year. We have new data sources which we are adding all the time. We will do two things beginning in the new year. We will obviously be following through with deductions for people who have not filed this time. We will also be scrutinising the outliers regarding valuations. We now have data that show us in certain parts of the country clear outliers - we can see norms and ones that are not in the norm. We will be looking at valuations and we will also be looking at other data sources such as property registers where we can see gaps where we have had no compliance and we will follow them up. As we said previously, at the end of the day from now on no property can be disposed of without this tax being brought up to date. So we have a pinch point there in any event which will continue to build our register.

Deputy Michael McGrath: What commitment is Ms Feehily making to the committee on the key issue of the payment in advance? She mentioned examining the contract to see what could be done on that issue. What commitment can she give us and more importantly taxpayers that the issue of paying in advance will not occur again?

Ms Josephine Feehily: I have to keep correcting the Deputy that it is not in advance because the legislation states "on or before". When it is on or before it is at the person's choice. I certainly hear what the committee members are saying. The commitment I am making is that when this campaign is over, we will have a good look at this. We will see in the light of patterns chosen by people what the new numbers are. It is not reasonable to come to any conclusion based on the half year. We need to see what happens when people have to pay the full year and establish what proportion of people still prefer to use cards. I will look at all of those angles, including the risks, security and the costs to us and the taxpayer because we will pass them on to the people who chose those payment options. Certainly retaining details with one of those companies the Chairman discussed has a cost. I will look at all of those things. We will take a very serious view and look at it after we get past this filing season.

Deputy Michael McGrath: I thank Ms Feehily.

Chairman: I call on Deputies O'Donnell and Harris, and Senator Paul Coghlan. I remind Deputies that they have 12 minutes between them. I am not looking for questions at the end of five minutes that go on for another two or three minutes. I will bring it to a conclusion at the end of five minutes.

Deputy Kieran O'Donnell: I ask the Chairman to let me know when I have a minute remaining.

Confusion has arisen from the letter that issued. Section 119 of the legislation states the tax is due on or before 1 January. However, the letters that issued to ordinary taxpayers make no mention of 1 January - it is the only date missing from the letter. I would have thought that was a glaring oversight.

If people are not obliged to pay the tax until 1 January, it would be very simple that anyone who wants to go for direct debit, the single debit mandate or deduction at source or through a service provider should be obliged to come forward by 14 November for manual filing or 27 November for online filing, but anyone who has a payment coming out of their account the very minute they pay should not be required to submit it until 1 January. It would be very simple

way around it and would ensure there was no element of confusion. Is that something Revenue would take on board?

Ms Josephine Feehily: I will take all of that on board in conjunction with the review I referred to in answer to Deputy Michael McGrath's questions. I repeat that, for me, my responsibility is to secure the revenues and I regard it as a risk that people will not actually pay on 1 January. That is a risk that I have to mitigate just as any business has to mitigate risks.

Deputy Kieran O'Donnell: Limited-----

Ms Josephine Feehily: If a person chooses not to accept an offer to give us bank account details and gets two and a half months grace-----

Deputy Kieran O'Donnell: Yes, can I-----

Ms Josephine Feehily: It is a question of securing the revenues.

Deputy Kieran O'Donnell: Revenue works under the legislation, which states that the payment is not due until 1 January. The problem is that a person using the online system who wishes to pay by credit or debit credit card cannot state that preference without paying now. However, under the legislation the payment is not due until 1 January. There is a glaring contradiction in that. This is about practicalities.

On the manual system, the biggest issue is for older people.

Chairman: The Deputy has two minutes remaining.

Deputy Kieran O'Donnell: Older people have a bigger problem with this. Can Ms Feehily give a commitment that they can go along before 14 November and do not wish to pay until 1 January? In some cases it may suit people to hold out until 1 January and under the legislation they are not required to pay until 1 January. Can they write on the manual form that they will be paying by cheque and the cheque will reach Revenue by 1 January or they will pay by debit and payment will be made on 1 January or they will pay by credit card? Will Revenue allow that to function in the manual system?

Ms Josephine Feehily: We have already said that if people wish to send in a cheque after the form they can do so. I need to warn them that they need to put identification marks on it. The last time we got cheques with no identification. We still have cheques with no identification and cannot associate them with people. I come back to my point. It is a risk to separate the payment and filing.

Deputy Kieran O'Donnell: I accept that.

Ms Josephine Feehily: The same applies with the debit and credit card from my point of view.

Deputy Kieran O'Donnell: However, we need to go back to the source legislation.

Chairman: The Deputy will need to allow Ms Feehily time to respond.

Deputy Kieran O'Donnell: Under the manual system, people can write on it, submit the form and they can pay on 1 January. I am working from the legislation. Revenue does not want to separate the payment from the filing which is fine.

Chairman: The Deputy will need to allow Ms Feehily to respond.

Deputy Kieran O'Donnell: Will Revenue allow people who want to do it by direct debit do it from the 27th and the people who want do it by debit or credit card do it on 1 January?

Ms Josephine Feehily: If people wish to do it by credit card, they should pick the service provider option and pay with the service provider on 2 January, but not with us.

Deputy Kieran O'Donnell: What about for future years?

Ms Josephine Feehily: I will examine it, as I indicated to Deputy Michael McGrath.

Deputy Simon Harris: I thank Ms Feehily for attending today. What advice would she give to people who believe they should have received a letter from Revenue and still have not received a letter?

Ms Josephine Feehily: The most likely answer is that they are on direct debit or deduction at source because we did not write to those. We did not write to anybody who had arranged a deferral or an exemption; we simply rolled them over. This is the most likely set of reasons. If it is anything other than this, they need to contact us.

Deputy Simon Harris: I know a person who contacted the helpline and was told a letter would be received by 11 November. That is probably not good enough. Are there people who should have received letters who have not yet received them?

Ms Josephine Feehily: Not that I am aware of, but I would be very happy to look into the case mentioned by the Deputy. That is not a problem.

Deputy Simon Harris: I thank Ms Feehily. With regard to the helpline, I know that becasue of all the confusion demand is very high. Many people report significant delays, although I have encountered them. What is the target? How quickly does Revenue hope to deal with those who call the helpline today?

Ms Josephine Feehily: Just before I came I checked and in the middle of the day the waiting time on the 1890 number was six minutes. A significant proportion of the calls are being referred to our own staff for expert knowledge. If access to the IT system is required, our outsourcer does not have access to it. My advice to people in this position is that they will receive an audio message telling them the waiting time and inviting them to leave their number and that we will call them back in the evening. This has been happening for the past two weeks and we are up to date. People in the second referral to a Revenue number who leave their telephone number will receive a telephone call.

Deputy Simon Harris: Why is it the case that payment was accepted from somebody last year based on one valuation band, but the person in question has received a charge seeking the full year amount in a higher band?

Ms Josephine Feehily: In the cases I have seen it is because a band was not ticked. People decided on a band but did not tick the box.

Deputy Simon Harris: Therefore, Revenue has gone back to the original.

Ms Josephine Feehily: We have gone back to the original.

Deputy Simon Harris: Revenue can go back.

Ms Josephine Feehily: That is the most likely reason. I have seen several cases such as this.

Deputy Simon Harris: This is very helpful. Has there been a change in the information required to be submitted online when dealing with people living in the United Kingdom for the past 30 years but who have a property here? They do not have PPS numbers, but they were able to pay the charge online for the half year period without a problem. The website is now looking for a PIN, a property ID and a PPS number.

Ms Josephine Feehily: They will be able to do it by Monday. It is being fixed. Approximately 4,000 people have already done so; therefore, it is possible.

Senator Paul Coghlan: Given that the Minister stated he would prefer to see the money rolling in next year as it is a tax for next year and that Revenue allows it to be paid by lump sum on 21 March by cheque, surely there must be a way to allow a person to opt to pay a lump sum on 21 March by credit or debit card.

Ms Josephine Feehily: The answer is there are many ways to pay, but I must secure the money. The single debit authority is our way of dealing with the fact that the payment straddles the year. It is safe and secure and what I must do to secure the funds.

Senator Paul Coghlan: With respect, is this not as safe as a cheque?

Ms Josephine Feehily: It is far safer than a cheque. A cheque can be lost in the post.

Senator Paul Coghlan: I cannot understand-----

Deputy Peter Mathews: It can be cancelled.

Chairman: Deputy Mathews please.

Senator Paul Coghlan: I cannot see why it cannot be paid by cheque, credit card or debit card.

Ms Josephine Feehily: I have no authority to dip in the case of credit or debit cards. With a single debit authority-----

Senator Paul Coghlan: The customer can give-----

Ms Josephine Feehily: -----one is committing to pay the tax and giving Revenue the authority to dip. On this basis, we can state the person is compliant.

Senator Paul Coghlan: I do not mean cases where the customer is prepared to give Revenue the authority on the date to take the money.

Ms Josephine Feehily: We do not retain credit or debit card details. It is unsafe and there are privacy and risk issues. It is entirely different retaining bank account details. They are nothing like as risky. We have had systems in place for several years whereby we retain bank account details because the single debit system has been working for many years with success.

Senator Paul Coghlan: Revenue does not trust them to get in touch on that date to do it.

Ms Josephine Feehily: I beg your pardon.

Senator Paul Coghlan: If customers opt for this method now, Revenue does not trust them

to do it on the date to get over the data protection issue.

Ms Josephine Feehily: It would not be prudent for me in my responsibilities in terms of the revenues of the State to accept a return regarded as being on time and compliant on a promise of receiving the money.

Chairman: It could be the case that the account with the single direct debit may not have any money in it on 21 March or it could be cancelled. A number of Deputies asked about the cheque to be sent. Is it to be dated with the date of posting, 21 March or a date in between?

Ms Josephine Feehily: The cheque should be in date. It should be dated with the date it is sent.

Chairman: It should have the date of posting.

Ms Josephine Feehily: It does not matter what date is put on it because it will be cashed. This is essentially how the banking system works. It does not read the date.

Chairman: Cheques are also drawn down immediately.

Ms Josephine Feehily: Yes.

Chairman: Some people may have been under the impression it would not be drawn down before 1 January.

Ms Josephine Feehily: During the week we clarified that if people wanted to send in the cheque later, they could do so; it is a risk we can take because a small proportion of people will choose this method. However, I cannot promise - Deputies and Senators know this - the cheques will not sit in a box in Revenue next year while we send people compliance letters. That is what happened last time. Cheques arrived on their own with no marks. It is risky. When a cheque is received, it will be sent to the bank and debited.

Chairman: I want to have this clarified because there has been much comment on cheques.

Ms Josephine Feehily: Cheques will be debited.

Chairman: This meeting is being broadcast. If people wish to pay by cheque, they express their intention to do so and the cheque can be posted up to 1 January.

Ms Josephine Feehily: The cheque can be posted up to 1 January, but, please, include identification on the back of it.

Chairman: Can this cheque be dated 1 January?

Ms Josephine Feehily: If it is posted on 1 January, that will be the correct date to put on it.

Chairman: No, if it is posted between now and 1 January, can it be dated 1 January?

Ms Josephine Feehily: It will not matter. If the cheque arrives before we close for the new year's holiday, it will go to the bank.

Chairman: It does matter because if it is received on 1 December and dated 1 January it cannot be cashed.

Ms Josephine Feehily: We will send it to the bank. If it comes into us, we will send it to

the bank-----

Chairman: And it will be drawn on 1 January.

Ms Josephine Feehily: -----and the bank will do whatever it does with it.

Deputy Brian Stanley: I thank the staff of the Revenue Commissioners for coming before the committee. I was going to ask about the cheque option. The bank cannot process a cheque until the date that is on it. To use Ms Feehily's term, it cannot dip into the account.

It is clear from the legislation the tax is due on 1 January, at which time it must be paid. Ms Feehily mentioned that people did not have a problem in May, but the problem arising for many people is that they paid the household tax for the previous year in May or June, after which the half-year tax was paid. Perhaps this was done with a single payment. They are now being hit for a third payment in November this year. People believe they are making three payments. Ms Feehily can answer as to why, but it is a fact that it is happening. In some cases it is happening because people did not have it at the time. This is an issue I ask Revenue to consider with regard to giving flexibility. It is clear that the legislation was badly drafted and rushed through the Dáil. The Christmas break was high on the agenda and there was not much time to discuss it and here we are now with the consequences. Ms Feehily has mentioned payment is due on 1 January and she has also mentioned risk. If the Act were changed, would it satisfy Revenue's obligation to collect the tax on behalf of the State?

Ms Josephine Feehily: If the payment data were changed, we would have to change the administrative model to go with it. The only answer I can give is that I would have to see what the legislation stated. The date is the date and that is what I am working on.

I wish to advise Deputy Kieran O'Donnell that paper filers had the date on the form, while online filers had the date online. It was not in the letter because it was on the form. I apologise, I missed that earlier.

Deputy Kieran O'Donnell: The letter did not mention 1 January.

Ms Josephine Feehily: No, it was on the form. With regard to Deputy Brian Stanley's point on people being hit for three payments-----

Deputy Brian Stanley: Would Ms Feehily be happy if the date were changed through an amendment to the legislation?

Ms Josephine Feehily: I would need time to adjust the entire administrative process. People who have been around for a long time will remember that when we changed the income tax year, we needed to have a special nine-month year. There would be a transitional arrangement and a large machine would need to be created if one wanted to change the year. Perhaps we did not succeed but we were trying to be mindful of this by placing so much emphasis in the letter - we used a box - on phased payments beginning in January, under which taxpayers would tell us at once whether to spread payments out over 12 months or 52 weeks, beginning in January. We also emphasised the single debit authority, which strikes a balance between my responsibility to secure the tax and taking account of the fact that people might not want to pay this at Christmas or immediately afterwards. If they give me a mandate, I can secure the tax and provide them with the maximum time. We offered several options. However, we cannot offer every option to everyone, which may be what people want me to do. We can only offer options in circumstances in which we can secure the funds.

Deputy Brian Stanley: The liability date is 1 January. What if we changed it to March? I am curious about Ms Feehily's remarks on risk. My understanding is that the tax is for 2014. If I use a service, go for a meal or so on, I pay before I leave the premises. I am not trying to oversimplify the matter, but the owner is happy because I have paid the bill on the way out. One can pay for other services during the period in question. I do not understand why the full payment must be paid on day one as opposed to through phased payments over the year. Would the current legislation allow the Revenue Commissioners to opt for 1 March?

Ms Josephine Feehily: Under the current legislation, there must be a return by 7 November and the tax is payable on or before 1 January unless one has an arrangement with the Revenue Commissioners, from which phased payments arise. The "unless" comprises exceptions, phased payment arrangements and the single debit authority. I have secured the tax. This is how I deal with the "unless". The current legislation does not allow me to tell everyone to go away and that I do not need any money until March. It obliges me to secure the tax in a way that I can satisfy this committee and a committee that might be meeting across the hall on another day that I have done my job in accordance with the law. I cannot ignore-----

Deputy Brian Stanley: Where is the risk?

Ms Josephine Feehily: I cannot ignore the 7 November and 1 January dates.

Deputy Brian Stanley: When Ms Feehily appeared before the committee in May, she stated:

> The legislation says what it says but we can, within reason, manage and schedule payment dates. Every year Revenue grants a concession when people file their tax returns online. Within our own care and management, we can make some sensible arrangements around the margins of payment dates. We chose the January date specifically because we can send out returns to people before the end of the year and they can pick 12 equal months.

Although she referred to 12 payments, she mentioned in the early part of her reply a degree of flexibility. For many people, making a single payment after Christmas would be a great deal easier. For obvious reasons, Christmas presents significant problems, given the festivities and the associated costs, particularly for people with families. Apart from the phased payments aspect of Ms Feehily's May reply, she seemed to indicate that Revenue had some flexibility "around the margins" to try to bring the date into next year. Could it not be applied?

Ms Josephine Feehily: We offer that flexibility on the basis of a single debit authority that people give us now. That is what I meant about offering flexibility "around the margins". People give us the authority now, thereby allowing me to secure the tax. I have a commitment. They can pick any date between now and 21 March to give us permission to collect that money. We give the concession in a managed, ordered way where people have given us the authority to collect from their bank accounts. If they do not want to go the bank account route, they can tick the service provider box, go to a post office on 2 January and pay us in a lump sum. It is simple. There are options.

Deputy Brian Stanley: Did Ms Feehily say on 2 January?

Ms Josephine Feehily: They have complied because they have submitted their returns on time and ticked the service provider box. We are not asking people who pick a service provider option to pay by 1 January. This is what I meant when I referred to having flexibility at

the margins. Once people have made the commitment to us and given us the mandates that we need, we can be flexible. We have given so many options that, no matter what a person's circumstances are, there is an option that fits. It seems to me that people want to fit the options to the plastic card. I cannot go that far, as the plastic card system has different characteristics, particularly as regards giving us authority to debit. If someone wants to pay a lump sum after Christmas, he or she has at least two options - service provider or single debit authority - and can pick any date between now and 21 March. I will give them these two options.

Deputy Brian Stanley: I wish to ask about the half-year returns made earlier this year. People received from Revenue their notifications, estimates and return forms. In some cases, those estimates were way out. A house might have been placed in band 4. According to *www.daft.ie* or sales in the area in the past year, however, that house should have been in band 2. I have encountered such cases. The people involved would have written to Revenue, filed a return and submitted evidence to back up their claims, for example, the sale prices of the last four houses sold in the area, the fact that their houses were old and had lower specifications and a similar one sold for a certain amount in the past nine months, etc. I accept that Revenue made clear at the time that it was a self-assessment, but people have not heard a squeak since filing their returns. What is happening? People did not know what to pay for the six months of this year. The issue is hanging.

Chairman: The Deputy must allow Ms Feehily to respond. I ask him to conclude.

Deputy Brian Stanley: I am finished. I thank Ms Feehily for her time.

Ms Josephine Feehily: There are two parts to my answer. If the Deputy knows of an individual case or two, I would be happy to examine them for him. There were some people in such circumstances. If we have not reverted to them all by now, I will be disappointed. I could look up a case for the Deputy. At the time, we made it clear that the figures we were using were averages. We did not insist that our estimates were correct. If someone has not complied as a result of this, there will be no issue for him or her.

Chairman: Deputies Humphreys and Spring are sharing time, with six minutes each.

Deputy Kevin Humphreys: I thank Ms Feehily for attending at short notice. I wish to ask a couple of questions. This is an issue of customer service. I picked up on the figure - I hope I am correct - of approximately 800,000 households that paid by debit card or credit card in May.

Ms Josephine Feehily: Yes.

Deputy Kevin Humphreys: From the outset, we are dealing with compliant taxpayers, in that they were prepared to pay. The sense I am getting from Ms Feehily is that Revenue was not confident that they would pay a second time if the situation was left as was. She used the phrase "good governance". As these 800,000 plus people are compliant taxpayers who paid the tax last time, why was Revenue not confident of their paying in January by either debit or credit card? Was a risk analysis undertaken which supports Revenue's expectation that a large proportion of this 800,000 people would not make the payment in January, February or March?

Ms Josephine Feehily: There are two parts to the answer to that question. As I said earlier, I do not believe it was possible to draw any conclusions based on the half-year payment. Once this campaign is out of the way, we will have a better pattern. Already, the numbers indicate a drift away from debit card payment to the single debit authority and phased payments. As the amount due has doubled, the pattern this time will be different. That is the first part of the

answer.

Second, Revenue has no authority to debit a card a second time. This comes back to the point about retention of card information, which I regard as high risk. Revenue has no authority to debit a card a second time and as such could not simply have rolled over payments as we did in the case of direct debits, which operate within a particular framework.

Deputy Kevin Humphreys: If I was undertaking an analysis and 800,000 customers had paid the first time via debit or credit card, I would do everything I could to facilitate them paying in the same manner the second time. To me, it should have been obvious to Revenue that asking people who previously paid by debit or credit card in May to pay the second tax in November would have annoyed them. If, as a person who paid the tax in May and who has every intention of paying the tax for 2014 in 2014, I received a demand for early payment of the tax in November, I would not feel I was getting good customer service. Does Ms Feehily not understand the reason for the resistance, annoyance and anger in relation to the demands in that regard?

Ms Josephine Feehily: I can understand there is some concern. The Deputy asked if Revenue had undertaken any risk analysis. I come back to the point I made earlier that in April, May and June this year large numbers of people paid via debit or credit card even though the payment was not due until July in respect of which Revenue received virtually no complaints. It is difficult to anticipate something that did not happen before. The online and paper systems being used now are the same as those used previously. On the last occasion, the final date for online filing was 27 or 28 May. I recall I was in Leinster House on that day. People used their debit or credit cards in advance. That dimension of it was not something that was evident from the analysis we did from the first half year. It is clearly evident this time.

To be fair to Revenue, we felt we were meeting our customer service responsibilities by giving people so many different options to pay. There were times last year when I was tempted to say we would not accept payment by debit or credit card. Revenue only commenced accepting payments in this way in 2012. It is a new thing for Revenue. It is almost as if the additional piece of service has become the problem. I am being flippant. I have no intention of stopping Revenue accepting debit or credit card payments. If people wish to pay in that way, it is Revenue's job to facilitate them in every way it can. The fact that the tax spans the year has made this one particularly difficult. It is not tax that is due in 2014 rather it is tax payable on or before 1 January 2014. The reason for that date - Deputy Stanley referred earlier to my remarks in this regard on the last occasion I was before the committee - is so that we can set up the phased payments. It is all part of trying to give the optimum service. We cannot give the optimum service on every eventuality. For all of the people who are unhappy about one method of payment I have requests to add seven, eight, nine or ten other payment methods. All of these have to be evaluated in the context of service and cost.

Deputy Kevin Humphreys: If Revenue had undertaken an analysis of its customer base, it would have expected this level of resistance and annoyance. On late payments in respect of the previous payment, have any penalties been imposed in that regard?

Ms Josephine Feehily: No. The only penalty - I do not in this regard mean a "penalty" as per the Act - has been some enforcement activities. We have imposed mandatory deductions at source from people who paid late or did not pay at all. Some people switched and paid another way. Also, a number of tax clearance certificates were refused because of late or non-payment. The matter was then rectified and the tax clearances were granted. We have used enforcement

penalties in the broader sense but no penalties under the Act.

Deputy Arthur Spring: I welcome Ms Feehily to the meeting. When did Revenue first become aware that a property tax was to be introduced in Ireland?

Ms Josephine Feehily: I first became aware of it prior to the troika programme.

Deputy Arthur Spring: When the troika arrived?

Ms Josephine Feehily: No, prior to that.

Deputy Arthur Spring: What was the projected target in terms of compliance?

Ms Josephine Feehily: There was no projected target for compliance numbers. The target given to me by Government early last year in monetary terms was €250 million this year and €500 million next year.

Deputy Arthur Spring: In terms of the targets expected under the budgetary process, what percentage of uptake was expected by Government?

Ms Josephine Feehily: The Government did not express a target in uptake terms.

Deputy Arthur Spring: I believe the expected uptake was 70%. Ms Feehily said earlier that compliance was 90%. When one drills down into the figures-----

Ms Josephine Feehily: The target of 70% is not one I recognise.

Deputy Arthur Spring: The figure of 70% plus is the target expected under the budgetary process. Some €50 million in additional taxes was collected last year. Compliance was ahead of what was predicted in the budgetary process. It is expected this will increase this year.

I have two concerns. The predominant issue for us is the people struggling to pay their mortgages. The demographic indicates that the preferred payment in terms of single payment is debit or card. I presume Revenue has in-house legal expertise.

Ms Josephine Feehily: Yes, but not on every topic.

Deputy Arthur Spring: Does it have qualified marketing expertise in-house?

Ms Josephine Feehily: Again, it depends on what is being marketed.

Deputy Arthur Spring: Why is Ms Feehily throwing her eyes to heaven?

Ms Josephine Feehily: I am trying to understand this. The Deputy is making statements that I do not recognise.

Deputy Arthur Spring: I am asking questions.

Ms Josephine Feehily: The Deputy made a statement about something to do with 70% and €50 million. I do not recognise those numbers. Against that context, we do have legal expertise but this tends to be in the area of tax law and not necessarily in other areas of law. It is not as simple as the Deputy suggests. There are also people in Revenue expert in marketing.

Deputy Arthur Spring: Does Revenue have expert customer care in-house?

Ms Josephine Feehily: Yes.

Deputy Arthur Spring: Does it have IT electronic payments expertise in-house?

Ms Josephine Feehily: All within reason.

Deputy Arthur Spring: When the legislation was being drafted, did the Department of Finance liaise with Revenue?

Ms Josephine Feehily: Yes.

Deputy Arthur Spring: Did Revenue have any hand, act or part in the drafting of the legislation?

Ms Josephine Feehily: Yes.

Deputy Arthur Spring: Did it foresee that there would be problems in terms of how payments would be made?

Ms Josephine Feehily: We foresaw the need to provide a full range of payment options because people might have difficulty paying. We provided for them in the legislation.

Deputy Arthur Spring: At any stage, was consideration given to the fact that many people would be hit with a payment in May and another payment for a full year in November?

Ms Josephine Feehily: Yes.

Deputy Arthur Spring: Was there an acknowledgement that this was going to affect hard-pressed families?

Ms Josephine Feehily: There was an acknowledgement that some people might not wish to pay the tax around the turn of the year and we provided phased payments and single debit authority arrangements to take care of that risk.

Deputy Arthur Spring: Okay. For the large majority of people who form part of the negative equity generation the preferred *modus operandi* of payment is via debit or credit card. According to the demographics of what we know about debit and credit cards, there are almost 5 million held in this country. Retailers are concerned about Christmas. Whatever about that, people are concerned about the amount of money that will be taken out of their pockets. Many people have approached me to say that in the space of a couple of months they will be paying €1,000 or upwards in property tax for moderate houses that are very heavily mortgaged. I do not know if the Revenue Commissioners have exhausted the merchant services providers with regard to how the service could be provided. Debit and credit cards could be set up in a way to take money from the account over the calendar year 2014. I spoke to some credit card experts today. Do the witnesses feel this can be addressed now or, as was noted earlier, could it be considered for the future? Is the notice too short?

Ms Josephine Feehily: It cannot be addressed now. I am not aware of any typical payment of €1,000. It is important to underline that approximately 22% of property owners are paying €90, with another 29% paying €225 per annum. Almost 85% will pay €405 or less. That is the context.

Deputy Arthur Spring: That is per year.

Ms Josephine Feehily: That is for next year.

Deputy Arthur Spring: That means that in the space of five months, the person would pay over €600.

Ms Josephine Feehily: Perhaps they are doing so if they choose-----

Deputy Arthur Spring: It is simple maths.

Ms Josephine Feehily: -----that payment method. There are five other choices which will push that payment well into next year. We are catering for that group by giving them all sorts of other ways to pay which will hit their pocket next year rather than this year. I have already indicated to Deputy McGrath and the Chairman that we will consider this in the context of next year's renewal season, but I am not making a commitment that we will enter into a particular position. I am not making a commitment that we will provide a service that will enable us to dip into somebody's credit or debit card regularly. That is a risk of which I must take account before committing. We will consider the matter and I would be happy to speak about the matter in the middle of next year, when we have examined the matter. I am not making a commitment as it would bring us into a whole different kind of business that we are not in.

Deputy Arthur Spring: There is also a data protection aspect.

Chairman: I welcome the witness's indicating that and there may be no need to come before the committee next year. We would certainly be very interested to hear what they would say about the coding of these systems and payments. I might deal with that in wrapping up.

Deputy Joe Higgins: I thought the Chairman was going to announce the abolition of this tax when he indicated representatives of the Revenue Commissioners may not have to come before us next year. I should begin by declaring an interest and introducing myself as an unhappy customer.

Ms Josephine Feehily: Did the Deputy say "unhappy"?

Deputy Joe Higgins: And I am an unwilling customer in the matter of the property tax.

Deputy Timmy Dooley: The chairperson has been dipping.

Deputy Joe Higgins: I represent many decent taxpayers in that regard. Ms Feehily has stated today that this is a new tax and that "our job in Revenue is to collect taxes and duties for the Exchequer in accordance with the law". She has also stated that paying any tax is "unlikely" to generate happiness. I say "Amen" to that, and it is particularly the case when the new tax is loaded onto the people by the Government to pay the debts of speculating bondholders and bankers who profiteered wildly in the Irish property market and had bad private debts laid at the feet of our people.

I will speak very bluntly, although not for very long. Ms Feehily has been brought here for one reason, as she is unwillingly and unwittingly providing an alibi for the parties in Government and helping them evade responsibility for a draconian new tax they have introduced. She is distracting attention from the culpability of both Ministers and backbenchers for this hated new burden. Ms Feehily has stated her job is to collect taxes in accordance with the law. Listening to Ministers and backbenchers over the past week, I have asked myself where the hell the law came from. Am I right in thinking that in December 2012, the Fine Gael and Labour Government, including backbenchers, designed and manufactured what I call a crude weapon

of austerity, the Finance (Local Property Tax) Act? They loaded the weapon with draconian powers to intimidate, frighten and coerce decent taxpayers into paying for this unfair new weapon. The Revenue Commissioners, in doing the Government's dirty work, is pulling the trigger, leading to Ministers and backbenchers screaming blue murder. Necks of flint have been on display today and in the course of the past week on behalf of Government representatives.

Next year a new water tax will be inflicted on decent householders and taxpayers. When people rightly begin to scream about this new burden and learn about it in greater detail, I fully expect the contractors digging up pavements to install water meters to be dragged in here to explain their audacity in facilitating this new tax. That is about as much credibility as the Government Deputies have shown in requiring representatives of the Revenue Commissioners to come here today. Ordinary taxpayers are very angry about the property tax, and they are right. The elderly, unemployed and poor people who have been saddled with this austerity bondholder tax are quite distressed. It is a new hardship, and therefore the Revenue Commissioners should be very conscious of how they deal with ordinary people and the distress and fear that is disgracefully being brought about by Government policy.

I have a question. When Ms Feehily heard in the past week the deputy Prime Minister of the country and Government Deputies screaming objections to the letter demanding that people should pay the home tax which they had introduced, did she say to herself how pathetic that was and ask who they thought they were fooling?

Ms Josephine Feehily: I most certainly did not.

Deputy Alan Farrell: That is a question for you.

Ms Josephine Feehily: I would never use those phrases or sentiments with regard to the Government of the day and it would be completely outside my role. I asked colleagues how we got into this space when I thought we were offering seven different ways to pay. It is a question I asked myself for the past couple of days, as we thought we were providing many options but they seemed to get us into bother. The sentiment that came into my mind was more practical and I offer no further comment on the Deputy's remarks.

Deputy Joe Higgins: Ms Feehily must be a very charitable person.

Deputy Michael Creed: I will try to be as concise as possible. I thank Ms Feehily and her colleagues for being here and they may recall that I wrote to the Revenue Commissioners on 6 September on this issue, as I anticipated the problem that would be caused when seeking compliance for 1 January. I asked that the date be moved to 31 March. Will the witness comment on the fact that we are dealing with compliance and confidence in the collection system? People who have been compliant are really annoyed and we - I use that term because the legislation is flawed in some respects - have damaged public confidence in the collection system, which is unfortunate.

There is also a more significant observation. The witnesses have indicated that the Revenue Commissioners have offered seven options for payment, indicating the legislation stipulates it is due on or before 1 January. For the 35% of taxpayers who have availed of options declaring name, address and telephone details of banks along with account numbers, they will not pay on or before 1 January. The Revenue Commissioners have all the details they need so these people will not pay before 1 January. It might be assumed that others had the audacity not to give those banking details, and the Revenue Commissioners are insisting on payment before 1 January.

These people include those paying by credit or debit card, cheque or postal order. That is 57% of people in total. These are the people the Revenue Commissioners are going after and who will have to pay on or before 1 January. However, those who have given their banking details are being given an opportunity to spread it out over 12 months because the Revenue Commissioners have a fall-back position. They can go after those people if they are in some way non-compliant in the future. However, those who have said they will pay, but are not happy about paying, have also said they are damned if they are going to give their banking details. These people are being nailed to the cross in respect of this issue and that is unfortunate. They are very wise people not to give their banking details.

We have damaged the competence and collection of and compliance with the tax code. We have done this in a calculated way because we want to corral people into a payment system which gives the Revenue Commissioners all of their banking details. If they do not do so, they must pay on or before 1 January. If they give their details, they can spread it out over 12 months because the Revenue Commissioners know they can go after them.

Ms Josephine Feehily: I do not accept nor do I think the data support the view that confidence in the collection system has been damaged. The fact that 205,000 people have already filed does not support that view. The time to make that judgment will be when we pass 1 January, get into next year and run the numbers. In regard to the Deputy's other comment, I need to clarify something. It is not because people have given us their bank account numbers and their telephone numbers that we can be comfortable allowing those people to pay us in March; it is because they have given us permission once, and once only, to debit their bank account. As soon as we have debited their bank account, that authority is torn up, if it is on paper, and it is destroyed, if it is electronic. It is a single debit authority.

Deputy Michael Creed: That is one of the options.

Ms Josephine Feehily: The Deputy mentioned cheques. People do not seem to understand that their banking details are along the bottom of the cheque. That is why I wonder why people would choose to pay by cheque, as it costs money. It costs them stamp duty and a transaction fee, whereas a single debit authority, which shows exactly the same information - there is a sort code on the bottom of the cheque - is much cheaper and is more secure. We do not keep people's bank account details at all. We simply exercise the mandate and then the bank account details are destroyed.

Deputy Alan Farrell: I thank Ms Feehily for coming in this afternoon. I would like to flesh out something she said earlier about the holding of data, the holding of bank account information and how it is somehow more appealing to the Revenue Commissioners versus the holding of credit card information and how it is somehow more secure. It is as easy for me to cancel a credit card as it is to cancel a single direct debit authority. It is also as easy for me to pick up the telephone and cancel a cheque as it is for me to cancel a single direct debit authority. I used to work in debt management, so I find it confusing that the Revenue Commissioners take some comfort in having a person's direct authority to deduct from his or her bank account over holding credit or debt card information, because they are the same. In terms of ease, it is actually easier to provide bank account details because there are fewer digits.

Ms Josephine Feehily: That is usually my line.

Deputy Alan Farrell: I would prefer the date of payment of the local property tax to be other than the bank holiday of 1 January. We should change it to 3 or 4 January, or the first

working day in January, to allow people to go to a payment service provider, such as An Post, to pay.

I do not believe it is easier for the Revenue Commissioners to rely on somebody lodging his or her account details online or via a mandate and sending it to them on the filing date. It would be a lot easier for somebody to set up a standing order. It is a little bit of a red herring that it is more secure for the Revenue Commissioners.

There may be 40% compliance. I think it is 23% in regard to credit or debit card or cheque and a further 12%-----

Chairman: Allow time for the witness to respond. You have about a minute and a half left.

Deputy Alan Farrell: I am aware of that. Approximately 12% will have it deducted at source or will use a service provider.

I am not sure it is accurate to say that the Revenue Commissioners have not done some form of damage to their reputation among the population in regard to payment. Of course, we will find out how much after the compliance date.

Chairman: You-----

Deputy Alan Farrell: I am conscious of my time. I have a stopwatch and I do not need the Chairman's direction.

Chairman: Listen to me for a second.

Deputy Alan Farrell: The Chairman is using my time.

Chairman: I will give you back the time.

Deputy Alan Farrell: The Chairman did this three or four weeks ago.

Chairman: What I do not want is for me to have to tell Ms Feehily that she cannot respond because you have used your time. You have about one minute left.

Deputy Alan Farrell: I am aware of that. I have not actually asked a question to which I want an answer. I thank the Chairman.

Chairman: Fair enough.

Deputy Alan Farrell: There has to be a rethink, perhaps for 2015. I refer to the damage caused by the decision not to make it as simple as possible to allow a person go online and make a payment.

I refer to another point Ms Feehily made about cheque payments. If the Revenue Commissioners receive a cheque dated 1 January - notwithstanding the fact that that means very little - sending it in directly rather than waiting until the last week of December to send it is perhaps betraying the trust the people have in the Revenue Commissioners, which has an extraordinarily good reputation, by simply ignoring their request to make the payment on 1 January.

Chairman: Perhaps Ms Feehily will deal with that when wrapping up, because the Deputy has run out of time.

Deputy Alan Farrell: I have about 45 seconds left according the Chairman's timing. I

would appreciate it if the Chairman could stick to his own timing.

Chairman: I thank the Deputy. I call Senator Thomas Byrne.

Senator Thomas Byrne: Members of this committee know not to mess with the Chairman. We have all learned that over the past couple of years and it works well. I welcome the witnesses from the Revenue Commissioners and compliment them. I could not put it any better than Deputy Joe Higgins, who was absolutely right in regard to the use of an alibi. I said on local radio this week that these hearings were a disgrace and that the Revenue Commissioners were being hauled in to answer questions. My personal choice has always been not to support this tax.

(Interruptions.)

Senator Thomas Byrne: It was not put to the committee whether we would invite the Revenue Commissioners. The Chairman went on television to ask Ms Feehily to come in. We were never asked if she should be invited. When the Government Deputies legislated for the tax they blamed it on Fianna Fáil, and now this is being implemented, they are blaming it on the Revenue Commissioners. It is completely farcical for a Labour Party Deputy to ask if Ms Feehily had any hand, act or part in bringing this legislation forward. It is also farcical to suggest the Revenue Commissioners have become like a hotel booking site and that Government backbenchers are asking the Revenue Commissioners to start to accept postdated cheques as a matter of routine. I presume revenue commissioners in Third World countries do not do that routinely but I am sure it happens in very hard cases from time to time. Ms Feehily has been put in this position and has clarified a couple of points I wanted clarified.

I dealt with a very hard case in my office last week. A person clearly did not understand the system at all and the wrong valuation was put on his property last year for some reason. Is it possible for him to change it? This man should be on the lowest property band. He is living in a house in very bad condition.

Ms Josephine Feehily: If the Deputy would like to write to my office, we will look after it for him.

Senator Thomas Byrne: If one opts for the single payment with a service provider, when can it be done?

Ms Josephine Feehily: Obviously, it will not be open on 1 January. It can be done on 2 January. It can be done in the first few days of the new year. We will be back at work but it will be a while before we will be running the numbers. It will be fine in the first few days of the new year, as long as they have ticked the box, sent in the return and marked the service provider on it. Then we will be doing the reconciliation and if there is a problem, we will find them.

Senator Thomas Byrne: I do not require Ms Feehily to respond to this but it is worth reminding Members who voted for this legislation that they are the ones who inserted a due date or liability date of 1 November. They are also the ones who put in a return date of 7 November and a payment date on or before 1 January, which is a bank holiday and the seventh day of Christmas. That is what has happened here. It has been legislated for and in my opinion the Revenue Commissioners are doing a reasonably good job in putting this tax together. While there has been some confusion over the last week, when anyone has come to my office, that confusion has been dealt with relatively easily. It is our duty to help. It is the duty of Government Deputies to help instead of just attacking others. It is a pretty disgraceful way to treat

public servants in the one institution that has come out fairly well in recent years in this country. We do not always agree with the Revenue Commissioners and tax collectors have never been in exalted positions in society. The commissioners would accept that they are not the most popular people but they have a job to do, given to them by us. It is that simple. If there are problems we ask them to address them and should not blame them for bringing in this hated property tax, to which I am opposed. The Government introduced it and we need to remind people of that and stop blaming the Revenue Commissioners

Deputy Regina Doherty: It was the Senator's party which negotiated it with the troika in the first place, which is so conveniently forgotten by members of Fianna Fáil.

Chairman: Senator Byrne is not far off criticising them-----

Deputy Regina Doherty: It is really galling having to sit here listening to this crap.

Chairman: Deputy Doherty will have her opportunity to contribute. Does Ms Feehily wish to respond?

Senator Thomas Byrne: I am not seeking a response from Ms Feehily.

Ms Josephine Feehily: I do not think there was a question for me.

Chairman: Senator Hayden is next.

Senator Aideen Hayden: I note that Senator Byrne took the opportunity to do some clinic work at this committee.

Senator Thomas Byrne: I did not.

Senator Aideen Hayden: However, I want to address a different question. This is the third time that Ms Feehily has been before this committee, as far as I can recall. On one previous occasion she was before us regarding a letter sent to people in receipt of an old age pension about a potential tax liability. One of the issues that came across very clearly during that exchange was the fact that there was a communications problem *vis-à-vis* the Revenue Commissioners and the public. I fully take on board what Ms Feehily said in her statement about the LPT being a new tax. It is indeed a new tax and not one that anyone here would have liked to introduce. However, there are benefits to extending the tax take across as broad an area as possible. I am very concerned that, according to the statistics Ms Feehily has given us, over 50% of people are paying by debit or credit card. Have the Revenue Commissioners examined why people chose those particular payment methods? If one were to match the payment method chosen with the income profile of the payee, I suspect one will probably find that many of those paying by debit card in particular, are those who have a cash-only card and do not have access to the wide range of financial accounts that better-off people would have. One of my concerns about the current debacle over the payment date is that a lot of those people who will be impacted by the payment being taken before December are in the lower income profile. Has Revenue done any research to establish the who, why, where and when regarding those people who are paying by debit card, given that the logical choice would be to select the one single debit authority payment option?

My second question-----

Chairman: I will ask Ms Feehily to respond to that before-----

Senator Aideen Hayden: I would like to ask all three questions and-----

Chairman: It does not work like that. First, members of the media are trying to transcribe the proceedings. Second, if four or five questions are asked at once, the question that gets answered is often the one to which one least wants an answer.

Senator Aideen Hayden: Okay.

Ms Josephine Feehily: The short answer is that we did not do the kind of analysis the Senator is describing because the half year was unusual. It would not have been valid to draw conclusions on the basis of a half year. Already this year we are seeing - to the extent that we did analysis but not the type the Senator is talking about - that people want to shift to a different payment method because the tax has effectively been doubled. That is what we are seeing in the payment methods of the 200,000 returns that we have already secured this year. The time for that analysis is when we have a proper, full filing season. Then we can determine the profile of amounts paid and payment method chosen as well as demographics and payment method chosen.

Senator Aideen Hayden: Basically, the Revenue does not have that information so my supposition may correct.

It seems from the exchange between Ms Feehily and the Chairman that there are no legal issues at play here because the law says that the payment is due on or before 1 January, except where an agreement is reached with the Revenue Commissioners. The Chairman explored with Ms Feehily the possibility of that agreement constituting an individual's permission to the commissioners to debit his or her credit or debit card at some future date. Her response, if I remember correctly, was that this was a route that she did not wish to follow. In other words, the Revenue Commissioners do not want to hold card details, as opposed to not being entitled to do so. She suggested that it was something that was possible but not something the commissioners wanted to pursue. My understanding is that there are no data protection issues involved here and that there is no impediment to Revenue taking account details and processing the payments at a later date. That is my understanding of the exchange between Ms Feehily and the Chairman. Is that correct?

Ms Josephine Feehily: Let us start again. What I indicated to the Chair, or at least I felt I had indicated, was that I have serious concerns that such a process would bring us into conflict with the Data Protection Act, based on our understanding of that Act and the code of practice we have agreed with the Data Protection Commissioner. I definitely indicated that Revenue, at this point, is not comfortable with retaining credit and debit card details. This refers back to Deputy Farrell's question, which I did not answer earlier. The security issue I was referring to was the security of the information. It is quite a serious issue and would require us to move into a whole different line of business if we started to hold on to debit and credit card details. It presents risks of data loss way beyond any of the risks we have to cope with at present. It presents risks that cardholders could find attempted fraud on their credit or debit card accounts and we already experienced that - although it did not succeed - last May. That is the kind of security risk I am talking about. We are not set up for it. There is definitely a question as to whether it would bring us into conflict with section 2 of the Data Protection Act, which deals with the retention and use of data, in particular, unnecessary retention and use.

Senator Aideen Hayden: eToll has my debit card details and does not seem to have a problem with that. One of my concerns is that 45,000 people have chosen to have the money

taken out of their accounts in advance. People are afraid of the Revenue Commissioners and when they get a letter from Ms Feehily's office, they pay up because they do not want to be on the wrong side of the tax authorities. In terms of the legal issues involved here, can Ms Feehily provide this committee with the legal advice she received on this subject?

Ms Josephine Feehily: I have not taken legal advice in the manner which the Senator means. We are very familiar with the Data Protection Act. We have been audited up, down and sideways by the Data Protection Commissioner's office and have an ongoing relationship with that office. We are very clear that if we were to move into this business we would have to have a long conversation with the Data Protection Commissioner. I would be surprised if that office did not take a very keen interest and put us through the hoops. The first question they would be asking is why we need this data and I would be saying that we do not need it because we have other payment options.

Senator Aideen Hayden: Would it be possible to ask one further question?

Chairman: Yes.

Senator Aideen Hayden: There are numerous Acts that I could list, under which various bodies are obliged to furnish information to the Revenue Commissioners. In fact, there are catch-all aspects to different Acts which give the Revenue Commissioners sweeping powers. Ms Feehily suggested that it was easier for eToll or iTunes to have a relationship with me but who has a more recurring relationship with anybody than the Revenue Commissioners? I again ask Ms Feehily to reappraise her position on the debit and credit card issue because in my opinion it is causing incredible concern and hardship, particularly among older people and those on low incomes.

Ms Josephine Feehily: I have indicated to the Senator that we will be looking at this question for next year.

Senator Aideen Hayden: What about this year?

Ms Josephine Feehily: No, I cannot look at it for this year. It is not possible. These are risks that I would have to consider really carefully. We would have to develop new systems and would have to charge people, which is what the commercial companies do. We are operating with a particular contract for the management of debit and credit cards - the Government contract - at the moment. It is certainly not possible to do anything about it this year. I have already given a commitment to look at it for next year. I am stopping short of giving a commitment that we will get into that kind of business. If we were to get into it, there would be costs that would have to be passed on. A range of issues would arise.

The Senator suggested that Revenue has the power to get lots of information because of its recurring relationship with taxpayers. Most people do not seem to understand that we do not have a recurring relationship with the vast majority of PAYE taxpayers. That goes to the heart of the data protection concern. The Senator said she has a recurring relationship with eToll or some other company. She gets a chance to look at her statement every month or whenever she gets it. She can see very quickly if there has been an irregular payment. We do not have a recurring relationship with PAYE taxpayers unless something happens in their lives and they want to claim a credit. The relationship is managed through their salary and their employer. We have a recurring relationship with self-assessed taxpayers, for whom we have been operating these kinds of payment systems without any issues for a long time. I refer in particular to the single

debit authority system. We do not have a recurring relationship with the vast majority of people in employment in this country. That is at the heart of part of the security risk.

Chairman: We have been in contact with officials in the Office of the Data Protection Commissioner. Before I read into the record what they had to say, I would like to come back to the point that was made about the 1.49% rate that customers are paying. Further information has become available to me in that regard. It has been suggested to me that more secure systems, such as 3-D Secure prompts, could be used. These systems require the card holder to give a password or card number to verify his or her identity. In addition to fulfilling data protection requirements, these systems also seem to lower the commission rate. The industry commission rate seems to be approximately 1%. The major retail companies in Ireland that have significant volumes of card transactions seem to charge this 1% rate. As I said earlier, people give a code or an iTunes account number when they are using Amazon or iTunes. The biggest companies in the world - we are not talking about the Revenue Commissioners - operate a system that merely requires one to provide a password in order for one's account to be debited.

I would like to follow up on what Senator Hayden was saying by quoting from the feedback we have received from the Office of the Data Protection Commissioner:

> We are aware of recent media reports which appear to reference statements from the Revenue Commissioners outlining data protection issues with the retention of credit card data. We can advise that any organisation, including Revenue, is responsible under data protection law for keeping personal data it holds safe and secure and it is also obliged to only collect personal data when it is required and then retain it only for as long as is necessary. Revenue, being an organisation which is very aware of its data protection responsibilities, appears to have considered these data protection principles and applied them accordingly in relation to the collection and storage of credit card data for a particular transaction. There are separate industry payment card standards which providers of payment card services have to adhere to and which may also be relevant to Revenue's approach in this matter but those requirements would not be matters for this Office.

This brings us back to the point that Senator Hayden was making. I made the same point at the start of the meeting. It has been made by other people as well. Certain systems or processes could be examined to ascertain whether they could be used in the future. I recognise that Revenue has done a great job in providing as many options as possible to the public. Some red herrings have been thrown out there this afternoon.

I will reiterate the core issue that is being debated this evening. Of the seven options, the highest rate of compliance relates to the credit and debit card option. They are the only customers who are being asked to pay the tax in the year before it is due. I can assure Ms Feehily, in response to a point she made earlier, that I understand how the tax is being created and the operational systems are being rolled out. Perhaps it is just my opinion, but I do not think those who were complaining back in May or June were complaining about having to pay the 2013 tax in 2013. The concern at the moment is that people are being asked to pay a 2014 tax in 2013. That is at the nub of this issue. I recognise what Ms Feehily has said this evening. I appreciate her assurance that Revenue will agree to examine the matter. I would be interested to know if there are hindrances with the Office of the Data Protection Commissioner, or if there are difficulties with Revenue's merchant agreement with the people who handle its credit card transactions. All the information in front of me would indicate that this is a workable problem. A solution can be found for it. Maybe the difficulty was that none of us saw this coming down the tracks. Now we can engineer a solution to it.

Deputy Regina Doherty: I thank Ms Feehily for her attendance. Unlike some of my colleagues, I think the Revenue Commissioners are to be commended on the manner in which they handled this issue earlier this year and, in the main, the manner in which they have handled it in recent weeks. It might not be politically prudent for me to say that. By comparison, the collection of the household charge caused immense difficulties for people. The Revenue Commissioners are to be commended in that context.

I would like to refer to the 91% compliance rate. It is in the public domain that Revenue has taken action against certain people who are not compliant. What are Revenue's plans for dealing with the 9% of people who have not complied? How quickly will those plans be enacted? What does Ms Feehily think will happen? I also have a slightly tongue-in-cheek question. A lovely gentleman contacted me yesterday afternoon to complain about having to pay the property tax. He had received his letter. He pointed out that the half-year charge was €142, whereas the full-year change is €285 rather than €284. He saw the funny side of it and wanted to know what Revenue intends to do with the extra €1.

Ms Josephine Feehily: The answer to the tongue-in-cheek question is that the man in question got a discount on the half-year payment because we rounded it down. In response to the Deputy's question about compliance, I can confirm that when we get past this filing season, the staff who are currently involved in filing and customer service will be available to begin compliance work in relation to properties we have not yet identified. Compliance work also needs to be done with regard to evaluations. We know that some people have under-declared. I am not talking about the sort of case Senator Byrne mentioned earlier, which was the other way round. Some people have under-valued. We will get into the real compliance part of this tax next year. We have access to many databases. We will get them refreshed to see whether there is a gap between our register and other registers. We are also exchanging information with Irish Water, which is clearly in a position to add properties and give us information as it rolls out its metering programme. I remind the committee that a property cannot be disposed of without bringing the tax up to date. There is a certain inevitability about the tax. The short answer is that serious compliance work will begin shortly after the new year.

Chairman: I would like to ask Ms Feehily about another aspect of the compliance issue. There is some confusion - I will not say concern - about certain issues with the sale of properties. I know today is 7 November and the relevant date is 14 November. If the conveyancing process in respect of a property is beginning - a person is letting go of a property and somebody else is purchasing it - who is actually responsible for paying the 2014 tax?

Ms Josephine Feehily: The person who owns the property on 1 November, which is the liability date under the law, is responsible for paying the tax.

Chairman: There is no other change in that regard. That is set in the legislation.

Ms Josephine Feehily: It will stay like that until 1 November next year.

Chairman: I thank Ms Feehily. Deputy Boyd Barrett has five minutes.

Deputy Richard Boyd Barrett: I welcome Ms Feehily to the show trial. I will start with a simple question. Does Ms Feehily think she is being politically scapegoated for a tax that this Government decided to impose, but for which she is now taking the heat?

Ms Josephine Feehily: I was invited here to answer questions on specific items. In that context, it is my responsibility to come here and answer those questions. Certain topics were

set out by the clerk in his letter. I do not think there is anything inappropriate about my being asked to answer questions about how we administer the tax.

Deputy Richard Boyd Barrett: I ask Ms Feehily to clarify that. She has said that the shambles regarding the payment of the tax has arisen because the tax must be paid on or before 1 January. She has suggested that this has forced Revenue to do many of the things it has done, which have caused concern and anxiety. Whose decision was it that the tax should be payable on or before 1 January?

Ms Josephine Feehily: It is difficult to give a direct answer to that because I do not know who made the decisions on each section of the Bill.

Deputy Richard Boyd Barrett: It was a Government decision.

Ms Josephine Feehily: Policy matters are a question for the Minister and the Government, but in the context of our being able to offer phased payments to people, beginning on 1 January, we need the tax to be payable. Therefore, we would certainly have been involved in the discussion on when the payable liability date would be, so as to enable us to provide phased payment arrangements from the start of the year. If it was not payable on 1 January-----

Deputy Richard Boyd Barrett: To be clear, the decision that it should be paid on 1 January - which required Revenue to write to people in October of this year and to have deadlines in November and so on - was a decision of the Government, was it not?

Ms Josephine Feehily: It is in the legislation.

Deputy Richard Boyd Barrett: It is in the legislation. Therefore, it appears the Office of the Revenue Commissioners has become the political scapegoat for the shambles that has arisen, when it was in fact a Government decision.

Ms Josephine Feehily: Civil servants do not comment on Government decisions or policy matters, but I am happy to explain how we are administering the tax in accordance with the law.

Deputy Richard Boyd Barrett: To me it is not a question of the whens, whos, whys, wherefores and so on. This just adds insult to injury. Many people will have to leave other bills unpaid in order to pay this tax and that is the issue for them. Now, adding insult to injury, they are in a position where they do not know how to pay it and are fearful they will have to pay it before they expected to have to pay it. Does Ms Feehily accept this is a cause of huge anxiety for them?

Ms Josephine Feehily: It is causing some anxiety, but, equally, considerable numbers of people who have contacted us want to pay before Christmas. They are saying-----

Deputy Richard Boyd Barrett: Are they saying they really want to pay the property tax?

Ms Josephine Feehily: No, they are not saying that they want to pay property tax, but they are saying that they want to get the tax out of the way before Christmas. This is what the staff handling the telephone queries tell us. Every day we ask what kind of issues have arisen and significant numbers of people want to pay early.

Deputy Richard Boyd Barrett: When Government first gave the Revenue Commissioners the brief to collect the tax, was there significant discussion over the fact there had been a boycott of the household tax and whether Revenue's job was to find ways and means to ensure

a greater level of compliance with the household tax? Is that the brief Revenue was given by the Government?

Ms Josephine Feehily: Those issues were discussed and reported on in the report of the interdepartmental group - the Thornhill report. I would not need an instruction from the Government if the legislation gave Revenue the job of collecting a tax. That would not arise. It is our job to secure it and to take account of the difficulties.

Deputy Richard Boyd Barrett: Sure. I wish to mention three cases where Revenue has serious responsibility, although I believe the primary responsibility lies with the Government. A woman who came to my clinic had €61.75 taken from her wages in September and again in October. This was done without notification. She does not own a property. She spent three weeks trying to get through to Revenue, but has failed to get through. Another man in my constituency was charged half a year's tax for one house, but this year he was charged for a full year for two houses. He only owns one house. Third, a 27 year old, unemployed person on a community employment scheme who is not a property owner and who is currently homeless and sleeping on someone's couch, has had four weeks' property tax deducted from her unemployment benefit for a house in which she rented a bedroom when she was in college six years ago.

These are awful errors on the part of the Revenue Commissioners. Can Ms Feehily explain these errors?

Ms Josephine Feehily: Working back from the third case, the Revenue Commissioners do not deduct property tax from unemployment benefit. It is not one of the benefits covered by the deduction from the Department of Social protection. Therefore, I do not understand that case.

Deputy Richard Boyd Barrett: These are people who came to my clinic.

Deputy Regina Doherty: They are making it up.

Deputy Richard Boyd Barrett: No, they came into my clinic.

Ms Josephine Feehily: I would be happy to look into that, but I would be surprised if we managed to find the person to make the deduction, where the two notifications we sent did not arrive. What we have found where we make a compulsory deduction at source is that it is sometimes only when the deduction is made that people actually ring us and say they do not own the property, although they would have received two communications asking them to contact us. The second notification, in particular, states that if the person does not contact us, we will contact the employer or company of the person and tell them to make the deduction.

I would be very happy to-----

Deputy Richard Boyd Barrett: People spend weeks trying to get through to the Revenue Commissioners.

Ms Josephine Feehily: I would be very happy to look at the issue. During the summer, in August and September, when the compliance exercise was taking place, there were no waiting times on the telephones. The waiting times are now. I visited staff during July and throughout the summer staff were sitting waiting for the telephones to ring. They were in a lull. I find the examples the Deputy has given hard to believe. I suspect that what happened is these people did not respond to the notifications. Now they are responding, but we are now in the height of the filing season.

Deputy Richard Boyd Barrett: In the first case, it was the dead husband of the woman who did not respond to the communication, because he had passed away. However, the payment was then deducted from her wages, despite the fact she does not own the house.

Ms Josephine Feehily: I would be very happy to take the details of the case from the Deputy.

Deputy Sean Fleming: I thank Ms Feehily and her colleagues. We have been given the breakdown regarding the 205,000 people who have already filed their returns for 2014. Can Ms Feehily tell us how much money has been received?

Ms Josephine Feehily: Not today, but I could get it.

Deputy Sean Fleming: Does Ms Feehily not know how much was received up to last night or up to last Monday?

Ms Josephine Feehily: I did not bring those details with me.

Deputy Sean Fleming: Will Ms Feehily send it on to us tomorrow?

Ms Josephine Feehily: For 2014, it is of the order of €10 million.

Deputy Sean Fleming: Has some €10 million been collected?

Ms Josephine Feehily: I am sorry, I do not have a breakdown, but approximately €10 million has been secured already for 2014.

Deputy Sean Fleming: Right. Would Ms Feehily be able to give us a breakdown of the range evaluated? The computers must have the detail with regard to how much of that was in respect of €90, €225 or €315.

Ms Josephine Feehily: I have given that information for 2013, but I do not propose to do that analysis. We are filing every night. The paper returns have yet to be processed, so we will not run numbers every hour or so. We are taking the top line numbers and when the filing season is over, we will produce the kind of analysis we have circulated for 2013. This is our third time to produce preliminary data for 2013 and each time it has got more granular. We will do 2014 when the filing season is over, but I thought I should provide the top line numbers today. We will get to the figures the Deputy wants eventually.

Deputy Sean Fleming: I just do not understand the figure. If approximately €500 million is to be collected this year and €10 million has been collected, that is just 2%. However, Ms Feehily has told us that 200,000 people have already paid for 2014.

Ms Josephine Feehily: Some 50% of those returns processed have opted for the single debit authority, which comes into effect in March. Some 15% have opted for direct debit, which is paid monthly starting in January and some 5% have opted to pay by deduction at source. Therefore, there are not huge numbers opting for the models that hit this year and perhaps that is the reason the figure is difficult to understand. These are rough preliminary data, but I thought I should bring it along with me.

Deputy Sean Fleming: That is fine. With regard to the lead-in time for people who want to use a credit or debit card, we had the same issue last summer. People complained in May, but they paid the tax using their cards. Therefore, we knew about the issue. Therefore, there is no

doubt that everybody involved in the Department of Finance and the Government could not but have known that a similar problem would arise with regard to the lead-in time and taking the payment in advance of 1 January. We all received queries from people who had moneys taken from their debit and credit accounts last May, although the tax was not due until July. This issue arose last summer and now we face it again. However, there is a particular difficulty now because the payment is for a different calendar year.

Ms Josephine Feehily: I addressed that in my opening remarks. We have built an alert into the system so that people can make a conscious choice now, whereas the previous time it was left implicit.

Deputy Sean Fleming: The Revenue Commissioners are putting a big emphasis on encouraging people to sign up to a phased payment, by way of deduction from wages or by direct debit. In the booklet issued to every house last year, it was stated the Revenue will advise the pension provider or relevant Department of the amount to be collected. Revenue wants to get a lot of people onto the phased payment method, whether that be a deduction from salary or pension or by direct debit. That is made clear in the book. In the case of those salary and other deductions, Revenue will advise as to the amount to be deducted. When it comes to direct debit, Revenue takes the amount due each month and informs the bank how much is to come out of the account on the particular date. Can Ms Feehily confirm that there is provision in the legislation from next September for local authorities to pass a motion increasing the rate by 15%, which will become effective from 1 January 2015?

Ms Josephine Feehily: It is in the legislation.

Deputy Sean Fleming: I understand the nodding of the head, but the person recording this might not.

Ms Josephine Feehily: I beg your pardon. I was wondering what I was to say. It is in the legislation that the local authorities may vary the rate.

Deputy Sean Fleming: Local authorities can increase the rate by 15%.

Ms Josephine Feehily: Up or down.

Deputy Sean Fleming: Yes, but there is provision in the legislation to increase it by 15% from next September, and this becomes effective in those counties or local authority areas from 1 January 2015.

Ms Josephine Feehily: Yes.

Deputy Sean Fleming: People who are paying by direct debit, salary deduction or through deductions from social welfare payments will have an increased amount taken out of their account from January 2015-----

(Interruptions).

Deputy Sean Fleming: There is a lot of talking going on.

Chairman: Deputies O'Donnell and Spring, I can hear you up here and it is coming across the microphone. I need time for the witnesses to respond.

Deputy Kieran O'Donnell: Apologies, Chairman.

Deputy Sean Fleming: I am making one net point. The logical consequence of the legislation is that when Revenue seeks payment by direct debit, people will think that they can pay one twelfth of their liability each month, but if the local authorities increase the total amount by 15%, the Revenue will be taking that extra money out of people's account by way of direct debit. Based on the legislation, the Revenue can inform the employers or their pension providers of the increased amount without consent or prior approval.

We have had about three interruptions from that part of the room.

Ms Josephine Feehily: Direct debit requires confirmation. In respect of next year's direct debits, we will be writing to people in the middle of December, advising them that we are proceeding with the direct debit for the following year. That is part of the code of banking regulation. If a local authority decides to increase the rate, I will certainly have to engage in a communications process. We will not proceed to increase their direct debit or increase their deduction without engaging with them. I certainly will not do that.

Deputy Sean Fleming: Ms Feehily will notify those people.

Ms Josephine Feehily: I have to do so. I will also have to reflect on what it means for the timing of this other discussion, and what it means for the timing of issuing the returns and so on. If a local authority makes that decision, we will have to see what we will have to do to implement it. We will certainly not increase a direct debit or a deduction from somebody's salary without communicating with them, in the context of a decision by that person's local authority. That will not be our decision.

Deputy Sean Fleming: In accordance with the legislation.

Chairman: I call on Deputy Mathews.

Deputy Peter Mathews: I thank Ms Feehily and her colleagues for coming before the committee. Not everybody was written to on this occasion. I think that perhaps everybody should have been. The situations mentioned by Deputy Fleming can arise next year if the local authorities increase the tax. Everybody should be alerted to what everybody else is paying. It also means that the basic assessment or valuation is brought to their notice. It is like a refresh. I think everybody should be informed. It is just something to note.

In respect of the risk that Revenue will not be paid, I think we have thrashed over that ground fairly heavily. Debit cards and credit cards provide bank details, although not expressly on the face of the card. That is a matter of fact.

Ms Josephine Feehily: That does not matter.

Deputy Peter Mathews: I know. The single debit authority is a signed originating document. It should be kept on file and should not be torn up.

Ms Josephine Feehily: It is not that it is not kept, but it is not kept with the Revenue. It is kept in secure storage away from the taxpayers' records.

Deputy Peter Mathews: It should be available.

Ms Josephine Feehily: It is in the same way as we secure other documents we need for

evidential purposes.

Deputy Peter Mathews: I do not wish to sound teachery, so to speak. If I do, I apologise.

Ms Josephine Feehily: I gave a shorthand answer earlier.

Deputy Peter Mathews: The Revenue Commissioners are doing their very best on every level in respect of completeness, correctness, timeliness, customer service and so on. I acknowledge that and I would like to be associated with Deputies Higgins, Boyd Barrett and Fleming to the extent that there are administrative matters. They are right. It is a shocking shame that €50 billion of losses have been put on the shoulders of the people, and €50 billion at 3% is €1.5 billion. That is three years' worth of local property tax. I am embarrassed that our Government has not got €50 billion worth of a creditor buy-in from the euro system. That is still possible, and I am using every possible forum to say so. I recommend to everybody to read *The Price of Inequality* by Joseph Stiglitz. It is only five weeks old but it is already out in paperback. Please do not laugh. The book is instructive and is highly readable. It will tell us how to make a better society in Ireland.

Chairman: Perhaps Ms Feehily would like to reply to Deputy Mathews.

Ms Josephine Feehily: I might read Joseph Stiglitz at Christmas time.

Deputy Peter Mathews: I will refund Ms Feehily her money if it disappoints.

Chairman: Deputy Boyd Barrett would like to correct the record.

Deputy Richard Boyd Barrett: I wish to correct the record of my third example. I went out to make a telephone call to confirm it. The third example is true. The person was unemployed, but is on a community employment scheme, so the money was deducted from the CE payment, but the person does not own a property.

Ms Josephine Feehily: I will certainly look into it, if the Deputy gives me the details.

Chairman: I just wanted the record corrected. I will take further questions later. I call Deputy Ross.

Deputy Shane Ross: I thank the witnesses for coming along at short notice. I would like to ask two questions. Since this controversy broke out, what contact has Ms Feehily had with members of the Government?

Ms Josephine Feehily: I had a meeting with the Minister for Finance on Monday evening, which we had scheduled from the middle of the previous week. That would be fairly routine for me around this time of the year.

Deputy Shane Ross: What did he say?

Ms Josephine Feehily: The first thing we talked about was the collection for the end of October, as well as a number of other budget and Finance Bill items. In respect of this issue, he took me through the payment options, the system issues and the dates, and he issued a statement afterwards to that effect.

Deputy Shane Ross: Did he make any suggestions to Ms Feehily about what she should or should not be doing?

Ms Josephine Feehily: No, other than the fact that we acknowledged that I was coming here today and he suggested that I explain more openly and more fully some of the reasoning behind the date issues that seemed to be causing confusion.

Deputy Shane Ross: Just to be informative, what about the Tánaiste?

Ms Josephine Feehily: I have not had any contact from the Tánaiste.

Deputy Shane Ross: He made a very public statement.

Ms Josephine Feehily: I noticed that.

Deputy Shane Ross: Did Ms Feehily respond?

Ms Josephine Feehily: No.

Deputy Shane Ross: Why not?

Ms Josephine Feehily: Quite frankly, I was not available at the weekend to respond.

Deputy Shane Ross: Ms Feehily is available now.

Ms Josephine Feehily: Yes.

Deputy Shane Ross: What does she think?

Ms Josephine Feehily: I am here responding publicly. The Tánaiste can hear my response. I am sure his advisers are paying attention. I do not intend to contact the Tánaiste. He has his view. I have a job to do to implement the Act.

Deputy Shane Ross: Ms Feehily is not going to respond to what the Tánaiste says.

Ms Josephine Feehily: If the Tánaiste wanted a response from me personally, he would have contacted me personally, but he did not.

Deputy Shane Ross: He appealed to the Revenue Commissioners to change their minds about something. Did they reject his appeal?

Ms Josephine Feehily: I must say that I did not read his statement in that way. I was not available at the weekend. I do not know precisely what he called on us to do, but I explained to the Minister for Finance what we were doing and why, he briefed the Cabinet and made that publicly known on Tuesday afternoon. I imagine that by that route, the Tánaiste has been briefed on the position and on the reasons the tax is being administered in this way. I do not propose to go beyond that. Obviously, I would be at the disposal of the Tánaiste if he wanted to talk to me.

Deputy Shane Ross: Does Ms Feehily believe it is proper for politicians to put public pressure on the Revenue Commissioners to implement things in a certain way?

Ms Josephine Feehily: I do not believe the Revenue Commissioners should ever be immune to hearing feedback from Parliament. That is one of the reasons I am here. We are independent in our application of the Acts and that independence, although it has always been honoured by all Governments, was enshrined in law in recent years. However, that independence does not extend to putting ourselves into a box. We should listen and hear and I am here today to listen and hear and to reflect on anything that Members of Parliament say to us.

I regularly get contacts and we regularly get representations. I have been asked several times whether we should be subject to such communications and I have always said that I consider it appropriate for us to be communicated with by Members of Parliament, as representatives of the people in a democracy, and for us to reflect on the issues being brought to our attention. In that sense I have no issue with any politician bringing a matter to my attention - none at all.

Deputy Shane Ross: Who appoints the chairman of the Revenue Commissioners?

Ms Josephine Feehily: The chairman of the Revenue Commissioners is appointed from among the commissioners by the Minister for Finance. The commissioners are appointed by the Taoiseach.

Deputy Shane Ross: Therefore, Ms Feehily is a Government appointee?

Ms Josephine Feehily: I am a Government appointee in so far as someone has to appoint us; there must be an appointing authority. The statute states that we are appointed by the President of the Executive Council, but that is because our statute is literally that old. It has not been considered a problem up to now because of two things. In each year's finance Bill the Oireachtas places the revenues under the care and management of the commissioners.

Deputy Shane Ross: How could Ms Feehily be removed from office?

Ms Josephine Feehily: I expect through a Government decision, but I have never taken legal advice on that point.

Deputy Shane Ross: Does Ms Feehily see the point I am making?

Ms Josephine Feehily: I expect it would require a Government decision. We are Secretaries General in the context of the Public Service Management Act and, therefore, I imagine the point would arise in that framework.

Deputy Shane Ross: Those who are not as strong-minded as Ms Feehily might be subject to pressure from the people who appoint them. Is that possible?

Ms Josephine Feehily: I do not believe there is any history of pressure being placed on the Revenue Commissioners by politicians of any colour, whether Government or Opposition. Our independence in respect of the application of the Acts to individuals is part of the public confidence discussion that we began to have earlier. It is something we guard jealously. Deputies and Senators will know that in the past I have been rather robust in articulating our independence when we might have been doing things in accordance with the law that were not popular.

Deputy Shane Ross: There will be no megaphone diplomacy here today.

Chairman: Before I wrap up I have one or two points to make. There is a designated telephone line for Members to contact the Revenue Commissioners. Is that correct?

Ms Josephine Feehily: Yes.

Chairman: Therefore, it is common practice for Members to be in contact with the Revenue Commissioners on an ongoing basis with regard to constituency tax difficulties. Is that not so?

Ms Josephine Feehily: We get several hundred representations every year and several thousand parliamentary questions.

Chairman: Therefore, engagement between parliamentarians and the Revenue Commissioners is nothing new.

Ms Josephine Feehily: No, it is nothing new. It is something that the Moriarty tribunal examined and expressed some views on. The tribunal was content to recommend that if our conventional independence, which the tribunal did not believe was a problem, was put on a statutory footing, that would be the appropriate approach, and it was done.

Deputy Shane Ross: The Tánaiste, Deputy Gilmore, chose not to use that line when he was making his remarks.

Chairman: I will move towards the wrap-up and take single questions.

Deputy Richard Boyd Barrett: This is a question that I am passing on directly from the Citizens' Information Board and several other groups. I was at a briefing given by the Citizens' Information Board, the National Adult Literacy Agency, which is the body that deals with literacy issues, and several other organisations. The request that came across from everyone - it was a direct question in the context of the local property tax - was for the use of plain English. Will the chairperson comment on that? These bodies said that the local property tax forms and the process were a perfect example of the problems caused by a lack of plain English and the fact that the request to pay tax was not framed in a comprehensible way.

Chairman: The point is made, Deputy. I thank the Deputy for raising that, because in a previous occupation I worked as a literacy organiser. I am pleased that Deputy Boyd Barrett brought up the matter because the concept of plain English is an important issue for any Department.

Deputy Michael Creed: This is one of the problems of asking questions in an omnibus fashion. I will take the Chairman's advice in future.

I made reference to the 35% who had made all of their bank details available and to the reference in the legislation to the tax being due on or before 1 January. This appears to be the stick being used to beat those who have not given all their bank details. How can the law differentiate or provide for differentiation if the payment is due on or before a certain date? Those who avail of certain payment options are not obliged to pay on or before but those who do not give chapter and verse of their bank details must pay before 1 January. The legislation states "on or before" but some need not comply with that deadline.

Chairman: I can answer that. It is in section 38(1)(*c*) of the Act. That is where it comes from.

Deputy Michael Creed: If I have a question for you, Chairman, I will ask it.

Deputy Arthur Spring: It is about time he fired back.

Chairman: That is the legislation. Perhaps Ms Feehily wishes to answer the question. Deputies Spring, O'Donnell and Mathews have questions as well.

Deputy Kieran O'Donnell: This is about information. Will Ms Feehily put the position on the record again for the public? What is the position with regard to people who want to use a debit card, credit card or cheque to make the payment on 1 January? Can she clarify that if a person is submitting manually by 14 January he can write that on the form, and that is fine as long as he makes the payment before 1 January? If a taxpayer goes online, he can go the

service provider route and indicate his intention, and then on 1, 2 or 3 January he can make the payment. The point about 1 January arises. I realise the task the Revenue Commissioners has, but it comes back to plain speaking.

Chairman: I am restricting you to one question.

Deputy Kieran O'Donnell: Will Ms Feehily reiterate precisely the position with regard to manual payment, older people and people who operate online in the current year? I realise the Revenue Commissioners will review it next year. In the current year these people have been afforded the opportunity of not having to pay until 1 January. What routes can they use to do that manually and online?

Deputy Arthur Spring: I am trying to get at the fact that the preferred choice by the Revenue Commissioners is a single debit authority option. The date on which the money will be taken out is 21 March, unless the taxpayer specifies an earlier date. I welcome that but I am struggling with another point and we need to convey it better. It is not the intention to take the money for the property tax by debit card or credit card before Christmas. We saw the specifics earlier, and a figure of 15% was mentioned. If I came across as putting the witnesses under pressure earlier it is because I am feeling the pressure in my office as well. We have a problem - otherwise, we would not be here today - and it is something we want cleared up.

Chairman: A question, Deputy.

Deputy Arthur Spring: Ms Feehily said she was going to consider what we have said today. Will she sum up what the Revenue Commissioners are going to consider the options for solutions?

Deputy Peter Mathews: I will offer a wrap-up for the real world. People have concerns relating to telephone, e-mail and communication by computers. It is distant and remote. It is extremely stressful for people. Could the Revenue Commissioners possibly set up an actual office, here in Dublin? People are really concerned, and they would take the trouble to come to an office in order that they-----

Deputy Michael Creed: It should be in Cork.

Deputy Peter Mathews: I am serious.

Chairman: Deputy Mathews, without interruption.

Deputy Peter Mathews: It could be in Cork. The Revenue Commissioners have offices throughout the country. The point is to have a desk to which people can go with their forms and talk it through. This is a mad world and even with banks nowadays one does not know whom one is speaking to because there are only call centres.

Chairman: I call on Ms Feehily to respond to the questions from Deputies Creed, Boyd Barrett, Spring, O'Donnell and Mathews. Then I will do a formal wrap-up.

Ms Josephine Feehily: I will start with the question from Deputy Boyd Barrett. I will follow up on his point. We have engaged heavily with the Citizens' Information Board in the context of this tax. We met its representatives many times before the earlier campaign and before this one. We will get feedback from them and I will certainly take it on board. We use National Adult Literacy Agency, NALA, for certain communications and I would be happy to include it in future LPT communications exercises that we must carry out. I am not convinced on this one

that the letter is the issue, but that is another day's work.

I thought I had answered Deputy Creed but it is clear I had not. He made the point about the 35% who had made their bank details available. This is our concession. We were very mindful, as I said to other Deputies and Senators, of this span of the year issue. Using our care and management of the Revenue Commissioners' authority, we can make concessions when we are confident we have secured the funds. It is not a matter of bank details. When we have the authority to dip into a person's bank account on a date chosen by the person between now and March, we will do so. That is what a single debit authority is - a single direct debit, a mandate, or whatever language one wants to use.

Deputy Peter Mathews: Is it "not earlier than" that date?

Ms Josephine Feehily: The default is 21 March. The person may pick an earlier date. The date is not "not earlier than".

Deputy Peter Mathews: The Revenue Commissioners cannot go in earlier.

Ms Josephine Feehily: We cannot go in any earlier but the person may pick an earlier date. Revenue can allow that concession. We have done it with self-assessed taxpayers for many years. If they send in their tax returns early, they fill in a single debit authority, either online or on paper and we do not execute it until the date on the authority. That is why we can allow the concession. This was our way of offering something to get people past the Christmas holiday season. I do not think January is necessarily any easier than December. That is why we offered this option. It is interesting to note that approximately half the returns processed have chosen that option. If I did not answer, that is what I meant.

Deputy O'Donnell asked me to make it clear what people can do who do not want to pay before 1 January. They can pick a service provider on either the paper return or online and they can go to their service provider and pay, either in phased payments or in one lump sum, after 1 January. There are three service providers. Some will take debit cards, while most will not take credit cards. People can pay in cash or by debit card at some of the service providers.

I keep coming back to the question of why anybody would want to have to engage twice with this paperwork. They can engage with this paperwork once if they pick the single debit authority. It is a simple pay and file transaction, whether on paper or online. They have to engage with the paperwork, to use that metaphor, only once. They pick the payment option of "single debit authority", give us their bank account details, which, as somebody said earlier, is far fewer characters than debit and credit card and CCV numbers, and tell us the date up to 21 March on which they would like us to take it. That is our way of making it as simple as we can and giving as much time as we can.

Deputy Kieran O'Donnell: The problem is that the legislation states 1 January. People are entitled to a choice. The Revenue Commissioners have made that known in respect of the service providers. It is up to people to decide what they want to do and providing that clarity today has been very important.

Ms Josephine Feehily: That is what we have been trying to do all along. There was a question about Dublin.

Deputy Peter Mathews: Physical offices anywhere in Dublin, where people can go in.

Ms Josephine Feehily: Cathedral Street, Dublin. I missed the Chairman's question because I wrote down, "pre-Christmas intention".

Deputy Sean Fleming: I want to ask a supplementary question based on what Ms Feehily just said. She said that some of the service providers accept debit but not credit cards. The three service providers, as I understand it, are An Post, Payzone and Omnivend. Will Ms Feehily tell the public today, because I do not think many would know, which of the three service providers accept debit cards and which do not?

Deputy Arthur Spring: People who are looking in will ask what the Revenue Commissioners have learned from today. Ms Feehily has said she will acknowledge problems that exist and will consider resolving them. What are the potential solutions?

Ms Josephine Feehily: I will ask Ms Vivienne Dempsey to go through the three service providers because my mouth is getting dry. The commitment I made earlier was that we would consider this filing season because this is the first time we will have the full annual filing for the tax. It was difficult to read patterns from the half-year filing. We will see people's preferred options and we will see what we can do to make matters easier in that regard next year. I said I was not committing to moving into the business of necessarily retaining credit and debit card details. That involves risks I would have to assess.

Deputy Peter Mathews: Will Ms Feehily assess it?

Ms Josephine Feehily: I will assess it, absolutely. Ms Dempsey will tell the committee about the service providers.

Ms Vivienne Dempsey: As part of our contract, that is, our service level agreement with the service providers, An Post will accept a cash payment or debit card, Payzone will accept a cash payment, debit card and credit card in most of its outlets, while Omnivend will accept cash only, as that is the nature of its machines. Payzone will accept cash, debit and credit cards in most of its outlets. An Post will accept cash and debit cards.

Chairman: As I move to wrap up this matter I want to clear up one other issue. Have there been any situations in which a single direct debit has been issued to the Revenue Commissioners that was taken out before 21 March?

Ms Josephine Feehily: Next year?

Chairman: Yes.

Ms Josephine Feehily: Not unless the person picked a date. One can pick a date but if the person does not pick a date, the default is 21 March.

Chairman: I have received communication to the effect that it has been indicated that this has happened. I am not saying that it has happened but it has been indicated to me and I was asked to bring it to Ms Feehily's attention.

Ms Josephine Feehily: I would be very concerned and I would like to see that communication. We found last year that several property owners ticked all options. If they do that we will take the easiest one.

Chairman: People sometimes do that on ballot sheets too.

Ms Josephine Feehily: That is the nature of the beast. We will take the one that is easiest.

Deputy Peter Mathews: It might be called the monthly draw.

Chairman: At the conclusion of the meeting I will have a word with Ms Feehily because I do not want to create any undue concern. I thank Ms Feehily and her officers for coming before the committee at such short notice and for the spirit in which they engaged with us. The Revenue Commissioners are not accountable to Government. They are independent. The structure of the Oireachtas Joint Committee on Finance, Public Expenditure and Reform is also separate from Government. As Ms Feehily has probably noticed, questions come from diverse political groups on the committee.

In my time as Chairman I think I have accommodated every request for somebody to come before this committee. I accommodated one earlier this afternoon in regard to the insurance industry. I do not think it is appropriate that if one group asks for somebody to come before the committee, everybody else disclaims ownership of it. If we create that precedent, future invitations will become very politicised. I would not like to see that precedent being created.

The information from, and engagement with, the Revenue Commissioners this evening have been very positive. They have cleared up many issues. We greatly appreciate the spirit of the engagement.

To return to Deputy Spring's comment, my last question is to clear up a legislative matter Deputy Creed raised earlier. Is it possible for Revenue to include, or classify as entering into an arrangement, the position whereby a property owner elects to pay the tax in one lump sum by way of credit card or debit card that is processed by 15 January? Is that regarded as compliant? One can defer the payment to 21 March. Let us forget about the data security issues and the coding that finance IT systems require. Am I right in saying that the legislation allows for a credit card deduction to take place later than 1 January?

Ms Josephine Feehily: I do not think that the legislation says anything about credit cards. It just says that the tax is payable on 1 January 2014 or before.

Chairman: The legislation says that if an arrangement has been entered into, the payment does not fall due on 1 January. The legislation facilitates a situation whereby a credit card or debit card can be used and it can be drawn upon at a later date.

Ms Josephine Feehily: I understand the point.

Chairman: Either there is a data concern which can be tidied up or there is an issue of systems codes that need to be put in place. It is not a legislative issue.

Ms Josephine Feehily: It is not necessarily a property tax legislation issue but it may turn out to be a data protection legislation issue-----

Chairman: Or a systems issue.

Ms Josephine Feehily: There is no doubt there are systems, costs and security issues. When I do the assessment that I discussed with Deputy Spring I will not be confining it to this coding point because that is simple - it costs money but it is simple. As I have pointed out, I have to consider whether this is a line of business that is safe and appropriate for us to get into.

Chairman: I thank Ms Feehily for her attendance and also Ms Dempsey and Mr. Gladney.

It has been a lengthy and lively discussion. I assure Ms Feehily that I will not ask her to appear every couple of months. She does a very good job and she is a busy woman.

Ms Josephine Feehily: Any time.

Chairman: I will suspend the meeting to allow the witnesses to take their seats for the next part of the meeting. *Sitting suspended at 5.55 p.m. and resumed at 6 p.m.*

Scrutiny of EU Legislative Proposals

Chairman: We will now deal with No. 10 on today's agenda, scrutiny of COM (2013) 520. This is a proposal for a regulation of the European Parliament and the Council establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a single resolution mechanism and a single bank resolution fund and amending Regulation EU 1093/2010 of the European Parliament and of the Council. I welcome Mr. Aidan Carrigan, Mr. Pat Casey, Mr. Cathal Sheridan and Mr. Liam Morris of the Department of Finance. I understand Mr. Morris is late of this parish.

The meeting will begin with an opening statement by Mr. Carrigan, followed by a question and answer session. I remind members, witnesses and those in the Visitors' Gallery to switch off their mobile telephones. I advise the delegates 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 the committee. However, if they are directed by the committee to cease giving evidence in regard to a particular matter and they continue to do so, they are entitled thereafter only to a qualified privilege in respect of their evidence. Witnesses are further directed that only evidence connected with the subject matter of these proceedings should be given and are asked to respect the parliamentary practice 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 House or an official by name or in such a way as to make him or her identifiable.

I invite Mr. Carrigan to make his opening statement.

Mr. Aidan Carrigan: I thank the committee for the invitation to brief it on the European Commission's legislative proposal for a single resolution mechanism, SRM, which is the next essential step in creating a European banking union. I am accompanied today by colleagues from the Department of Finance. As the Chairman outlined, the proposal is for a regulation of the European Parliament and of the Council establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a single resolution mechanism and a single bank resolution fund and amending EU Regulation 1093/2010 of the European Parliament and of the Council.

The first step in creating a banking union for Europe was taken with the recent adoption by the Council and the European Parliament of the single supervisory mechanism, SSM, which was negotiated under the Irish Presidency. Under the SSM, responsibility for the direct supervision of the most significant credit institutions will transfer to the European Central Bank, acting jointly with national supervisors. The ECB will issue instructions, regulations and guidelines to national supervisors for tasks performed by them as part of the SSM. The ECB will take over

its full tasks under the SSM in November 2014. The banking union will apply to all members of the euro area and any non-euro area member states which choose to opt in.

A complete banking union requires common supervision, deposit insurance and a common resolution framework, with an appropriate fiscal backstop. Following the adoption of the single supervisory mechanism, the European Council called for the creation of a single resolution mechanism for banks covered by the SSM. This is consistent with the principle underpinning the banking union that where supervision is centralised, resolution should also be exercised at the same level of authority. If supervision were exercised at the central level but resolution remained national, tensions could emerge between the EU-level supervisor and the national resolution authority over how to deal with an ailing bank.

The single resolution mechanism consists of a single resolution board and a single resolution fund. The fund will be financed by contributions from the banking sector. The board will generally make the initial decision about whether a bank needs to be put into resolution and will draw up the necessary plans and make a determination as to whether funding from the single resolution fund is necessary. However, without a treaty change, it is not possible for an EU institution to delegate policy-making powers to a subsidiary body such as the SRB. Therefore, the European Commission will take the final decision to trigger resolution and use the fund.

The basis for implementing resolution under the SRM will be the toolkit set out in the bank recovery and resolution directive, BRRD, agreed on by member states at the ECOFIN meeting that took place on 26 June under the Irish Presidency. This common toolkit for resolution will help ensure a reasonably level playing field across the EU between participating member states in the SSM-SRM, and those which decide to remain outside of it. Although the BRRD has yet to be finalised, trilogue negotiations are ongoing with the European Parliament and it is hoped agreement can be reached by the end of the year.

Before proceeding to outline the main elements of the proposal, I will briefly explain why a single resolution mechanism is considered necessary in addition to the bank resolution scheme already agreed by the ECOFIN Ministers. The purpose of the BRRD is to provide national authorities with common powers and instruments to pre-empt bank crises and resolve any financial institution in an orderly manner in the event of failure, while preserving essential bank operations and minimising taxpayers' exposure to losses. These powers represent a minimum harmonisation of the rules to be used in resolution. There remains, therefore, the potential for variations in how member states handle resolution.

In a banking union context, however, stakeholders generally agree that in a situation where the supervision of banks has transferred to the centre, resolution should take place at the same level. Without such symmetry, market expectations about member states' inability to deal with bank failures nationally could continue, reinforcing feedback loops between sovereigns and banks and fragmentation and competitive distortions across the Internal Market. Furthermore, the Commission is of the view that a strong single resolution mechanism is critical to ensure timely and least-cost resolution of banks. Its position is that the goal should be a centralised authority with power to trigger resolution and make decisions on burden sharing.

Ireland has welcomed the single resolution mechanism as the next essential step in creating a banking union. The SSM is now in place and the ECB will take over direct supervision in November of next year. Progress is being made in discussions with the European Parliament on concluding the EU deposit guarantee directive. The creation of the SRM with centralised decision making by a single resolution board and equipped with the resources of a single reso-

lution fund, financed by contributions from the financial sector, represents a significant step in achieving the core objective of breaking the link between the sovereign and the banking sector.

I will now set out the main elements of the proposal as published by the Commission. In regard to the legal basis for the proposal, the SRM will be based on the Single Market treaty Article 114, which provides for the harmonisation of laws in member states in the pursuit of smooth functioning of the Single Market. The Commission's legal services have indicated that, in accordance with that article, the legal basis to proceed is sound. Treaty change would be required to make the single resolution board independent in its role and while there is a view that this might be preferable, the time required for such a treaty change did not fit into the timetable demanded by leaders and Heads of State - and, for that matter, by the financial markets - for the completion of the banking union. The Commission is of the view that the proposed governance structure, whereby it would retain the ultimate decision-making authority, is consistent with the Meroni principle, which requires that there should be no delegation of discretionary powers with a wide margin of discretion that would have the effect of transferring policy-making powers.

On the issue of scope, it is proposed that the single resolution mechanism will be directly responsible for the resolution of all banks - approximately 6,000 - in member states participating in the single supervisory mechanism. As is regularly recalled, relatively small distressed banks have been the source of considerable systemic difficulties. The proposal does not permit a differentiated approach similar to that in the single supervisory mechanism under which the ECB is responsible for the supervision of all banks but only directly supervises the most significant credit institutions because it is considered that the nature of the resolution process requires a high degree of centralisation of resolution decision making in order that successful bank resolution decisions can be taken rapidly. Irish credit unions are not credit institutions for the purposes of the capital requirements directive and consequently are not within the scope of the single resolution mechanism.

On structure and governance, while the Commission will make key decisions such as in respect of approval of resolution, the single resolution board will prepare and carry out the resolution of any bank in a member state participating in banking union. The board will apply the resolution toolkit as established in the bank recovery and resolution directive. The board will be composed of the executive director, the deputy executive director, representatives of the Commission and the ECB and the representatives of the resolution authorities of each participating member state. Under the proposal, the board would have two configurations, namely, the plenary session which would involve all member states' resolution authorities and the executive session. The executive board will be the key decision making forum of the single resolution board. Under the proposal, as published, the executive board will consist of the executive director, the deputy executive director, representatives appointed by the Commission and the ECB and the relevant national authorities of a credit institution subject to a resolution decision. Decisions will be made by simple majority, with the home resolution authority having one vote and all of the host resolution authorities collectively having one vote. The proposal makes a clear distinction between the role of the single resolution board and that of the national resolution authorities. The single resolution board and, ultimately, the Commission occupy the decision making level, whereas the national resolution authorities will be responsible for implementing all resolution actions decided on by the single resolution board or the Commission. If a national resolution authority does not comply with a decision of the single resolution board, the board or the Commission could directly address executive orders to the credit institution involved.

In practice, it is expected that the ECB, as supervisor, will indicate to the single resolution board that a credit institution in a single supervisory mechanism participating member state is in severe financial difficulties and that the matter should be resolved. The executive board of the single resolution board will prepare the resolution of the bank, including which resolution tools to use and how the single resolution fund should be involved. The proposal provides that the European Commission, acting on the recommendation of the single resolution board or its own initiative, can decide whether to place the credit institution under resolution. The national resolution authority would be responsible for implementing the decisions of the Commission or the board.

The Commission proposes that a single resolution fund be set up in order that funding support for credit institutions in resolution would be available. The fund would be built up over ten years through contributions from the banking sector. It would replace the national resolution funds of participating member states. The target level of the fund is 1% of covered deposits of single supervisory mechanism credit institutions, which should equate to between €55 billion and €60 billion. The single resolution mechanism is constructed with the objective that resolution will be carried out without recourse to national taxpayers' money. Instead, banks will contribute to the costs of resolution though the collection of levies and, where the fund is not sufficient, *ex-post* levies. Under the proposal, the fund can "seek borrowings or other forms of support from ... other third parties". This could including market-based funding.

Until the single resolution fund reaches its target funding level, provision is made for the member state representative of the executive board to delay but not prevent resolution decisions where they might impinge on national fiscal responsibilities. This is a very sensitive issue for a number of member states and there has been much debate in the Council negotiations on the single resolution mechanism on an EU backstop that would guarantee a line of credit to the single resolution fund in such shortfall situations. Any money advanced by such a backstop would have to be repaid by the banking sector by moneys raised through the levy process.

In view of the high importance and complexity of this proposal, a high-level *ad hoc* working group of officials and experts from each member state was established. The group has met seven times in order to make progress on this file and has discussed various options for a possible overall compromise. As a result of these debates, the Council Presidency has drafted three compromise texts and is of the view that the third text - to the extent possible - addresses the main concerns raised by the member states. This text will be debated by ECOFIN at its meeting on 15 November. While negotiations continue and agreement has yet to be reached on all aspects of the proposal, Lithuania, the current Council Presidency, is prioritising the single resolution mechanism proposal. The October European Council called for agreement among member states by the end of the year in order to allow for the negotiations with the European Parliament and the co-legislators to reach agreement on the proposal within the current legislative term. Given that European Parliament elections are scheduled for the end of May 2014, this effectively requires agreement between the co-decision authorities by end of March 2014.

Ireland fully supports the creation of the single resolution mechanism as a significant and essential step in creating a credible banking union for Europe. We consider that the Commission's proposal provides a strong basis for a single resolution mechanism supported by an industry-funded single resolution fund. As stated, this issue will take up a large part of the agenda for next week's ECOFIN discussions. The Minister will be briefing the committee further on the matter next week.

Chairman: I thank Mr. Carrigan for his very detailed briefing. I am aware that we have

agreed a timeframe and the purpose of Mr. Carrigan's presentation was to provide us with information. The Minister for Finance, Deputy Michael Noonan, will be coming before the joint committee on Wednesday at 9.30 a.m. prior to the ECOFIN meeting that is due to take place on Friday next. If we want to discuss issues relating to the single resolution mechanism, we will be obliged to provide notification to the Minister of our desire to do so.

I will now take questions from members. I know that some of us are on very tight timetables and if the need arises, we can suspend proceedings.

Deputy Michael McGrath: I thank Mr. Carrigan and his colleagues for coming before us. In what circumstances will the single resolution mechanism kick in? Will it be where a bank goes bust or where a need for additional capital is identified following stress tests?

Mr. Aidan Carrigan: It will not be in a normal situation where a bank needs capital. In such circumstances, the bank in question would have a number of processes in place to allow it to raise capital. I should emphasise that what is being managed under the single resolution mechanism is the rule book of the bank recovery and resolution directive. There will be a process of bank recovery interventions which will be managed by the single resolution board. Where a bank has failed to put straight its own affairs, is in danger of insolvency and where there is a need for resolution intervention, at that stage the single resolution mechanism will kick in. There will still be a range of interventions available to the resolution mechanism in order to deal with recovery plans. The final step would be financial intervention.

Deputy Michael McGrath: Therefore, it can apply where a bank completely fails and is going out of business or where it is in real trouble and a resolution formula is required.

Mr. Aidan Carrigan: The core objective is to maintain the continuity of critical functions so as to ensure the financial stability is not affected or damaged by negative impacts.

Deputy Michael McGrath: Does the single resolution proposal set out the detail of the hierarchy relating to how losses are to be distributed from equity investors to junior bondholders all the way down to insured deposits?

Chairman: I apologise for interrupting, but I must to leave the meeting. Deputy Kieran O'Donnell will take the Chair in my absence.

Deputy Kieran O'Donnell took the Chair.

Mr. Aidan Carrigan: That is set out in the bank recovery and resolution directive, on which we briefed the joint committee previously and which has now been agreed at Council level. That hierarchy is now subject to further review in the co-decision process of trilogue with the European Parliament.

That is what I indicated in my statement, namely, that we expect it to be concluded by the end of year but it is at Parliament stage. That is in regard to the rule book. The single resolution mechanism we are putting in place, backed by a single resolution fund, will operate that rule book but the rule book is set out under the bank resolution.

Deputy Michael McGrath: When is it envisaged that the SRM will be up and running and that the common resolution hierarchy, the bail-ins as such, will be in operation?

Mr. Aidan Carrigan: The bank resolution is scheduled to commence in 2015. The objective is to have the single resolution mechanism in place in 2015 to manage the introduction of

bank resolution.

Deputy Michael McGrath: With regard to the resolution fund and the contribution by the financial institutions to it, will that start in 2015 as well?

Mr. Aidan Carrigan: Yes. That is correct.

Deputy Michael McGrath: It would be at a level of 1% of covered deposits. Is there any estimate of what that would cost Irish banks?

Mr. Aidan Carrigan: We will come back to the Deputy with that figure in case I would give him a wrong figure.

Deputy Michael McGrath: Would that then replace any national fund or will the banks be paying into a national resolution fund and a European one?

Mr. Aidan Carrigan: The intention is that the single resolution fund will replace the national resolution funds and we already have a national resolution fund in place.

Deputy Michael McGrath: Are they currently paying into a national resolution fund?

Mr. Cathal Sheridan: There is a national resolution fund under the national resolution legislation but when bank resolution is introduced the new rates, which probably will be higher than banks are currently paying, will come into effect and will replace the contributions being paid into the national fund.

Deputy Michael McGrath: Europe-wide stress tests will be carried out next year and if that process were to reveal a black hole in the banks' balance sheets and that they need additional capital, then even if this was up and running, that matter would not be dealt with under the SRM, rather it would still be a matter for the investors or whoever to make good the capital shortfall.

Mr. Aidan Carrigan: That is right. There would be a range of policy responses required should that happen, but the single resolution would only be where efforts to deal with any capital shortfall failed and we moved into a resolution situation.

Deputy Michael McGrath: Okay.

Deputy Michael Creed: I welcome Mr. Carrigan and his colleagues. I have two questions. In the context of the recent crisis in Cyprus we saw a hit on deposit holders. Where does the establishment of the single resolution mechanism-resolution fund leave the issue of the deposit guarantee?

Mr. Aidan Carrigan: The deposit guarantee stands. As I indicated, parallel negotiations are currently going on with Parliament to confirm the deposit guarantee of €100,000 will be protected at a harmonised level across Europe in a separate directive. The resolution directive recognises that and that protection. I believe the Minister stated here previously that this protection will stand.

What the bank resolution will change, and this was in the BRR deal rather than in this negotiation, is that all deposits, even those that are not guaranteed, will be given a depositor preference treatment in the event of resolution. Up until now in a resolution situation as soon as one moved into senior bond holders one had to treat depositors on a *pari passu* basis and

they had to suffer equivalent losses whereas, under the bank resolution directive, they will be given a depositor preference, which makes it even less likely that they will ever be called on in a situation like that.

Deputy Michael Creed: That extends to all deposit holders regardless of whether they are EU citizens or from outside the EU.

Mr. Aidan Carrigan: Yes.

Deputy Michael Creed: My second question relates to the accountability of this board to the Commission, the Parliament and domestic parliaments. Has that been considered?

Mr. Aidan Carrigan: Yes. That has been addressed. Basically, the single resolution mechanism is a European institution. It is set up under the European Commission. In the first instance it will be accountable to the Europe Council and to the European Parliament but, similarly, because of the involvement of the national authorities there will also be direct accountability to national parliaments through the national authority, and there is provision for the executive director to also deal with questions or issues raised by national parliaments.

Acting Chairman (Deputy Kieran O'Donnell): I call Deputy Fleming.

Deputy Sean Fleming: I thank Mr. Carrigan and the officials for attending. If the resolution fund was in place, would that in any way lessen capital ratio requirements under Basel II because at least it would be a level of protection with a resolution fund in place in the event of a resolution being required? It is an insurance policy for people who have deposits. If the resolution fund was not in place there would be a greater risk and perhaps a requirement to have higher capital ratios.

Mr. Aidan Carrigan: The Deputy is straying into the area of what people in the negotiations referred to as moral hazard, namely, that if there is too strong a resolution in place people will not pay attention to good proper prudential management, but that is not the case because CRD IV sets out very clear capital requirements and very clear ways in which the risks of a bank have to be managed and those risks will continue to-----

Deputy Sean Fleming: I am sure those rules were drawn up before this resolution process was drawn up.

Mr. Aidan Carrigan: The resolution process is not meant to result in banks being able to take additional risks which are not seen as good prudential management. The CRD IV was drawn up in awareness that resolution procedures would be coming down the tracks. It is clearly not the intention that because there is a safeguard there should be less effective management of capital.

Deputy Sean Fleming: Mr. Carrigan can understand the concern that some people might have because they feel at least the ultimate damage to their depositors would be less knowing there is a resolution fund in place. I get his point. There is a question of moral hazard and that is subjective, and that is what the supervisory mechanism is there to ensure does not happen. That leads me on to my next question.

The supervisory mechanism will only deal with the most significant institutions whereas the resolution mechanism will deal with up to all the 6,000 banks. Where is the trigger in that respect? One can easily recognise that an institution that is being supervised by the European

Central Bank and authorities through the supervisory mechanism would have a good handle on those and would see a problem arising and if it arose they would be on top of it, but with regard to all the other institutions that are not being supervised, is there not a concern that people will only hear about it when things have gone completely wrong because there was not the same level of supervision?

Mr. Aidan Carrigan: First, this is a live issue in the discussions at Council, as in the scope of the direct oversight by the single resolution mechanism, but the vast majority of member states are of the view that the single resolution mechanism should apply equally to all banks. The difference is that in the supervisory situation there is a day-to-day supervisory function in relation to all banks and, therefore, the direct supervision has been netted down to the largest banks, but the ECB retains responsibility for supervision of all banks through the national resolution authorities. In the case of resolution, there is not an ongoing oversight on a daily basis of all banks because resolution events only happen, we hope, very rarely. Therefore, resolution interventions are only required on an exceptional basis. One is not comparing like with like when one compares the day to day supervision of 6,000 banks with a resolution responsibility for 6,000 banks.

Deputy Sean Fleming: They will have resolution responsibility but would they have any supervisory responsibility?

Mr. Aidan Carrigan: Would which?

Deputy Sean Fleming: The resolution fund.

Mr. Aidan Carrigan: The resolution board will have will have responsibility for managing resolution should it arise-----

Deputy Sean Fleming: Only after the problem has occurred.

Mr. Aidan Carrigan: A resolution decision is triggered where the ECB, as the supervisor, draws attention to a resolution situation. The supervisor identifies a problem bank that needs resolution intervention and brings that to the resolution authority and it is only then the resolution authority gets-----

Deputy Sean Fleming: We will essentially have two supervisory mechanisms in place, one carried out by the single supervisory mechanism and probably a lighter version carried out directly by the European Central Bank through its agent in each of the countries at a lighter level. Will there be heavy supervision and light supervision, depending on whether one is a significant institution?

Mr. Aidan Carrigan: I do not blame the Deputy for being confused because there is a whole new patchwork of European institutions.

Deputy Sean Fleming: I ask the question from the perspective of a layman.

Mr. Aidan Carrigan: First, on the supervisory front, there is the ECB as the single supervisor. It has responsibility for the supervision of all banks.

Deputy Sean Fleming: That is correct.

Mr. Aidan Carrigan: It takes direct supervision of 135 banks and does the rest through national authorities.

Deputy Sean Fleming: Could Mr. Carrigan give the figure again?

Mr. Aidan Carrigan: There are 135 directly supervised by the ECB and it is responsible for the supervision of all other banks through the national authorities.

Deputy Sean Fleming: The rest of the 6,000.

Mr. Aidan Carrigan: Yes, the rest of the 6,000. The national authorities do the day-to-day supervision in accordance with guidelines and rules from the single supervisory mechanism, SSM. The single supervisory mechanism can step in at any stage. That is the supervisory function.

Deputy Sean Fleming: While we are on it - to get the supervisory function out of the way - will there be two levels of supervision and will one type be more intense? By definition, if some of the institutions are more significant the risks attaching if something goes wrong are far more serious. Will there be two tiers of supervision between those that are being regulated under the current regime versus those that will come under the new single supervisory regime? Is Mr. Carrigan saying it is the same thing?

Mr. Aidan Carrigan: No. We would emphasise that there is a single supervisory regime. The regime will operate the rules set out in the capital requirements directive on liquidity, prudential, capital and other regulatory requirements. The single supervisory mechanism under the ECB is responsible for applying those rules fairly and equally across all banks but there is a proportionality principle underpinning that so that one would not have the same demands for low-risk small institutions as one would have for those with bigger risks.

Deputy Sean Fleming: Is Mr. Carrigan saying there are two tiers?

Mr. Aidan Carrigan: No, I am saying that proportionality would be applied in relation to assessing the risk. Our current national supervisor, the Central Bank, supervises on the basis of assessment of risk and applies a PRISM system and decides which banks need more attention. It would be the same at European level. There are not two tiers. Basically, we have a single supervisory mechanism responsible for supervising all banks in accordance with a common rule book across Europe but in some instances the day-to-day supervision would be carried out by the local supervisor in accordance with guidelines set by the single supervisor which has to oversee that and can step in at any time.

Deputy Sean Fleming: Will the day-to-day supervision of the institutions that will be under the SSM be carried out by staff from the SSM or the local central bank?

Mr. Aidan Carrigan: It will be a combination of both. The European single supervisor will operate-----

Deputy Sean Fleming: What level of staffing will the office have to monitor the 135 institutions?

Mr. Aidan Carrigan: That detail is being worked out by the ECB as it is gearing up to take over supervision in November 2014. It will rely on local supervisors and be working closely with them, even for the banks it directly supervises.

Deputy Sean Fleming: Funding is based on a percentage of deposits. Is there a case for those under the SSM regime to feel that because they are centrally and directly supervised that their risk of requiring a resolution would be reduced and that they should have to pay a lower

percentage? If the risk of them requiring a resolution is no less than those that are not being supervised by the SSM, the question then is what is the value of the SSM supervision if it is not to reduce risk and identify problems earlier through the great supervision applied?

Mr. Aidan Carrigan: That is a reasonable question. The contributions to the fund will be risk based. It will depend on how risky one is assessed to be. Those institutions taking more risks will have to pay more into the fund. All institutions will benefit from the existence of the fund because it enhances financial stability and therefore means that with more confidence in the banking system, all banks will be able to raise funds on a cheaper basis and at the same cost.

Deputy Sean Fleming: Could Mr. Carrigan please go through that again because I got the impression earlier that it would be 1% of covered deposits but now Mr. Carrigan has said that it depends on the scale of the institution and the risk identified? Could he give us the range of contributions that will be required? I thought it would be a set percentage. I can understand a bigger institution would pay more because its deposits would be greater. It is a case of direct proportion. Will there be a different rate?

Mr. Cathal Sheridan: The overall target level is 1% of total covered deposits.

Deputy Sean Fleming: How is that to be split?

Mr. Cathal Sheridan: That will be determined on a national basis by the percentage of the business of the local bank compared with the overall level of activity in Europe. If it is a small bank and it represents 1% of the overall system then its contribution will reflect that percentage. Therefore, it will be proportionate and *pro rata*. As Mr. Carrigan mentioned, the contributions will also be risk based so pure deposit banks, which have less risk than big trading banks, will have a lower contribution. That will be reflected in the contribution they make. The Commission will introduce a series of delegated rules around how one determines what the appropriate contributions are. The general rules will be set out in this particular proposal and then the detail of it will be worked out.

Deputy Sean Fleming: Is what is being said that, on average, it will be 1% but it will vary from bank to bank?

Mr. Cathal Sheridan: The overall level will be 1%.

Deputy Sean Fleming: I got the impression earlier-----

Mr. Aidan Carrigan: That is the answer. I can read something for the Deputy from the Commission.

Deputy Sean Fleming: I know that the witnesses might think I do not understand but I am teasing out the issues. It now appears that because of their risk some institutions might get away with 0.5% and others might have a loading because they are involved in more risky lending and it could be 1.5%.

Mr. Aidan Carrigan: Even in the Commission's own documentation it points out that if a bank is purely a deposit-taking bank it will be a very low contributor.

Deputy Sean Fleming: It could pay a fraction of 1%.

Mr. Aidan Carrigan: Yes.

Deputy Sean Fleming: Could Mr. Carrigan supply the committee with the ranges that are being considered?

Mr. Aidan Carrigan: We do not have figures.

Deputy Sean Fleming: What is the highest rate?

Mr. Cathal Sheridan: The overall level of contribution will be 1% of total covered deposits across Europe.

Deputy Sean Fleming: We have established that.

Mr. Cathal Sheridan: But the actual level paid by a particular institution will be determined by the type of business it is conducting and the risk of the business. The Commission will make a series of delegated Acts to determine more accurately the particular provision a bank will make. It is difficult at this stage to speculate what the range will be.

Deputy Sean Fleming: We do not know the range yet. Is there a suggested range?

Mr. Aidan Carrigan: The answer, as Mr Sheridan has stated, is that there will be further Commission legislation which will set out the exact parameters for the calculation of the rates. I might as well read into the record what the Commission outlined. It said the contributions will be calculated in a way that will reflect different types of bank and their business models. First, the contributions will be calculated in line with the draft bank recovery and resolution directive on the basis of criteria taking into account the amount of liabilities, minus own funds, and covered deposits of each bank and adjust it then to their risk profile. This means that banks which were financed almost exclusively by deposits would in practice have very low contributions. Second, contributions would be risk based, reflecting different risk inherent in different types of banking activity. That is the principle that is being reflected in the directive which sets out the legislative principles. There is another stage of level two legislation, delegated legislation, whereby the Commission will set out the exact criteria to be applied and it is only then that it will be clear what the range will be. The overriding principle is that the total of the fund will only equal 1% of the covered deposits of all banks in member states.

Deputy Sean Fleming: What is that expected to yield on the basis of current deposits?

Mr. Aidan Carrigan: We expect the fund to be around €55 billion to €60 billion after ten years. It will take ten years to build it up.

Deputy Sean Fleming: That would not have even covered the Irish banking problem.

Mr. Aidan Carrigan: The Irish banking problem was exceptional by European standards. No advance fund is ever set up to deal with systemic failures. The other additional factor since the Irish crisis is that the bank recovery and resolution directive established bail-ins and recovery procedures so there are a lot more steps to get through before one would get to a resolution being required.

Deputy Sean Fleming: I understand the bail-in. To give a typical example here, would An Post's savings bank have to make a contribution? It is only a deposit-taking bank; An Post does not give out loans.

Mr. Aidan Carrigan: If what the Deputy is talking about is a credit institution under the CRD definition, and I think it is, it would be required to make a contribution.

Deputy Sean Fleming: What institutions in Ireland are likely to come under this resolution process?

Mr. Aidan Carrigan: All credit institutions and credit investment firms are covered. The exception in an Irish situation is the credit unions, which are not credit institutions under the definition.

Deputy Sean Fleming: Is there a list of those Mr. Carrigan could send to us? Is it a long list? Is it five or six, 25 or 26 or 100?

Mr. Greg Dempsey: That is on the Central Bank's website but currently there are about 25.

Deputy Sean Fleming: Would Mr. Carrigan send that to the committee tomorrow and we will circulate it to members?

Mr. Aidan Carrigan: We will have it sent in, yes.

Deputy Sean Fleming: On the risk-based issue, we have dealt with the 1% average. In terms of the risk, some people, and Mr. Carrigan or myself might not like the point to be made, would make the point that banks in Ireland carry a higher risk than a bank in Germany. In addition to the type of institution, it might be said that a bank in Greece or Ireland carries a potential greater risk and in view of the difficulties we have had so far, it would be silly not to examine that issue. Is it possible that a loading of some description or a higher contribution would be required for banks in certain countries by virtue of where most of their business is located?

Mr. Aidan Carrigan: The assessment of risk will be based on independent criteria and the criteria will be related to issues such as the quality of capital, the type of liabilities and the banking activities carried out by the bank. They will not be done on a national or country basis. One of the underlying principles behind this development is to break the link between the sovereign and the banks. The purpose of this directive is to bring in clearly defined criteria that will apply regardless of the country in which the bank is located. Obviously, there will be an assessment of the type of loans, the liabilities and-----

Deputy Sean Fleming: Those countries with safer banks or those that have proven they are safer countries in which to bank-----

Mr. Aidan Carrigan: That in itself will not be a criteria.

Deputy Sean Fleming: Yes. The safer countries will carry-----

Mr. Aidan Carrigan: One of the objectives is to create a level playing field across Europe to ensure that all banks are supervised-----

Deputy Sean Fleming: Equally.

Mr. Aidan Carrigan: -----to the same level, have the same quality of capital and are assessed under the same criteria. The ultimate objective is that all banks should then be looked on equally by the markets in terms of their security or safeness. It depends on the risks and the activities they carry out.

Deputy Sean Fleming: Mr. Carrigan said that approximately 20 banks could come under this resolution regime; he can send that information on to us. How many banks in Ireland come under the single supervisory mechanism, SSM?

Mr. Aidan Carrigan: Five banks were announced by the European Central Bank.

Deputy Sean Fleming: And they are-----

Mr. Aidan Carrigan: They are AIB, Bank of Ireland, Permanent TSB-----

Deputy Sean Fleming: Is PTSB not part of AIB?

Mr. Aidan Carrigan: No. That is EBS.

Deputy Sean Fleming: I am sorry. I get confused.

Mr. Aidan Carrigan: Ulster Bank and Merrill Lynch in the International Financial Services Centre, which is-----

Mr. Greg Dempsey: On a final point of clarification, all Irish banks fall under the SSM but it is only the five that will be directly supervised.

Deputy Sean Fleming: Correct. I am getting the point now. In terms of contributions by the banks in the context of risk base, I suggest that a bank that is state owned should have a lower risk. For example, AIB is a state-owned bank whereas I would have thought that a bank owned by any state in the Union intrinsically would be of lower risk for resolution because for it to go to resolution not only would it have to fail, but its shareholder would have to fail it also, which is the state. The chances of a state-owned bank in that situation going to resolution would be less likely than one that is privately owned. Does Mr. Carrigan see a point in that regard?

Mr. Aidan Carrigan: The criteria to be applied here will not be based on state ownership or where the bank is located. They will be based on independent criteria looking at the quality of capital and the extent of risks. We would be expecting, as the financial crisis clears and financial markets settle again, that banks in temporary state ownership will be moving back into the private sector. It is the quality of the capital, the quality of the loan book and the riskiness of the activity that are expected to be the criteria.

Mr. Greg Dempsey: To some extent the bank recovery and resolution, BRR, directive, is about breaking the link with the sovereign. The fact that a bank is currently owned by a sovereign should not come into account because the assumption is that no further funds will be available from the sovereign in the event of failure. From that perspective, therefore, the bank's shareholders are somewhat irrelevant in terms of their propensity to fail.

Deputy Sean Fleming: Mr. Carrigan said earlier that after ten years this fund could have up to €55 billion. What has been the total cost to date in terms of the bank failures in Europe in the past six or seven years? How does that compare to the fund we are setting up for ten years time?

Mr. Aidan Carrigan: The Commission undertook an exercise to determine the target level. The figure for the entire European Union was €78 billion; that was determined to be the target level. The lower number represents the current membership of the SSM.

Deputy Sean Fleming: The lower number represents-----

Mr. Aidan Carrigan: It represents the fact that not all EU member states will be in the SSM.

Deputy Sean Fleming: Are all euro countries in the SSM?

Mr. Aidan Carrigan: Yes.

Deputy Sean Fleming: Mr. Carrigan is saying that for the euro area it is €55 billion.

Mr. Aidan Carrigan: Yes.

Deputy Sean Fleming: Whereas if it is done on an EU basis for the 27 member states it would be €78 billion, and some of the other ten not in the euro are free to come and join this if they wish.

Mr. Aidan Carrigan: They are, and where they are not joining they are required to build a target fund up to the same 1% target level.

Deputy Sean Fleming: Has the United Kingdom agreed to that?

Mr. Aidan Carrigan: It has at the Council level, yes.

Deputy Sean Fleming: How much will it put into its fund? That is relevant to us as we are so close to the UK.

Mr. Aidan Carrigan: The target level and the way the funds will be structured applies to all states and it will be set to 1% of covered deposits.

Deputy Sean Fleming: I know it is late but it is as well to tease this out. Mr. Carrigan might think I am asking layman's questions but I am deliberately putting them in that way because the people of Ireland need to know about this.

Mr. Aidan Carrigan: To finish answering the Deputy's first question, the Commission looked back at the crisis and considered that if the bail-in and other tools of the bank recovery and resolution, BRR, directive were available, based on the first cut of the proposal, how much was needed in a fund to cover the losses that would not have been absorbed by the bail-in. That is from where the number was derived.

Deputy Sean Fleming: If Mr. Carrigan is saying the €78 billion is a net figure on the basis of the bail-in, junior bondholders taking hits and so on, what was the gross cost of the banking failures over those years, assuming new measures that were not in place were in place, to arrive at the €78 billion? What figure did Mr. Carrigan start at to come to that?

Mr. Aidan Carrigan: The Deputy is asking very specific questions and we will have to come back to him on that.

Deputy Sean Fleming: Broadly.

Mr. Aidan Carrigan: The assessment in Europe was that this €55 billion will be sufficient to deal with future resolution situations. I bring the Deputy back to the point I made earlier that while we are looking at what happened in a financial crisis over recent years, we now have a completely different architecture to deal with those crises than we did in 2008. The architecture we have introduced involves bail-ins and there will now be a substantial bail-in from bank shareholders and creditors that will minimise any call on a fund *vis-à-vis* what had to be paid out in previous years when there were no such bail-in arrangements. While the fund is set at an amount that would have covered the euro area cost to date, the likelihood of a call on the fund has diminished substantially owing to the need to bail in creditors and shareholders before one moves to that situation.

Deputy Sean Fleming: That sounds to me as if an arrangement has been put in place to prevent what went wrong the last time from happening again. Inevitably, the next crisis, if there is to be one, will be different and will not be a recurrence of what happened the last time. It is like a house that went on fire for which one puts in place a system to prevent what happened the last time from happening again but normally the next crisis is different.

Mr. Aidan Carrigan: The additional issue is that not only is the fund provided for at this amount, if the fund is exhausted and further funds are needed-----

Deputy Sean Fleming: It can borrow.

Mr. Aidan Carrigan: There is provision for the fund to borrow on the financial markets and elsewhere to top it up. A debate is under way and the European Council has pointed out that there is also a need for a backstop arrangement. Consequently, in addition to the moneys advanced to the fund, there will be a facility to borrow up to three times the size of the fund and there is a provision for a backstop arrangement to provide further support.

Deputy Sean Fleming: Who will provide the backstop?

Mr. Aidan Carrigan: The detail is still being discussed at European Council level.

Deputy Sean Fleming: Do not mind the detail; what institution will provide the backstop?

Mr. Aidan Carrigan: That has to be decided at European level. It is an issue to be discussed next week.

Deputy Sean Fleming: We are not there yet. If it is decided that an institution is to go into resolution, will it be somewhat like what happened here when KPMG was called in? Who physically will manage the resolution? Will it be one of the big four accounting firms? Mr. Carrigan should talk me through this process. I have read the sentence that should a national resolution authority not comply with the decision, the resolution authority commission could directly address executive orders to the credit institution involved. That is fine and I understand who will be covered by the direction. Who will do the job and make the €100 million available in the case of another bank resolution?

Mr. Aidan Carrigan: The single resolution mechanism, SRM, involves a single resolution board, SRB, which will be an authority. Essentially, it will be equivalent to the Central Bank or whatever else at a European level. The SRM will be the European supervisory mechanism and the SRB will be an organisation under the aegis of the European Commission which will be fully staffed to deal with the central single resolution function. It will work with national authorities on day-to-day resolution issues.

Deputy Sean Fleming: But I still do not know who will do the work of carrying out the resolution.

Mr. Aidan Carrigan: The single resolution board will be responsible for doing it.

Deputy Sean Fleming: Will it be hiring? That is like telling me that when the IBRC was liquidated, it was done by the Government. That is not the case, as the job was contracted out to somebody.

Mr. Aidan Carrigan: It will be hiring staff. I cannot comment on the contract or employment nature, but the board will be responsible to hire the resources to ensure it can carry out its

functions under the directive, which means that it will be obliged to have a full-time complement carrying out resolution functions within the board.

Deputy Sean Fleming: Yes, it must have the authority to hire staff. However, it will not have staff in place because I hope they never will be needed.

Mr. Cathal Sheridan: It also will be able to use the staff of the local supervisor. That will be an integral part of the process because the local supervisor will be working with the ECB as part of the supervisory process. As they will be working together as a team, both will have an insight into the developing problem and an input into the process. There also will be a national resolution authority. The board obviously will make the decision and then both it and the national resolution authority will implement it.

Deputy Sean Fleming: That is a little like telling me that when it was decided to put the IBRC into liquidation, the supervisory authority knew some guy. The Central Bank is not involved in managing that process. Who physically will carry out the liquidation to which I am referring?

Mr. Aidan Carrigan: My colleague has just passed me a copy of the European Commission's impact assessment of this proposal. It anticipates the total number of permanent employees of the board will be approximately 240.

Deputy Sean Fleming: There will be 240 people.

Mr. Aidan Carrigan: These will be permanent staff, based in Europe. In addition, there will be the resources made available by the national authority. Consequently, one can see that there are plans for the creation of a substantial infrastructure.

Deputy Sean Fleming: The authority would not have the staff to carry out the resolution of a bank; 240 people would not cover it because they would also have their day job to do. My point is that it will be necessary to contract the work out to someone.

Mr. Aidan Carrigan: There will be 240 people in the resolution authority.

Deputy Sean Fleming: Yes, in the authority, but they will not be-----

Mr. Aidan Carrigan: Their job will be resolution.

Deputy Sean Fleming: I hope they will never have any work to do. Mr. Carrigan is suggesting they are somewhat like the fire brigade.

Mr. Aidan Carrigan: They will be engaged in recovery and resolution and assessing resolution plans. There will be a day-to-day assessment of the capacity of institutions to deal with a resolution. Under this provision, banks must have resolution capital, that is, capital that can be called on and absorbed to deal with losses in the future. They must have a resolution plan showing how they can deal with a resolution. The authority will be assessing the quality of the resolution plans on an ongoing basis.

Deputy Sean Fleming: In a case in which it is deemed that a bank must be part of a resolution, what call will the resolution board have on the auditors who signed the most recent financial statements? A question arose in Ireland as to the reason the auditors had not spotted it. Mr. Carrigan should talk me through this process. We cannot have some of the big global accounting firms issuing audit certificates and billing on the basis of a going concern only for a resolu-

tion to be required eight months later. I refer to people who certify the accounts are correct up to the previous quarter or whatever else. In Mr. Carrigan's opinion, should there be some call on those who were involved in certifying the institutions immediately prior to their entering a resolution? If not, why not? This is one lesson it is necessary to learn from what happened in Ireland. All institutions received fine audit reports right up until the day they became bankrupt.

Mr. Aidan Carrigan: That issue is not addressed directly in the detail of the European directive. However, I assume it is a matter for supervisors, national and European, to address.

Deputy Sean Fleming: If it is not to be included in the directive, no legislative provision will be made for it. From where will the legislative provision come on this subject? This is a matter on which the Government and its officials in the Department of Finance are working with the other governments. Forgive me if I am wrong, but one reason the delegates have come before the national Parliament is to get the views of the Parliament's relevant committee to inform their own views. Consequently, they are in attendance to hear the views of Parliament. I am giving them views that might not necessarily be those of the Government, but the precise reason for their attendance is to hear the views of Parliament; not the Government. As a Member of Parliament, I am putting this issue to them as one they should be considering.

Mr. Aidan Carrigan: I believe the answer is while I stated it is not being addressed in this directive, about which we are talking to members and on which we have prepared, auditors are obliged to operate within a legal framework that applies to them. If they fail to operate to the standards required of auditors, there are arrangements for dealing with this within the legislative framework in which auditors operate. That is a matter for company law. There is a European accounting directive, as well as various legislative mechanisms that require auditors to perform to a certain standard.

Deputy Sean Fleming: Members are aware that there is legislation to deal with these issues. However, I note that no auditor has as yet been held liable for some of the banking failures here. My point is that there have been banking failures in Europe where everyone agrees that a new resolution mechanism is needed to have in place a fund, funded by the industry, in order that taxpayers will not be caught next time around. That is a good lesson to learn. Surely, however, there is another lesson to be learned from what happened in the past. As the fund is being set up, it is accepted that this could happen again. One past failure was that the auditors certified accounts as being true and fair almost right up until the end. As part of this process, there should be new rules to deal with that issue. If one suggests this is not an issue, one is suggesting there is no need to learn lessons about that aspect of what went wrong.

I will conclude with one last point. I acknowledge it is late on a Thursday evening. If there is no provision in these new procedures whereby directors who are guilty of fraudulent or negligent activity can face criminal prosecutions, we are saying to everybody, "Carry on regardless". We know what happened in Ireland. Most of them got off. I will not comment on any cases. If there is a situation where a bank requires resolution, the question is whether this legislation will include provisions for legal sanctions against such persons. I am not only talking about barring them from future directorships. Will there be a mechanism in place where they can be brought to account? It is not fair on the customers of the banks who will pay, not ultimately but initially, for this fund. They should at least have the satisfaction of knowing that about the directors of those institutions whose work, if careless or negligent, results in their banks having to be liquidated and go through the resolution process. From an Irish perspective, having been through more of the pain involved than most other EU countries, we have probably one of the richest perspectives to bring to this debate. One of the lessons that we have learned is that those

who caused the problem should be accountable.

If there are not mechanisms in this, it is all well and good to propose the setting up of a fund and if a bank misbehaves again and goes bust at least there is such a fund. That is fine in so far as it goes but it is not fine that the directors feel there is no sanction against them. I want to know what sanctions - whether they are legal and court sanctions - can there be against the directors of institutions. Some of them might merely be due to trading circumstances or where there is a fraud committed against them. Some of it may not be their fault, if an institution goes down. It could be due to matters outside their control. If there is a Ponzi scheme being operated by some directors of some bank, one would need to know this mechanism is not merely a method of bailing out or having a fund in place to pick up the problems. Those who caused the problem should be brought to book. What provisions are in the proposal in that regard?

Mr. Aidan Carrigan: Deputy Fleming has raised a fair comment which has been addressed in the regulation here.

Deputy Sean Fleming: Good.

Mr. Aidan Carrigan: There are general principles governing resolution set out within the proposal. They provide that the shareholder of the institution bears first losses. Creditors of the institution bear losses after that. Significant to what the Deputy raises then is that the management of the institution under resolution is replaced, excepting, where it is required, in whole or in part, to manage the resolution process.

Deputy Sean Fleming: I understand that.

Mr. Aidan Carrigan: Furthermore, in accordance with the due process of law, individuals and entities are held accountable for the failure of the institution under resolution to the extent of their responsibility under national law.

Deputy Sean Fleming: That is the point. Mr. Carrigan has answered my question. As he stated, under existing law, the term is "the due process of law". From what I heard from him, this process is not proposing any new laws at all.

Mr. Aidan Carrigan: It is setting out the principle that they are to be replaced and then that they are to be dealt with under due process of national law. It is not setting out a new sanctions framework in this regard.

Deputy Sean Fleming: Is there a section requiring states to pass new legislation? The lesson we learned is that under current legislation nobody seemed to be guilty of anything and yet some of the banks cost a great deal to bail out. It was a foregone conclusion to tell them that they were losing their jobs. I do not see anything in it about losing their salaries or future entitlements from the bank, or their pensions. They merely lose their job.

The legislation is not satisfactory. If we have learned anything and if we are to be strict on the banks, I am worried about the moral hazard. I have gone full circle from where I started. If this fund is in place, somebody will feel that there is an insurance policy or bond in place and if they take a chance, it works, and so what if it does not. The person will feel he or she will be out on pension anyway and there is a fund to pick up the pieces. We are putting a safety net under them, yet we are not putting in place any new legislation to deal with their maladministration. In the public service, one will be familiar with the phrase "maladministration". If somebody maladministered their job, it might not be a criminal offence today but, perhaps this process

needs to be looking at some new mechanisms to deal with those persons.

Mr. Greg Dempsey: On a couple of points, if I may,-----

Deputy Sean Fleming: Do the officials follow my train of thought?

Mr. Greg Dempsey: -----the fund exists but before it can be accessed there is a requirement that 8% of the size of the balance sheet has to be bailed in first. It is a safety net, but only after there has been quite a substantial bail-in of 8%. Even then, the use of the fund, is limited to 5% except in very extraordinary exceptional circumstances.

Deputy Sean Fleming: Five per cent of what?

Mr. Greg Dempsey: The size of the liabilities on the balance sheet. Those levels of bail-in were imposed such as to reduce the moral hazard of having a fund that persons might perceive as being available.

The directive itself has as its objective to reduce the incidence of failure and where they do occur, ensure that the creditors and owners take the losses rather than taxpayers. That is what it strives to do. Were we to have introduced elements dealing with blame and sanctions for creditors into this directive, we might have taken away from what its primary objective was. Instead, it only refers to existing national legislation and then concentrates on the three pillars of prevention, intervention and resolution.

Deputy Sean Fleming: Is there no new legislation proposed to deal with it?

Mr. Aidan Carrigan: There are limits to the extent that we can deal with this today because we are here dealing with this single resolution mechanism. The capital requirements directive dealt extensively with the corporate governance requirements in financial institutions and dealt with issues around directors. The area of company law deals with directors' responsibilities, etc. That varies somewhat been member states and as far as this regulation goes, it refers to this issue being dealt with within the capital requirements directive and national law.

Deputy Sean Fleming: Mr. Dempsey mentioned the owners and shareholders taking losses. They all took a 100% loss on the Irish banks as well but it was not enough. They all lost. For anyone who had shares at €15 or €16, these were ending up at 11 cent. That was a complete loss as well. There is nothing new in shareholders taking a loss in a resolution situation.

It is late and I will leave it at that.

Acting Chairman (Deputy Kieran O'Donnell): I might as well ask one or two quick questions. On the firewall fund, I did a quick calculation. If one can gear that up by three times its value, one is probably talking about €180 billion. It was stated there would be another firewall. What does the Department anticipate will be the total firewall on this fund?

Mr. Aidan Carrigan: The Acting Chairman is asking about the details of the backstop arrangement which would be there and the backstop arrangement is still a matter for discussion. In the Council conclusions in 2013, the Heads of State made it clear that this supervisory mechanism must be backed by an effective backstop. The details of that - whether it will be the ESM or some variation on it, and how it will apply because this provision only applies to the euro area members and there will have to be an equivalent backstop for non-euro area members - is still being worked out.

Acting Chairman (Deputy Kieran O'Donnell): The final point, I suppose, goes to the heart of the matter. The biggest issue in Ireland was the cost to the taxpayer, the ordinary person. The banks themselves did not have the capital to soak up the losses. The SRM proposal, which talks of eliminating taxpayers' exposure, appears to indicate that the state-aid procedures will run in parallel. The bottom-line question is, under the resolution mechanism, will the Irish taxpayer have an exposure in the future if an Irish bank fails or requires support?

Mr. Aidan Carrigan: The objective of this mechanism is to minimise that exposure by the maximum amount possible. We can never say never because, as the Deputy was saying, we cannot anticipate exactly what will happen. However, if we go through the procedures, we will note the exposure has been reduced to what we regard as very close to minimal in this case, subject to further details being worked out in regard to backstop arrangements.

Acting Chairman (Deputy Kieran O'Donnell): What is the rank of the taxpayer if an institution gets into trouble?

Mr. Aidan Carrigan: The arrangement under the bank resolution directive is that the shareholders are first, after whom follow the junior bondholders. Senior debt is absorbed up to a maximum of 8% of the total-----

Mr. Greg Dempsey: I will run through it. The losses are absorbed in accordance with the normal insolvency hierarchy until they are fully absorbed. First are the shareholders, and they are followed by junior debt, all senior debt, bondholders and other creditors. If there are still losses, we move to deposits and, ultimately, we could get to retail deposits. Eventually, we would reach covered deposits but, of course, they will not be bailed in. However, the DGS fund would cover it. However, because it would be preferenced, it is pretty unlikely we will get there. After we have absorbed losses up to 8% of the balance sheet, we can, instead of imposing losses at whatever level we have got to at that stage, look to the fund for an amount equal to 5% of the institution's balance sheet. After 5% has been provided by the fund, and in exceptional circumstances-----

Acting Chairman (Deputy Kieran O'Donnell): That is 8% of senior debt.

Mr. Greg Dempsey: Eight per cent of the balance sheet, and a further 5%.

Acting Chairman (Deputy Kieran O'Donnell): That is 13%.

Mr. Greg Dempsey: Yes. After that, we can continue to bail in or we could look to this backstop. Nowhere in that process has the taxpayer been called upon. The concept is to keep bailing in until the losses are absorbed.

Mr. Aidan Carrigan: There is a specific provision in this resolution proposal that there should be fiscal safeguard provisions so no decision concerning a resolution will have an impact on the fiscal situation in member states. The provision was reviewed by Council legal services, which actually asked that those provisions be strengthened further to make it very clear that the resolution process will not have an impact on national budgets.

Acting Chairman (Deputy Kieran O'Donnell): If an institution got into financial trouble and the member state in question had major financial issues, perhaps concerning its ratio of debt to GDP or level of debt, would that state be more likely to have access to the ESM than a country with a similar type of institution that is financially sound and has lower levels of borrowing?

Mr. Aidan Carrigan: Again, we are straying from the core issue.

Acting Chairman (Deputy Kieran O'Donnell): Hypothetically speaking.

Mr. Aidan Carrigan: We are straying into the ESM debate that is under way. However, I can say-----

Acting Chairman (Deputy Kieran O'Donnell): But that is the backstop for this.

Mr. Aidan Carrigan: In regard to the resolution, I believe the Deputy is pointing out to me that some member states might be stronger and in a better position to intervene. That issue has been addressed by an amendment to the state aid rules. A national resolution fund was deemed as state aid and the thinking in this regard has been extended by the European Commission to stipulate that any payment out of the European resolution fund will also be treated as state aid. That will require the kind of restructuring and downsizing we have seen, or the kind of conditionality that is applied to state aid. Even when a strong country chooses to intervene with its own resources, it will still be subject to the guidelines on state aid related restructuring of the institution concerned-----

Acting Chairman (Deputy Kieran O'Donnell): Do deposits still rank *pari passu* with senior debt?

Mr. Aidan Carrigan: Under the resolution, there is depositor preference. They are treated preferentially.

Acting Chairman (Deputy Kieran O'Donnell): Does Mr. Carrigan expect that this will go through ECOFIN or, rather, the SRM next Friday?

Mr. Aidan Carrigan: All I can say at the moment is that the Lithuanian Presidency is presenting it as something it would like to see completed at the ECOFIN meeting. There are still a large number of open issues to be resolved. There will be a lot of work for Ministers concluded at this ECOFIN but the objective of the Council is to have it concluded by the end of the year.

Acting Chairman (Deputy Kieran O'Donnell): In layman's terms, beginning with the SRM, one goes down through the rankings in terms of shareholders and then works down through the normal procedures. Then one gets to a point at which the ESM is effectively a backstop fund for a resolution mechanism. Is that a fair comment?

Mr. Aidan Carrigan: That has yet to be agreed or decided.

Acting Chairman (Deputy Kieran O'Donnell): That is up for discussion.

Mr. Aidan Carrigan: Something equivalent to that is anticipated or expected.

Acting Chairman (Deputy Kieran O'Donnell): I thank Mr. Carrigan and his officials for the briefing. It will very much add to our understanding of the issue.

The joint committee adjourned at 7.15 p.m. until 10 a.m. on Wednesday, 13 November 2013.