

DÁIL ÉIREANN

AN COMHCHOISTE UM AIRGEADAS, CAITEACHAS POIBLÍ AGUS ATHCHÓIRIÚ, AGUS AN TAOISEACH

JOINT COMMITTEE ON FINANCE, PUBLIC EXPENDITURE AND REFORM, AND TAOISEACH

Déardaoin, 4 Deireadh Fómhair 2018

Thursday, 4 October 2018

The Joint Committee met at 9.30 a.m.

MEMBERS PRESENT:

Deputy Pearse Doherty,	Senator Paddy Burke,
Deputy Michael McGrath,	Senator Rose Conway-Walsh,
Deputy Paul Murphy,	Senator Gerry Horkan,
	Senator Kieran O'Donnell.

In attendance: Senator Pádraig Ó Céidigh.

DEPUTY JOHN MCGUINNESS IN THE CHAIR.

Behaviour and Culture of the Irish Retail Banks Report: Central Bank of Ireland

Chairman: We will now deal with the examination of the Behaviour and Culture of the Irish Retail Banks report and our quarterly engagement with the Governor of the Central Bank, Professor Lane. I welcome him and his colleagues to the meeting. We will first deal with the culture report on the banks and I understand Professor Lane has an opening statement in this regard. We may then break for ten minutes and deal with the other general issues. That will be the format of the meeting.

I advise the witnesses that by virtue of section 17(2)(I) 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 on a particular matter and they continue to do so, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable.

Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the House or an official either by name or in such a way as to make him or her identifiable.

I invite Professor Lane to make his opening statement.

Professor Philip Lane: I welcome the opportunity to meet the committee for our regular engagement. I am joined today by Ms Derville Rowland, the director general for financial conduct, and Mr. Ed Sibley, the deputy governor for prudential regulation.

As the Chairman has indicated, I will divide my introductory statement into two parts. In the first part, I will provide an update on the tracker mortgage examination and the outcome of our recent culture report. In the second part, I will turn to the broad macro-financial outlook and outline the main issues and risks we see on the horizon, including non-performing loans, NPLs, and Brexit. First, I wish to focus on the culture report, which builds on our conviction that consumers are best protected if firms not only comply with our regulatory requirements but also invest in organisational cultures that reward consumer-focused behaviour and penalise harmful behaviour that seeks to skirt around the duty to treat customers fairly. By way of wider context, I note that in the past decade we have seen many financial misconduct scandals around the world. At home, the mistreatment by banks of so many tracker mortgage customers has shown that financial misconduct is a substantial risk to households and firms that rely on the domestic system for the provision of financial services. Our tracker mortgage examination - the largest, most complex and most significant customer protection review we have undertaken to date - was undertaken to ensure lenders identified those customers harmed by this mistreatment and paid appropriate redress and compensation. The latest data show that by the end of August lenders had identified around 38,400 affected customers, including cases resolved before the examination was launched, and had paid €580 million in redress and compensation.

Some 93% of affected customer accounts identified and verified had received offers of redress and compensation by 31 August. Four of the five main lenders are close to completing their redress and compensation phases and we are exerting significant pressure on the remaining lender to finish its process. Our bank-by-bank supervisory review of the conduct of the

examination is also significantly advanced but will not conclude until the process is completed. We will continue to challenge them where necessary to confirm that all groups of affected customers have been identified and included for redress and compensation. On a separate track, enforcement investigations are in train in respect of six lenders. In the past couple of minutes, I have focused on numbers at the macro level, such as the thousands of people involved. However, we all fully acknowledge that the statistics do not give the full picture. When we think about the individuals who have been harmed, especially those who have lost a home or a property, we fully recognise that this has had a devastating effect on them which numbers cannot capture.

This examination has exposed further evidence of a clear lack of consumer-centred culture in lenders. Even in how the examination itself was conducted, let alone the original tracker problems, we found some banks adopted a narrowly legalistic approach, offering initial compensation proposals that fell well short of our guided expectations. The examination raised serious questions about the current, not just historic, culture in the banks. This is why we were pleased to work on the culture report requested by the Minister and published in July.

Why are regulators focused on the concept of culture? The report is the latest step in the strengthening of our supervisory approach in recent years to focus on conduct and cultural issues. This is a process of evolution. In the wake of the financial crisis, our immediate focus was on strengthening the solvency and stability of the system and enhancing protections for consumers. A lot was done at that level and I emphasise that banks and other institutions have more and better-quality capital, more sustainable funding structures, are better governed and are more strongly equipped to deal with any difficulties in the future. I refer also to macro-prudential measures. For example, through stress-testing we focus on banks' ability to withstand adverse shocks. In response to the misconduct we have seen, there is much more extensive conduct regulation in order to protect consumers and investors.

That said, all of these rules and regulations should be reinforced by an additional focus on the organisational cultures of these firms. The boards and senior managers of regulated firms are responsible for ensuring that organisational cultures are focused on enhancing consumer protection and ensuring that risks are well understood and managed. Accordingly, how best to achieve this has become an increasing area of focus for regulators.

From a supervisory perspective, the importance of focusing not only on risks that materialise but on advance risk management has led to our introduction of the consumer protection risk assessment model. This is designed to help supervisors assess how risks to consumers are identified and managed within firms. Another important dimension of this is to improve the levels of diversity at senior levels in financial services firms. Diversity can improve decision-making, reduce the risk of groupthink, improve risk management and, in doing so, ensure organisations give sufficient priority to the experience and treatment of their customers.

I will now outline the report's findings. Our work underlines the fact that organisational culture is built on a shared purpose and vision as well as standards such as professionalism, honesty, integrity and accountability to deliver fair outcomes for consumers. This is what we expect in all the firms we regulate. The culture report is built on focused studies of the five main retail banks. We have found they have not yet built a truly consumer-focused culture.

We went about this work with our counterparts in the Dutch central bank, a recognised leader in the assessment of bank cultures. The review team was diverse in composition, comprising conduct and prudential supervisors, governance risk experts and organisational psychologists. The reviews involved both on-site and off-site assessments to ensure the necessary analytical

breadth and depth. This included 1,400 hours of desk-based review of materials, more than 500 surveys and 75 interviews, in addition to observing meetings and assessing decisions in each bank. Our assessment focused on the executive committee of each bank, since the senior leadership is responsible for driving the behaviour and culture in an organisation under the direction of the board.

An effective consumer-focused organisational culture is one in which consumer needs are adequately identified, discussed and taken into account. We found that all of these banks have taken some steps to reinforce the consideration of consumer interest in strategy, decision-making and procedures. Clearly, however, some are more advanced than others. We also examined behavioural patterns in leadership, how strategic decisions are made and the general outlook of these firms which could put at risk the successful transition to a consumer-focused culture. These cultures remain under-developed and some obstructive patterns of behaviour form a barrier to successful implementation.

For example, in some cases we saw executives continuing to operate in a “fire-fighting” mode. This may have been suitable during the crisis, but may no longer be appropriate as we return to more normal conditions. We saw too much focus on short-term and legacy issues, with insufficient attention paid to consumer interests. We discovered some reversion to “command and control” in leadership styles. We determined that the banks have much more work to do to ensure their organisations are sufficiently diverse and inclusive, particularly at senior level. As I have indicated, this would be helpful in preventing groupthink, guarding against complacency and overconfidence and promoting internal challenge.

Will this report sit on a shelf? What are we going to do with it? Action points have emerged. The board of each bank is required to make a number of steps. Boards are required to investigate and assess potential drivers of these behaviours; consider what their executive committees need to do to address these problems; and create an action plan to address the identified concerns and mitigate the associated risks. We expect banks to be proactive in promoting an effective risk culture and to have fully embedded conduct risk frameworks in place. Additionally, there will be further enhancement of our supervisory approach, including more intrusive, targeted supervision of the conduct of the firms that pose the greatest risk of potential harm to consumers.

We think that is also in the long-term interest of the banks. There are incentives for the banks to embrace the agenda also, given all that we have seen in terms of the costs of dealing with misconduct after the fact.

We think it is important in this entire procedure that banks understand the difference between seeking people’s trust and establishing trustworthiness in their culture. If banks wish to restore trust in their organisations, it must be earned by building a track record of consumer-focused behaviour. We give guidance but it is the executive responsibility of each bank to build that culture. It is not the case that one single culture can deliver. Part of being a skilled manager of a bank is to build the culture that makes sense for the bank, but we require it to have a consumer orientation to make sure that those firms will deliver fair outcomes for consumers while maintaining financial resilience and appropriate prudential standards.

Another action point from the culture report is to reinforce our advocacy of a new individual accountability framework, to apply not just to banks but to other regulated financial services providers. Such a framework would go significantly beyond the current requirements for staff to be fit and proper, it would set conduct standards for staff, and it would ensure clearer lines

of accountability within firms.

The goal of the proposals is to act as a structured driver for positive behaviours and the recognition of individual responsibility. Many regulated firms and their leaders behave ethically and honestly, and seek to drive effective cultures. However, in order to guard against scenarios where that is not the case, the reforms will constrain the ability of senior executives to escape accountability for wrongdoing. The reforms will require Oireachtas consideration and approval, and we would welcome any questions members may have on our recommendations.

I will stop there in terms of the part A review of the culture report, and the tracker mortgage examination. We can turn to part B later.

Chairman: There is no mention in Professor Lane's opening statement of sanctions against banks if they continue to ignore the drive for a better culture and focus. In the last paragraph he says that it is now up to the Oireachtas to consider and approve the reform. What does he mean by that?

Professor Philip Lane: I mean for this extra step. The individual accountability framework is not part of the current regulations. The UK introduced something similar about two or three years ago. We think the manner in which one holds senior executives to account is an extra step. I will ask Ms Rowland to elaborate on it.

Chairman: Deputy Pearse Doherty has introduced a Bill to deal with this matter. Is Professor Lane saying that arising from this report what is required next is legislation? No sanctions are recommended in the report for banks that ignore the Central Bank. Could he or Ms Rowland elaborate on that for members?

Ms Derville Rowland: Could I separate out those two points?

Chairman: Yes.

Ms Derville Rowland: The Central Bank of Ireland already has enforcement powers and in the event of a breach of rules being proven, sanctions can be applied to both firms and individuals. The sanctions are in place and will remain in place and they are used by the Central Bank. More than 122 enforcement cases have been concluded to date, with €61 million of fines being incurred, and more than 12 individuals have been disqualified. The fitness and probity regime challenges the competence, capability and integrity of persons who are entering into senior roles and those who are in place. People have been disqualified there too and as we challenge we find more and more that a lot of senior people withdraw rather than face the challenge of the Central Bank. To date, there are more than 50 cases of people withdrawing. We have been to the High Court and the Court of Appeal to vindicate our right to use our enforcement powers. The sanctions are in place and they are working.

The new legislative proposal will require the Oireachtas to approve it and to put it in place. We aim to streamline the enforcement powers to make one uniform process, make some amendment to the current process, which would break the link between participation of an individual's conduct and that of a firm. We think it would strengthen the ability to take enforcement cases in the future.

In respect of the individual accountability proposals, we are making a proposal in a comprehensive way that mirrors the leading edge of approaches in other countries for a set of standards and an individual accountability regime that would require legislative action on the part of the

Oireachtas to bring that into force. That is one of the parts in the report on which we are making a proposal but it is separate to the culture report, which will require action from the firms to improve their own culture. We see that as a complement to strengthening the approach that we are adopting.

Chairman: I thank Ms Rowland.

Deputy Michael McGrath: I welcome the Governor and his colleagues. He dealt with the tracker issue in part 1 of his statement and I have one question on that. The Governor put on the record a reference to 38,400 impacted customers. That includes 7,100 pre-examination cases.

Professor Philip Lane: That is correct.

Deputy Michael McGrath: He said 7% remain without an offer of redress and compensation. Is that 7% of 38,400 or of the total minus the 7,100 cases? I am trying to clarify the number of customers that have yet to receive an offer of redress.

Professor Philip Lane: We can elaborate on the exact number.

Ms Derville Rowland: The current number of customers who are affected by the tracker mortgage examination is 31,300. A total of 7,100 customers received redress before the examination and that is where the aggregate number of 38,400 comes from. The information I am giving the committee is that, to date, 28,100 of the 31,300 customers are in receipt of compensation and redress. I just want to be clear. The high-level number is subject to change because it has not been entirely verified by the banks. What that means is, as they go through their verification process, they find there is duplication of accounts, for example, and the number can change slightly. We require them to be thorough in the final analysis and it has been our experience that the number can vary as people are checked. In the round, the answer to Deputy McGrath's question is that there remains approximately 3,000 customers who have yet to receive payment who have been identified in the tracker mortgage examination.

It is important to say that about 99% of the customers who were identified, as of the end of last year, have received their payments. The reasons people have not been paid are because they cannot be found or because the banks are engaged in complex discussions with them. Where people cannot be found the money is ring-fenced in an account so it will be there for them. Also, in the main, customers who were identified and verified before March of this year also have received their redress and compensation payments. We closely scrutinise and monitor the payments that are being made by each of the lenders on a month-by-month basis and challenge them to get on with it. It is our expectation that, in the main, most customers will have received their payments by the end of this year. There may be some few that go into early quarter 1 of next year, but we continue to challenge that timeline.

Members will have seen from the Governor's opening statement that four out of the five lenders are making reasonable progress with respect to concluding this matter, and one is somewhat behind the others but we are putting significant scrutiny on them to keep up with the timelines to the maximum extent they are capable of doing. It is also important to say that our own independent verification of the numbers continues because it is incumbent on us to make sure that the decisions that have been made about including and excluding customers is adequately and thoroughly tested through on-site and off-site supervision as well as data analytics. We are doing that before we close out and give them the green light to say that is done.

Deputy Michael McGrath: In the cases of the 3,000 customers who are yet to receive

redress and compensation, the banks know who they are. They are identified accounts and customers who have been impacted.

Ms Derville Rowland: That is right. About 2,000 of those are verified and about 1,000 who are not verified and are going through the process. All of those are timelined. The identity of those customers has been established by the bank and there is a timeline for the banks to get on with their payment. Each institution is being challenged and scrutinised closely by us to get on with that. We expect most of those customers to be paid in the coming months. Progress will be evident month by month. I appreciate that it should not have taken this long in the first place but most of the customers in question surfaced in the examination more recently this year.

Deputy Michael McGrath: They may have surfaced but they were always there. They were just not identified.

Ms Derville Rowland: I accept that.

Deputy Michael McGrath: In December 2015, the Central Bank wrote to the lenders setting out the framework of the examination. We will be a full three years on from that in two months, yet 10% of those identified as being affected have yet to receive their money back.

Professor Philip Lane: When we were here a year ago, we did say that this delay had taken place. It goes back to the culture report where the delay, by and large, was foot dragging by some banks. As we know, towards the end of last year, the banks more fully embraced their responsibilities in this report. As Ms Rowland indicated, what has happened is that those who were accepted at the end of last year have, by and large, been paid except for some technical issues. However, more cases came within the scope of this and the banks accepted that more of them needed to be included in the spring of this year. These are the remaining ones to be paid out. It goes back to the Central Bank not wanting to place an absolute deadline on this for fear of leaving someone behind. Numbers have grown partly because we did not close out the review at any point.

Deputy Michael McGrath: Sure.

Professor Philip Lane: Ultimately, these customers should have been accepted by the banks from the word go. There is no doubt about that.

Deputy Michael McGrath: Why can the Central Bank not put a deadline for restitution for those who have been identified?

Professor Philip Lane: There are timelines here. The only physical limitation on this is the systems in some of these banks. It is an unfortunate technical reality that it puts a barrier to instant completion.

Ms Derville Rowland: I can only repeat that we have every single bank under close scrutiny and close reporting timelines and we have regular engagements with them to challenge the limitations that they say they have in identification and redress to customers. Our single biggest conduct priority is to get effective redress and compensation delivered from the banks to their customers. We are doing all in our power to challenge them to deal with that. Our aim is to issue a final report on the tracker mortgage issue at the close of this year and the team and I have been entirely focused on ensuring that the banks move at pace and we challenge them sufficiently robustly.

Deputy Michael McGrath: The Central Bank referred to the accountability framework in the behaviour and culture report. The public believes that there must be a consequence for poor behaviour. The Central Bank referred to a need for additional powers under legislation, which is a matter for the Oireachtas. What does it have in mind specifically in regard to powers that it requires and wants the Oireachtas to provide to strengthen the individual accountability framework which already exists?

Professor Philip Lane: That is a fair question. Looking to the future, the good news is we have a concrete example from next door because it was introduced in the UK two or three years ago. There was a question of whether it was necessary or a good idea and what consequences it might have. We think we can see concrete changes in how UK firms behave and how their executives accept this elevated degree of responsibility. This was also part of our submission to the Law Reform Commission earlier this year. I will ask Ms Rowland to speak about it.

Ms Derville Rowland: The origins of our proposal on the senior executive accountability framework are in our looking at the leading edge practices in other jurisdictions. We made a submission to the Law Reform Commission last year encouraging this course of action. If we take a step back and look at misconduct in financial services, a key driver for misconduct delivering poor outcomes for consumers can be a lack of accountability at senior levels in firms. A heightened focus on accountability and responsibility strengthens the outcomes for consumers. That is as it should be in properly run firms. Our proposal in this regard has a number of elements, all of which complement each other. The first is a very basic set of universal conduct standards which will apply to every body in all financial services firms. One might say these are no more than one would expect of a right-minded individual in a well-run firm but these principles are very important. Everyone who works in financial services, no matter what role they have from the top to the bottom, will be required to act ethically, with honesty, integrity, due skill care and diligence and, importantly, to be open and co-operative with the regulator and act in the best interests of the customer and treat them fairly and professionally. However, is important to overlay that with an additional set of responsibilities on those who run the firms at more senior levels. That is far more important because they hold positions of influence and it is very important to call that out clearly.

We wish to see the senior executive team, up to the board and the most senior people, have a higher set of standards and responsibilities in running the organisation. We proposed that they should be obliged to ensure that the business is run responsibly and controlled effectively, that they can be held to account when that is not the case, that they must take steps to ensure they are in compliance with the regulatory frameworks and that they oversee that work effectively. Complementing that, it is important that the business itself has a set of standards with which it must also comply. The next set of complementary standards should be on the business so that it is very clear that it, too, has an obligation to act professionally, honestly, with integrity and in conformity with ethics. Management and controls, financial prudence, client assets would all be part of that, as would managing conflicts of interest in the way that they communicate with their customers.

Under the senior executive accountability framework, which would be on top of that, the very senior people in the organisation would have a list of responsibilities that would be ascribed to them. These would be unavoidable and it would be very clear what they are responsible for. On top of that, the firm would ascribe responsibilities. That would be complemented by a responsibilities map that the organisation would have to put in place. There would be no more confusion or lack of clarity about accountability and responsibility. We see that as going

towards good governance.

Deputy Michael McGrath: I have one brief final question. Is there sufficient focus on the long-term goals and performance of the institution, rather than an excessive focus on short-term performance, share price, dividend expectations, profitability and so on?

Professor Philip Lane: This is a fundamental part of the new philosophy of regulation everywhere. The kind of debate about short-termism versus long-termism is not settled. However, in finance, there is a deep conflict where an entity can make profits today by taking excessive risk or mistreating customers and the losses are down the line when an individual has retired and living at the seaside or something. I will ask Mr. Sibley to explain the clawback principle in compensation schemes.

Mr. Ed Sibley: The long-term sustainability of firms' business models is a core focus of supervision. There is tension between the short-term incentives and longer-term incentives. The Central Bank always endeavours to take a long-term view to ensure firms' business models are sustainable and they have sufficient resources over the long term, including plausible stress scenarios.

From a remuneration perspective, as Professor Lane has outlined, there are clawbacks in place for the banks for a number of years as to any variable pay they receive. That is less relevant to the likes of AIB, Bank of Ireland and PTSB because, under Irish legislation, they do not get variable pay but it is part of the regulatory system now.

Deputy Pearse Doherty: Ms Rowland indicated there are 3,200 individuals or families who were on tracker mortgages and had money wrongly taken from them without having it returned. Of those, 2,000 have been verified. What is the delay in the banks returning the money to them and providing compensation? Is it caused by the banks or is it because there are 1,000 or 1,200 cases that the Central Bank has not verified?

Ms Derville Rowland: The verification process is one the banks must conduct. Separately the Central Bank samples and checks the banks' work. There is no delay from the Central Bank. The banks are able to get on with it as quickly as they can. These customers were identified, in the main, after March of this year and the banks are going through that process and are limited in their ability to go through the work. The Central Bank would never stop them making payments. The opposite is true. The Central Bank has been on to the banks to get on with these payments as quickly as they can. The Central Bank separately goes back to check the compensation and redress payments to ensure they are in accordance with what they should be, as well as other dimensions to the banks' work. The Central Bank has been very strict with the banks to get on with it to the best of their ability. Some of the banks are limited but I can tell the Deputy that four of the five banks are making substantial progress with that. We have them all timelined to put as much pressure on them to get the job done because we accept it is important they do that.

Deputy Pearse Doherty: Which bank is not making significant progress?

Ms Derville Rowland: I cannot name a particular lender but the Central Bank is focused on getting all of them to get through the payments, as they should do, and give the compensation and redress back to the families and customers who were affected.

Deputy Pearse Doherty: Can Ms Rowland give a breakdown across the five banks as to the 3,200 individuals who have not yet received redress?

Ms Derville Rowland: I cannot give information about any of the particular lenders.

Deputy Pearse Doherty: Can Ms Rowland give the information without naming the banks?

Ms Derville Rowland: I do not have that information.

Professor Philip Lane: It is true to say the bulk of that is in one bank. There is one bank which is responsible for the major proportion of what is remaining.

Deputy Pearse Doherty: The committee heard previously from the Central Bank about Ulster Bank and information technology difficulties that were causing delays in making payments. The committee was told last year that all of this would be paid in the first quarter of 2018. It will now be the first quarter of 2019 before people get payments. We were told additional action could be taken by the Central Bank. Is the Central Bank proposing to take action against banks that have been dragging their feet for the past number of years and have illegally taken money from customers' accounts that still has not been returned?

Professor Philip Lane: The Central Bank previously indicated to the committee that there are live enforcement actions against all of these banks. We do not want to comment in the middle of those enforcement actions, but they include how the examination was conducted. When those conclude, we can say more. All of that is under investigation.

Deputy Pearse Doherty: The majority of the 3,200 customers have been identified since March. To the best of the Central Bank's knowledge, when were the final customers in this cohort of 3,200 people identified? Were they identified by June, July or last month?

Ms Derville Rowland: I do not have the precise month, but it was more in June and July. I can come back to the Deputy on that. In order to make payment, there is a verification process because the approach is to identify groups of customers who have a common set of circumstances. They should then be eligible for compensation and redress but it must turn into an actual review to ensure the customer can be specifically identified with the right account and getting the right number of people in that group, which must be done on a file-by-file basis.

Deputy Pearse Doherty: There is a bit of work to be done.

Ms Derville Rowland: There is a bit of work to be done in that verification process.

Deputy Pearse Doherty: Is there any challenge or discussion between the Central Bank and individual lenders about cohorts of individuals that the banks have not identified but the Central Bank believes should be identified?

Ms Derville Rowland: There is no known outstanding issue between the Central Bank and any of the lenders. The Central Bank is bringing challenge because it is on-site and off-site and looking at how the groups are constructed. There has been less checking as the work has developed. The Central Bank may uncover extra people who are entitled to compensation or, for example, challenge the banks' interpretation of the customer journey and the transparency requirements and impact. There are no outstanding issues between the Central Bank and any of the lenders but the Central Bank has not finished all of its checking work. The Central Bank is doing exclusion testing and reconstruction of the groups of customers and matching that with the information it has about the customer journeys to see are there any anomalies or exceptions. It is possible that issues arise, and they have arisen and we are dealing with those.

Deputy Pearse Doherty: I appreciate that. A number of appeals are going through the Fi-

nancial Services Ombudsman, FSO, and court cases are being taken against the institutions to ensure customers are adequately compensated and redressed. Does the Central Bank have an indication of the numbers of people who have made appeals to the FSO, having exhausted the internal and independent mechanisms, and the numbers who have taken cases? If the Financial Services Ombudsman or the courts find in favour of the customer and decides they were entitled to additional compensation, will the Central Bank ensure that the banks review the entire cohort, those individuals with a similar experience, to look at the appropriate compensation?

Professor Philip Lane: I will make one point and ask Ms Rowland to follow up. There are appeals systems within the banks before one gets to the ombudsman or the courts. It is interesting that while the number of people taking appeals has been limited so far, a fair number have been accepted. That is why the Central Bank is happy this appeals system was set up. Typically, when an appeal is successful, it is because of something specific to the family in question. There is some particular reason the family has suffered extra harm because of its individual circumstances. The independent appeals mechanism within each bank is delivering for those individuals who have particular circumstances. That does not rule out an individual or family wanting to go to the ombudsman or the courts. I will ask Ms Rowland to respond on that.

Ms Derville Rowland: I support what Professor Lane has told the committee. The appeals steps are independent processes, in the main, for serious cases. This is an additional step and an extra option that people have. They could have chosen to go to the courts or ombudsman if they wished. It would appear to be a reasonable option to see what the appeals mechanism will deliver and people are making appeals through the system. They will have 12 months from the date of receipt of their offer to make the decision to go to the courts or the ombudsman. That will, therefore, continue for some time.

The Central Banks expect the banks to be responsible and look at any decision of a court or the financial services ombudsman and consider the reasons for those decisions. If there is something that affects a broader group, the banks have to take that into account because the Central Bank has demanded they look at the outcomes of appeals to see if there are systemic trends. In any case, it may be there were circumstances particular to a family or individual that have no general application. That is the reason the appeals step is such an important one because nobody can give compensation proposals in the general sense, when they may have to understand what is happening in a family circumstance.

Deputy Pearse Doherty: I understand that but my question was twofold. The first part is whether the Central Bank is aware of the numbers that are currently before the FSPO or the courts. The second, follow-on question is: if favourable opinions or decisions are given, either by the ombudsman or the courts, that would have a broader implication not just for the individual but a cohort of individuals who were not deemed as in-scope by the Central Bank or the banks themselves, or where the level of compensation was inadequate, will the Central Bank, as opposed to the banks themselves, review those decisions, instead of hoping the banks do the right thing when we know they have not done the right thing for the past five years or more on this issue?

Ms Derville Rowland: The Central Bank is in contact with the ombudsman because we all form part of the financial services regulatory infrastructure. We have information that is not in the public domain about the number of cases that are tracker-related and on hold before the ombudsman. We have been in contact with him to be very clear that where cases wish to go and be heard with the ombudsman, that is the correct thing to occur. We are monitoring the outcomes at that system level to see if we can spot trends in that conduct but, at the end of the day, it will

be for the businesses to right the wrongs they have done to their customers, and they must be held to account for their conduct. Where issues arise and there is commonality of cause from ombudsman decisions or otherwise, all roads will lead to the banks. If they are responsible, they must fix it. We will certainly be having regard to that but the effectiveness of that system must hold the banks to account for their conduct. We are keeping an eye on this.

Deputy Pearse Doherty: How many cases is the Central Bank aware of that are either before the ombudsman or the courts? This is the third time I have asked this question.

Ms Derville Rowland: I cannot provide that information accurately to the Deputy today because the information I have may change over time. I would be happy if we could provide it to him as a follow-up.

Deputy Pearse Doherty: I appreciate that. Professor Lane mentioned that the cost in redress and compensation has been €580 million to date. We know the cost to the banks has been in excess of that and it was said before by the Central Bank that it could be up to €1 billion. Are we now past the €1 billion cost in terms of the tracker scandal?

Professor Philip Lane: I will ask Mr. Sibley if there is any change in terms of what the banks have put aside in their accounting treatment. Have there been any changes this year?

Mr. Ed Sibley: It is in or around that number. They are making other provisions along the way in respect of potential conduct issues but it is in or around €1 billion in terms of total cost, including redress and the cost of the examination.

Deputy Pearse Doherty: There are a number of key recommendations in the report but the problem is that those recommendations were made before the report and we did not need the report. While we needed the investigation - and we have seen the methodology and the volume of work and hours that were put into it - the key recommendations were made before it, as Professor Lane mentioned in regard to LRC review. I was hoping there would be something more substantial. If any of the four key recommendations were implemented, what would that mean in terms of individual accountability for the fact in excess of €500 million was wrongly taken from 38,000 customers? If the Central Bank had those powers, would any individual within the banks be held accountable?

Professor Philip Lane: Let me emphasise that, within the culture report, while the recommendation on the accountability regime turns to the Oireachtas regarding additional legal powers, there is much else there with regard to other elements. It is a step forward in terms of our expectations of the banks and how we engage with the banks. I emphasise that all of the banks have remediation programmes issued to them. We have learned through this culture report of particular issues in particular banks and part of our normal supervisory work is to follow through on that. We cannot discuss those bank-by-bank individual issues here. We have, therefore, focused on and highlighted this legal change. The committee will have seen various officials come before it or before other fora to say, "Mistakes were made", in the passive voice, as if they were unaware of it and so on. The whole point here is to flip the burden of expectation. Under this new accountability framework, just as we are seeing now in the UK, a senior executive cannot say, "I did not see that email", or, "I was not involved in that decision." If a person is responsible for building the organisational culture, that is a heavy responsibility and it means that even if the person is not directly involved in some key decisions, he or she can still be held to account. There is the difficulty of establishing the chain of causation under the current legislation versus that-----

Deputy Pearse Doherty: I understand that. I have beaten the drum for years regarding individual accountability from bankers, which we need. However, individual accountability from bankers where people see that nothing went wrong means nothing. There is no accountability if the Central Bank cannot say something went wrong. If the Central Bank had that individual accountability regime, which makes it clear a person can delegate tasks but cannot delegate responsibly, for which I have been arguing for many years, would it be in a position to hold individuals within the banks accountable in respect of the tracker mortgage scandal?

I acknowledge that the Central Bank did not make this initial recommendation here; it was done by the LRC. However, this was done in Britain two and a half years ago. There was a lead-in period to all of this and I believe the Central Bank is behind the curve. It was slow in arguing for this to happen and, now, we are just following what is in place for a number of years in other jurisdictions.

In Britain, the Financial Conduct Authority, FCA, has said not only does it need individual accountability and the senior management regime to apply to senior management in the banks, it needs to hold the regulators themselves to the highest standard and it has applied the same regime to the Bank of England. Is it proposed there will be individual accountability within the Central Bank in regard to the failures that may present in overseeing financial institutions, consumer protection or prudential regulation?

Professor Philip Lane: Let me emphasise that we have a parallel project in the bank to develop our own senior responsibilities frameworks. The Deputy will see on our website, when it is completed, phrases such as, “Here is what the governor is responsible for”, “Here is what the deputy governor and the director general are responsible for”, and so on. In mimicking that framework and being clear about who is responsible for what, we have had a big internal governance project in the past couple of years to reform all of our committees and to be super-clear about the accountability lines within the Central Bank. We hold ourselves to account regarding our performance as the regulator. That is perhaps slightly different from the way the Deputy phrased it. If we have failed, we will look at that. However, if there is a failure by the management of a bank, the bank is responsible. We cannot guarantee that every bank is going to conduct itself properly at all times. Our accountability relates to doing the best job we can as the regulator; it does not relate to taking responsibility where the banks should be responsible. I reiterate that we have this parallel internal project.

One interesting thing with the UK experience is that it reinforces the point that we waited. I am not disputing that maybe we should be quicker and all of that. However, when the Oireachtas moves to look at this, if it gets to it, it now has an evidence base and it is not just a hypothetical debate about whether this helps. The Oireachtas can perhaps take testimony from the UK about how this has been implemented in the past year or two. There were concerns in advance about whether this would scare people away and whether anyone would sign up to be the director of a bank, with this heavy responsibility on him or her. With regard to the facts of life about how it is operating, the Oireachtas will have hard facts from the UK to deal with. In general, I fully agree with the FCA. We are onto it in terms of saying, “Listen, if this is what we expect of the firms, we have to have something like that for ourselves.”

Deputy Pearse Doherty: Does the Central Bank intend to carry out a culture review of itself? Professor Lane’s last point was telling in that it was a question of, “Will this scare away bankers?”, as opposed to, “They stole €500 million from their customers and they have not returned it four years later”. Reckless lending is still not illegal in Ireland, although it is illegal in Britain. Britain brought in these rules three years ago whereas we are still just talking about

bringing in the rules. I believe the Central Bank needs to take the lead in this regard. The banking crash was ten years ago, when the Central Bank failed to act appropriately. On the issue of accountability, I am not clear that if there was another crash, there would be a new inquiry which would give people the chance to blame the institution again. Can we hold a Central Bank employee to account for turning a blind eye to the fact that the concentration of assets in certain sectors was way beyond what was required? That is what we are looking at in terms of the FCA. It is not just about knowing that certain people are in charge of certain areas, but that if that person fails, he or she can be held to account individually, or he or she should hold himself or herself to account. I am not talking about systems failure, but the failure of individuals.

Professor Philip Lane: I share that perspective. We will match the ambition shown in the establishment of the FCA in the UK. I agree with the Deputy's statement.

Deputy Pearse Doherty: We have finished on a good point.

Senator Rose Conway-Walsh: I want to start by referring to the tracker mortgage scandal. What I am being told by customers affected is not matched by what we are being told here. When is the next update on the examination due? Customers are ringing the Central Bank and are being told that the next update has not been scheduled. Can Professor Lane clarify that?

Professor Philip Lane: The goal is to produce a final report before the end of the year. Some cases may continue into early 2019, but four of the banks are almost at the finish line and one of the banks still has some work to do. We intend to produce another report at the end of this year.

Ms Derville Rowland: Each bank is responsible for communication with its own customers, and is required to have information and communication channels with those customers. Where customers want an update on their case, they should speak to their bank. We have been in contact with the banks to ensure they are placed to provide that information to their customers.

Senator Rose Conway-Walsh: Therein lies the problem. The banks are not communicating with their customers. Customers are being bounced from their own banks to the Central Bank to the ombudsman and back again.

Ms Derville Rowland: If the Senator has information about where that is happening, I would be happy to receive it. We act on all types of information. Our clear expectation has been communicated to each lender in terms of having information available for their customers. We have been in contact with the ombudsman to make the process of accessing information for customers clear. If the Senator has a particular, specific instance where that is not working, we would welcome that information. We have been acting on information like that. Information for customers is to be made available through each specific lender. The Central Bank would not be able to advise on an individual, case-by-case basis.

Senator Rose Conway-Walsh: I understand that. However, customers who have been involved in this process since it began three years ago are at their wit's end. They cannot get answers to the most basic of questions. I will give one example. A person was on a tracker for months in 2007, then moved to a fixed rate. The bank says that the person involved decided to go onto a fixed rate mortgage and, therefore, it is nothing to do with the bank. These are basic scenarios which should have established answers. There should be no ambiguity about these cases. There were other questions about interests rates at a particular time. A letter said that the

tracker mortgage averaged 7.9%; that interest rate clearly is not correct. The witnesses should know that the banks are telling consumers that a lack of decision-making at the Central Bank is holding things up.

Professor Philip Lane: Statistically that cannot be the case.

Senator Rose Conway-Walsh: That is what is being communicated.

Professor Philip Lane: Some 93% of the overall has been paid out. A few thousand have not been dealt with yet. There are two scenarios. Either this case is one of the few thousand we know about and which are in the final process of verification, or the person has questions about his or her mortgage which are deemed to be outside the examination. I wonder if some of the non-communication relates to people whom the banks have decided are not part of the group that requires redress and compensation.

Senator Rose Conway-Walsh: Who decided-----

Professor Philip Lane: Those people still require a basic degree of communication from their banks.

Ms Derville Rowland: We have had specific conversations with each bank about these exact scenarios. They are fully aware of our view on all areas of this work, and have been clearly told by the Central Bank to get on with communicating the precise situation to all customers. We have been very clear with the FSPO. It has an agreement with us that in any cases to be progressed, there should be no impediment to effective communication to tell people whether they fall within or outside the scope of the inquiry, what their options are and how their cases are being progressed. We went to great lengths to ensure the system of options for people was working and to ensure there was nothing in the way to prevent it from working. We have been clear in communicating our expectations to each lender. If that is not translating into actions for customers, it is important that we have specific information, because that is entirely contrary to our expectation. Our communications have been unambiguously clear.

Senator Rose Conway-Walsh: It seems that when people get in contact with the Central Bank seeking answers they are referred on to the ombudsman and there is a circular effect. How does the Central Bank make sure that communication between banks and customers is timely and accurate?

Ms Derville Rowland: We have set our expectations for the communications procedure the banks should have in place. If people ring the Central Bank, staff will seek to help them with general information, but-----

Senator Rose Conway-Walsh: How does the Central Bank check that the banks are doing what it is telling them to do?

Professor Philip Lane: It is part of our inspections regime. Inspectors go into the banks to follow up on all kinds of issues. We check that banks are following through on what we require of them through a range of interventions. We have a large staff of supervisors who are there to engage with individual banks. An inspector might go into a bank and find something by conducting a check. On other occasions, the inspector might have some information which has come via an Oireachtas Member or some other channel. I want to emphasise that when a customer communicates with the Central Bank with something specific, we follow up and make inquiries. For that reason, I would take a dim view of any bank which essentially misleads cus-

tomers in its communications.

Senator Rose Conway-Walsh: How many inspectors work with the Central Bank? How often do they carry out checks in the banks?

Mr. Ed Sibley: A range of inspection teams operate across the bank. In terms of banking supervision, from a prudential perspective, there are approximately 45 inspectors today. Other inspectors work in the area of consumer protection. We have also dedicated additional resources to going into the banks because of the nature of the tracker mortgage examination and the need to go to the institutions to make sure they are delivering as we expect. That has been supplemented by third-party checks commissioned by the banks under the instruction of the Central Bank and third-party checks we carry out ourselves. It is hard to give a precise number of investigators. There are scores of full-time equivalents that are inspecting banks on a regular basis.

Senator Rose Conway-Walsh: Scores of inspectors are working in this area but they are not picking up on the communications we are hearing.

Mr. Ed Sibley: If the Senator has any information she can share it with us and we will follow up and make sure that the banks are delivering as we expect them to.

Senator Rose Conway-Walsh: I will certainly do that. The witnesses referred to enforcement action. Could Professor Lane spell out for me what the enforcement action would be?

Professor Philip Lane: I will ask Ms Rowland to answer that.

Ms Derville Rowland: There are six open enforcement investigations in respect of the tracker mortgage issues. It is looking at the conduct of the business and any persons who may participate in that - that is the legal framework through which they look - at the time that the tracker mortgage issues arose to acquire evidence to see if any rules were broken and what is the evidence supporting that. They are looking at the conduct of the institution and the context of the senior persons who were in place at the time taking those decisions.

They also are scrutinising the conduct of the tracker mortgage examination as the examination played out in the business. The committee heard about that earlier. I refer to the behaviour with respect to how they behaved in the examination, redress and compensation behaviours, behaviours with respect causation and other matters. All of the different regulatory frameworks are being considered and the evidence is being acquired and scrutinised from emails, minutes of meetings, interviews with employees and staff.

Senator Rose Conway-Walsh: What happens at the end of that in terms of the enforcement? What are the Central Bank's choices in respect of sanctions?

Ms Derville Rowland: There is a range of options that could be taken into account. Where there is evidence that the rules have been broken one would have to consider all the relevant options. One of the main tools that the Central Bank has is the administrative sanctions procedure where a case would be referred to a panel to adjudicate upon the matter and see if the case was proved in the way of a court case. Then the options that would be available to them range from fine to disqualifications of individuals where the rules have been deemed to be broken that individuals participated in wrong conduct.

Senator Rose Conway-Walsh: Does that include custodial sentences?

Ms Derville Rowland: Separately, where there is evidence of criminal offences, the Central Bank would have an obligation to report those to the criminal authorities who would adjudicate on those matters and bring cases forward. Depending on what those offences were, if there was evidence of them, that would follow the court procedure and whatever penalties the court system has adjudicated upon as being appropriate for those offences.

Senator Rose Conway-Walsh: Has the Central Bank reported any as criminal?

Ms Derville Rowland: The Central Bank keeps that under review at all times.

Senator Rose Conway-Walsh: The Central Bank has not reported any cases to date.

Ms Derville Rowland: We have been in dialogue with the Garda and the criminal agencies about these matters and we keep that under close review.

Senator Rose Conway-Walsh: Is Ms Rowland expecting that will progress in the coming months?

Ms Derville Rowland: We certainly are in discussion with the Garda about these matters. That is our regulatory obligation. It is something we take seriously.

Senator Rose Conway-Walsh: They spoke earlier about persons who are subjected to the enforcement powers and persons who maybe disappear out of the system, withdraw their applications, etc. How do we know who these persons are? Are these persons ever held to account?

Ms Derville Rowland: First, we can pursue. Whether one is in the system, the Central Bank in enforcement cases can pursue persons who were involved in the management. That point was fought about in the courts and the Central Bank's view was favoured, which is that we can pursue persons in enforcement cases who were involved in businesses but who no longer are.

The power for fitness and probity is limited to applying to persons who want to work in the system or who are in the system, and we are seeking an extension of that. We keep a record of all of that. We keep flags on information, as is right that we do, about all of that. If somebody wants to withdraw from an application, of course, he or she can do so but if the person ever came back, we have a record of that information and that would be ready to meet the challenge on a successive application.

Senator Rose Conway-Walsh: It seems like many individuals within the banking system have many places to hide. The banks themselves have many places to hide because we do not get the information about individual banks.

The report on the culture is quite shocking. I would ask the Central Bank representatives whether they themselves thought it was shocking. It is shocking to think that there are executives within the banking system who are paid hundreds of thousands of euro, and there are banks making billions of euro, and up to all of this - this is why it is connected with the tracker mortgage - reckless business behaviour. They do not even have clear lines of responsibility. We are talking about clear lines of responsibility; we are not talking about a crèche, a naíonra or a voluntary organisation. We are talking about significant organisations. It speaks of a toxic culture where nobody knew who was doing what or who was responsible for anything. It is bizarre to read a report such as this of the culture in them.

The language used in the report does a disservice to those who have been most impacted by the toxic behaviour and the lack of any type of management skills, even the most basic aspects

such as knowing who is responsible for what within an organisation.

Chairman: The Senator's time is up.

Senator Rose Conway-Walsh: I thank the Cathaoirleach.

They talk of "insufficient attention paid to consumer interests". The language in it feeds into the culture of protecting the institution. I understand that the Central Bank does not have a direct line of responsibility for changing the culture within the banking system but I would have liked to have seen much plainer language in this. The report almost smacks to me of when one reads an academic book on change management and cultural behaviour within any organisation. I ask the Governor how many customer interviews were conducted in doing this report?

Professor Philip Lane: Let me turn to Ms Rowland shortly about that particular aspect.

We should focus on the substance. The Senator may have a different writing style to our writing style but the bottom line is we are saying this is not acceptable. We are saying that this culture has to change and we are saying, through a combination of supervisory interventions that we are making and will continue to make and enhance, that we think it would be reinforced by the legislative change we are recommending. It goes back to that phrase, "insufficient attention to a consumer focused culture". In the minds of some bankers, this was seen as a kind of secondary obligation as opposed to being at the heart of how they do business. This is the cultural shift that has to happen. Our conduct mandate and the expectations of the public are that the banks take their consumer protection obligations seriously. We all share that view. How we phrase it is not the core issue. It is underlined by the actions we are taking, and as I say, that could be reinforced by this legislative change.

I will ask Ms Rowland to answer in terms of how the customer perspective fed into the review.

Ms Derville Rowland: Precisely because we completely agree with the Senator that it was observable that the behaviour informed by the mindset of the banks was far from that which all of us expect, the culture reviews were undertaken. The focus of the reviews, because we saw the red flags in the tracker mortgage examination, the way that the compensation offers negotiated with the Central Bank were not what we expected and that we had to do more than 200 turns of challenge to get those up to any kind of a level at all, was precisely conduct in the wrong place. The culture review was undertaken. It was not a focus on the views of customers in the public, let me be clear, because we had a view on what that was, which was the lightning rod for undertaking these five cultural investigations. The investigations were very detailed, forensic and careful pieces of work, with behavioural psychologists, prudential supervisors and conduct supervisors who focused on the senior leadership teams of the banks because these are so significant in delivering, from the inside out, the mindset and value the businesses place on customers and how they put customers, as they espouse to do, at the centre of their business, as well as the divergence from that. The language in the report represents an overview of the specific lender reports, which each bank got, but it has very important and significant findings.

We are meeting the banks' boards and being very clear about our expectations. However, the culture is for them to drive and it is for them to lead the tone from the top. The focus definitely was on the senior executive team and how it will ensure it is clear about what that risk culture and consumer focus culture looks like, and how it will embed it into its structures and processes. Precisely because we take this seriously, we will be in at firm level supervision

measuring how the banks deliver that. We will assess whether they look at the complaints people are making and find the patterns; how they train their staff; whether they are making sure their staff are trained to give outcomes that are to the benefit of the customer, not to sell 20 products to them that generate more profit; and whether they check to see what they espouse as the culture for consumer-centricity is in fact being lived. The proof of the pudding will be in the work that they do and this will take time because clearly their behaviour has not been in the right place.

Senator Rose Conway-Walsh: If a small or medium-sized business operated as recklessly as the banks have done, it would not be a behavioural psychologist who would be brought in but the enforcement authorities and a prison warden. That is the difference.

Ms Derville Rowland: We have enforcement investigations open in respect of all of the lenders.

Chairman: I will take up the point raised by Senator Conway-Walsh raised. The Central Bank, in producing its report, did 1,400 hours of desktop review, 500 surveys and 75 interviews. Ten years have elapsed since the bailout and the committee is discussing this report. Is it not absolutely horrific that the banks are behaving in almost the same way they behaved leading up to the bust? They are displaying the same arrogance, using the same methods of operation and there has been no change to their structures.

In terms of customer focus, the banks have numerous glossy advertisements that use catch-phrases such as “the bank of you” and that sort of nonsense. The first figure used in connection with the tracker mortgage issue was in the region of 8,700. That figure has since increased to 38,400. The people who are still experiencing difficulties in finding a resolution to the tracker issue with their banks, even though the number of cases has narrowed, will tell us they still encounter the aggression, bad manners, poor management and a determination to protect the bank at all costs, even if the sum involved is small money. That is the experience ten years since the bust and it is what we have experienced through the tracker review and scandal.

The report is timely and tells us in reasonable language what many of us know. However, if one were to describe the position in layman’s language, one would say the banks are still getting away with it and still treating customers badly. Is it not amazing that banks need to be reminded that the people with whom they are doing business are their customers? Is it not incredible that the Central Bank must introduce certain protocols, sanctions and so on to make them view people as customers? Consumers will be utterly shocked to learn that this report is now being presented and further work must be done on sanctions.

I will reflect on a few more issues. The culture in the vulture funds and banking sector in Ireland is truly terrible. As I repeatedly say, their behaviour should not be tolerated in any civilised society.

The tracker mortgage issue is the big example of banks ripping off their customers and then telling them, more or less, to get lost because they will not deal with them.

We also have the proof presented in respect of the EBS agents who followed the advice given by the Central Bank. They did what was required of them in terms of looking after their customers and so on. I have seen emails in which these agents were told by EBS to do whatever it took to sell X number of products each week. All of that still exists. The EBS agents have not been dealt with. Tracker mortgage holders are still fighting their cases. While €580 million

has been paid out, a significant number of them are in the appeals system or have gone to the Financial Services and Pensions Ombudsman. These people are still waiting for their cases to be dealt with.

The witnesses said that some of the recommendations the Central Bank will make have already been made in the report compiled by the Law Reform Commission. I do not see much change in the banks. I see some determination on the part of the Central Bank to deal with the issue. However, I would love the Central Bank to suggest to the Government that it introduce legislation setting a standard that the banks would find it extraordinarily difficult to meet and that the Central Bank would penalise them and make them individually responsible should they fail to meet that standard. The Central Bank is doing that to some extent but it should be far more forceful with the banks because they do not give a damn. They do not care, are open for business and do what they want. Matters are not being resolved.

The global restructuring group, GRG, is another scandal that has yet to be dealt with. Deputy Pearse Doherty raised a significant question which I will ask in a different way. If there is a disagreement between the banks and the Central Bank on, for example, a case such as margin issues, which relates to PTSB, and a settlement is reached in one case, will that outcome be applied to similar accounts? I believe that is the question Deputy Doherty asked. How will the Central Bank establish that? What degree of accuracy will there be in the context of the approach taken by the Central Bank?

Professor Philip Lane: I will make one general point in response to the Chairman and Mr. Sibley and Ms Rowland will comment on some of the other issues. One way to think about the gear shift in regulation, not just here but globally, is that these cultural issues are not new but they were overlaid by an instability issue. We had the reckless lending of 15 years ago and the facts that these banks basically collapsed, needed extra capital and needed to change their liquidity funding. There has been much work to ensure these banks at the macro level of aggregate lending have enough capital to stand behind their businesses and are not overly reliant on short-term funding. We should remember we have the mortgage rules now. Those kinds of macro matters are being dealt with and there has been much progress. With the stabilisation of those indicators, there is now more visibility of more hidden issues, such as how the banks treat customers. The good news is the processes go hand in hand. The fact that banks are in better shape in a prudential sense allows us to change our supervisory priority towards looking at a higher level of ambition and to ask not only whether banks are safe but whether they are adhering to the standards we expect them to adhere to in terms of customer focus. This is a new reality and it is the next phase of supervisory focus. There are permanent challenges to maintaining stability but if the banks are now in better shape, we can do more in focusing on customer treatment issues.

Mr. Sibley will deal with the Chairman's comments.

Mr. Ed Sibley: I echo some of Professor Lane's comments. There has been a fundamental shift in the approach to regulation and supervision of the banks and other financial institutions. That is both from a prudential - or safety and soundness - perspective and that of consumer protection with regard to rules and supervision of those rules. There is a global issue because as well as addressing the rule book, there is a driving need for the culture to change within these institutions, as the Chairman noted. We have been focused on that for a number of years. The lightning rod of the tracker mortgage issue means it has come into very sharp focus how important it is that firms not only comply with the rules but think about the risk and their customers to a much greater extent than they have in the past.

Ms Derville Rowland: The global phenomenon of misconduct scandals has been clear in this jurisdiction, as in others. The culture report gets underneath the matter in a way that is different to the enforcement action through being backward-looking and looking at breach of rules. The culture report gets inside the mindset of what is really going on. It is insightful because these are the words and the thinking of the executives themselves, as well as the teams reporting to them. For the first time, there is insight into what is going on with the thinking used to motivate the outcomes seen for customers, which the committee might view as unacceptable. It explains a little why we are in this place. For change to happen, the businesses need to accept that they must be in a different place and know what the problem is. They also need to come up with a very detailed set of approaches that are meaningful and deliver that changed outcome. We are getting deeper and closer in our intrusiveness in conduct regulation. That is the phenomenon that is occurring.

We will make evaluations of risk mitigation programmes and meet the boards. We will do that with colleagues to ensure they are comprehensive and deep enough. This will require the businesses to apply and deliver those programmes. The jury is out on whether we can expect that to occur. The evidence before our eyes is different from the espoused ethos of consumer focus that we hear of. As we can see it, we are practising sceptical and intrusive supervision. The consumer protection risk assessment approach that we know must be put in place means we expect those firms to have a comprehensive conduct risk framework in place so they know that when they take decisions at a board level about new markets, strategies or profit versus consumer interest, that consumer interest would be properly considered and put in the centre. When designing products, they should not look at the product that they have and wish to sell to customers in order to generate profit. Rather, part of the thinking should be to ask what the benefit is to the customer, who the target group is and whether they are selling to the target group.

It is only through breaking this down into the component parts of how the businesses are governed, the way the products are designed and sold, as well as training and incentives to staff can we see the real change being effected. We recognise we will have to get granular and do very detailed work but the obligation is on the businesses to change. The culture report is a different kind of intervention from the enforcement cases. In order to effect the change we wish to see, the companies will have to embrace it. We know where the key transmission points to customers are in the sales process and we know where the deficit of thinking might be in the board level process. We will have to check that to ensure the businesses are doing what they should to develop consumer culture.

Chairman: Is the case of the tied agents aspect of EBS not an example of where a bank could have made a deep investigation and taken serious action, arising from the emails I have seen?

Mr. Ed Sibley: Certainly, in terms of the information presented to us and our engagement with those EBS tied agents, we have examined the issue. As I understand it, there is a commercial dispute between the agents and the bank that is ongoing. We have information on the underlying issues and of course we investigated it.

Chairman: Is that investigation complete or is it ongoing?

Mr. Ed Sibley: We have looked at the information presented to date. As we always say to the committee, if it has further information for us, we will look at it.

Chairman: Is the investigation ongoing and will there be sanctions or has it been com-

pleted? Has the bank finished that investigation?

Mr. Ed Sibley: It is very difficult to answer that question precisely because we are talking about a specific firm. However, I am satisfied that we have looked thoroughly at the information provided to us and we have formed a conclusion on that information that was provided to us.

Chairman: Is the Central Bank finished?

Mr. Ed Sibley: I have said that we have concluded, based on the information with which we have been provided.

Chairman: That is where the problem is. There were no sanctions.

Mr. Ed Sibley: In the case of the EBS tied agents, there is a commercial dispute between EBS and AIB, as it is today.

Chairman: I am not disputing that. I am simply saying there was an issue with the EBS agents. The emails I have seen support the case that was made. They clearly say the agents should do what it takes to shove this or that product. The agents have presented the case to the Central Bank of Ireland. There have been no sanctions. That tells us something about the Central Bank. In a case similar to EBS agents, GRG personnel have gone halfway around the world to try to get their case heard and something done. Lives and families have been destroyed. It is the same with the banks but it appears there is a softly-softly approach to the banks. There are voices out there shouting about particular cases of wrongdoing but they are not being heard.

Mr. Ed Sibley: I absolutely contest that we are going softly against the banks. The Chairman raised two distinct matters. We have looked at the information provided to us by the EBS tied agents who are in dispute with EBS or AIB as it is today. That is a commercial matter-----

Chairman: That is just a cover.

Mr. Ed Sibley: It is not a cover. It is the fact of the matter.

Chairman: When the Central Bank of Ireland wants to push something to one side here, we are told it is a matter being contested in the courts. EBS and AIB tell us that. Therefore, we cannot get to the end of it and the bank will not get to the end of it. The bank hopes that, over time, those who are making the complaints will simply fall away. It is the same approach taken with the customers. Let us put this straight. The original figure for the tracker issue was 8,700 and if it was not for the people who came forward and gave evidence before this committee, as well as the work of this committee, we would not be where we are today. The banks would have ridden roughshod over every single one of them and not given them a leg to stand on. That is the disgraceful nature of banking in this country. If properly supervised, vulture funds and banks would not get away with it, but we cannot supervise them because we have locked ourselves into a legal or regulatory straitjacket. The Central Bank can properly supervise the banking system. If it cannot, it should go to the Minister to state that its powers must be improved to enable it to knock these institutions into shape before they do further damage to families and communities.

Professor Philip Lane: I acknowledge that. We cannot overemphasise that our role is to serve the public interest. We are public servants. We are clear that our only agenda is to serve the public. Our objective is no different from that of the members of the committee and I urge

them to bear that in mind. We operate under certain legal and supervisory constraints. I appreciate it is sometimes frustrating when we cannot disclose all that we do, but that is due to the intrinsic nature of supervision. However, our underlying objectives are the same.

On how the tracker examination unfolded, we have acknowledged that the committee repeatedly calling before it representatives of the banks has been very helpful in terms of shining a spotlight on what happened. On the number the Chair cited from our original reporting, we adopted a conservative reporting approach and presented the numbers completed. It would be a mischaracterisation to assert that the move from 8,700 completed to where we are now was the journey we were always on. Essentially, we were always determined to see this through, and that has been borne out. We are very grateful that the Oireachtas supported that through the committee and that the Government did so through its interactions with the banks. I agree that it should never have been necessary. Part of the enforcement actions we are considering is why the banks did not comply with our requirements under the examination without obstruction.

It is very important for the public listening to these proceedings to appreciate that our only agenda is to serve the public interest and that we do that within our mandates. Most of the matters with which we deal and the interventions we make never become public because that is not the nature of supervision. I acknowledge that, like some others, the Central Bank must demonstrate its effectiveness in terms of the outcomes that are achieved to gain more trust. I ask the committee to accept that we have the same objective. We have no reason to go easy on the banks. Our job is to solve any problems we identify. In so doing, not everything is made public but we have the same objective as the committee.

Chairman: I will finish on this point because Senator Paddy Burke wishes to come in. The tracker mortgage scandal and other banking issues would have been dealt differently if the committee had not exposed them. When the Central Bank investigates and identifies a wrongdoing, the culpable bank should be named and shamed. I refer to the case of EBS and the 2008 email which clearly states to the agents what they should sell, the numbers they should sell, that they can make money and to do what it takes to make the money, regardless of what they were selling. To gain public confidence, the Central Bank should tell the public what it has done in regard to such cases. If there is no legislation under which to do so, Professor Lane should suggest to the Minister how the legislation could be improved because ordinary punters, a category in which I include myself, believe that the banks are getting away with blue murder in this country and that no one is prepared to take them on. They look to the Central Bank to do so. If more legislation is needed, Professor Lane should tell us that. He spoke about building trust between banks and customers, but there is much to be done in building trust between the Central Bank, the ECB and the public.

Professor Philip Lane: I again emphasise that I agree that our track record is the most important element in building that trust. Ms Rowland highlighted all we are doing and the number of enforcement actions we have concluded in public. Some of our work must be conducted in private. We cannot make public that a particular person attempted to join the board of a firm and withdrew or was not approved by the Central Bank, but such situations happen all the time. We disclose the numbers of such cases in aggregate, but for various privacy reasons we cannot identify the persons involved.

There will always be a certain amount of our work which we can announce publicly. In recent years, when an individual may face a prohibition and that process may legally be pursued either publicly or privately, we usually pursue it in public. There are periodic announcements that certain persons have received a prohibition, and we want to make our work public when

that is possible. We have that commitment to what we do.

Chairman: How many cases have been withdrawn? Ms Rowland mentioned the number earlier.

Ms Derville Rowland: More than 50, so-----

Chairman: How many other cases are there? Did Ms Rowland earlier state there are 1,200?

Ms Derville Rowland: Some 122 enforcement cases have concluded. Our policy is and always has been to make outcomes public where possible. The importance of transparency is a key driver in our approach. In some cases, we cannot give out information. Professional secrecy and European confidentiality regimes apply to us as they do to central banks all in European countries such that we cannot put certain information into the public domain or are unable to comment on aspects of disputes, some of which may be in the public domain. Mr. Sibley may address this issue momentarily. Where it is possible to make enforcement outcomes or other details public, it is very important to us that we do so because the more aware the public is of the outcomes of cases, the more confidence it will have in the Central Bank. We have released a significant amount of detail about what happened, the resultant penalties and what drives the penalties and the behaviour that is described. We do not just detail the outcomes. We also address the story preceding the outcome because we know that is an investment in building trust and informing the public of the approaches we take. When we cannot release information regarding a particular case, we try to release aggregate information. It is a key part of how we approach regulation because we acknowledge that it is very important that our approach is understood and trusted as much as possible. We recognise that is not particularly easy for aspects of our role or actions to be understood, but we are driven by our aim to deliver on our mandate in the public interest, which is core to how we do our work and what we regard as important and serious.

Mr. Ed Sibley: To echo the points made by Ms Rowland, our stated and actual aim in terms of how we interpret that public interest towards which we are all working in the Central Bank from a financial regulation perspective is to have a financial system that serves the needs of the country and its people. The culture report has shone a light on some aspects of behaviour and culture within the banks that are not acceptable and we are trying to drive a change to that.

Senator Kieran O'Donnell: I apologise for being late. This study was about the culture in the banks and how they dealt with customers. How many consumers or customers were interviewed for the report?

Ms Derville Rowland: This report was not based on customer interviews because we had seen a lack of consumer focus as a result of the tracker mortgage behaviours and others. We focused on the senior executive team and the way its members approached decision-making, their mindset and their business. Through the culture report, we wanted to get into their thinking about how they take decisions. During the initial phase-----

Senator Kieran O'Donnell: We have limited time. I and my colleagues are dealing with customers and constituents who still believe they are being very badly treated by the banks and that nothing has changed. I am a believer in primary research, which is going back to the consumer. In terms of both the tracker report and this culture report, did the researchers engage directly in interviews with customers of the banks?

Ms Derville Rowland: No, we did not engage directly-----

Senator Kieran O'Donnell: Why not?

Ms Derville Rowland: The insight that customers of the banks were not being treated in the way that we expected-----

Senator Kieran O'Donnell: How can the witnesses stand over a report when the very people that the report is about were not interviewed?

Professor Philip Lane: If the Senator will excuse me, given the amount of information we have accumulated on consumers, the flow of information we get every day through the public contacts unit or through letters to me, it would have been redundant and wasteful to take a step which we take every day, namely, listening to consumers. We know, and I do not think there is any lack of insight into, the fact that consumers are deeply unhappy with how they are treated. If the Senator can share with me what he thinks was missing in terms of-----

Senator Kieran O'Donnell: I am just looking at it this way. The researchers undertook 1,400 hours of desktop reviews, ran more than 500 surveys and conducted 75 interviews. If none of those was with consumers, I as a public representative have to ask the question. Before we came in here today, I got a phone call from a customer of one of the banks who knew the witnesses would be appearing before the committee and asked that I put one question to them. This is a consumer who has been dealing with various banks and wanted me to ask if the witnesses conducted interviews with consumers and if they considered that the banks were engaging in a form of moral hazard themselves. If they felt their loans were going to be bought by funds now known as vulture funds, they effectively did non-engagement with customers by stealth because they knew the loans were going to go to the vulture fund, a bit like the bank guarantee being a backstop when it happened. There was a view taken by many that the banks knew the State would bail them out. They engaged in reckless lending, as everyone now agrees. I am disappointed and I believe the report is lacking because customers are not in it.

Will the witnesses address that point about moral hazard within the banks themselves? If they were of the view that their loans were going to be sold to vulture funds, the banks deliberately engaged in constructive non-engagement with consumers. On the tracker issue, do the witnesses believe that the banks allowed it to continue because it was adding to their bottom line in terms of profits at a time when their balance sheets were very vulnerable? They decided to ride on and rip off the tracker mortgage and, if they were caught, they would pay up. They decided to do first and explain later rather than explaining first. Will Professor Lane deal with those points?

Ultimately, ours is a questioning role. I acknowledge the work the Central Bank does but we have to provide probity. Will Professor Lane address the issue of my disappointment and concern around the lack of direct engagement with customers of banks regarding a cultural issue? How can he form an impression? If the researchers are doing 1,400 hours of desktop reviews, 600 surveys and 75 interviews and none of them is with bank customers, how is there not a gap in the due diligence and veracity of the report?

Senator Gerry Horkan took the Chair.

Professor Philip Lane: There was no question. If we went into this feeling that maybe the banks treated customers fairly and maybe we should check with customers-----

Senator Kieran O'Donnell: Am I correct in saying that of the 1,400 hours of desktop reviews, all the surveys and all the interviews, none was with bank customers? Who were they

with?

Professor Philip Lane: This was about the conduct of the banks. We were not questioning-----

Senator Kieran O'Donnell: How could the Central Bank assess the conduct of the banks if it did not at the same time have the other side of the equation? That is the primary research.

Professor Philip Lane: We do that every day and there was no question about the nature of that research.

Senator Kieran O'Donnell: However, this was a stand-alone project.

Mr. Ed Sibley: There is no question that the banks have treated their customers appallingly in respect of trackers. There is no question of that. The scope of the work was to look at the behaviour and culture within the banks themselves.

Senator Kieran O'Donnell: How can anyone do that without talking to customers?

Mr. Ed Sibley: If the Senator will let me finish, one of the key aspects we can see from doing that work is the distance between the executive and boards that are making decisions that impact on customers and the customers themselves. We can see the distance within the banks between the banks and their customers. We can see the impact that has had on customers with the lightning rod of the trackers, as was said earlier. We see every day-----

Senator Kieran O'Donnell: With due respect to Mr. Sibley, in my experience dealing with banks, the front-end staff are getting the direction from the board and top management to sell products and meet targets. To say there is a disconnect and effectively that the boards are above in some ivory tower-----

Mr. Ed Sibley: That is not the point I was making.

Senator Kieran O'Donnell: The point I am trying to make is that I find it difficult to comprehend that anyone can come out with a report on the cultural treatment by banks of customers and, with all these desktop reviews, surveys and interviews, not have one interview with a bank customer. Any report surely has to have primary research. There is plenty of it in terms of the banks themselves but not in terms of how they interact with the customer. The witnesses appear to be basing it on feedback from people who ring the Central Bank. Who physically wrote the report?

Professor Philip Lane: I will turn to Ms Rowland.

Ms Derville Rowland: There is a lot in what the Senator is saying and I want to tell him-----

Senator Kieran O'Donnell: It is the customer. The bank customer is the person I am interested in.

Ms Derville Rowland: We have been clear that the customers were not interviewed. The purpose of the report was to identify the cultures that were in existence inside each of the lenders. There was a particular focus on the senior executive team precisely because what the Senator has said is correct, that they are so important in leading the culture, attitudes and tone from the top that the rest of the employees will follow. To understand their motivations, value set and mindset was the focus of the culture report. As Mr. Sibley and the Governor have said, we

were aware that there was a significant cultural and behavioural deficit in the way they behaved towards their customers. The report was to focus on how, at senior levels, the bank values the trade-offs in decisions between, for example, income from a particular initiative regarding a variety of things such as new products or market share and how the customer is valued within that. A team of leading world experts in cultural evaluation from our colleagues in the Dutch central bank came here to work with our team. We took a blended approach to their established model to examine the mindset, behaviours and the group behaviours in the organisation. We blended it with our own behaviours-----

Senator Kieran O'Donnell: I fully understand that. I am a practical person. If I wanted to know what was going on in a company, and I previously operated as an auditor, I went to the relevant person and asked him or her what was happening. I did not go to top management for everything. I would ask the customers. Ms Rowland stated that she is aware of customers. For the completeness of the report, where were a range of customers of the banks not interviewed as to how they felt the banks were dealing with them? Ms Rowland would get the information at first hand. In many cases, information can be sanitised up along the line but one could get a person into a room and ask him or her about his or her experience with bank A, bank B or bank C. There is no substitute for interviewing the customer.

Ms Derville Rowland: We did go beyond the people at executive level. The insights we got were from questionnaires and witness interviews with people who work for them and below that. We got a view of how a decision was made and what was valued in that decision. The outcomes in this report call out what the Deputy is talking about, which is a journey to travel in terms of being the consumer focused organisations they need to be and a deficit to be filled in their structures and embedding that. That is the insight and outcome gleaned through this process and approach. It has effectively given us the insight that while it may be something one thought was the case, it is confirmed on an evidence basis that it is the case. That is due to the rigour of looking not just at those on the executive level but interviewing others below them. The staff perceptions of what the executive team valued and the insight were part of this.

Senator Kieran O'Donnell: Many customers who ended up with the vulture funds believe that the banks stonewalled them when they were seeking to deal with restructuring their loans because the banks had the backstop of knowing the loans could go to a fund.

Professor Philip Lane: I will make three points. First, to return to the issue of customers, if we were starting at point zero or coming to this cold, of course one would have to do customer interviews. However, we have a great deal of information from customers already. It was not a stand-alone project. It is integral to all that has come before. Second, within that we believe it is important for these banks to embed the information to be gathered from customer surveys and focus groups. They would need to have mechanisms at board level to absorb what they learn from customers. That is part of this cultural shift.

On the Senator's points, under the CCMA and the code of conduct the banks have a responsibility to be proactive with any customer in arrears in engaging and trying to resolve them. If the Senator has evidence that any bank neglected that in any case-----

Senator Kieran O'Donnell: Customers who are constituents are telling me this.

Professor Philip Lane: I will make two other points. I agree with the Senator about the moral hazard of the bailout, not just here but elsewhere. That was part of the mindset going into the crisis. However, in that situation they were counting on the taxpayer to step in, which

happened. In this situation there is no taxpayer step-in. If they have left a customer-----

Senator Kieran O'Donnell: Can Professor Lane deal with the final point, that they stood idly by and were not proactive? It suited the banks to allow the tracker overcharging to continue because it allowed them to boost their balance sheets at a time when they were extremely vulnerable. As far as they were concerned, they could ride on and explain later.

Professor Philip Lane: How these decisions were made is part of the enforcement actions we are undertaking. I do not wish to pre-empt the enforcement investigation. More generally-----

Senator Kieran O'Donnell: What is the current position with the enforcement procedure against the banks?

Professor Philip Lane: It is in train and is active. There are timelines.

Senator Kieran O'Donnell: When does Professor Lane think he will be imposing sanctions on the banks?

Professor Philip Lane: It is a mistake in an enforcement investigation to put a deadline because-----

Senator Kieran O'Donnell: When does he expect to conclude it?

Professor Philip Lane: We have timelines but it is not the case that these are going to conclude within weeks. I do not really wish to say-----

Senator Kieran O'Donnell: Will it be by the end of the year?

Professor Philip Lane: -----because that is part of how these enforcement actions-----

Senator Kieran O'Donnell: Will it be by the end of the year or in the next six months?

Professor Philip Lane: It is unlikely in 2018.

Senator Kieran O'Donnell: It will be 2019.

Ms Derville Rowland: I do not wish to give specific timelines on the enforcement cases because there are-----

Senator Kieran O'Donnell: In general terms, when will they be concluded?

Ms Derville Rowland: As these are long and detailed investigations, I would not expect outcomes this year.

Senator Kieran O'Donnell: Okay.

Ms Derville Rowland: They are on different timelines. Some are more advanced than others because we started them earlier. We are getting documentation and interviews done quicker in some, and some contain different types of obstacles. The commitment to rigorous conclusion is more important than deadlines because enforcement cases can meet obstacles and different issues, but they are all timelined.

Senator Kieran O'Donnell: I wish to make a final point. The problem is that customers got ripped off in the context of tracker mortgages. They are watching this and saying that the

banks, as far as they are concerned, have not changed and sanctions have yet to be imposed. There is a need for closure on this matter. For the people we deal with, those on tracker mortgages and small and medium-sized enterprises going over to the funds, this is an issue in respect of which they are entitled to closure. This matter has been ongoing for ten years. We are now celebrating the tenth anniversary of the bank guarantee. Those to whom I refer are entitled to closure.

Professor Philip Lane: We all want to close as much as possible as quickly as possible, but the Senator can appreciate that if one sets a deadline one just encourages banks to run down the clock through obstruction. We cannot have a situation where we impose a deadline which leads to a worse outcome for those affected. Over 30,000 customers have received their redress and compensation, so a great deal has happened. It is important to say that a lot has been delivered, but we are committed to it being complete and comprehensive and to not leaving any stone unturned in including all of those who should be repaid and compensated from the tracker.

On the broader issue, we had an earlier discussion about it being ten years since the crisis. A huge amount has been done. The regulation is vastly different from ten years ago. One of the by-products of the fact the banks are now stabilised is that we are able to do more in terms of holding them to a higher standard. It is not enough for them to be prudentially safe; it is also necessary for them to demonstrate their commitment to good consumer outcomes.

Senator Paddy Burke: I welcome Professor Lane and his colleagues. I have some brief questions which follow on from what Senator Kieran O'Donnell said. He said there was constructive non-engagement by banks with the customers whose loans the banks believed would be sold to vulture funds. Professor Lane has told us on numerous occasions to tell the customers to become proactive and work with their banks. If they were in difficulty, they were to go to the banks. Professor Lane says the report has been concluded and that he is looking at it. Has he found that there was constructive non-engagement?

Professor Philip Lane: I will turn to Mr. Sibley to give the Deputy some details, but there has been a lot of engagement. Many mortgages have been restructured because-----

Senator Paddy Burke: We know all of that, but have the delegates found out about the specific point raised by Senator Kieran O'Donnell? Was there constructive non-engagement where the bank felt customers' loans were going to be sold to vulture funds? Have the delegates found out about that and if the banks closed down their work with customers?

Professor Philip Lane: That would be a violation of the code of conduct under which banks have a duty to engage constructively with customers-----

Senator Paddy Burke: Have customers written to the Central Bank of Ireland on this issue to inform it that they have tried to engage with banks and that they will not engage with them?

Mr. Ed Sibley: Is the Senator referring to loans which are in difficulty as opposed to the tracker mortgage issue in order that I am clear on the question being asked?

Senator Paddy Burke: I said I was continuing on from what Senator Kieran O'Donnell had left off. He referred to constructive non-engagement by banks on mortgages and all other types of loan where there were difficulties in making repayments.

Mr. Ed Sibley: We have seen no such evidence; in reality, the evidence points in an entirely different direction. If we look at what has happened in terms of the levels of distress-----

Senator Paddy Burke: Is Mr. Sibley is saying there was full engagement between the banks and their customers on all occasions?

Mr. Ed Sibley: From what we have seen, there was. If the Senator has evidence to suggest something else, we will look at it, but on the approach taken to resolving the issue of mortgage arrears, we have required the banks to engage with their customers as soon as possible in a way that respects them, as outlined in the code of conduct on mortgage arrears.

Senator Paddy Burke: The members-----

Mr. Ed Sibley: I wish to finish. We have required the banks to have a waterfall approach to make sure-----

Senator Paddy Burke: We know all of that, but all members of the committee have said there were problems in the engagement between banks and customers with problems, but Mr. Sibley has said he has found that there were no such problems.

Mr. Ed Sibley: As borrowers in distress have engaged with their lenders, individual circumstances have been considered and restructuring has taken place, where required. It is not a straightforward exercise; it requires engagement on both sides and there is judgment associated with, it but we have not seen evidence that banks have been stonewalling their customers because they think the loans may be sold in the future. In fact, I would say the banks are not at all incentivised to do so.

Senator Kieran O'Donnell: How does Mr. Sibley make that judgment when the Central Bank has not interviewed customers as part of the study? How can he make such a categorical statement?

Mr. Ed Sibley: A number of points are being made. Members have asked about the approach taken to the culture review. We undertook a piece of work on the culture within the institutions. Using that methodology which is supported by the world experts, we undertook a review of the culture and behaviour within the banks. Separately, we undertake a huge amount of work on the ongoing engagement between banks and their customers, be it on specific tracker mortgage issues or non-performing loans. What we see and require is that they engage with borrowers who engage with them. There is a big issue surrounding engagement which requires continued diligence and focus on the part of both the lender and the borrower.

Deputy John McGuinness resumed the Chair.

Senator Paddy Burke: We had EBS agents here, as alluded to by the Chairman earlier. Will the report deal with how EBS agents were treated after the takeover of the EBS by Allied Irish Banks?

Mr. Ed Sibley: The report focuses on the culture within the institutions today. There is an historical dispute between EBS agents and AIB. It is a matter that is going through the commercial courts. We had a discussion earlier with the Chairman on this matter, but it is separate from the culture report.

Senator Paddy Burke: Yes, but quite a number of the banks that were represented here stated they grew their businesses through agents, rather than opening outlets in various towns throughout the country. Therefore, will the report issue a recommendation for banks that are going to employ agents to sell their products in the aftermath of what has happened with the

EBS?

Professor Philip Lane: We recognise the risks associated with indirect agents and brokers in general and those associated with having that gap between a bank and a customer. It is a clear risk factor that we monitor. Our consumer protection risk assessment model looks at sales channels and the ultimate responsibility is on the bank, regardless of whether it is selling directly or through an agent. We hold the bank to account to make sure that sales channel is safe for customers. As Ms Rowland said, the sales process is often the key point of vulnerability in ensuring consumer protection. It is a high priority for us, but perhaps Ms Rowland might speak about the issue.

Ms Derville Rowland: The culture report recognises completely that all of the banks have a distance to travel to embed a true consumer focus in their practices and structures. It goes on to articulate how clear we are that in order for them to be effective and deliver the outcomes we all expect for customers, they need to have a full and comprehensive understanding of the risks their business poses to their customers and that they need to have a plan to address and mitigate these risks. Part of it will be the way they design their products, the way they incentivise their staff and/or agents to sell those products, the training people receive and the expectations set. We are clear that as the risks to consumers are understood more fully, the banks have to look closely at the approaches employed and adopted by businesses when selling to customers. That is one of the parts of the risk framework which will be scrutinised more closely, but they will be expected to know their own business model and put appropriate risk mitigation measures in place to do so. However, we will check that they do.

Senator Paddy Burke: Irrespective of the commercial dispute between the EBS and AIB, the report will not deal with the specific issue at all; rather, it will sidestep it.

Ms Derville Rowland: The report we have published looks at the culture of the banks, with a forward looking analysis of what needs to happen and an expectation that the banks will be held to account in that regard. Each bank had presented to it its own report which was specific to it. It does not look in particular at the AIB and EBS agent issue, which is another issue. Mr. Sibley has said there are a lot of issues in the banking system that have to be dealt with and not all of them fall within the scope of the culture report. The culture report, effectively, looks at the trade-offs the senior executive team weighs up when it looks at income versus risk and consumer focus. It is with that lens that the report draws its conclusions.

Senator Paddy Burke: On credit card interest rates, we have recently seen some credit card companies charging in excess of a 25% interest rate. Every single day there are more and more credit card transactions as we are on the way to having a moneyless society, with tap and go facilities. When we think about the billions of euro spent by credit card and the fact that the companies receive a percentage of turnover-----

Chairman: Will the Senator deal with the report first?

Senator Paddy Burke: This issue relates to the consumer. Have the delegates received any complaint about the 25% interest rate the credit card companies are charging? This committee had to deal with moneylenders. The issue before us is not much different from moneylending because of the exorbitant interest rates being charged. Recently, the committee heard that if post offices could get into the mortgage lending, the cost of mortgages could decrease. An interest rate of 25% is exorbitant. Has the Central Bank received complaints in respect of it?

Professor Philip Lane: I will turn to Ms Derville Rowland shortly but to return to the issue of how I think about consumer risk, I agree with the Senator that credit cards are a clear priority because the temptation is to spend money now and not worry about the interest rate until later. The evidence globally is that the way those credit card contracts are designed is a source of risk for consumers. In general, the credit card system is something we have to monitor. We must remember the way credit cards work. Many people pay off their debt within the month. There is no charge for that, but then there is this high interest rate system. Those high interest rates are an international phenomenon. I do not believe we have any information for the Senator today about whether we are receiving complaints about them, but we can revert to him on that.

Senator Paddy Burke: The report does not deal with this-----

Professor Philip Lane: We believe this culture report is important but it is not a report on everything going on. In terms of our daily supervision and work, we are dealing with all sorts of issues all the time. It is just one perspective. In addition to enforcing our rules and regulations, we are saying it would be better if these firms did not create the problems in the first instance. If they had an organisational culture, there would be more consumer focus and fewer headaches, so to speak, arising for us. The intent of the report is not to have a check list of all the problems we are facing and outline the solution. It is stating that, in addition to our daily work of checking that they are obeying the rules, we want to go beyond that by saying if they adopt these cultures, the risk to consumers would decrease because these problems would not emerge with the same frequency.

Senator Gerry Horkan: I thank the Governor, Mr. Sibley and Ms Rowland for their opening statements and for the 51-page report, which I read in great detail. We have touched on parts of it but there is much more of it we have not got to yet. Even though we have been questioning the witnesses for two hours, there is quite a lot of it we have not been able to reach as yet. It is important, however, that I touch on the question of tracker mortgages. It may not be for the culture report to do but there is a body of work to be done to work out, at some point, how every bank managed to make almost identical mistakes with tracker mortgages independently of each other. It is difficult for an ordinary person with any level of common sense not to wonder how there was not some level of semi-collusion or semi-discussion about it. Ireland is a small place and people talk to each other. Perhaps one bank said it was tightening the rules and putting on a bit of pressure and then everybody started doing it in the same way that everybody started running after Anglo Irish Bank when it started performing in a particular way. They all seemed to say that it is working for it, so let us all copy the model history says should not have worked. There is a body of work to be done on that. I am not saying it should have been done via the culture report, but the report has been compiled as a result of the tracker problem.

Professor Philip Lane: That is exactly why we have the enforcement processes in the works because they will go back over all the evidence in terms of what the files, the email trails and the minutes of committee meetings state. That is exactly what is going on, in addition to interviewing key people and so on. Reconstructing what happened is what the enforcement processes are doing.

Senator Gerry Horkan: I do not want to prejudice any legal cases but is it possible that it could be discovered that the banks were talking to each other? They were in huge trouble in terms of their profitability. Massive losses were being created. They were looking at any way to claw back some level of profitability or reduce losses. Were they talking to each other? It is amazing that all of them did more or less the same things independently of each other at the same time.

Professor Philip Lane: I will not rule anything out because we try to be evidence based in these processes. I have said to this committee previously that the counter narrative is essentially when the banks face the same common problem and when they have the same culture, the fact that they arrive at similar answers does not require collusion. It does not rule out collusion, but it does not require collusion.

Senator Gerry Horkan: They were breaking rules, breaking their own customers' contracts and interpreting them in a way they should not have been interpreting them.

Professor Philip Lane: Again, the balance between all of those different elements is part of the enforcement campaign. As we have emphasised, in this tracker examination, it is not just a question of looking at it rule by rule; it is the whole perspective in terms of whether they were treating customers correctly.

Senator Gerry Horkan: I want to put on record - and I may have done it previously in the context of individual banks - that in terms of the idea tracker mortgages cost the banks €1 billion, €580 million or whatever, they were giving the bulk of that money back to people who should never have had it taken from them in the first instance.

Professor Philip Lane: Yes.

Senator Gerry Horkan: That is not really a cost. If they had not been caught, effectively, it would have been extra profits they should never have earned. In the context of the idea that there was a huge cost, there is a compliance cost and an element of compensation, which is an additional cost, and an element of administrative burden, which in some cases is quite significant. However, a significant proportion of that €1 billion relates to returning to customers money that should never have been taken from them. Professor Lane might clarify the position in that regard.

Professor Philip Lane: Absolutely. That is true. We could-----

Senator Gerry Horkan: The report states that it has cost the banks €1 billion. We should not be talking in that way. It has given rise to a compliance cost for the banks and the-----

Professor Philip Lane: That is perfectly fair. If I were to rewrite the report, I would make that point. That is true.

Senator Gerry Horkan: That parks the issue, but I thank Professor Lane for acknowledging the position.

The report points out that however bad everything was, the position now is certainly better than previously. That is blatantly obvious. Ten years after the guarantee and almost eight years since the bailout, it should be. However, the tendency towards firefighting and going back to the old ways remains. I saw a reference to a board meeting being taken up with a great deal of regulation and headline items in respect of which it had to be informed. I know that happens in other organisations. They are dealing with so much compliance, they do not get any time to deal with long-term strategy, and Professor Lane mentioned that. Is there a genuine issue in the five main banks with planning and looking at their long-term futures, and that of the country? Regardless of whether we like it, the country needs banks as much as they need it. If we do not have banks, we need something else. I am not convinced by Professor Lane's report in terms of their being sufficient long-term strategic thinking happening at board level. It is very easy not to do it, but it is essential.

Professor Philip Lane: I will turn to Mr. Sibley on that shortly. In the past decade, much of the work was on resurrecting the capital positions of the banks and other measures, but that is done. There are some elements to do in terms of their balance sheets.

The next conversation is about the long-term strategy. There are two dimensions to that, one of which is the balance between long-term strategic decisions about, say, the role of IT or the business lines to be in. What we are saying in this report is that, in addition to what I have just said, there is a need for a long-term strategy regarding how one is going to do right by the consumer. There is not enough attention paid to consumers in those strategic discussions. Mr. Sibley might want to add to that.

Mr. Ed Sibley: It is a very good question in terms of how banks are considering strategy and the long-term future. As the Deputy indicated, part of the issue that comes out of the culture report is them being able to move away from the kind of circle-the-wagons mindset to thinking about the longer term. We are very focused on ensuring that they are thinking about the longer term and that they are not just thinking about the next six months or the next year. Typically, a strategy will be set for a three to five-year period.

There are some real challenges in doing so in light of the level of change in the system, financial innovation, changing technology, new competition and so on. It is very difficult to look forward three or five years with any degree of confidence, but we are absolutely driving to make sure they are thinking about it, both from a strategy perspective and, most importantly, a financial resources perspective in making sure their funding is much more secure than it was in order that they can sustain their businesses in the long term; that they will have sufficient capital to deal with a plausible downside if they get into difficulty; and, if they do get into difficulty, that they will have their own thoughts on how to recover. We are very active in resolution planning. It runs alongside the work about which we think from the perspective of how the banks are interacting with their customers and whether they are treating them in a sustainable way. Clearly, there is more work to be done in that regard. It is absolutely a focus of our work. They are getting better, although certainly I would not claim that they are completely where they need to be. There are also the other incentives of analyst reports and quarterly earnings which bring a short-term focus to what needs to be a long-term vision.

Senator Gerry Horkan: On will happen in the long term and the short term, it is fair to say that in the past a lot of performance bonuses, incentives and rewards were based on the amounts of money lent, rather than on the amounts the banks got back. Banks lent money all over the place to enable people to buy fields in counties Wicklow, Meath and Kildare in the hope they would be rezoned and that all kinds of thing would happen. I know of anecdotal stories where people were given €35 million or €40 million who did not even have to give any security on the loan. It was a question of if the bank did not know what security was needed by the borrower, neither did the borrower. That was happening. People were being rewarded for lending money recklessly. Is that still possible? Could it still happen or is it now the case that the reward is based on the long-term performance of a loan as it is repaid?

Mr. Ed Sibley: There are three aspects to cover in answering that question. First, in respect of the banks where there is a degree of State ownership, that is, Bank of Ireland, AIB and Permanent TSB, there are very firm restrictions on the variable pay rates that can be paid within them. It is very tight, but I will come back to that matter. Second, on the overarching rules at European and international level, a lot of work has been done to make sure there is a potential clawback on any variable pay element for up to ten years. In the circumstances described by the Senator, if someone is incentivised to do something that is profitable for the bank or institu-

tion in the short term but results in costs in the longer term, the variable element can be clawed back. That is part of the regulation.

Senator Gerry Horkan: If the person has retired, can it be clawed back from his or her pension? How does it work?

Mr. Ed Sibley: He or she would have to pay back whatever was the variable element.

The third point is that incentivisation goes beyond simple bonuses. We have seen an instance in which there was a table on a wall which showed things such as who was top of the charts in lending through to who was going to be promoted. There are lots of non-pay incentives. We are trying to understand how people are incentivised to behave in a particular way within their institutions and make sure it is aligned with both the long-term success of the institutions and the sustainable treatment of their customers. That is one of the reasons we are very interested in the behaviour and culture of firms because how culture is driven affects how people are incentivised. It is very much at the forefront of our minds.

Senator Gerry Horkan: There is a reference in the report to over-optimism and banks stating: "Look at where we came from, are we not fantastic?" I get the impression from the representatives of various banks who come before the committee that there is a certain lack of humility. Okay, some of the management teams are different and there are new people there who I suppose have to try to sell themselves as best they can, but I do not get the impression that they realise just how badly hit people individually were. We have many people coming to us and various members have heard really traumatic stories not just of people losing their homes but taking their own lives because of what happened during the crash. Some of it was at least partly the result of the pressure exerted by the banks and receiving telephone calls six, seven or eight times a day. I do not get the impression, even with all of the culture reports and so on, that the banks have the humility they should have based on how much they cost us. We have not had representatives of Anglo Irish Bank here, but every bank was culpable to a greater or lesser extent. I would be very concerned if there was over-optimism. Will Professor Lane expand a little more on that issue?

Professor Philip Lane: It is important to emphasise that one of the remedies to tackle that issue is building a culture of internal challenge, that is, the ability to speak up and speak out. There is also a very important role for the board in that regard. The non-executive members of a board, in particular, have that duty to hold the executives to account. In addition to what we can do as a regulator, the first line in managing the risk of over-optimism is having independent directors who are prepared to be independent. That is part of how we review people when we conduct fitness and probity checks for those going on bank boards. It is now an arduous process. It is a significant process and a component of the single supervisory mechanism, SSM, for the banks. On the internal dynamics on bank committees and so on, having the ability to speak out against any overarching culture is very important.

Mr. Ed Sibley: I will supplement what Professor Lane said. One of the things I do not want to be lost completely is that not all of the banks are at the same stage. This is an aggregate report, as is mentioned in it. I know that the committee might have a degree of scepticism in that regard, but there are banks that accepted the need for change earlier and which are further along in that change.

Senator Gerry Horkan: That is referenced in the report.

Mr. Ed Sibley: It is also one of the reasons we are so interested in diversity. The Senator is right. The representatives of the banks that the committee has had before it look very similar to the people it had before it in the past and they have very similar backgrounds. Aspects of the issues of over-optimism and resistance to challenge relate to the lack of diversity in the institutions at very senior levels, particularly at the levels and in the roles responsible for driving the business forward. We have been pushing for greater diversity across financial services in the past two or three years. Again, we are starting to see some element of change coming through, but, again, it is at a relatively early stage.

Senator Gerry Horkan: That was actually my next point. I had written it down. I was going to ask about the level of diversity and inclusion because we have been here for more than two hours and, although it is quite a big chapter in the report, nobody has mentioned it. One would expect to have quite a number of bankers and accountants in a bank. I declare that I happen to be an accountant. Obviously, gender balance is an issue. Some of the figures for female participation make Leinster House look good. Even in respect of applicants, at one stage the figure was down to 10% or 12%. It has been got up to 29% over five or six years, but that does not necessarily indicate that the women concerned were successful, only that they were applicants. Obviously, a gender balance is required, but about what other diversity measures are the delegates talking?

Professor Philip Lane: I will mention some things and then turn to Mr. Sibley again.

One of the things about which we are talking is geographic diversity. This is a small country. The observation, not only from our own experience but also from the crises in Iceland and some of the smaller countries in Eastern Europe, is that the insularity of a small country and the fact that executives and board members are drawn from a fairly small pool create a risk of groupthink and people being afraid to confront one another. A basic element which it is quite possible for small countries to achieve is having outside voices, people who are not connected to the Irish system and have no reason to be particularly bashful in speaking out. That is an obvious element, which is happening to a degree on the boards of banks.

Mr. Ed Sibley: To support Professor Lane's point, when we talk and think about diversity, we think about it in its broadest form in terms of what can and cannot be seen. We also think in terms of experience and capability. We are focused very much on thinking about it in a constructive way. We think about how the board and the executive team work as a whole, rather than just being individual capabilities within. Gender diversity is easier to measure than most other aspects. There is an acute gender diversity issue. That can be seen in the report and statistics we published in the last couple of years for the numbers of applicants for the most senior positions. It is even more acute when one looks at the roles people are taking up. At entry and middle management levels, it is 50:50 and 60:40; therefore, it is relatively balanced, but as one proceeds further up the organisations, one finds very acute gender diversity imbalances. If we look at the roles that are driving businesses forward such as the chief executives, chief finance officers, chief operating officers and the heads of retail and the like, approximately 94% are male and they often come from similar backgrounds and experiences. We then get into real risks of groupthink, over-optimism, lack of challenge and resistance to external challenge or circling the wagons. This is on top of all that we do in the areas of the regulation and supervision. To my mind, where we see lack of diversity, it is a leading indicator of cultural issues and poor potential outcomes both from a prudential and consumer perspective.

Senator Gerry Horkan: On a related and final matter regarding the culture and diversity, there is the issue of the banks wanting the Government to release the cap on senior pay. Most

people argue €500,000 is a lot of money, but obviously the people in question think it is not enough and that they are losing staff by mid-teen percentages, as was referenced by AIB. What are Mr. Sibley's thoughts on that matter? He mentioned that he was going to refer back to the banks that were State owned or partially State-owned versus those that were not. What are his thoughts on caps on salaries and bonus payments generally?

Mr. Ed Sibley: First and foremost, that is a matter for the Oireachtas to determine. It is part of the legislative framework, but within it there are certain choices to be made. The banks in State ownership are run as commercial enterprises. That is what the country decided was best to deliver the best outcome for the taxpayer. Obviously, it is perhaps subject to some discussion. It is true that in some of the senior level roles I have described people can earn more money in performing similar roles in institutions elsewhere, be they banks or non-banks. If it is purely a pay dynamic when people choose to stay in or enter into a role, that having lower pay thresholds will reduce the pool that can be either kept or recruited. The impact this has on the ultimate return the taxpayer receives is a choice for the Oireachtas. What we are most focused on is making sure the incentivisation lines up with ensuring the institution is run in a safe and sound way and a way that treats the customer with respect.

Senator Gerry Horkan: Is Mr. Sibley suggesting that if the cap is not removed, there will be fewer good staff and that the performance will not be as good?

Mr. Ed Sibley: Certainly not. All I am saying is it is a fact that somebody who is a chief executive, a chief finance officer, a chief operating officer or a head of retail can earn more than the cap and, in some cases, a significant multiple of it. I am not making any judgment on whether that is right or wrong. It is just a matter of factual reality. On what we and the rules are focused is making sure the incentivisation attempts to line up with the long-term good of the institution and the customer.

Chairman: I thank Mr. Sibley. I will suspend the sitting as there will be a vote in the House at 12.45 p.m.

Sitting suspended at 12.35 p.m. and resumed at 1.35 p.m.

Banking Sector: Quarterly Engagement with the Central Bank

Chairman: I invite Professor Lane to make his opening statement for this part of the meeting.

Professor Philip Lane: I thank the Chairman. In the second part of the meeting, I will cover three topics, namely, the macroeconomic cycle, non-performing loans and Brexit. To give a one-line summary of where we are now, during economic upswings, as we are currently experiencing, it is vital to build up financial and fiscal buffers. If we want to have easing policies during downturns, that requires corresponding restraint during expansion phases.

In terms of the macroeconomic cycle, we are currently in a phase of strong performance, where we are seeing a broad based expansion in employment and an increase in earnings. The momentum in the labour market is moving towards full employment, although, as always, extra employment is possible if policies can lead to broader participation in the labour market. I emphasise that what we are seeing now is not being fuelled by imbalances in domestic credit or external imbalances. The unsustainability of the economy that we saw a dozen years ago is not

in evidence at present. Having said that, there is strong momentum in the economy.

The Central Bank clearly sees, as can everybody else, clear downside risks, one of which is a generic vulnerability. We have an accumulated stock of high public and private debt and we must recognise, as a small open economy, that we are especially vulnerable to international shocks. What might be those international shocks? One is an unexpected tightening in international financial conditions, which would be in contrast to the easy monetary conditions we have seen for a long number of years. If this happened, we could see a shift in the world economy in terms of a slowdown in world demand for investment and consumption. Two external shocks or risks which are especially relevant for Ireland are any change in the international trade or tax regimes, which might be particularly relevant for us, while a disorderly Brexit would pose immediate challenges for the Irish economy and financial system. As I indicated in my pre-budget letter to the Minister for Finance, the fact that we have these clear downside risks calls for the accumulation of financial and fiscal buffers now. That would help to limit the damage if any of those risks materialised.

On the financial sector, the Central Bank of Ireland has recently taken steps to further reinforce the capital positions of the banks. In particular, we announced the activation of the countercyclical capital buffer, which will require banks to maintain an extra buffer in respect of Irish exposures. If we exercise restraint now in terms of extra capital accumulated by the banks, in a future downturn this buffer can be released. This would help to avoid a damaging credit squeeze in the future. That is an important new policy which we turned on this summer. In parallel, in respect of fiscal matters, running of budget surpluses during strong economic periods is a precondition if the Government wants the flexibility to implement a stabilising countercyclical fiscal expansion in the event of a further downturn, in other words, to avoid austerity being piled on top of a downturn in the future.

In regard to the housing market, we share the consensus that a substantial expansion in supply is required if the high demand to own and rent homes is to be satisfied. The limited supply of housing has contributed to the increase in rents and house prices, in addition to positive demand factors such as rising employment, increasing earnings and supportive monetary conditions.

Our mortgage rules, which place ceilings on loan-to-value and loan-to-income ratios, have helped to limit the amplification of pricing pressures by limiting the credit dynamics. In terms of preparing for a future downturn, if we avoid overlending by banks and overborrowing by households at present, it will make the next downturn easier to absorb. We are committed to an annual cycle of review of mortgage measures and this year's review will be announced in late November in line with the normal schedule.

Ten years on from the crisis and five years since its peak, it remains the case that non-performing loans are a cause of considerable distress to the borrowers affected and are also a source of vulnerability in the banking system. Remaining on the general theme of preparing for the next downturn, it is a risk to both the lender and to debtor if these loans are not dealt with. It is a priority for us to reduce non-performing loans, albeit in a sustainable way that provides strong protections for borrowers.

A great deal of progress has been made, both in terms of what we and other parts of the State infrastructure have done in managing this problem, while maintaining consumer protection. The code of conduct on mortgage arrears, CCMA, has played a critical role. By the end of June this year, more than 116,000 principal dwelling house, PDH, mortgage accounts had been

restructured, with 87% meeting the terms of the restructured arrangement. Overall, the number of arrears cases has declined for 19 consecutive quarters, while the number of long-term arrears cases has fallen for the past three years.

The long-term arrears, however, remain a source of concern. Of the 66,479 PDH accounts remaining in arrears, 28,237 or 42% have very deep arrears, with arrears balances of more than two years past due. It is important to stress, in this regard, that engagement by borrowers is critical in order to avail of the safeguards available through the CCMA and the mortgage arrears resolution process, MARP.

To have a functioning secured lending market in Ireland, repossession must be a possible option. Notwithstanding the extensive use of forbearance and restructuring, there will continue to be cases where the lender will need to make alternative choices. The sale of NPL portfolios is an option that has been employed by banks to this effect. The reduction in the size of bank balance sheets, particularly through holding a lower stock of NPLs, reduces financial stability risks in the event of a future downturn. In terms of national risk management, the transfer of credit risk and funding risk to investment funds that buy loan portfolios constitutes a national reduction in macrofinancial risk, given that investors in these funds are primarily overseas. There are ongoing concerns about loan sales but there is a potential gain in terms of national risk exposure. The sale of such portfolios does not affect statutory consumer safeguards and the Central Bank applies itself equally to its dual mission of safeguarding stability and protecting consumers. Accordingly, the Central Bank is committed to ensuring that the consumer protection framework continues to cover loans that are sold. As a result of legislation passed by the Oireachtas, loan owners must use a regulated credit servicing firm to manage the loans and these firms are subject to the same codes of conduct as banks and retail credit firms, including the CCMA. In other words, the protections for the borrower travel with the loan. The CCMA includes requirements that arrangements are appropriate and sustainable for borrowers based on a full assessment of individual circumstances. Regulated entities must make every reasonable effort under the CCMA to agree an arrangement and repossession can be used only as a last resort. As requested by the Minister for Finance, we are undertaking a review of the CCMA to ensure it remains appropriate, specifically in the context of loan sales. We expect to provide that report to the Minister later this year. Finally, it is important to note that the Central Bank represents one part of the wider State consumer protection and debt resolution framework. In addition to the CCMA and MARP, there are other services and supports available to assist borrowers in mortgage arrears. These include the national mortgage arrears resolution service, Abhaile, the Insolvency Service of Ireland, and schemes such as the mortgage-to-rent scheme.

Brexit will be negative for the Irish economy and financial system, as compared with a scenario in which the UK remained in the EU. Financial stability risks are being closely monitored and addressed to the extent that it is possible. A hard Brexit with no deal and no transition period would be disruptive, notwithstanding the work the Central Bank is undertaking at a national and European level both to mitigate such risks and to ensure Irish resident financial firms are suitably prepared. We are preparing for plausible worst-case scenarios in order to safeguard stability in the event of a disorderly Brexit.

Supervisors across the EU continue to prepare for these challenges through a co-ordinated and consistent approach. The Central Bank is working as part of the Single Supervisory Mechanism, the eurosystem and the European supervisory authorities to ensure consistent, shared approaches to mitigate Brexit-related risks. Supervisory expectations have been developed and communicated to firms in a number of areas. These include booking models, internal gover-

nance, risk management and the design of internal risk models.

Preparedness and contingency planning on the part of firms are imperative as theirs is the lead responsibility. This holds for firms that are already present in the EU 27 as well as those that intend to move to the EU 27 as a result of Brexit. The transition period is not guaranteed and would only become a certainty if it were reflected in a signed withdrawal agreement, so firms cannot rely on it. We at the Central Bank, in line with other EU supervisors, are urging all firms to prepare for all plausible worst-case scenarios. While we recognise the challenges that firms face when making preparations for Brexit, the only way to minimise disruption is for firms and regulatory authorities to work together to consider and take all necessary mitigating actions in a timely fashion.

Even under the softest Brexit scenarios, the UK and EU 27 will constitute separate financial systems. This is a major change to what we have now. A manifestation of this is the fact that we have received more than 100 Brexit-related applications for authorisation, across a number of sectors. These include applications both for new legal entities and from existing entities seeking to extend their current authorisation. The applicants intend to sell directly to Irish customers or sell from Ireland into the European Union. The potential activities range from banks, investment firms and trading venues to electronic money institutions, commercial insurance and retail insurance. Our approach in assessing the plans of existing firms and new authorisations is focused on ensuring we deliver our important gatekeeper and supervisory role in a proactive, predictable, transparent and consistent way. While there has been some focus on the potential attractiveness of Ireland for firms choosing to relocate and on the number of firms coming to Ireland, the Central Bank's clear objective is to deliver financial stability through assertive risk-based supervision. We have engaged effectively with our colleagues across the European regulatory ecosystem to ensure that we are operating to, and influencing, the European norms of authorisation and supervision. In doing so, we are mitigating the risks of regulatory arbitrage being a basis for firms' relocation decisions.

In summary, the Central Bank has a number of key objectives as we look towards 2019 and beyond. We will continue to focus on strengthening the resilience of the financial system, so that it is better able to withstand external shocks and future crises. We will seek to mitigate the risks posed to the economy, financial system and consumers by Brexit. We will also seek to further strengthen our approach to financial conduct regulation in order to protect consumers and investors from a systemic perspective.

Chairman: I wish to clarify something about the sale of loans to vulture funds. Who established 5% as the target bad debt ratio for banks?

Professor Philip Lane: Mr. Sibley will answer that.

Mr. Ed Sibley: There is no 5% target. The figure came from the fact that at a certain point in time it was the eurozone average for non-performing loans. There has been a supervisory drive to bring down non-performing loans for a variety of reasons, on which the Governor has touched. The eurozone average now is around 3.5%.

Chairman: There is a general, but unstated, political view from Europe that we should try to stick to the average of 5%.

Mr. Ed Sibley: The nature of non-performing loans across the eurozone is that they are high in some jurisdictions and in some institutions, and typically quite low in other institutions and

jurisdictions. The use of an average is not very helpful, particularly as there are very low numbers and quite high numbers. There is not a push or a target. It is a reference point to discuss. Actually, we should be striving to reduce non-performing loans because they cause distress for borrowers, are problematic from a resilience perspective and give rise to issues in the context of the functioning of the system. There is not a 5% target.

Chairman: The point is that there is no directive of a 5% target from the SSM and the Central Bank here has no target of 5%. It was an average across Europe at one point. That is fine. Mr. Sibley has clarified the position.

In circumstances where a bank has warehoused part of a loan, can Mr. Sibley clarify what is defined as a non-performing loan and what he might expect the banks to sell? I am talking about the recent experience with Permanent TSB and others.

Mr. Ed Sibley: It is absolutely possible for restructured mortgages with a warehoused element to “cure”, as we would describe it, so that they would become performing. We have had much engagement with our colleagues in the ECB and across the SSM on being very clear as to what is required because similar approaches to restructuring are used in other parts of the eurozone. While this is slightly simplistic, the key requirement is that the warehoused part is fully provided for. That has been the practice in some banks operating in Ireland but not in others. So-----

Chairman: What would Mr. Sibley say to banks that are using the excuse of the warehoused part of a loan to deem it as non-performing and then sell it on to a vulture fund?

Mr. Ed Sibley: I would say that the loan can be cured without having to sell it. That is a decision around the amount of provisioning-----

Chairman: Can the Central Bank do anything with banks that are selling on these loans that have been partly warehoused? Can it do anything to make its view known that the banks cannot claim these are non-performing loans because they are, in fact, a solution within the bank?

Mr. Ed Sibley: I ask the Chairman to say that again. I am treading somewhat carefully because this is really focused on one particular institution.

Chairman: No, it is focused on all of them. They are all at it in one shape or form.

Mr. Ed Sibley: There have been sales, but the particular example the Chairman gave was in reference to one institution. As part of our engagement with all firms, we are ensuring that they are addressing the levels of non-performing loans they have in a way that is sustainable and respects the need to address the problem but also protects their consumers. We have raised this previously. Regardless of the ownership of the loan, it is really important that customers remain protected under the CCMA. We are ensuring that any decision taken in respect of loans factors in very sharp consideration of the end consumer.

Deputy Michael McGrath: I wish to ask the Governor about competition in the mortgage market here and the role the Central Bank’s capital requirements play in our ability to attract new entrants. I ask him to clarify the rules that apply. Do the capital requirements lenders need to put in place act as a deterrent from such lenders coming here? The risk weighting for a mortgage by way of capital must be put aside. For a bank coming here and offering mortgages, what level of capital needs to be put aside?

Professor Philip Lane: I will ask Mr. Sibley to expand on the detail in a moment. The first point is that it is a level playing field. Sometimes we think of a bar to competition that a new entrant would be treated differently from existing participants. That is not the issue here.

Deputy Michael McGrath: It is still a factor.

Professor Philip Lane: Let me ask Mr. Sibley to outline our thinking about risk weights.

Mr. Ed Sibley: The Deputy will forgive me for the fact that there is a degree of complexity to the answer. The core point is that the risk weights, the amount of capital a bank needs to hold here relative to its mortgage book, reflects the risk. That is the core principal. Some of the banks operate on the basis of what is called a standardised approach, which involves a defined risk weighting for everyone. Therefore, everyone uses that approach regardless of the jurisdiction they are in. For residential mortgage lending, that is the standardised approach they use.

The larger institutions would typically use their own internal models. That is based on the performance of the book over a period of time. Typically, in most instances in most jurisdictions, those risk rates - through using the internal models - would be lower than the standardised approach. However, because of the history in Ireland with the level of loan losses experienced, the level of non-performing loans that remain in the system and the losses associated with those non-performing loans, there is not that much difference between the standardised and the internal models.

To expand on the Governor's point, we would expect exactly the same as would be expected across the entire eurozone. There has been a big programme of work, which is called a targeted review of internal models, to ensure banks across the eurozone are following similar approaches, similar methodology and similar outcomes in terms of calculating the amount of risk weight relative to the loan book. However, it is absolutely the case that risk weights in Ireland are higher than many, but not all, other jurisdictions.

Professor Philip Lane: This runs across much of the debate. Why is it that ten or 12 years later, these risks are deemed to be so high? One element is that time needs to pass in order for Ireland to demonstrate it will maintain the stability to avoid the boom-bust cycle we saw previously. We think it will not be like it was previously. There are many policies now to avoid what we saw in 2006-07, but in terms of the legacy of history, that is there.

The second element is what is called loss given default - if a bank has a default, how much can it recover? Banks consider the ability to repossess homes and so on. A perfectly legitimate choice has been made here to allow considerable forbearance and avoidance of repossession, but an external bank looking at Ireland would identify the difficulty to recover collateral in this situation as a clear factor.

Deputy Michael McGrath: I am looking at a table from the European Banking Authority, EBA, which shows average internal risk weighting for residential mortgages during the first half of 2017. It shows Ireland at 42.5%. Sweden would be at the other end at 4.2% and the UK is at 10.5%. Is it appropriate to levy those very high risk weightings on mortgages that are being issued now in an entirely different environment and under new macro-prudential rules, including those relating to 80% loans and a loan-to-income ratio of 3.5? Is such a high risk weighting shaped by history and our experience during the crisis and the fallout from the crisis? Is this a deterrent for foreign lenders coming into the market when they look at the risk weighting they are required-----

Professor Philip Lane: I emphasise that this is not coming from us. This is the assessment of the analytics if one looks, with a cold analyst's eye, at the risks in the market. I agree with the Deputy. We think the system is structurally different now. The issue about the recovery in a default situation, the long delays and so on in restructuring a mortgage, that remains an issue. However, let me turn to Mr. Sibley-----

Deputy Michael McGrath: Before Mr. Sibley comes in, that risk weighting has been shaped by a history of 100% mortgages and a loan-to-income ratio of six. While it is now fundamentally different, we are still attaching a very high risk weighting to new mortgages under entirely different rules. It seems to me to be a real issue as we are trying to get more competition into the Irish market.

Mr. Ed Sibley: I referred to this earlier. It is absolutely our desire to have a functioning financial services system that serves the needs of the economy. That includes a functioning secured lending market. Part of that is to continue to address some of the dysfunction that we see. We might get into that if the members so desire.

In terms of what the banks themselves are calculating under the rules of the capital requirements directive and capital requirements regulations, from an internal audit perspective, the number the Deputy quoted is still based on their entire book. It would reflect elements of the new lending but still, because new lending has been relatively muted relative to the whole books that banks have here, it will also reflect the risk profile of the entire book. I have not got the precise graph in front of me and may have picked the Deputy up wrong. Certainly, the risk weights that banks are being required to hold reflect the risk profile of the entire book, both new and back.

Deputy Michael McGrath: Of that bank.

Mr. Ed Sibley: Of that institution. A new entrant would have the opportunity to look at the risk profile of the lending it was doing and, if it was at the more advanced or sizeable end, it would have to model that itself based on the profile of the mortgage lending it was doing and on comparative history, because it will not have its own experience, and come up with an appropriate risk weight using the methodologies that are standard across Europe. In making those calculations, it would be looking at the dynamics and functioning of the Irish mortgage market. Given the levels of default that were here historically, recognising that was the past, and given the level of risk within the country, I imagine it would form the view that that risk profile of lending into Ireland today is different from lending into the likes of Germany. Whether the difference would be by the factor that is in the current risk weight calculations is another discussion.

Deputy Michael McGrath: I will move on to Brexit. In the event of a cliff-edge Brexit with no transition period and no deal, how prepared will we be in respect of financial services and products being sold into Ireland on the basis of the passporting provisions and branch operations? The question goes the other way as well in respect of companies that have their prudential regulation here and are selling into the UK market. From the point of view of Irish consumers buying insurance products and so on from very big firms, to what extent are they all going to be ready in the event of there being no deal at the end of March?

Mr. Ed Sibley: We have been very focused on this, as the Governor stated in his opening remarks. We have been very focused on Brexit for a number of years, thinking about the macro risks and also the particular risks the Deputy has identified in respect of the continuation of the

provision of services to customers and consumers in Ireland. To use the Deputy's example of insurance, there are many providers of insurance into Ireland from the UK and, to a lesser extent but still of relevance, from Gibraltar. We have made sure that we understand to the greatest extent possible the volume of those contracts and policies and that we have as good an understanding as possible of the contingency plans that are being put in place and invoked to address the issue of the provision of service after Brexit. For the big firms that are passported in and are providing ongoing service in Ireland, we would be very confident that they have contingency plans that they are implementing and that they are addressing the issues. The volume is such that at the very tail, there is a possibility that we will not get to 100%. We may get to 99%, in which case there is some risk there around a hard Brexit.

Deputy Michael McGrath: On housing, the Governor has welcomed the moderation in house price growth. He made some comments the last time he was before this committee, as well. What is his assessment of the housing market and house prices? Is supply coming on stream at the pace he expected and does the Central Bank see further moderation or perhaps an end to growth in prices? What is the Governor looking at over the period ahead?

Professor Philip Lane: On investment and construction activity, there has been significant growth this year compared with last year. We see the pipeline between now and next year and between 2019 and 2020 as quite significant. Definitely, regardless of whether we are looking at completions of new homes, in addition to which are other elements such as home renovations, which are another part of residential investment in terms of improving homes and so on, all of that is showing strong growth year by year. There is a supply response happening, but given the many years of underinvestment, it is not closing the gap completely. This remains a multi-year challenge.

It also remains the case that there are many public policy issues about affordability, social housing and all of these things, which are in the hands of the Oireachtas. As the members know, we have a budget next week, and under public investment programmes and so on there are choices to be made. According to our current projections, it is the case that there is a significant pick-up this year compared with last year, and we see it continuing to expand year on year. It is definitely moving and the situation is different now from what it was two years ago, but it is not enough to close the gap. That is true.

Deputy Michael McGrath: What is the position regarding prices?

Professor Philip Lane: Prices are a contest. On one level, the economy is growing. There are more people in employment and wages are starting to pick up. In some sectors, they are picking up quite a bit. That probably affects some districts more than others but there is momentum there. We do think our rules are biting and, at least in Dublin, there is a clear effect. I emphasise that there are still plenty of non-mortgage transactions going on, especially in lower price segments. The price growth is disproportionately out of Dublin because there is more room for expansion in some of the lower-priced regions. There is one experience in Dublin, which is hitting the limits, but that is the experience throughout the whole country.

Deputy Michael McGrath: One of the Central Bank's deputy governors, Sharon Donnelly, has applied for the role of chair of the Single Supervisory Mechanism board. We were in Frankfurt recently as a committee and met the current chair. We wish the deputy governor all the best in that application. The Governor has confirmed publicly that he is interested in the chief economist position in the ECB, which will become available next year. From the point of view of corporate memory and top jobs within our own Central Bank, there is the possibility of

two of the top three people moving on within a period of months. We may not get both, looking at it from an Ireland Inc. point of view, but has the Governor any comments or observations to make about the need for continuity, retention of experience and knowledge and so on?

Professor Philip Lane: From the word go, from the time I joined the bank, the whole ambition here and the only way the bank can be sustainable is for it basically to be a machine. Whether it is me, Ms Donnery or the people beside me, we have to operate on the basis that everyone is replaceable. What we need is a pipeline of people who can step forward. A lot of the effort we go to in the bank is to cultivate and build the next wave. Regardless of any individual, it is the case that there is a remarkable set of talented people in the bank. The committee gets to see the most visible layer at its meetings, but in terms of the talent in the bank, we are operating as a team and as a machine, so the individuals should not be so important.

Deputy Pearse Doherty: I want to revisit the issue of Brexit, if I may. We can all say it is definitely more likely than when the witnesses were here before that we could see not only a hard Brexit but Britain crashing out of the European Union with a no-deal scenario. That could mean no transition period and that all bets are off in about six months.

Could I clarify Mr. Sibley's comments in terms of preparedness? Do those figures relate to that context or to a scenario whereby we would be prepared, 99% of institutions would have contingency arrangements and there would not be disruption for either insurance holders or any others availing of financial institutions that are located or have headquarters in Britain?

Mr. Ed Sibley: To be completely clear, in the scenario Deputy Doherty described there, which is unfortunately plausible, it would be rocky. There is a high degree of interconnectedness between the Irish economy and the UK economy. From an economic perspective it would be very challenging. I am sure Deputy Doherty is very well aware of that.

From a financial services perspective there is also a high level of interconnectedness in a number of ways, and in addition to the interconnectedness the UK, and London in particular, is such a provider of financial services capability and flow into the rest of the EU that, in the event of a hard or chaotic Brexit, it would be disruptive. It would be disruptive economically and from a financial services perspective.

We are very focused in terms of our work between now and the end of March on making sure that we have a very good handle on those cliff-edge risks. We are driving the firms to mitigate the risks as much as we can and we are mitigating them ourselves as much as we can, but it is plausible that there will be something of a gap between where we can get to and where we would like to be in terms of fully mitigating the risks.

I used the example of insurance. From a freedom of services perspective, the example I have used elsewhere concerns insurance protection for car rentals. They are one-off policies that are not necessarily part of an ongoing relationship with a policyholder. There may be potential issues there. We are very focused on closing them down as much as we can, but given the nature of the scenario described by Deputy Doherty I do not think we could give 100% assurance that there will not be some rockiness.

Professor Philip Lane: My sense is that the whole European system of regulators and lawmakers can do a lot to manage those kinds of risks, but the major focus will not be so much on that as on the financial market speculation. We are probably going to see swings in the exchange rate between sterling and the euro, and possibly swings in UK interest rates, and

changes in equity markets, among other changes. If the probability of a hard Brexit goes up in the coming weeks, the financial volatility could in itself be damaging, even if the situation ends up being okay at the end of March. Unless there is very rapid and very clear progress between now and the end of November, we will witness volatility until the final answer is there.

Deputy Pearse Doherty: Obviously all of us want to ensure that does not happen. On what we can control or manage in that scenario, going back to insurance, for example, if the Central Bank has sight of companies located in Britain that are using freedom of service rules and can sell products into Ireland and the bank has a feeling it will not meet the end of March deadline or there is a risk that the service could be disrupted, is there an onus on the Central Bank in its consumer protection role to notify individuals about that? It is not a liquidation process but, for example, a person taking out a product in February thinks it might be one of the 99 companies that will be okay but it could be among the 1% that does not have the necessary contingency plan in place at that time. I understand the difficulty for the Central Bank in that regard but how do we deal with such a scenario?

Mr. Ed Sibley: It is important to state that we are not doing this on our own. We are very heavily engaged with our colleagues in the UK and through the European Insurance and Occupational Pensions Authority, EIOPA, in the case of insurance companies to make sure that there is a very clear handle on who is writing business where. Deputy Michael McGrath also referred to the outward question as well on which we are also working. We are making sure to the best of our ability that we close out this issue. Similar to other non-financial areas, it may result in a reduction in the levels of supply in certain areas. It is very difficult for us to say to policyholders today what we would require them to do in the circumstance that their contingency plans are being implemented, but we will keep that very much under review. The focus we have had to date is very much driving the firms to address it and to communicate with the brokers that are selling the products to make sure that they can fulfil the policy for its duration, but there is some tail risk, which is basically what I am talking about, which we are keeping very much under review and how we are engaging on that with the firms as well as in our engagement with consumers.

Deputy Pearse Doherty: Has the Central Bank updated its forecast for the no-deal Brexit type of scenario where Britain crashes out of the European Union come next March and the impact in terms of jobs and economic growth?

Professor Philip Lane: We have a quarterly bulletin coming out some time soon where we will dedicate the study to that issue. It is not quite finalised yet, but in general terms this goes back to the financial market turmoil issue. The way the models work is that it is clearly negative for the UK and for us for two reasons, one is that if the UK slows down we will lose export customers and, second, on top of that all of the models say sterling is going to depreciate quite a bit, so there is double hit here from the reduced export customer base and sterling moving. There is no doubt it is a negative, but my view is that the models understate the negativity because they have not taken into account the financial speculation. We must ask whether there will be a plunge in the stock markets or increasing risk premia in the bond markets, among other things. We will be reporting what the models say, and it is negative, but I think they understate.

Deputy Pearse Doherty: Is that because the model does not capture that volatility and speculation?

Professor Philip Lane: Yes, it is an add-on.

Deputy Pearse Doherty: I wish to ask the witnesses about non-performing loans, NPLs, and the sale to vulture funds. We have been inundated with people phoning and emailing us to tell us that although they are not in arrears, the bank has turned its back on them and their family. Other mortgage accounts which had a small amount of arrears have also been sold. When we queried that with Permanent TSB, for example, the bank told us in broad terms that the definition of an NPL, while complex, is that if a person was in arrears at any point, even if he or she was making full payments, as was agreed in the original application with no arrears, that loan is defined as a non-performing loan. The committee has teased this out with banks previously, and maybe I missed something, but I have never understood an NPL to be defined in that way. For example, if Professor Lane, anyone else or I missed a number of mortgage payments ten years ago and had arrears of €1,000 that were cleared nine years ago, that mortgage would still be deemed as non-performing. Is that the case?

Professor Philip Lane: I will turn to Mr. Sibley.

Mr. Ed Sibley: As the Deputy described, there is some degree of complexity. In complete isolation of anything else, if a borrower was in arrears, cleared those arrears and was repaying the loan as originally taken out, he or she would have to demonstrate an ability to repay sustainably over a period. Typically, that is a year.

Deputy Pearse Doherty: Did Mr. Sibley say one year?

Mr. Ed Sibley: The probationary period is typically a year. That loan would then return to performing. However, that is if the example was in complete isolation. There are other circumstances where the loan might not return to performing, for instance, if the borrower has another loan with the institution, that is, there is a connection with another loan, that is in arrears or is non-performing for some reason. In complete isolation, the circumstances that the Deputy described of one loan and one borrower should queue out to performing, but there may be other reasons for it to remain non-performing, for example, another loan.

Deputy Pearse Doherty: That is the definition that is used across all of the banks.

Mr. Ed Sibley: Yes. There is a standardised definition. It was written by the European Banking Authority, EBA.

Deputy Pearse Doherty: When we are considering the percentage of NPLs, a number of them could be meeting their original contract agreements. Indeed, they could have been meeting them for nine months, but they would still be deemed as non-performing.

Mr. Ed Sibley: I appreciate that there is a degree of confusion, as we are talking about arrears as well as NPLs. There could be a loan that is not in arrears but is still classified as non-performing. It could be a question of timing. The loan could be returned to performing for nine months and going through a probationary period or it could be connected to another loan. I have seen instances of people with loans that were meeting their terms but who also had connected loans with associated pulling factors.

Deputy Pearse Doherty: We discussed the culture of the banks and how to change it. For many people, including me, this sums up the banks' culture. People who made genuine efforts to catch up on their arrears six months ago may now be caught in this loophole and have had their loans deemed non-performing, and their banks have just tossed them over to a vulture. Do the witnesses not see the question of fairness in this? According to the Central Bank's report, the banks need to consider what the customer wants and needs instead of considering their own

objectives first before conducting a customer impact analysis. Surely to God what is happening at the minute is the best proof that the culture of the banks is as bad as it was. While I disagree with the sale of any of these loans to vultures, in this context I am specifically focusing on those individuals who are no longer in arrears and whose loans are being sold to Start Mortgages or other firms.

Professor Philip Lane: The Deputy cited an example of the one-year window to return to performing. The number involved in that is quite small, but there is a larger group comprising restructured loans. They have come to some arrangement with the banks. For example, they may have arrears capitalised or split mortgages, be making interest-only payments and so on. There is a whole category of borrowers who are not meeting the original terms of the loan but have met some kind of-----

Deputy Pearse Doherty: Restructured agreement.

Professor Philip Lane: Yes. This goes to the issue. It is not unique to Ireland but, in general, banks may choose to sell loans, be they wholly performing or non-performing, and there are many reasons for doing so. I appreciate the concerns that arise when people get letters saying that their mortgages are now owned by X, Y or Z, but let me revert to the consumer protection framework. The framework applies regardless of who owns the loans. That is not the only perspective of how these loans will proceed, but the consumer protection element remains regardless of whether a bank or investment fund owns the loan.

Deputy Pearse Doherty: I know that there is consumer protection and that the legislation does not increase that protection in respect of the regulation of the owner, but that is not the core issue. If I borrow €100 from Professor Lane, I know that, because he is a nice guy, he might give me a couple of months longer than the original terms to come up with the money if I find myself in trouble. If I borrow off Deputy McGrath, though, and not meaning to pick on him,-----

Deputy Michael McGrath: Thanks, Deputy.

Deputy Pearse Doherty: -----he is ruthless and will hike up the interest rates.

Chairman: He is not like that.

Deputy Pearse Doherty: Obviously, I am sure that he would really give me the interest holiday as well. The problem is that these vultures have no interest in the type of restructuring in which some of the main banks engage. Vultures have short-term interests whereas banks have a long-term interest. They want people's deposits, people's children's accounts, student accounts and so on. That is why we expect it to be safer for individuals to be with institutions that are in Ireland for the long term.

Professor Philip Lane: I appreciate that that is a widely held perspective. While what I am about to refer to is not a complete perspective, there is a certain perspective on what has happened so far. Mr. Sibley might discuss what we have seen in terms of funds versus banks.

Mr. Ed Sibley: I appreciate that we have had discussions with the committee before about letters received and phone calls made, and I appreciate the distress involved. That is why the CCMA and consumer protection code exist. In terms of repossession as a last resort when dealing with the percentage of loans that are in distress, there is no evidence that the funds are pursuing repossessions from a strategic perspective more aggressively than the banks. Where

there is a difference, and we discussed this last-----

Deputy Pearse Doherty: Is Mr. Sibley just referring to repossessions?

Mr. Ed Sibley: I am referring to-----

Deputy Pearse Doherty: I am asking about this because, whereas the banks would make arrangements, asset appreciation must be recognised as a factor. It makes sense for the vultures to sit back while the assets increase in value.

Mr. Ed Sibley: That is a reference to those that are currently classified as being pursued through the courts. There is a difference, which we discussed somewhat the last time we appeared before the committee, between the restructures that are in place in the banks and those that are in place in the non-banks. For example, there is typically less use of split mortgages in non-banks. There is some evidence of a greater willingness to agree debt write-offs through the non-banks than there is through the banks, but that is more anecdotal evidence than hard evidence. The fundamental point is that, regardless of who owns the loans, there are protections through the CCMA and the consumer protection code, which Ms Rowland can discuss.

Deputy Pearse Doherty: I accept that, and we have continually made that point to individuals, but there is the other issue.

Professor Philip Lane: Let us revert to the economics of this, which we referenced earlier. The funds have bought the loans at a discount and do not face the capital charges that banks do. In other words, the running costs of holding these mortgages is less for the investment funds than it is for the banks. That creates room. It is not obvious which way the situation will go. I respect the Deputy's point but, on the other hand, that these mortgages have a lower cost for the funds creates more room for bargaining.

Deputy Pearse Doherty: I agree. It is Professor Lane's comment that it is not obvious which way it is going to go that is the problem. There is a huge risk. I have represented people who have had debt write-down.

Professor Philip Lane: If there was no reason to have these sales and, with that uncertainty, why do it? If these loans are left on the books of the banks and if we experience a negative event in terms of a severe downturn, a sharp change in funding costs or in the macro-environment, it is a risk to everyone. There is a social reason for doing it. The move from only banks owning mortgages to diversification of ownership is a global movement. There is a reason for it and it has to be set against these other factors. There is a review of the CCMA under way. The investment funds have purchased restructured loans which have agreements and they are respecting them. The question is what might happen next. I will ask my colleague to comment on the CCMA.

Ms Derville Rowland: As the Deputy will be aware, we are carrying out a review on the effectiveness of the CCMA, particularly in the context of loans that have been sold. We have done on-site inspections in the credit servicing firms and we are reviewing their general compliance with the provisions of the CCMA. We have met a number of stakeholders in the process to get their insights into what is working well, where the blockages are and the changes or improvements that need to be made. An important part of the work we are doing is analytical. We are gathering data on the loans that have been sold, the alternative arrangements and what is happening to them, the range of options the banks have in place and what options are being agreed with customers. We are comparing this data with the same scenario in the non-banks,

which gets to the issue being discussed of which way might this go. We are analysing this data and it will be reported on. Some of the data will assist us in having an evidenced-based discussion around the outcomes that we may see occurring. There is a backdrop to this that we will have to factor into our thinking. Some of the loans and people affected by them - those in deeper arrears - may be in the non-bank scenarios such that the range of options that they offer could be influenced by the circumstances of the individuals they are dealing with. This work will give us some insights into precisely this point. We have done a very deep exercise in gathering that data in order to assist us.

It is true that the protections of the CCMA have helped many families. The approaches of the Central Bank helped restructure their loans. It is important that the broad message goes out to people that where they are in difficulties it is important that they engage with their lenders. Their lender is obliged to treat them sensitively with a view to seeking to resolve the arrears constructively, where possible. This is an outcome that is possible through the use of the CCMA. It is important that people engage with the process if they find themselves in this awful circumstance.

Deputy Pearse Doherty: I thank Ms Rowland. Professor Lane made no reference in his presentation to an overheating in the economy or any risk of same. I am aware that none of the agencies, internally or externally, has said the economy is overheating but they have referenced a risk of this happening. When the Irish Fiscal Advisory Council appeared before the committee, it provided us with a report and a heat map, which I am sure the witnesses had sight of. Its analysis is that the largest risk to an overheating of the economy is commercial property. In terms of what happened in the past in terms with property and what led us into the crash, commercial property was at the heart of that crisis. Does Professor Lane share the view of the Irish Fiscal Advisory Council that it is commercial property that is overheating or at risk of overheating and, if so, has he proposed any measures to prevent that happening? Stamp duty was increased in the previous budget but the commercial property sector is still booming. I have raised my concerns in regard to the emergence of a bubble in this sector, which I accept is not being bank financed. We will never have an exact mirror image of the crash but this creates other risks.

Professor Philip Lane: In general, overheating is an economy-wide issue. An imbalance in a particular sector is a separate issue. In terms of the overall economy, we are not seeing overheating yet. In terms of unemployment, there is still a way to go before we get into the red zone in terms of the labour market. We should not be too early in declaring any overheating of the economy. As long as unemployment remains above where it should be, we should not do that. When it comes to an individual sector and assessment of what is going on therein, there are few issues arising. What one sees in terms of the number of cranes around town is the completion of a lot of buildings. Construction on these buildings was initiated several years ago when sites were bought at a bargain price and the companies now want to complete and sell them. It is not my understanding that there is a new wave of construction under way. In other words, a bubble is created when construction is amplified even when the market grows closer to completion. I do not think that is in the pipeline. We gather information from the commercial brokers in this regard.

Pricing was very strong for a while but in recent times it has become much flatter. It is not the case that there is onward acceleration in commercial real estate prices. What is true - the IMF has highlighted this - is that there has been an international synchronisation. In other words, there are a number of funds in the world which are active in a number of cities, includ-

ing Dublin. If funding conditions change or they experience a shock somewhere, it may lead to a synchronised reversal everywhere. Much of the financial risk is in those investment firms, not in the Irish banks. There are spillovers because the Irish banks rely on that pricing to price the collateral of what they hold.

The Deputy raises a valid concern. We will release more work in this area. We have been working away on this issue, prompted a little by the Deputy's communication to me in regard to one of these firms. We have been working on understanding the role of investment firms and how they are funded. We have some interesting work that we will publish. The international message is that commercial real estate has been de-linked from local circumstances. It is part of an international financial play which may go into reverse at some point. It is an interesting sector but I would not call what is happening in it a bubble. There is no local element to the bubble. There may be a global element to it but it is not the case that there is some mania going on in the Irish market.

Deputy Pearse Doherty: I welcome that additional work in this area will be published. My concern is in regard to the sharp increase in prices in commercial property. I note Professor Lane's point that they are not increasing at the same rate.

I would like to discuss the issue of interest rates and mortgage interest rates. While I acknowledge that a number of lenders have been reducing their interest rates over the past 12 to 18 months they are still double the European average. We expect that ECB interest rates will start to increase in 2019. This is likely to happen sooner rather than later. We have never had the benefit of European average interest rates. Does Professor Lane see a day when interest rates in Ireland will be in line with the average? If he does, when will it be? Consumers are being ripped off and they find it very difficult to understand how we can talk about NPLs, the drag on banks and so on and then see AIB and Bank of Ireland making profits of €1 billion at a time when they are not paying any tax in the State and are charging twice the interest rates of the European competitors.

Professor Philip Lane: As the Deputy indicated, there has been some movement, which is encouraging. We think the policy swerve has helped a little with that by making switching easier. Information campaigns and so on have assisted in this regard. We see some evidence that people are waking up. Many could save money by moving to cheaper rates, even within their own banks. The wider point is that, as we indicated, while there is no doubt that there are some factors such as NPLs, the history of the crisis, etc., there is also an issue of competition. There are no barriers to entry here and we are not in a different bloc. We have a single banking union and there is no longer a concern about whether a national regulator will do something odd or surprising. People can rely on a single European regulatory framework. The answer is that, as time goes by, the more we have a track record of the economy growing and of credit not going crazy, of mortgages being relatively low risk, of low LTV ratios, of reasonable loan-to-income ratios and so on, the more the fundamentals will appeal.

Internationally, there was a period when everyone was so busy fixing their own problems that there was no appetite to enter new markets. There are many discussions on cross-border banking. We need to have consolidation and to allow the strong, good banks to expand. I am hopeful that there will be new entrants or that even the threat of this will force the incumbents to reduce their rates. There is room on the margins for those to come down but the only way to really deliver in this regard is by not erecting new barriers to entry and not creating unstable conditions here. The reality is that commercial banking relies heavily on private funding. People take a risk in funding these banks and until they are confident they can make a return

here, this may persist. It is all going in the right direction. More stability, a lower risk credit environment, etc., will help to create conditions for new entrants but I cannot tell the Deputy when that will happen.

Deputy Pearse Doherty: Professor Lane is aware that there is an ongoing review relating to bankers' pay that is looking at whether the cap of €500,000 is appropriate going into the future. Of course, Bank of Ireland has always breached the latter threshold. Has the Central Bank fed into that review? If he is in a position to do so, will Professor Lane outline his opinion in that regard? This was probably instigated by the scheme going before the AIB board, which was looking at a bonus. What are Professor Lane's views on that, on the culture of the banks and on how remuneration can or cannot affect it?

Professor Philip Lane: Mr. Sibley covered this earlier. There are firms in Dublin and even more in London which pay more than that. Some individuals will decline to work for banks here in which there is significant State ownership because of the pay on offer. It is for the Oireachtas to decide the trade-off. Does it want the market forces to dictate that if the banks decide it is good value to hire people at higher salaries, they should be allowed to do so? In the context of public acceptability regarding a State-owned bank, is it prepared to wait to see what happens, maintain the cap and fill positions despite the fact that the bank may not get all the individuals it wants? I read that someone has been allocated a contract to evaluate the position in that regard. There is a need to consider the pros and cons of that. There is a genuine trade-off. We have always recognised that there is a good case for performance-related pay that is aligned with socially desirable incentives, especially in a volatile industry such as banking. When the economy slows down, their pay is cut and that provides a degree of stability. One also needs clawback mechanisms whereby any bonuses can be clawed back in the future over a long period if necessary. Have I missed anything?

Mr. Ed Sibley: I think that is pretty much it. From a regulation perspective, we addressed this earlier. The governor refers to clawbacks and ensuring that incentivisation is consistent with looking to the longer term. That is enshrined in the regulations. That is a different matter to the specific point with regard to the legislation. We would be very keen to have the cultural change espoused by the banks, which we want to see, being properly incentivised. That is not necessarily always monetary. We talked a little about this matter earlier in the context of who is getting promoted and about how people are being recognised for good performance. That should be aligned with the cultural changes required within these institutions.

Chairman: The witnesses have given an answer which is neither here nor there. I prefer the answer that was given by the representatives from the European Central Bank when they came before the committee recently to discuss the SSM. Danièle Nouy said it is not yet the right time to consider changing the current salary or bonus rules in place for Irish banks. That is pretty clear. I certainly agree with the message and think the Irish public would like to hear from the Central Bank about it. The banks and the Government operate in a manner where they say they will look at something and compile a report. Such a report will come up with the same reply the witnesses have given, namely, that it is one thing, on the one hand, and something else, on the other. In my opinion, the reply is that they have enough. Banks being profitable to the tune of €1 billion a year while stripping people of their dignity is just not acceptable.

I return to the NPLs and the 5%. Let us consider a situation where a main bank provides a loan. There may be difficulty with repayments, as was the case with the banks themselves. That loan is then restructured and the customer lives within the new terms. Despite this, the bank sells the loan to a vulture fund. Professor Lane indicated how one can perhaps do a deal

with a vulture fund because it bought the loan for less. Once one gets to that point of having a loan owned by the vulture fund, one's credit rating with the Irish Credit Bureau, ICB, is affected, so one has no hope of getting a loan from anyone except the same vulture fund at a rate of 10%, 15% or 18%. As a result, one can never buy oneself out of the loan. That is an issue, especially for business people who find themselves in this situation and are attempting to rebuild. It is also the same for homeowners. The option of a credit union, which was there for generations, where one could get a loan from it if one got into debt, is not there because one is listed by the ICB, which is a difficulty.

In addition, the Central Bank continues to say that the protection travels with the loan. Mr. Sibley indicated that there is not a great deal of evidence of the opposite happening. I keep repeating myself by stating that there is ample evidence of people being crucified by vulture funds as they attempt to rebuild portfolios, homes, businesses or whatever. I have dealt directly with them, a point I have repeated to Professor Lane at previous meetings. For me, the experience has been hugely negative. I pity the people who must deal with the vulture funds. I ask Professor Lane to address the following situation. A bank states that it is required by regulators to reduce the percentage of loans which are classified as non-performing. That is probably accurate. It is selecting its words quite well and blaming the regulators. In a second paragraph, the homeowner - or the loan owner - will read that for regulatory purposes, the bank generally describes a loan that is or has been in arrears as one that is in default or can be sold. I would like the Central Bank to comment on what I have just said and what I have cited from this letter and to tell me why the banks cannot be instructed to drill down into their bad loan books and bring about individual resolutions. Yes, there will be those who will not pay and, therefore, their loans can be sold. However, why can the Central Bank not force the banks to do as I have outlined and make it an option for them to drill down and solve the loan crisis? They are flogging off the loans in any event and at massive discounts, the profits are going out of the country because the vulture funds take them and we have outlined here before the damage done to society. Why can the Central Bank not emphasise this other option to them?

Professor Philip Lane: I will turn to Mr. Sibley in a moment. We have always emphasised exactly what the Chairman said. There are choices here. It is not the case that we instruct any bank to engage in loan sales. I emphasise that many mortgages have been restructured by banks over the years, so it is not the case that they have not gone down that road to some degree. Ultimately, however, the commercial decision as to whether to do more direct restructuring or whether to put provisions aside in order that an otherwise non-performing loan can be put on the road to performing versus the decision to sell is not our decision but the decision of the banks. Mr. Sibley may be able to say more.

Mr. Ed Sibley: To respond to the Chairman's final point, what he articulated is what genuinely has been happening for the past eight years or more. We pushed the banks really hard from 2010 onwards to restructure loans sustainably in to address borrowers' individual circumstances. Behind every number - and I will talk about the number presently - there are individuals, and I genuinely appreciate that. To give a sense of the matter, one in eight owner-occupier mortgages was in default at the peak of the problems with non-performing loans. That is down to about one in 16. That is still obviously too many, but that number has been achieved through the splits to the arrears caps, the term extensions and the forbearance. At an individual level, the individual circumstances of these borrowers have been understood, assessed and restructured on that basis, and this has required sacrifices on the part of the borrowers. It has also required engagement with the banks. Underneath that, through the waterfall, there are protections in place, via both the private sector and the public sector, in the form of organisations that are there

to try to assist borrowers in distress. I refer here to the Insolvency Service of Ireland and, ultimately, the courts. The process the Chairman describes has been happening. Now, however, five years on from the peak of the level of difficulties with non-performing loans, we still have a big chunk of borrowers who are not just two years but five years past due. If we are going to have the functioning market we talked about that serves the country, that does require those to be addressed. Whether those loans are with a bank or not with a bank, the bank is required to engage and consider the individual person's circumstances and try to address them.

One point of detail the Chairman raised relates to portfolios. The CCMA's protections are focused on owner-occupier mortgages - that is, those relating to the family home. If a borrower has invested in a portfolio of loans, that is a different matter and the protections are somewhat different.

Chairman: I do not know whether Governor Lane or Mr. Sibley have answered the question. I do not know whether they are clued into this at all. Let me explain. I understand what the banks have been doing. On a macro level, they have their big customers. They have worked hard going down to the very smallest of loans so they are almost down to that level now where they have a huge number of loans that are in difficulty. They are not applying the same degree of effort in finding a solution for those loans as they did with the bigger loans further up along the chain. As a result, individuals find themselves in court. They are lay litigants defending against solicitors, barristers and so on, and, until now, the banks have pushed these loans to the courts. There is a huge number of cases before the courts and no effort is being made by the banks once they do this to unravel matters and try to find solutions. These are the clients who come to me and, I am sure, other members of the committee. They are fighting for their homes and trying to make some effort. I do not know whether our guests know how difficult it is to get information from the banks. It is absolutely impossible, and I have seen this myself by dealing with individual cases. One individual asked a particular vulture fund for information last Christmas. That information has still not been provided. In the meantime, the client is just left there wondering about his or her business, home or loan or whatever. It is impossible to deal with the banks. I know I am repeating myself because I have said this before at various meetings, but it is the same story I come up against all the time. It can be seen in the language used in that letter from a bank to a customer. One cannot say what is written is a lie, but it verges on being so. It is a play on words to make the customer feel that the banks are not that bad but that those regulators have them under fierce pressure and they have to sell the borrowers' loans on. That is basically what they are saying. Earlier, we dealt with the culture in the bank. That letter speaks loud and clear to a culture that does not give a damn who is regulating or what is being said. That is a view I have and it is one that I know is shared by people across the country.

I then come to the ICB, now that I have gone through the situation of a loan being sold on to a vulture fund, a client trying to buy it back and the bureau flagging the individual's history. The Central Bank controls the ICB now. Is that correct or is it working within the bank?

Professor Philip Lane: No. A new credit register has recently been set up, and information all loans to individuals goes into that. It is an alternative to the traditional credit bureau which was owned by the banks. It is an important new source of information which will allow banks to see the whole profile of an individual's debts, and not just *vis-à-vis* one bank but with other banks, as well as any history of difficulties. That is starting now and it is a new piece of information. There will soon be a second register called AnaCredit, a European-wide credit register for bigger businesses. There will, therefore, be a similar database of debt for these businesses. This is intended to improve the information available to lenders to assess credit risk more ac-

curately.

Chairman: Is the ICB finished, in that case?

Professor Philip Lane: It is a decision first of all for those who own the ICB to decide whether it has a business future. The central credit register is only in the start-up phase and, therefore, I do not think there has been any decision yet about the future of the ICB. The central credit register is an important new source of information. The AnaCredit register will be important when it is on stream. The amount of information available to lenders will increase.

On the basic point about whether somebody in this situation is totally stuck because some historical default or non-payment means there is a flag on his or her record, we must make a distinction between households where the consumer protection framework is strongest and treatment of small and medium enterprises and bigger firms where the way in which a loan contract is managed will be different. The level of protection for consumers will naturally be much higher than for business enterprises because of the basic differences in those two types of loan and activity. I am sure the experience is tough for many small business owners, and the question there is how a bank or a non-bank should treat those loans.

Chairman: Will Professor Lane address the issue of small business owners not being able to get loans, and the credit union option being closed off to them as well? Is there not an argument for easing the regulation of credit unions in this area? They grew small businesses in their day because they knew the individuals and the risk better than most. Now they are virtually the only financial institutions that are represented in the community.

Mr. Ed Sibley: On the specific point about credit unions, as has been reported, we are looking at the lending limits that are in place today and making sure they are fit for purpose. We will consult on that shortly.

Chairman: Can credit unions do mortgages now?

Mr. Ed Sibley: They can do them today.

Chairman: With total freedom.

Mr. Ed Sibley: In the case of many of them. There are two limits in place for lending of more than five years and more than ten years. I appreciate there are a smaller number of credit unions that are already close to these limits, but they are lending approximately one third of what in aggregate they could lend relative to those limits. There are a handful of credit unions that are bumping up against those limits. Credit unions can lend from a mortgage perspective today, as many are doing, but we are looking at the approach to how those limits are calculated. The limits are currently based on the lender's total loan book. As the committee will be well aware, the number of loans in credit unions has been flat to falling. A better answer to that is to focus on the reserves they have and to put the limits in place around the reserves on the credit unions' capacity to lend, but we will consult on that shortly.

Chairman: On the earlier question, what did Mr. Sibley say about credit unions' ability to lend to someone who they know went through a bad time but is now less risk?

Mr. Ed Sibley: The credit register gives information that allows the lender to make a choice.

Chairman: Is it still the case that the lender, whether a credit union or not, makes the choice?

Mr. Ed Sibley: Yes.

Chairman: It is not penalised in any way should the choice be to support the particular business or individual.

Mr. Ed Sibley: As long as the lender understands the facts on the ground, which includes looking at the credit register for loans of up to €1,000, it can make a choice.

Chairman: It will look at the register and see that. It understands the difference in the current state of play and, on the basis of that, it will give the loan.

Mr. Ed Sibley: Exactly.

Chairman: I call Deputy Michael McGrath.

Deputy Michael McGrath: I would like to return to the Professor Lane's exchange with Deputy Doherty on the mortgage interest rates issue, about which we have had a number of discussions over a long period of time. We do not hear enough from the Central Bank or the Governor on that issue. When he was pushed, Professor Lane indicated there was scope for further reductions in the margins. In effect, he is signalling that he expects reductions to be of a modest variety. I have repeated the point a number of times about what I would regard as anomalies that the Central Bank is standing over. In the case of Permanent TSB, a bank with significant challenges, nobody is questioning that. It announced a cut in fixed rates for new customers but its existing customers will not benefit from those rate cuts, which is completely unfair. As the consumer protection watchdog, the Central Bank should say it is not acceptable.

Professor Lane has nothing really to say about the whole cashback incentive, which I regard as a gimmick in which a number of banks continue to engage to confuse and dazzle customers by giving them a few thousand euro to camouflage higher rates.

Professor Lane does not want any powers to deal with high interest rates. As Deputy Doherty said, the most recent retail interest rate statistics from July showed they averaged 3.21% on a new mortgage in Ireland compared with 1.77% on average in the eurozone. We have the highest rates in the eurozone. The only other country with interest rates above 3% is Greece, so we are well and truly the highest. Professor Lane does not want any powers, however, even if they are to be non-discretionary powers or if it means putting methodology or a reference rate into legislation, which a number of countries have done, as he well knows. He does not want to have that stick in place, even as a threat.

While we have the issue of trackers in Ireland and a significant portion of loans on the book are on a tracker rate, these mortgages are no longer loss-making. Let us be honest, tracker mortgages are profitable for banks today. Ulster Bank came out with a two-year fixed rate of 2.3% in June, albeit only for two years, which I thought was a game-changer. It was a significant cut below the rates offered by anybody else, and I thought the others would have to respond. Four months on, however, there has been no real response from the other lenders. They all strike me as being comfortable with what they have and there is no real competitive dynamic in the market on actual rates. All we have are cashback and other dazzling offers of lump sums, the payment of legal fees and so on. While the Central Bank might regard its core priority as being prudential supervision and protecting the stability of the financial system, it is, for now at least, the consumer watchdog as well, but I do not hear it dealing with those issues of interest rates.

Professor Philip Lane: I will turn to Ms Rowland in a moment about some of the ways con-

sumer protection is involved in some of the issues the Deputy raised. To come back to the reality here, what we are seeing is a mix of risk premia and a lack of competition. When reference is made to other countries, which have ceilings and caps, it is not the case that it is at the fine-tuning element of 100 or 150 basis points. It is through really high interest rates, way above what we are seeing here. It is not the case that we or anyone else can draw the line between saying this is what is reasonable on a risk premium basis and no more than that. By their nature, laws are hard to undo. If there is a law which pitches it at the wrong level, there is a serious barrier to entry. That is the problem in trying to find a legislative solution. The other approach about which we have talked is promoting entry, keeping barriers to it low, keeping the system stable to reduce risk premia and then watching as entry or the threat of it does its work. That is the way I see it going. We do a lot of work on some of the particular issues related to switching, front book, back book, cashback and so on. Ms Rowland can elaborate on the matter.

Ms Derville Rowland: On the narrow issue, we have done work on the advertisements for initial discounts or cashback offers. There is a place for such offers, but it is important only to know that they are appropriate for some customers but not all, about which we have been very clear with lenders. For people to get the best value they can for themselves, we have tried to be very public and clear that there is a lot of benefit for many mortgage holders in shopping around and buying different mortgage products. They could save themselves a lot of money over the lifetime of a mortgage. Because of this, already in the consumer protection code we require lenders to communicate with their customers regularly on what other offers they have available that could save them money. We see some evidence that switching is increasing. Because we know that even more work needs to be done to help people who already have mortgages to get better value for themselves, we consulted last year and into this year on strengthening the code in the future in order that people who came off a fixed mortgage rate would have 60 days. I know that the Deputy responded in advance of that consultation on the options they would have when they came off a fixed rate in order that they could make sure they would look around to see what the best deal was. If they have a variable rate mortgage now, lenders will have to communicate with customers if it is available at a cheaper rate in a new loan to value statement. We are inserting a lot of requirements into the regulatory framework in order that the information will be delivered to the customers' door to make sure they will have the information to help them to look around to see if they can get a cheaper and better product. They are some of the improvements we think will help people. There is some evidence that they are increasingly taking to switching.

Deputy Michael McGrath: Is it the case that the Central Bank would not support the removal of the cashback incentives as a means of trying to drive down rates?

Professor Philip Lane: I know that is the inference the Deputy draws from what would happen if there was a ban, but we have studied this issue and they do have a role. Consumer protection rests on whether people fully understand and they can see through the dazzle. It is not the case that we just looked at the advertisements-----

Ms Derville Rowland: We effected many changes as a result. I am saying it is a question of the right product being sold in the correct way to the right customer to meet his or her needs. It would be no good if cashback, as happened in the bad old days, pre-crisis, was putting cars outside the front door, but there may be an argument that people understand it is for essential necessities such as a washing machine or some of the very basic items. The cost of that credit must be clear and it should not be mis-sold. Sometimes it is not a question of the product being sold but making sure it is sold properly to confer a benefit on the right customer, which is just

as important. Eradicating that product may not necessarily result in cheaper mortgages across the board for all.

Senator Kieran O'Donnell: The Chairman can tell me if my questions have been answered. Has the Central Bank quantified the impact of a hard and a soft Brexit or a no deal Brexit on gross domestic product?

Chairman: That issue was generally dealt with, unless the Deputy wants-----

Senator Kieran O'Donnell: Did we ask for specifics? I am looking for the numerical impact on growth, GDP, employment and consumer spending in those three scenarios.

Professor Philip Lane: Our next quarterly bulletin which is being finalised will include material on that issue. Many people are running the models for it. When I was responding a while ago to Deputy Pearse Doherty on it, I said it delivered an answer; it was negative. Ireland will be affected, not only if the United Kingdom goes into recession but if any of these severe scenarios leads to significant depreciation in sterling which will hit Irish exporters. I am emphasising the fact that the models will typically understate because on top of them there will be the turmoil. The financial markets will be rocky; there will possibly be movements in stock markets, exchange rates and so on. I would not take excessive comfort from quantitative numbers we may put out in the next couple of weeks because on top of them there could be turmoil in the financial sector which could have its own dynamics. No matter how hard Brexit is, it remains the case that rich countries have different trading arrangements. It is negative and will lead to lower living standards here and in the United Kingdom, but it is not the case that the United Kingdom will suddenly fall off the map or become a zero trading partner. It is regrettable and negative, but we should be contained in the amount-----

Senator Kieran O'Donnell: In other words, all scenarios - a hard, soft or no deal Brexit - will be negative for Ireland.

Professor Philip Lane: Absolutely.

Senator Kieran O'Donnell: When we met the European Central Bank, we discussed the issue of sustainable mortgages. When we defined a sustainable mortgage, we found that the ECB in Frankfurt had taken severe umbrage that all and sundry were blaming it for the need to sell non-performing loans to funds and deleverage at a rapid rate. It took it quite personally and was forthright in saying so. For the first time ever, it gave us what I would regard as a common-sense, definitive version of what was a sustainable loan. It stated a sustainable loan was one that the customer could afford. The rest should be warehoused. There is senior debt which the customer can afford to repay, like any normal mortgage. Someone with a mortgage of €200,000 could technically afford to pay €150,000 of that amount. As far as the person is concerned, the sustainable part is within their age profile. If it could be restructured as a 20 year mortgage, he or she could repay the €150,000 and the balance would be warehoused. The ECB did not regard it as a non-performing loan. What is the Central Bank's perspective because we had a lengthy discussion on it and the ECB was quite forthright about it? That was the first time I had heard a definition of what was a sustainable loan. At the same time it meets the criteria not to be regarded as and deemed to be a non-performing loan.

Mr. Ed Sibley: We touched on this issue a little earlier, but I will address it again. The Deputy asked two questions, one of which was about pressure from the regulator to drive down the number of non-performing loans. It is undoubtedly there, but what has never come from us

or the ECB is a specific target, methodology or approach to drive banks towards selling loans. That has never been the case. We have never instructed that, nor has the ECB, but there is significant pressure and, for the reason we discussed, pressure will remain on the banks to bring down-----

Senator Kieran O'Donnell: The banks are putting that out in the ether, as it were, in a big way.

Mr. Ed Sibley: I understand that. I have had many conversations with the chairs, chief executive officers, CEOs, other board members and other members of the banks about this issue and I am very clear about it. There is not a target. That is the first point.

We expect the loans to be addressed through various mechanisms, including restructuring, which was the second point on which the Deputy touched. We have been very clear throughout on what we have described as sustainable. We put out sustainability guidelines in 2013 when we issued targets in terms of mortgage arrears reduction. That drove change in terms of the banks' approach to dealing with mortgage arrears at that point, which had been very much short-term forbearance rather than dealing with the underlining issues. That has resulted in a very high number of restructures being used to address the issue. There is a specific point around split mortgages, which I think was the germination of the discussion the Senator had in Frankfurt.

Senator Kieran O'Donnell: Correct.

Mr. Ed Sibley: We have been clear with all the banks that these loans can cure, so to speak. We engaged with our ECB colleagues to add further clarity because this product or a variant of it is used in other eurozone countries. These loans can be treated as performing and would no longer be non-performing. What it requires in this or in any other jurisdiction is that the warehouse element is fully provisioned. In the example the Deputy gave, he took a provision of €50,000 for the loan he cited, and if the bank does that, and subject to the borrower repaying €150,000 of that loan in respect of the new term, over a period of probation of about a year that loan could return to a performing status and no longer be non-performing.

Senator Kieran O'Donnell: The final issue we discussed was the Anglo promissory notes. Is the ECB in Frankfurt putting the Irish Central Bank under increasing pressure to unravel the Anglo promissory notes quicker than the schedule established at the time the restructuring took place?

Professor Philip Lane: Back in 2013 when this was set up, there was minimum schedule. It is very important that the minimum schedule was very minimum. It was small numbers, far less than what we are actually doing. The way to think about this is that if what happened in the world had turned out worse than was experienced, if the recovery here had been weaker and if the interest rate environment in Europe was higher, the scale of the disposals could have been done at a super slow pace, which is the minimum schedule. The fact that what happened in the world has not turned out like that, that the interest rate environment in Europe is quite low, that the Irish economy is growing quickly and that the fiscal position of Ireland has improved means that, in line with the second part of that agreement, we would sell as soon as possible, subject to financial stability considerations. That was the minimum schedule and the expectation is that we would sell more quickly, which is something that was always agreed to, subject to maintaining the financial stability. That is why we are selling at the pace we are selling but that minimum remains. If there were a severe change in circumstances, the minimum would

become more relevant, but under current conditions the NTMA can borrow quite cheaply, and this is why we are selling at a pace.

Senator Kieran O'Donnell: At what stage is that? Was the original figure approximately €27 billion?

Professor Philip Lane: I do not have the number in front of me, but we sold €4 billion last year and we have sold €3 billion in the first three quarters of this year, so we are down to €11 billion or €12 billion in that context. I can get the Deputy the exact number.

Senator Kieran O'Donnell: That means that of the €27 billion, €16 billion has been sold. Is that correct?

Professor Philip Lane: In or around that neighbourhood.

Senator Kieran O'Donnell: Was that over a three-year period?

Professor Philip Lane: Perhaps a bit longer than that, but over three or four years.

Senator Kieran O'Donnell: The impression at the time was that it could be spread over up to 40 years.

Professor Philip Lane: These are very long-term bonds. That is true.

Senator Kieran O'Donnell: We suddenly find this is now coming back within three years. The ECB told us that as Ireland refinanced its debt in terms of the IMF programme or any of the other bailout programmes, it would put pressure on the Irish Central Bank to, for want of a better term, tear up the promissory notes. It regarded it as quantitative easing but the ordinary taxpayer is still left with the burden of the €30 billion.

Professor Philip Lane: The way to think about this is that regardless of our commitment as a Central Bank to sell these down at a reasonable speed, subject to financial stability, if one takes it from the fiscal point of view, the question is when we sell these to the NTMA. Currently it can refinance it at super low interest rates. The NTMA is selling that at a very low interest rate. Imagine a scenario where some of this had been delayed for five years and when that transaction took place, the refinancing cost potentially was more expensive than now. The pros and cons on the other side of this transaction-----

Senator Kieran O'Donnell: It is fair to say the current construct that was set up is still costing less than where we are effectively financing it to third party Government debt.

Professor Philip Lane: That calculation depends on the future of interest rates. If it turns out that interest rates go up in the future, that may not be true.

Senator Kieran O'Donnell: Will Professor Lane give me any financial reason the Irish Central Bank should speed up the disposal of the promissory notes?

Professor Philip Lane: Any emergency funding from the Central Bank is intrinsically temporary in nature. This has been a very drawn-out process. As the Senator indicated, we had a different type of temporary funding from the IMF which we have paid off. The commitment was always that this would be temporary in nature.

Senator Kieran O'Donnell: Based on the trajectory here, we have suddenly gone from this potentially spanning up to 40 years to this possibly being refinanced into third-party govern-

ment debt within five years in total.

Professor Philip Lane: Again, in a situation where Government debt can be issued very cheaply at the moment, the long-term pros and cons of that from a fiscal point of view, which is not part of the way the Central Bank can think about it given the separation between the fiscal and the monetary, is an open question. The minimum schedule at that time was very important insurance, as in early 2013 it was not obvious how the Irish economy would recover. The fact that at that point an assurance was given that there would be no inevitable acceleration or graph of disposal was very important in terms of providing a fail-safe for the situation. The fact that it turns out that the recovery has been better and the financial conditions are easier has allowed a more normal speed of disposal to take place. That is what we are doing.

We still bear in mind that we do not want to overburden the sovereign debt market, so it is not instantaneous. That is a path we are treading. We want to respect the temporary nature of this funding but we do not want to go too quickly where that would overburden the sovereign debt market and cause financial instability. From the Oireachtas point of view and a fiscal point of view, it is very important to recognise that this was always going to be refunded or refinanced at some point, and given the low interest rates available now, maybe that would not be true in the future.

Senator Kieran O'Donnell: Professor Lane is probably aware that we also visited the German Sparkasse bank to see its public banking model. My question is not on the Sparkasse model but on the public banking model. Does Mr. Sibley believe there is a need for an expanded public banking model in Ireland as an additional pillar to the mainstream banks? An Post and the credit unions have recently stated that they are considering providing low interest rate mortgages, as mentioned by the Chair. The An Post proposal is very similar to the low-rate Sparkasse model, while the credit unions state they would offer a competitive rate. Is there a fit for a public banking model involving both institutions whereby the Central Bank would bring in further regulation to allow them to lend to the SME sector in a structured manner, outlawing any form of speculative lending? The credit union movement in particular has a phenomenal network, as does An Post. Their levels of SME and home loan lending would be limited. There may be need for consideration of a central bureau in terms of assessment of SME loans.

I have often stated that if credit unions were not operating in the 1990s, many SMEs would have gone under. Mainstream banks were not extending credit. I was in practice at the time and many of my smaller clients would get a bank draft from their credit union on a Monday morning to lodge to their mainstream bank 100 yards up the road. The credit unions were providing an overdraft facility. I have great affection for the credit union movement, as Mr. Sibley is aware. I am also pragmatic, however, and wish to see if there are areas which could be improved because my biggest fear is that there will be a lack of structured competition in the market when the banks fully recover. What is Mr. Sibley's perspective on the issue?

Mr. Ed Sibley: There is a lot in that so I ask the Senator to let me know if I do not cover all of it. In terms of a public bank model or the credit unions coming together and working as one, rather than individual-----

Senator Kieran O'Donnell: They will maintain their individual identity.

Mr. Ed Sibley: They may operate through a shared services model. We are entirely open-minded about such a proposal. It would bring some benefits because an issue for credit unions is the scale and cost of undertaking mortgage lending or large-scale lending to SMEs on an

individual level. I would have a lot of sympathy for their having a degree of shared services, whether in the form of a public bank or through a third party that allows them to do that.

Senator Kieran O'Donnell: I was referring to public banking rather than a State bank.

Chairman: We are going to have a forum very shortly into which the Central Bank may also have an input.

Mr. Ed Sibley: We are happy to engage on the issue. We do much work directly with the credit unions and in other forums in terms of supporting them in business model development.

As I discussed with the Chair, we are looking at their current approach and expect to consult on it. The current approach to limits, whereby they are a factor of the rest of the loan book is less preferable than a limit focused on reserves because that gets to the capability and capacity to lend. We will consult on that issue and will welcome views from all stakeholders on how that will look into the future.

We have engaged with the Sparkassen on a couple of occasions. I acknowledge the Deputy did not ask about them directly. There is no restriction on their coming here. The issue they have raised is how they will fund themselves and whether they have sufficient capital to come here. If they can address those issues, then that is absolutely fine, but it is not a matter for the Central Bank to provide them with that funding.

Chairman: I asked about the Irish Credit Bureau, ICB, and there is a point that I wish to clarify. When banks are asked about loans, they must have regard only to an ICB rating as there is no regulation stating that a person may not be granted a loan if he or she has a poor ICB credit rating. For how long do banks refuse to lend to a person who had a poor ICB rating? I have been told it lasts for two to three years.

Mr. Ed Sibley: Banks must consult the credit register for loans in excess of €2,000 but there is no strict rule and the decision on lending remains with the lender.

Chairman: For how long does a refusal to lend to a person who had a poor rating last?

Mr. Ed Sibley: A negative credit history is cleared at some point. I ask to be permitted to revert to the Chair on that issue.

Chairman: That is one aspect of the matter. A negative credit history is on record and will remain there until it is cleared by the banks. However, a person may still be considered a credit risk three years after their negative rating is cleared. What regulation is in place in that respect?

Professor Philip Lane: We will revert with detail on the matter but, fundamentally, the decision is up to the lender. In the crisis, many people went into arrears because of bad loans. It was not a sign of their future potential as a business or individual. Banks may maintain an open mind on lending and there is nothing to stop them looking into a person's credit history. In some circumstances they may decide not to go beyond checking the central credit register. As a regulator, I point out that there may be good business opportunities in lending to people who have a record of distress but who may be a good risk into the future. That is a commercial opportunity for banks who decide they can take that on.

Chairman: In answer to Deputy Michael McGrath, Professor Lane stated that the fact that there are higher interest rates does not mean that a bank, possibly an outside bank coming into the market, would ignore future potential in favour of what prevails in the marketplace. The

same should apply to business people or individuals who went through difficulty. They should not always have to pay for that by being listed as a credit risk for three years even after they are out of the clutches of the banks. I ask that the committee be given a note on that and relating to the earlier question about credit unions, how they operate vis-à-vis the ICB and the views of the Central Bank in that regard.

The new regulation brought in to regulate communities collecting money in a club or piggy bank which is then lodged under one name to a credit union is having a great deal of negative effect on people who want to save small sums of money each week and need the credit union to do so. It was working perfectly for them but now they cannot do it. I ask for a note on the reasoning behind that regulation.

Is the Central Bank conducting an inquiry into GRG? I ask because the committee today received substantial information in that regard which it has not yet gone through.

Ms Derville Rowland: We have oversight of and are in regulatory engagement with Ulster Bank on issues which have arisen in respect of GRG. Members are aware of the history in that regard.

Chairman: Ms Rowland does not consider it an investigation.

Ms Derville Rowland: An issue has arisen with Ulster Bank in respect of GRG.

Ms Derville Rowland: The origins of the matter were the subject of a public report in the United Kingdom where there was a serious allegation of deliberately distressing businesses and levelling complex fees. There was an investigation, but it was found not to be the case. However, there were concerns about the levelling of complex fees on businesses that were going through difficult times and a process was established to deal with the matter. An identical process was put in place here. We have been involved in regulatory engagement to make sure the process is delivering in accordance with what it ought to deliver. We have been to the United Kingdom to speak to regulators about the common issues which arise. We have also been on site in Ulster Bank to deal with it. We have had external oversight. There is also an external complaints process on top of the normal complaints channels and we require Ulster Bank to write to the affected customers. The process is open and ongoing and available to customers.

Chairman: Those customers have formed the RBS Ulster Bank GRG Irish business action group which left in a pile of papers for the committee today. I understand they have also provided them for the fraud squad and Ulster Bank and perhaps others outside the jurisdiction. They are ramping up their attempt to get justice as they see it. I am alerting the Central Bank to that fact. We will probably forward the correspondence to it to get some action on it.

Ms Derville Rowland: Papers were delivered to the Central Bank yesterday. In this case, as in all others, we take account of all information and scrutinise it to see if it will yield evidence of breaches or issues regarding the regulatory framework. Where that is the case, we follow through on it.

Chairman: Will the delegates give me a Ladybird-style note on the Ballyhea Says No campaign? We sent the Central Bank a transcript on 18 July. A submission was made to the committee by the group which outlined specific issues related to its campaign and understanding of the promissory note bonds and their destruction. Will the Central Bank review for members of the committee the reply, dated 3 August 2018, in which it provided information and break it down a little more relative to what was said at that meeting?

Professor Philip Lane: The fundamental issue is that any central bank, including the European Central Bank or the Central Bank of Ireland, commit to any lending provided in the middle of an emergency such as the promissory notes being temporary in nature and, when the recovery sets in, the loans being unwound. My reading of the case of Ballyhea Says No is that it disputes this and states the circumstances are so specific and special in this scenario that an exception should be made to the Central Bank's philosophy that the loans need to be unwound. That is fundamentally it. I can understand the point of view, but it runs against the foundations of how the Central Bank works and especially the 19-country monetary union. Imagine a situation where other countries stated they had specific problems and specific reasons they also needed special central bank funding. One of the foundations of the euro is there not be monetary financing of governments and that when there are emergency loans, like those made to Anglo Irish Bank, with the promissory notes as collateral, eventually they are reversed. What is happening is that the loans are reversing but not at a very quick pace. It is a very gradual reversal process.

Chairman: Will the Central Bank provide the committee with a note on the matter?

Professor Philip Lane: I struggle because-----

Chairman: Professor Lane is being more detailed in his response. I want to understand the campaign's argument versus that of the Central Bank. The note with which the committee has been provided is technical, but we can look at it again.

Professor Philip Lane: That is reasonable. The question is ongoing. I very much respect the people involved for their commitment. Let us see if we can do a better job.

Chairman: Yes, just have a look at it.

Senator Gerry Horkan: I apologise, but I had arranged several meetings and there was also a vote in the Seanad.

Chairman: The Senator should have prioritised this one.

Senator Gerry Horkan: I did prioritise it for almost all of the day and was here for much of it, as the Chairman knows. There are only the two of us left. I apologise if I raise anything that has been covered, in which case I can read the transcript.

Last week a report was published on the categorisation of non-performing loans, on which Mr. Charlie Weston wrote a piece. I do not know if anyone else has raised the issue or discussed it.

Professor Philip Lane: I am aware of it. It has nothing to do with how any individual is treated by any bank or investment fund; it is purely a data gathering exercise. The Central Bank has a statistical function and gathers information from all of the entities. It was simply a case of some investment funds having their own calculations which were at odds with how the banks, under regulation, decided these things. It does not change the picture on how anyone is treated.

Senator Gerry Horkan: I apologise for cutting across Professor Lane, but the macro picture where we say the figure for PTSB, or whoever else, is 28%, when it ought to be on 4% or 5%-----

Professor Philip Lane: It is totally unaffected.

Senator Gerry Horkan: Therefore, it purely relates to how individual companies calculate things separately-----

Professor Philip Lane: They are not operating under the same regulations as the banks. We do need to arrive at a more comparable picture of how to report the numbers.

Senator Gerry Horkan: We are talking about credit unions. I was also on the trip to the Sparkassen. Is it correct to say many of the credit union deposits were actually with Anglo Irish Bank at the time of the guarantee? Are there figures for the percentages of credit union deposits that were with Anglo Irish Bank? At the time, I remember hearing that a substantial proportion were with it and that if it had gone - many people would have liked it to go - many credit unions could possibly have gone with it.

Professor Philip Lane: I can provide that information for the Senator, but it is important to make the distinction, regardless of what they might have had on deposit with Anglo Irish Bank, that there is also the issue of credit unions investing in bonds issued by banks. Under the new system, there is a presumption that different bond holders would lose money if a bank were to shut down. There are two parts. There is the narrow issue of bond holdings and how credit unions were exposed by their bond holdings, as well as the larger issue of imagining what would have happened if large depositors had also received a haircut, as happened in Cyprus.

Senator Gerry Horkan: That would be appreciated.

Mr. Ed Sibley: It certainly was the case that they had deposits and some bonds with Anglo Irish Bank. Their deposits remain highly concentrated in the Irish banks. The change we made recently to investment regulations enables and seeks to encourage more diversification in where they invest.

Senator Gerry Horkan: We looked at the behaviour of credit unions and while some had made mistakes and got things wrong, the damage was a fraction of that done by the banks. It is important that people realise that while the credit unions were relatively okay in the end, had the bank guarantee not been put in place, they would have had a much greater problem.

I do not think the Central Bank in its statement referred to matters such as our significant dependence on a very small number of companies for such a large percentage of corporation tax receipts, the common corporate tax base, digital taxation and all of the European ideas that might jeopardise some of that income.

Professor Philip Lane: I do not dwell on it especially. I think there was a line in it about international tax arrangements. It is obvious to everyone that it is hard to assess the future of our corporation tax revenue. We think it is wiser to assume that some of it might not be in place forever. We might want to save it for a rainy day, or consider it in the context of a build-up of public investment. As we frame the debate about the public finances, it is important to make a distinction between uncertain revenues and revenues on which we can rely. Before we doubled down, we had a construction-driven economy and a reliance on construction-related tax revenue. That link is broken with the global corporations. The economy is growing. The profits of the global corporations more or less depend on their global activity. They could reverse, even if the economy was doing okay. It is a different risk. It is definitely a big risk management issue for everyone to think about. How much of it is potentially at risk? On how much can we rely? Given that we are living in an uncertain world, we do not really know how to balance these risks. It is an obvious challenge for us all.

JFPERT

Chairman: I thank Professor Lane and his colleagues for attending.

The joint committee adjourned at 3.50 p.m. until 9.30 a.m. on Thursday, 11 October 2018.