

DÁIL ÉIREANN

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

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

Dé Máirt, 26 Márta 2019

Tuesday, 26 March 2019

The Joint Committee met at 2 p.m.

MEMBERS PRESENT:

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

DEPUTY JOHN MCGUINNESS IN THE CHAIR.

Business of Joint Committee

Chairman: I propose that we go into private session to deal with some committee business.

The joint committee went into private session at 2.05 p.m. and resumed in public session at 2.20 p.m.

Central Bank of Ireland: Discussion

Chairman: I welcome the Governor of the Central Bank, Professor Philip Lane, and his officials. I congratulate Professor Lane on his recent appointment and wish him well in the future.

By virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the joint committee. However, if they are directed by it to cease giving evidence on a particular matter and continue to do so, they are entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person 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 Houses 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: Good afternoon. I welcome the opportunity to meet today for our regular engagement. I am joined by Ms Derville Rowland, director general for financial conduct, and Mr. Ed Sibley, deputy governor for prudential regulation.

I will start with a brief overview of the macroeconomic outlook and address Brexit later. In terms of the baseline forecast, we are projecting that underlying domestic demand, the best measure of what is going on in the economy, will expand by 4.3% this year and 3.9% next year. In line with that, we are projecting unemployment to average 4.9% in 2019 and 4.7% percent in 2020. As a consequence, we expect compensation per employee or wages to increase by 3.4% this year and by 3.6% next year. In cumulative terms this is an increase of approximately 7% in the next two years, which is significant given that inflation is quite low. Given the recent downgrades in European and global economic forecasts and the bias to the downside in the risk assessment, we will continue to monitor the possible implications for these forecasts should there be any further decline in the external environment.

The work of the Central Bank of Ireland is guided by its mission, which is to serve the public interest by safeguarding monetary and financial stability and working to ensure that the financial system operates in the best interests of consumers and the wider economy. Our policy

priorities are set out in our recent strategic plan for the period from 2019 to 2021. It highlights strengthening consumer protection, resilience and Brexit. I will address the issues listed in the committee's invitation letter in the context of these three strategic priorities.

Strengthening consumer protection is a high priority for the Central Bank in the context of an overall strategy to enhance confidence and trust in the financial system through high quality regulation, purposeful engagement, effective gatekeeping, assertive supervision and robust enforcement. Consumer protection is embedded through all of those dimensions of the Central Bank's work. For example, the Central Bank's macroprudential mortgage measures are intended to both enhance the resilience of the financial system and protect household borrowers from excessive debt. Our work on mortgage arrears has also involved considerable collaboration and co-ordination across all parts of the bank, given the importance of making sure the resilience and consumer protection angles are factored into the bank's work on non-performing loans.

If we think about the role of interactive prudential supervision and consumer protection, it is essential that individual firms are resilient if consumers are to trust that deposits are safe, investments are protected and insurance policies will pay out when a claim is due. In addition, our prudential and conduct supervisors have a shared interest in the sustainability of business models, arrangements for governance, risk management and control, and the culture of regulated firms. When we think about our new strategic plan in terms of building on what is already there, which is quite extensive in terms of the framework, the next step forward is a focus on the conduct of firms. This is essential given the wide range of misconduct scandals we have seen around the world, including at home the tracker mortgage scandal. It is also reflected in terms of strategy in our supervisory approach, which is increasingly focused on conduct and cultural issues.

I shall update the committee on the tracker mortgage examination, which is now in its final stages. At the end of last month nearly 40,000 customers have been identified as suffering unacceptable harm from these failures. The overall number is the same as at the end of December. There has been an increase in the total payout, which has increased now to €665 million. By the end of March we expect the accounts remaining to be paid to be about 300. In turn, of those 300 accounts most will be paid in April so we really are towards the end stage. Some of the remaining numbers are cases while exists but it is proving difficult to contact individuals but of course that money will remain for them once contacted.

I will update the committee on the tracker mortgage examination, which is now in the final stages. At the end of last month, nearly 40,000 customers had been identified as suffering unacceptable harm from these failures. The overall number is the same as at the end of December. The total payout has increased to €665 million. By the end of March, we expect the number of accounts remaining to be paid to be about 300, of which most will be paid in April. We are, therefore, moving towards the end stage. Some of the remaining number are cases where there is a file but it is proving difficult to contact individuals. This money will remain for these individuals once they have been contacted.

As the Central Bank supervised the tracker mortgage examination, the focus at all times has been to make sure that all groups of customers who have been affected have been identified and received remediation. As indicated, this is now largely completed. The remaining work is to make sure that any final issues affecting groups of customers are worked through and all eligible groups are included. We expect this process to conclude in the coming weeks and we will issue a final report thereafter. When we say this examination is coming to a conclusion that is in the sense of a particular project. Any further individuals or groups that emerge, for whatever

reason, will receive the same treatment under our business as usual supervision.

It is important to emphasise that in parallel to the supervision, the enforcement work on this scandal is ongoing. These are detailed and forensic investigations involving the scrutiny of thousands of documents and the conduct of interviews to establish the exact circumstances of the matters under investigation, including the actions of individuals and entities.

If we look to the future, our culture report from last year emphasises that the framework would be further improved by having an individual accountability framework. This would ensure clearer lines of individual accountability within firms, as well as providing for an enhanced fitness and probity regime and a unified enforcement process. My understanding is that we will address that issue in a separate hearing in the coming weeks.

On personal contract plans, PCPs, we have been working on this issue from different angles for a while. The data to the end of June 2018 show there are around 70,000 outstanding contracts, which amounts to about €1.2 billion in value. It is important to note that from the end of June 2019, the Central Bank's new central credit register will collect information on PCPs from all lenders that provide these loans. Our understanding of these contracts will be further enhanced when those data come online.

We are also working to strengthen consumer protection in relation to licensed moneylending. Last year, we published a consultation paper which proposed adding certain extra measures to the code. The plan is that these new regulations will be introduced in the second half of this year. In finalising these additional measures, we fully recognise the vulnerability and particular circumstances of the households that typically engage with licensed moneylenders and the high cost of the loans they provide.

I will now address the resilience topic under which we will address the issues of capital requirements, interest rates and non-performing loans. The fundamentals of a national central bank is to make sure the financial system is resilient in order that it can withstand shocks in the future and protect the wider economy from financial instability. I will deal with the issue of capital requirements. It is important to note, especially in light of the risks we face now, that the capital position of banks has improved by a factor of three since 2007 when measured compared with risk-weighted assets.

Another vulnerability is funding risk. In contrast to what was happening in the boom, the reliance on short-term wholesale funding has declined significantly. The primary funding base is now domestic consumer deposits. It is interesting to note that in spite of recent market volatility, the funding costs facing the banks remain contained.

As indicated, the strategy to improve resilience include our macroprudential measures. An important element of that is the mortgage rules, which have the dual role of both protecting households and banks from excessive debt and avoiding the risk of a spiral occurring between credit dynamics and house prices. In addition, we made a decision last year to activate a 1% counter-cyclical capital buffer, which will come into force in July 2019. Importantly, this is intended in good times to build up the capital levels in the bank but in turn it will mean that banks will be less likely to engage in a credit squeeze in the next downturn. We have an extra measure called the other systemically important institutions, OSII, buffer, which basically protects against a risk of an individual bank causing problems to the system for a variety of reasons.

On prevailing mortgage rates, our analysis indicated that some of the factors that need to be

taken into account are historical default rates, the level of non-performing loans in portfolios and the fact that, in contrast to other jurisdictions, the typical mortgage in Ireland has a high loan-to-value ratio, which means its risk profile is higher than the risk profile of loans where more of the house purchase is funded by a down payment. The Irish market is small scale and fixed cost elements in banking, for example, the cost of information systems are increasing in relative importance. We also see lower levels of mortgage switching in Ireland compared with many other European markets and there is no doubt that the limited number of banks of itself leads to concentration and less competitive pressures on pricing.

As members know, the Central Bank has been emphatic in identifying the importance of reducing non-performing loans in the banking system since non-performing loans at excessive levels compromise the capacity of both the banks and the debtors to weather future downturns. There has been considerable progress in this respect. The stock of non-performing loans had declined by 79% since the peak in 2013. There are many ways to reduce non-performing loans. These include re-engaging with the debtor; restructuring the mortgage; writedowns; engaging through the insolvency service; loan sales; loan securitisations; and seeking finality through the courts.

In the years since the crisis, the primary way that non-performing mortgages have been addressed has been through restructuring. The code of conduct on mortgage arrears, CCMA, has played a critical role in ensuring that borrowers are protected. Within the CCMA, the mortgage arrears resolution process requires that repossession is only used as a last resort. We have seen an ongoing decline in the number of long-term arrears cases in the past five years. As I indicated, there has been much restructuring. The number of accounts that were restructured at the end of last year was more than 111,000. These restructuring arrangements seem to be working, with 87% meeting the terms of their current arrangement.

Having said that, there are many other options in terms of addressing non-performing loans. It remains the case that in order for a secured market to work, repossession, as a last resort, must be an option. While we have extensive protections in place for distressed borrowers, the loss of ownership risk remains. It is important to remember that, in an international context, the scale of repossessions in Ireland has been low. If we take the most recent year, 2018, some 877 primary homes were repossessed. One third of those repossessions were the result of court actions and the remainder were through the sale or surrender of properties. We share the societal concern that these borrowers who are at risk of losing their homes are extremely vulnerable. Our focus, in our supervisory work, is to ensure that all lenders, whether banks or non-banks, adhere to the code of conduct on mortgage arrears. We continue to urge all borrowers and lenders to engage and seek solutions that minimise the loss of ownership.

Having emphasised that restructuring has been the single most frequent approach to reducing non-performing loans, it is clear that we are also seeing sales of loan portfolios to non-bank investment funds. This does have a valid role to play. I have stated previously that the transfer of these loan portfolios to non-banks, which are mostly owned by foreign investors, constitutes a reduction in national risk. In the event of a future downturn, the burden of those potential losses will be shared overseas. We also, with the support of the legislation, have made sure that statutory consumer safeguards are the same regardless of whether a loan was held by a bank or a non-bank.

Given our twin focus on resilience and consumer protection, this framework or approach explains why we have grave concerns about the No Consent, No Sale Bill. Given that the consumer protection framework, from a regulatory perspective, is the same whether a loan is held

by a bank or a non-bank, we do not see that the Bill would add any extra regulatory protection for consumers. At the same time, the Bill would damage resilience since the transferability of loans is a central feature in a modern financial system. In addition to restricting the ability to sell loans, please recall that the transferability of loans is also important for securitisation and collateral provision to obtain liquidity from the inter-bank market or the euro system, from us or from the ECB.

While these restrictions are costly even under normal conditions such as those which obtain today - and because of those extra costs they would have the effect of raising interest rates - their impact is especially destabilising in a crisis environment since the ability to restructure balance sheets and obtain liquidity is essential to resilience under crisis conditions. While we recognise that the Bill makes an exception for firms that are failing or likely to fail, this designation is only made once a crisis is well advanced, whereas financial stability is best maintained by ensuring that resilience enhancing measures can be taken in a timely manner with the strengthening of balance sheets during good times, thus allowing the economy and the financial system to better withstand adverse economic and financial conditions.

Let me turn to resilience in the credit union sector. The Central Bank has an important role to play in making sure that the credit union movement in Ireland thrives. Our vision in this regard is “Strong Credit Unions in Safe Hands” and it underpins our mandate to make sure that each credit union protects the funds of its members, that financial stability is maintained and that the credit union movement is in a state of well-being. When we look at the conditions in the sector, as we reported in December, we see strong reserves, sustained expansion in lending and a continued reduction in arrears. However, there is no doubt that challenges remain for the sector even though there is dispersion across individual unions. There is an average loan-to-asset ratio of only 28%, a high-cost income ratio of 74% and a low return on assets of just 1%. It is not the regulatory framework that is leading to this dispersion. The framework does not inhibit future business model development. Overcoming these structural challenges will involve credit unions enhancing their competence and capability, addressing operational effectiveness and expanding revenue through loan growth and non-interest income.

We view the regulatory framework as being tailored to and proportionate for credit unions. Given that the average loan-to-asset ratio ranges from 11% to 73% under the framework, it is clear that some credit unions are faring better than others in meeting the lending needs of their members. Under the consultation paper Potential Changes to the Lending Framework, CP125, we are looking at additional lending capacity, which, on a prudent basis, would facilitate more long-term lending as long as duration and concentration risks are managed. We think the flexibility is there for credit unions to improve their future business models.

As everyone here understands, any form of Brexit - but particularly a hard, no-deal version - will be damaging to Ireland. Recognising this, the Central Bank has been focused on Brexit risks since before the 2016 UK referendum. We continue to analyse and work to mitigate the risks posed to the economy, consumers, the financial system, and the regulatory environment. In the context of the risks to the wider economy, although we have put out macro numbers, we also recognise that the effects will be uneven with sectors such as agrifood being particularly exposed to the loss of export markets and disruption of supply chains. The immediate priority is to mitigate so-called cliff-edge risks of a no-deal Brexit. More broadly, it is important that the financial system is sufficiently resilient to withstand any effects arising from Brexit. It is important that the financial risks to consumers are mitigated and that with regard to authorising firms arriving here, we adopt a proportionate, robust, efficient and effective approach in line

with European regulatory norms.

In light of this, Brexit obviously continues to be a high priority for us. In conjunction with the wider European regulatory community and the Houses of the Oireachtas in getting the Brexit legislation passed, we think that the avoidable risks of Brexit have been mitigated against. However, there is no doubt that a no-deal Brexit will still constitute a severe economic and financial blow. Given that all of our work and strategies have aimed to ensure that the banking system has high levels of capital and good liquidity provision, its ability to withstand a no-deal Brexit is much better today than would have been the case had this happened a few years ago. I welcome members' questions.

Deputy Michael McGrath: Professor Lane and his colleagues, Mr. Sibley and Ms Rowland, are very welcome. I congratulate Professor Lane on his appointment as chief economist at the ECB and wish him luck in his new role, the starting date for which is some time away.

Professor Philip Lane: I will be starting on 1 June.

Deputy Michael McGrath: I wish Professor Lane congratulations and the very best of luck.

Professor Philip Lane: I thank the Deputy.

Deputy Michael McGrath: I will begin with Brexit. The most recent estimates relating to this matter are from the joint paper on the impact of Brexit on the Irish economy in three different scenarios issued earlier today by the ESRI and the Department of Finance. While these estimates are pretty stark, is it not fair to state that they are in the aggregate and that if we drill down into the detail, as Professor Lane has acknowledged, it is obvious that the impact on certain sectors - agriculture, agrifood, indigenous manufacturing - and the regions would be far more acute than the overall numbers indicate?

Professor Philip Lane: That is crystal clear. As the Deputy is aware, we have a large multinational sector, which, essentially, has access to a global market. As a result, the firms involved in that sector will not be particularly exposed to the risks of Brexit. As the Deputy indicated, for so many small firms their only export market is the UK, and within certain segments of agrifood, the dominant export market is the UK. There is no doubt that these risks are quite concentrated, and given, in turn, that those industries are also regionally concentrated, there will be different effects across the country.

The results the ESRI and the Department of Finance delivered are in the ballpark that we also see. There is a fairly strong consensus among the economics profession on what might prevail.

We must also be alert to how this unfolds. One can imagine, if there is no deal, that in the initial days and weeks there will be much disruption and the question is how quickly some of that disruption will be managed through adaptation. There will be a big market response because everyone who looks at the market sees that it is expecting a deal to pass or it is optimistic about what no deal would mean. We would have to be very alert to those short-term effects while recognising that Brexit is essentially a permanent disruption in terms of the challenges facing industries, individual firms and regions. In other words, the Government will have to think about all those factors, including how these regions will adapt to this situation.

We are all waiting to see what happens in Westminster, but it is important at this point

to make some points. One is about those economic consequences being severe. However, I would say that because this is something for which we in the financial system have had to make preparations for all eventualities, it is not the case that the financial system will add to those troubles. The financial system will face challenges but because of the legislation that has been put in place, because we have insisted that firms are ready for a no-deal Brexit and because of the comparatively strong balance sheets of firms, it is not the case that one would have the add-on effect of the bad economic news being augmented by risks of instability.

Deputy Michael McGrath: Is it important to emphasise that there is no cost-free Brexit? One point that people may not have fully grasped is that even an orderly Brexit with a transition period followed by a free trade agreement still results in a very significant economic cost to Ireland.

Professor Philip Lane: Absolutely. When one looks at what we have now in the Single Market with the four freedoms and all the interactions, even with, say, a customs union, the services trade by and large would be outside that and so much of what we do is services. Along with that, one has whatever rating comes in for labour mobility. Unless there is free movement of workers between the UK and the rest of Europe, that will be a big change.

Deputy Michael McGrath: Moving on to the ongoing tracker examination, Professor Lane likes to refer to those affected as cohorts of customers. Is it fair to say that there are no major outstanding issues from the Central Bank's point of view in relation to the handling by the banks of different groups of customers, in particular the large group in AIB of 6,000 customers whom we can refer to as the "prevailing rate" group? Professor Lane will be familiar with what that issue is. Similarly, in EBS, there is a group of customers who are in the category of variable base rate. We will go into all this in more detail with the banks when we have them in before us in the coming weeks, but is it the case that the Central Bank has at this stage more or less signed off on the banks' approach to groups or cohorts of customers such as these?

Professor Philip Lane: Let me defer to Ms Derville Rowland.

Ms Derville Rowland: The committee has already had the updated information from the Governor.

Deputy Michael McGrath: Yes.

Ms Derville Rowland: We are at a point where 39,800 customers have been accepted as impacted in the tracker mortgage examination. We are in the closing phases of that and there are no known big customer-impacting issues that we have identified that we have in dispute. The Deputy will recall that we had a very strong difference of opinion with the banks. That resulted in them capitulating and increasing the numbers from approximately 13,000 at a stage where we reached a strong impasse with them. Given the work we have done, supported by members, we have moved that figure right up to ensure that the customers who should be included in the tracker mortgage examination, TME, have been.

We are still doing due diligence and closing out issues with four of the main lenders, where it is conceivable or possible that customers may still find themselves included in the tracker mortgage examination, but we are not in dispute. We know of all the groups because we have done significant due diligence ourselves and group reconstruction.

I will address some of the specifics the Deputy has identified. In regard to the AIB group, the prevailing rate group the Deputy referred to, the Deputy and I have discussed this. It has

been included in the tracker mortgage examination but I recognise that not everybody who wants to be returned to a cheaper tracker rate has been. They have the option of appealing within the tracker mortgage examination or of using any of the other rights they always had which we were at pains to ensure were preserved for them.

There are some issues still under consideration with some of the lenders. We are aware of what they are and are monitoring those very closely. We keep that under scrutiny. It is true that we expect to close out our due diligence examination in the coming period, where we will then be in a position to issue a final report. We are also ensuring that payments are made to the group that still need to receive its payments.

Deputy Michael McGrath: If I interpret Ms Rowland correctly what she is saying is that at the level of groups of customers, where overall principles have to be decided and adjudicated on by the Central Bank, it has made the calls on those at the level of principle at this stage. Customers are included as being impacted and then have to take it through the system themselves, through appeals, the ombudsman and, potentially, the court. There will be no fundamental shift at Central Bank level at this point.

Ms Derville Rowland: Predominantly, that is right but we know of some issues that are being considered and that we have under scrutiny, although they are not in respect of key issues that are in dispute with the lenders. Principally, that is right but there are some things we are aware of that are being checked and that may result in some smaller adjustment to the figure.

Deputy Michael McGrath: On mortgage interest rates and the issue of risk-weighting capital - I know the Department of Finance published a paper and I have been in correspondence with the deputy Governor, Mr. Sibley, on it - I am trying to fully understand that. It seems to me that a new entrant coming into the Irish market is very disadvantaged in that it has to use the standardised approach. Even for a low loan-to-value mortgage, the risk-weighting requirement for it would be 35%. When one compares that to other jurisdictions, that is a very onerous capital requirement. Finance Ireland is a retail credit firm and, as I understand it, retail credit firms are not subject of those risk-weighting requirements. The prospects of the traditional foreign lender coming into the Irish market with those types of capital requirements and offering groundbreaking mortgage pricing is not very likely, is it?

Professor Philip Lane: I will make two points. The first is about banks and the second is about non-banks. I will then defer to Mr Sibley.

Chairman: I am sorry to interrupt the Governor but there is a vote in the Dáil. What do members wish to do? We can suspend and go to vote or we can continue.

Senator Gerry Horkan: Maybe the Senators can continue while the Deputies go to vote and then return. We could let Senator Kieran O'Donnell and others in.

Deputy Michael McGrath: I do not mind.

Senator Kieran O'Donnell: I do not have a particular issue with suspending because it is important we are all here.

Chairman: We will continue with Deputy Michael McGrath, which I think is the best thing to do in order to get as much as we can out of the meeting.

Deputy Michael McGrath: I asked about risk-weighting and-----

Professor Philip Lane: We will deal with the economics of banks and then the economics of non-banks. If one thinks about the banks, one way to think about the regulations and the issue of calculated risk rates and so on is to ensure that banks take a prudential approach to lending. I think we have had this conversation many times but like it or not, we had a big crisis here. Like it or not, there have been many non-performing mortgage loans. It is important to have a globally consistent approach to regulation in order that they are not undercut by different jurisdictions having different views on this. It can be argued that it is a little bureaucratic and so on, but below that is the basic reality of the Irish economy that any regulator will ask questions as to how much it is prudentially sound to lend into Ireland. This is why there is a capital allocation against mortgages. Non-banks do not have this kind of regulatory oversight because they do not take consumer deposits. As a result, the kinds of concerns regulators have are different. As non-banks, they must raise money in the wholesale markets and then the bond investors and so on will also make calls about their prudential judgment. We do not see non-banks coming in with super low mortgage pricing.

This is not the place to look to find what would be the key to unlocking the competition in the banking system. As President Draghi stated when he was before the committee - and as we have said before - the more we have a stable system, the more we prove that we will not have another crisis and that we have a mortgage market which works, the more some of these concerns will fade away over time. Where we are right now remains a matter of concern, however. Perhaps Mr. Sibley can-----

Mr. Ed Sibley: I will just supplement Professor Lane's comments a little. I very much welcome the engagement we have had. It is important to get underneath the covers a little to understand some of the mechanics here, so the engagement has been very positive. We need to differentiate a little between, say, a large, internationally active firm that was used to operating its own internal models deciding to start offering to operate in Ireland, and a start-up entity which may not have that sophistication and experience. Yes, on an initial lending into Ireland, one would expect that an entity would have to apply standardised weighting in either circumstance, but I do not think that is necessarily unreflective of the risks in the Irish mortgage market today. An entity would have a period during which it would need to build up the data to show it was capable of tailoring its own models, its own existing systems, to enable them to come up with an accurate and appropriate risk-weighting based on the lending it was doing. That would be the case with an existing firm coming in. A newer start-up bank will typically have a longer path to travel to build up that capability in any jurisdiction and is likely to be unstandardised for a good period in any jurisdiction.

Deputy Michael McGrath: I will ask a final question because I am conscious of the time. We have discussed the issue of cash-back incentives a number of times. I think we have somewhat different views on them. Has the Central Bank reached a conclusion as to whether such incentives should continue to be offered and whether consumers are well-served by what Professor Lane would regard as product differentiation and what I might regard as a means of ensuring that customers, in the aggregate, do not get the best long-term value? Professor Lane acknowledged that while the level of mortgage switching is rising, it is still very low in comparison with other jurisdictions. Has the Central Bank come to a clear conclusion on cash-back offers in order that we might know where it stands? If it has, it will then be a matter a matter for the Legislature to do what it believes is appropriate?

Professor Philip Lane: I will turn to Ms Rowland.

Ms Derville Rowland: Mr. Sibley may want to join in as well. We certainly have a view

that a competitive mortgage market that offers plenty of choice for customers in respect of both variable and fixed-rate products of different durations would be in the best interests of consumers. We recognise that different types of options have a role to play so long as they are clear and properly sold to customers. In that context, cashbacks can play a role. I recognise the Deputy's observation that, while they can be cheaper for customers in the first number of years and, if customers have the wisdom to switch products later, they can turn out to be the cheapest option of all, they can turn out to be more expensive if customers stay on that option in the longer run. In a transparent market where people have the option to switch, though, there is a role to play for cashbacks that are properly sold. Last year, we undertook regulatory work on the advertisements of cashbacks because we saw that they had to be tightened up. We carried out some consultation work - the Deputy will be aware of the transparency around the various mortgage options - and strengthened the framework for the disclosure of cashbacks. We have also changed the framework for telling people on an annual basis about cheaper options that are available to them from each lender. We believe this will result in better options for people and in them saving money. Many customers could save on their mortgage products if they shop around and switch. We encourage everyone to take that course of action.

My final observation on this matter is that this is different from other kinds of intervention. There would be no role for the Central Bank to intervene in cashbacks unless we saw them being missold. We do not see that in the market. We recognise that there can be better value for people if they shop around, but that could be said across the suite of mortgages. There is considerable value for people who go to the trouble of switching. As such, we have strengthened the approach to switching in order to support people in exercising that choice.

Deputy Michael McGrath: In essence, is it the view of the Central Bank that cashbacks should be retained or is the Central Bank neutral on the question?

Professor Philip Lane: It would be accurate to say "neutral". Banking is a commercial enterprise. We do not have a product gatekeeper role where we say whether we support one product over another. We do not have that endorsement role. As Ms Rowland stated, it would take a great deal to shut an option down. If the misselling risk is being managed by ensuring that the disclosure is correct and the advertising is not misleading, then these are set up as commercial choices.

Mr. Ed Sibley: I will supplement that. We have been discussing mortgage pricing for a number of years and I understand the degree of impatience around how that situation stands today, but if we compare the current mortgage market to where it was two or three years ago, large elements of the dysfunction have been addressed or reduced. There are still elements of dysfunction, but we are moving towards a mortgage market that is more risk based and risk sensitive. There is greater differentiation and we are seeing consumers taking advantage of that. The lowest rate on offer today is 2.3% for a two-year fixed mortgage and there is a variable rate of 2.75%. We are seeing that switching, which was at a trough of just hundreds and represented 1% or 2% of total transactions, now represents approximately 12% of total transactions. Work has been done to highlight to borrowers the ability to move products with their current providers. Lots of customers can save money by changing products with their current providers, and lots more can save more money by switching providers. That would improve discipline in the market and make it function better still. A great deal of work has been done. Clearly, the market is not functioning as optimally as one would like, but it has the right trajectory.

Deputy Michael McGrath: I thank the witnesses.

Deputy Pearse Doherty: Tá fáilte romhaibh. I congratulate the Governor, Professor Lane, on his new appointment and wish him all the best.

Professor Philip Lane: I thank the Deputy.

Deputy Pearse Doherty: It was an uncontested position. Many of us would like to contest those types of elections but it probably speaks volumes about how Professor Lane is regarded by his peers. I congratulate him and wish him all the best. Regarding the Central Bank's code of practice on the sale of mortgages, is it still in effect?

Professor Philip Lane: The voluntary code.

Deputy Pearse Doherty: Yes, the voluntary code.

Professor Philip Lane: It is in effect but as a voluntary code.

Deputy Pearse Doherty: That is fine. I wanted to know because I have a follow on question. To remind ourselves, the first line of that code reads "A loan secured by [a] mortgage [on] residential property may not be transferred without the written consent of the borrower". To my knowledge, the Central Bank has never asked the banks to apply the code. I have taken that voluntary code, which no bank has ever applied, and put it on a statutory basis. The majority of elected Deputies, thankfully, have supported that legislation. Professor Lane is now painting a picture of the Central Bank's own code creating a nightmare scenario for banks, consumers and the wider economy.

Professor Philip Lane: Let me state two important exceptions. One is that there is a basic difference between a voluntary and a statutory code because of the terms of compulsion and the consequences for not following the code. I will defer to Ms Rowland in a moment regarding the history of this code. My second point, which is very important, is that the voluntary code makes exceptions for conditions of financial distress. I recognise there is a financial distress exception in the Bill being put forward, but I made the point in my opening remarks regarding that being too narrowly defined. It is defined in terms of "failing or likely to fail". That is an end game type of issue.

Our point is that it is important to anticipate and pre-empt financial distress and that occurs throughout our whole approach to this issue. Where it makes sense is where that includes loan sales which reduce the national risk facing us in the next downturn. There is a basic similarity for the reason Deputy Doherty gave. The issue of compulsion versus voluntary, and the scope of financial distress, however, means we think the Bill would have those adverse consequences. I will also make the point that the role of transferable loans in the financial system has become much more important compared to 30 years ago.

The likelihood of a bank at that time needing to raise liquidity from a central bank on a collateralised basis was much less than we would appreciate now. The importance of securitisation as a technique is much more prevalent now. I also refer to the role of collateral in the interbank market. The world has changed. Even in respect of the code itself, there is a difference between voluntary and statutory. There is also the issue regarding the conditions of financial distress. It is interesting to consider the history of this issue as well. I will hand over to Ms Rowland to speak on that issue.

Ms Derville Rowland: I will give some context. This issue arose in the aftermath of the Central Bank becoming responsible in 1989 for supervising building societies. It might be re-

called that if a person had a mortgage with a building society, then he or she got rights to vote. That could be relevant. There was much talk in subsequent years of conversion rights which might lead to windfall profits. It did not transpire that way. That was, however, before the securitisation of mortgages took off in the market. There was a concern at that time, because we were in an immature state of evolution, that voting rights would be lost if a mortgage was securitised. Those voting rights were seen as being valuable in respect of a decision to convert from a building society to a public limited company and any profits that might ensue to the holder of the voting rights.

It was entirely in that context that the voluntary code of practice was put in place. It was with an eye to that. Since then, things have changed dramatically and we would never now issue anything on a voluntary basis. That is not that way the regulatory approach works. We do things on a very solid footing, as can be seen in respect of the code of conduct on mortgage arrears. This proposal confers no actual benefit on consumers. All the rights and protections they have now apply equally whether a loan is owned by a bank or a non-bank.

Deputy Pearse Doherty: Ms Rowland outlined the origins but the code still exists. I assume the Central Bank of Ireland does not just introduce a code and then leave it for 30 years. Numerous Deputies, including the current Minister for Finance, myself and many members of the committee have raised questions about the code in the past. We know how parliamentary questions work: they go to the Minister, the Secretary General and the Governor of the Central Bank. I presume that when the former Minister, Deputy Noonan, answered the parliamentary question tabled by the current Minister for Finance, Deputy Donohoe, and indicated that, notwithstanding its voluntary nature, he expected all State banks to implement the code in full, this was flagged to the Central Bank and the Minister's response was known to it at that time.

Professor Philip Lane: That was before my time. It is fairly clear that parliamentary questions are the responsibility of the Minister.

Deputy Pearse Doherty: The Central Bank is consulted on them.

Professor Philip Lane: Yes, although there is a difference between consultation and signing off on them. The responsibility for the answer lay with the then Minister. I should be clear that, in general terms, if there were no downsides, asking permission is a positive feature. Asking permission has its own merit. Given the nature of the modern financial system, loan transferability has become a big part of the funding of banks, especially under crisis conditions. Even within the code there was an exception clause dealing with financial distress. The main difference between us is that my view of that is forward-looking and anticipatory; it is not the case that the Irish banking system is in a position where that should be restricted to failing or likely to fail institutions.

We can come back to what I have said here today and before. Loan sales are important from a macro and national perspective. Leaving all the risk of these loans in the Irish banking system would be like what we had before. This is an excessive level of risk and it is important to reduce the risk in the banking system. In that context I am comfortable with the position we have in saying the financial conditions are not stress-free and there is genuine risk, which is why we insist on the approach of reducing non-performing loans in the banking system.

Deputy Pearse Doherty: I have the comments Professor Lane made in this morning's newspapers. I was not surprised by them, although I was disappointed with the view expressed. We have discussed it previously and we will discuss it again next week when the Bill goes

through pre-legislative scrutiny. There is a bit of a trend here on the part of the Central Bank of Ireland, the European Central Bank and the Department of Finance. When Members of this Parliament and members of this committee bring forward legislation that they believe to be in the interests of consumer protection, the response is what I would argue is scaremongering. The Central Bank of Ireland has informed us that my Bill will increase interest rates. We had the same attitude from the bank with respect to Deputy Michael McGrath's Bill seeking to cap mortgage interest rates. The Department of Finance has indicated that the regulation of vulture funds will increase interest rates for consumers. That Bill was signed into law six months ago and it has not had that effect. I take some of what is being stated with a pinch of salt. However, there are other matters we must discuss in the context of pre-legislative scrutiny.

Much focus has been put on securitisation. It is not the intention of the Bill to prevent that type of passive securitisation. Section 3 may need to be clarified further but vehicles would be set up within the banking group, such as AIB's system, for securitisation. It is not the intention to prevent that. I make no bones about it that this is about giving power to the borrower to prevent the sale to a vulture fund if he or she thinks it is the right course of action. Professor Lane has made the point on a number of occasions that there is no difference between a bank and a vulture fund. If that is the case, then the borrowers will have no problem giving their consent. The reality, however, is that there is a big difference. Many of these vulture funds do not offer the types of solutions and restructuring arrangements that the banks have offered. We know they have short-term interests, whereas banks have long-term interests. It is always better for those who want to keep a roof over their heads, and who are making a genuine attempt to do that, to be with a bank than with a vulture fund.

Professor Philip Lane: I appreciate we have this difference of views. I will make two points. One is that we state the regulatory framework is the same whether it is a bank or a non-bank. What we can offer in respect of consumer protection is the same. There is then the question-----

Deputy Pearse Doherty: That is fair. I do not dispute that one bit. We are on the same page on that point. Professor Lane and I know, however, that certain vulture funds do not offer the types of arrangements that others do. From the perspective of "Mary" or "John" sitting out there, the idea that the banks and vulture funds are regulated the same does not make a blind bit of difference if they are not able to have the same type of restructuring. We have talked about-----

Professor Philip Lane: I appreciate that. The issue then is whether the outcomes are similar or different and can be ranked. Deputy Doherty's belief is that the outcomes are going to be better with a bank than a non-bank. This is why it was so important we did the review of the code of conduct on mortgage arrears, CCMA, last year. That is a big data effort to see what is actually going on. Our commitment is to continue to look at that. As of last year, we do not see systemic differences in the outcomes between the banks and non-banks. It is an open issue for the future.

Deputy Pearse Doherty: Professor Lane is talking about the CCMA. The CCMA does not require any-----

Professor Philip Lane: I know that.

Deputy Pearse Doherty: -----bank or vulture fund to offer any type of solution.

Professor Philip Lane: What I am saying is-----

Deputy Pearse Doherty: It is just procedural stuff. While there is no evidence of the vulture funds breaching the CCMA, the reality is that they take a very intolerant approach to a certain number of customers. If one speaks to debt advocates, they will make this point very clear. If we want to focus on the CCMA, my view is that it is a red herring when we are dealing with this issue. That is because the CCMA is a procedure the vulture funds have to go through before they go to the item of last resort, which is repossession. They do not, however, have to offer a solution. That is the major problem and where the weakness is in the CCMA.

Professor Philip Lane: I do not think it is a weakness of the CCMA. It is the nature of what a regulation can do as opposed to issues regarding the strategies of these banks versus non-banks and the menu of what they offer. What I was saying was that in the course of doing the CCMA review we did examine the data on what is going on with the loans of the non-banks versus the banks. We do not see this different trajectory where consumers with non-banks are systematically worse off. Deputy Doherty's supposition, as per our previous exchange, is that the long-term commitment of a bank to its brand here, or whatever, means it may be less severe with a debtor.

On the other hand, banks have high capital charges and also have to maintain their lending discipline into the future. The non-banks, however, have bought these mortgages at a discount and do not have the same capital charges. As Deputy Doherty stated, it is not obvious, in respect of these strategies, which group is going to be better off in the end. The Central Bank does data collection power and that is why we are stating we are going to return to this issue every year. Deputy Doherty has a strong hypothesis. I am not, however, convinced it is true.

Deputy Pearse Doherty: That is fine. I have read Professor Lane's report. One of the key findings is that it is very early to reach a conclusion in respect of the funds. Only a small amount had been transferred when the Central Bank carried out its review. We are now seeing that a huge amount has been transferred or is in the course of being transferred. We also know the CCMA set a timeframe. When we look at the outcomes at the end, therefore, many have not reached that stage yet. They are either at the starting point or the middle point. I have spoken to debt advocates dealing with borrowers and these vulture funds. They would tell a very different story as they are not looking at the end result but rather what it is right here and live. They are telling us now if we continue to allow the gates remain open and the vulture funds to take up all this type of debt, we are in for a serious problem, especially given the amount of long-term arrears in the system.

I have a connected question. Project Beech is the AIB sale to one of the funds, most likely Cerberus. How many private principal dwelling homes are involved in that sale?

Mr. Ed Sibley: We are very limited in what we can say about individual banks' particular transactions. I will make a couple of broader points. We are coming back to a specific session on the consent Bill and next week we can get into more detail. Our broader feedback regarding some of the issues on which we have been asked to comment is really in connection with the point Deputy Michael McGrath raised, which relates to the functioning of the market and interest rates in that market. We were asked the wider implications of a specific intervention in one spot and anticipation of that. It is the basis of the feedback we are giving.

The amount of reliance that banks had on securitisation was to the tune of approximately 38% or nearly 40% mortgages in 2011. Today, it is in the region of approximately 23% in terms

of using them for collateral purposes, including securitisation. It is a very important source of funding. If there are issues with it or concerns around the legislative framework in Ireland, the point about competition, new entrants etc. is relevant. It is a broader point.

The question about Project Beech is more of a question for the bank and I understand its representatives will come before the committee. We can talk about our approach to sales in terms of making sure we very much focus on the consumer protection risks associated with any sales with owner-occupier or primary dwelling homes associated with them. We can talk in general terms about the engagement we have had with banks in the past rather than in the specific-----

Deputy Pearse Doherty: I appreciate that. AIB has presented the sale as commercial property and it is has made a virtue of the fact it does not sell private homes to vulture funds. Thousands of letters will be going in the post in the next two to three weeks, as up to 7,000 or 8,000 people will receive letters to tell them loans are being transferred to Cerberus, which is a vulture fund. In the middle of that will be private homes. We have spoken about the culture of the banks and all the rest. Is the Central Bank of Ireland aware of the number of private homes or principal private dwellings included in this sale? Does it have that information?

Mr. Ed Sibley: With any sale we would engage with the bank about what was in the sale and the approaches being taken. If there were primary dwelling homes associated with the sale, we would engage with the firm on that basis.

Deputy Pearse Doherty: Is the bank aware of whether the sale of these loans, secured on the homes in which families live, are examples where the borrower is meeting the terms of their arrangements?

Mr. Ed Sibley: That is getting into the specifics that I cannot really cover. I have seen in the past where there are connections between commercial loans and owner-occupiers.

Deputy Pearse Doherty: With respect to Brexit, Deputy McGrath referenced the ESRI report earlier indicating that with a disorderly Brexit, over a period of nearly a decade there would be a nearly 5% reduction in output. That is shocking everybody because it is making more real the possibility of that outcome. The Central Bank of Ireland's assessment is much more stark. It is that it would not take ten years to reach that type of level but that in year one we would have a 4% reduction in output. Given the ESRI's report, is the bank still satisfied the assessment of the impact of a no-deal Brexit hard crash-out would be that severe? Has the Central Bank been able to extrapolate that reduction in output in terms of its impact on the wider economy expressed in billions of euro and on the number of jobs expressed in tens of thousands?

Professor Philip Lane: The approaches are consistent. In a no-deal Brexit, we would see an immediate hit because of all the disruption, the market fragility and the loss of confidence. Those kinds of contractionary forces would arise because of the shock. As that shock fades away, the long-term reality is that we will be less productive, as will the UK. That is why we see numbers such as that, ten years from now, GDP will be 5% lower. The same approach will give both answers. There will be a big hit initially and then a degree of recovery, but we will never be back to where we would have been without Brexit. We are saying that four percentage points will be knocked off the economy in the first year. That is consistent with this longer-term forecast. There will be adaptation. The world will adapt. That does not mean that every firm will survive or that every region will be equally better off, but there will be adaptation over time.

It is important to say that these figures are based on a comparison with what would happen in the absence of Brexit. Five percentage points over ten years does not mean that we will be five percentage points below where we are now. It is compared to a growing economy. It is cost that can be avoided if a no-deal Brexit is avoided, but there are many other dynamics in the economy.

Deputy Joan Burton: I welcome Professor Lane and wish him good luck in his new appointment, on which I congratulate him. It is a significant appointment not just for him personally, but for Ireland. We are in the tenth year since the banking collapse. Professor Lane will agree that ordinary people in Ireland made many sacrifices to bail out the banks. Many people lost their jobs and many took wage reductions and tax increases. There is, however, close to full employment in the economy now, as is reflected in the Central Bank's report.

I am concerned that the banks are, in many ways, back to their old tricks. The atmosphere today is very similar to that of the years before the financial collapse. Mr. Draghi takes the view, one that Professor Lane may share, that a moral hazard arises when people fail to pay their mortgage debts. We all understand the concept behind that. What I do not understand, however, and I would like Professor Lane to comment on this, is why the lobbying for the return of very high salaries and improved salaries in the banks which were bailed out has continued apace. There is also lobbying for the return of bonuses. I know some of this is a decision for the Minister for Finance, but does Professor Lane believe the cap on pay for bankers and chief executives which is in force in the bailed out banks should be relaxed? In recent weeks, there has been renewed lobbying by a number of banks to raise that pay cap and to return to a culture of extraordinarily high pay for bankers. Moral hazard seems to exist only for little people who have a single residential mortgage on their homes, whereas the banks seem to be back to their old tricks. Will Professor Lane comment on that? Would it be wise for us as a country to allow bankers to be paid annual salaries of more than €500,000 or €600,000? Would the Central Bank resist that? As he departs, does Professor Lane have any advice as regards what would be best for Ireland to do? Alongside that there has been a return to a massive escalation in land prices, particularly in all the major cities and towns. It went absolutely off the Richter scale in the two or three years before the collapse. That is the second reason I am concerned that we have not fully learned the lessons of the past. I would like to hear Professor Lane's response to that as Governor of the Central Bank.

Professor Philip Lane: I would like to make a general observation on whether this time is different. I will say a little about whether we are going back to the situation we had in the mid-2000s before I bring in Mr. Sibley, who leads our prudential supervision, on the specific issue of bank bonuses and bank pay levels. It is important to say that the economy is intrinsically volatile. In the mid-2000s, there was excessive optimism that Ireland would never face a recession, that prices were only going one way and that we were unique in some sense. Then we had a horrible, very severe and protracted crash. As the Deputy has indicated, it caused a great deal of pain for people who lost their jobs. Those who were unlucky enough to be of the age to take out mortgages in the mid-2000s had to contend with all of this pain. As a result of this country's high debt, everyone is now paying higher rates of tax. Those taxes are not being used to fund hospitals and all of that. They are partly being used to fund the costs associated with the bailout. There is no doubt that much of the work we do is aimed at avoiding a return to that situation. I am pretty sure that is the reason we work in the Central Bank. Much of what we are doing seeks to make sure the banks have enough capital, which basically means they are not leveraging themselves too much. We are avoiding that. With the mortgage rules, we are trying to avoid the desperation that is caused when credit pushes prices higher and people think

they have to get in to avoid taking on too much debt. We are working hard to avoid a spiral between credit and house prices.

We have also seen a change in the nature of the financial system. As the Deputy knows, because the banks are more severely regulated and have had to deal with so many legacy issues, a great deal of land and many office blocks and rental apartment buildings are being bought by non-banks. Global firms are searching the world for good investment opportunities. Prices here will be driven higher because of that global capital. My point is that this is not just about the domestic banks which caused the problem the last time. Now the financial system has non-banks. The system we regulate here has a lot of internationally focused operations where pay levels are high. Then we have our approach to the domestic banks. As the Deputy has indicated, pay levels constitute a particular issue for the State-owned or State-backed domestic banks. Mr. Sibley will speak about this.

Mr. Ed Sibley: Before I speak about pay, I would like to add a little colour to the Governor's remarks. Like many people within the banks, I am personally driven by ensuring that there is no recurrence of the pain and human costs associated with what happened here before. The environment we are now operating in is fundamentally different, certainly from a regulatory and supervisory perspective. The international and domestic regulatory framework is fundamentally changed. The philosophy underpinning our approach to supervision has fundamentally changed. There has been a fundamental shift in the requirements around the levels of capital the banks have to hold, how the banks must fund themselves and how we can move towards being able to resolve difficulties without recourse to the taxpayer. Our expectations around governance, risk management and control have all changed. A great deal of work has been done internationally and domestically to address the failings that led up to the crisis.

Specifically on the point of pay, which was raised by the Chairman on the previous occasion when he was not entirely happy with our somewhat nuanced response, I do not see a case for raising the cap in the domestic retail banks. That is a matter for their shareholders. Clearly, different candidates will be available to operate in those roles at a higher salary level but it is perfectly plausible to find people to work in those roles within the salary cap. Where there is a case for thinking carefully is regarding what is happening underneath those levels and the level of remuneration for some of the critical functions in roles subject to the cap where the banks are competing against firms not subject to it. They are potentially at risk of losing critical staff in risk management, analysts and those who deal with customers. There is merit in looking at elements of variable pay in these circumstances, subject to it being well designed, making sure the incentives are aligned with the culture stated within the institution and being consistent with the rules now in place on having clawbacks where people are overly short term in their thinking and risks are not being managed. There is a case for thinking in these terms. It would also allow firms and banks to vary their costs according to their circumstances. If they head into a downturn with a high fixed salary cost, the options available to cut back costs are different to those with a more variable element. There is a case for looking at variable pay but not at the top level. It is much more with regard to the people working in the institutions. It would have to be well designed, consistent with the rules and all we are doing on the culture in institutions.

Deputy Joan Burton: When Mr. Sibley says "variable pay", does he mean bonuses or bonus-type pay?

Mr. Ed Sibley: Yes.

Deputy Joan Burton: In other words, it is performance, results-based pay. I will also put

this question to the Governor. Something plaguing Europe's democratic institutions, which is, ultimately, a risk for the Central Bank and the European Central Bank system, is populism, which is partly driven by insecurity, precarious employment and the fact that some people are doing awfully well in a global financial system, just as Mr. Sibley has described, while others are not. They do not see an argument as to why people such as bankers should earn extraordinary amounts and why there should be a return to the bonus-type culture that was distorting, particularly in cases such as Lehman Brothers. We are all familiar with it from television and films. I will direct this question to the incoming chief economist. Is there a case for ordinary workers in the public and private sectors receiving pay increases in a structured and orderly way while being cautious about people at the highest echelons going back to the culture that, in many ways, drove the bank crash? Effectively, bankers were masters of the universe. That was their title. We all know there were Lehman brothers but there were no Lehman sisters. Thankfully, there are many more sisters in banking now.

I do not know whether the Central Bank follows the price of development land in Dublin or the deals that are being done at present. The increases in values are truly extraordinary. It is very difficult for people who may now be renters for all of their lives because there is no affordable property. Do the ECB and the Central Bank have a view on this? This is a critical issue and I agree that there is a permanent disruptive risk relating to Brexit, but deepening examples of inequality are an equally disruptive risk for democracy. How will Professor Lane approach these issues?

Professor Philip Lane: I assure the Deputy that central banks globally are paying a lot of attention to these issues. Apart from the wider issues referred to by the Deputy, there is a clear feedback to financial stability and we need to pay attention to issues where there are consequential developments such as Brexit and the issues that lie behind that. It is also important to go through the individual issues and determine which are relevant to the issue in question. Issues such as the future of work and who will win and lose from automation or from globalisation are very important, even from a macroeconomic point of view. The consumption profiles of those on middle and lower wages are very different from the profiles of the top 1% and this shift in income is a big part of what is going on in the world economy and has consequences for the levels of demand in the world.

On the land issue, it is important to ask who is taking the risk of speculating on high land prices. In the mid-2000s the risk was, unfortunately, taken by the taxpayer when the Government stepped in after banks had made excessively risky loans, which had been funded by our deposits and bonds. It is quite different when it is a global investment fund. The risk profile of what we are seeing now is very different from then. In a world of super-low interest rates, buying a property with a rental yield looks more attractive than holding a bond or a bank deposit. This is basic economics but it is very important that we prevent the banking system from taking excessive commercial real estate risk and this is also the case across Europe. We are putting a lot of emphasis on making sure the risks in commercial real estate are not concentrated in banks.

There was a political source of the cap on pay and the question is how we explain lifting that cap in the context of inequality and the beliefs of typical people. It is also a big issue in the Netherlands and there are complex relationships between the sources of inequality, with crisis sources on one hand and automation and big tech on the other. The issues go much wider than the financial system. Globally, a lot of new fortunes are being made in the technology sector and the popularity of banking as compared with technology as a career has moved a lot in recent times. There is a wider agenda than just the banking system.

Senator Kieran O'Donnell: I join with colleagues in wishing Professor Lane all the best in his new appointment. He mentioned growth rates of 4.9% and 4.7% for 2019 and 2020, with unemployment at 4.9% and 4.7% and wage price levels increasing by 3.4% and 3.6%. There was a report of the ESRI and the Department of Finance on the outcomes of the three potential Brexit scenarios, that is, a deal, no deal and a disruptive no deal. Are the Central Bank's figures Brexit-proof? Is it changing the figures in light of the ESRI analysis, which states that all scenarios will have a negative impact on the Irish economy?

Professor Philip Lane: These figures are based on a deal and in this scenario there will not be an immediately disruptive impact from Brexit during the transition period to 2020. We have also published no-deal figures, under which the picture looks quite different.

Senator Kieran O'Donnell: Under a deal, the ESRI speaks of a reduction in the next two years. Do the Central Bank's figures factor this in?

Professor Philip Lane: The numbers are lower compared with the scenario in which Brexit does not happen.

Senator Kieran O'Donnell: How much lower?

Professor Philip Lane: I think we have identical views to those of the ESRI. There is no major difference of views across the economic modellers here, in the UK or in Europe because we use the same framework for the near, medium and long term.

Senator Kieran O'Donnell: Are there any circumstances in which Ireland could gain from Brexit, whether there is a deal, no deal or a disruptive no deal?

Professor Philip Lane: I am not familiar with any economic approach which states that breaking up a single market is beneficial.

Senator Kieran O'Donnell: Is that true for any sector?

Professor Philip Lane: It might be going a bit far to say it is true of any sector. In the aggregate, however, Ireland will be worse off under any form of Brexit. Certain types of activities will expand in the world we regulate but that is a minor side effect compared to the damage caused to the wider economy.

Senator Kieran O'Donnell: What areas would Professor Lane see expanding?

Professor Philip Lane: Export-orientated financial services, asset management firms and investment banks. They would not be coming here-----

Senator Kieran O'Donnell: Is the Central Bank seeing a major influx of UK-based banks setting up operations in Ireland and creating jobs?

Professor Philip Lane: There is a lot of activity. Two major banks have been authorised, namely, Barclays and Bank of America Merrill Lynch, which will be big operations and will create new jobs but it is a drop in the ocean compared with the wider impact of Brexit.

Senator Kieran O'Donnell: Professor Lane mentioned non-performing loans being sold to funds and said the transfer of credit risk and funding risk to investment funds that buy loans constitutes a national reduction in macrofinancial risk, on account of the fact that these funds are primarily overseas. In the context of Brexit we are hearing from people dealing with the

funds primarily that many of them are 100% geared. They are effectively investment vehicles that borrow heavily in the short term and they are buying products such as mortgages that would be long term in their orientation. Their business model is not based on doing restructuring on home loans over a long period.

In terms of reducing national macro-financial risk, we still probably have up to €25 billion invested in AIB, Bank of Ireland and Permanent TSB. What impact will Brexit have on the ability of the Government in time to divest the investment in the mainstream banks, which would reduce in a far more material way the balance sheet of the State as distinct from the funds?

Professor Philip Lane: On the first issue, these investment firms are overwhelmingly foreign owned. That is a basic and important feature. If they were-----

Senator Kieran O'Donnell: I do not dispute the Governor's finding that it reduces the exposure. However, he said the Central Bank's mission statement is to operate in the best interests of consumers and the wider economy. We are duty bound to ask the question. The Governor made reference to it earlier. I am just putting a view that in many cases we are being told that many of these investment funds are not strictly investment funds. They are funds that might have borrowed from pension funds abroad. They are 100% geared with short-term sources of funding, borrowing for assets that in profile are long term, mainly home mortgages.

Professor Philip Lane: I am sure these funds are geared, but 100% gearing is far from accurate.

Senator Kieran O'Donnell: They are highly geared.

Professor Philip Lane: The Senator needs to remember that banks are highly geared. Compared with a bank, they are typically less geared.

Senator Kieran O'Donnell: I would slightly dispute that.

Professor Philip Lane: Well-----

Senator Kieran O'Donnell: Point taken.

Professor Philip Lane: We can follow up. It is probably better to do some factual analysis on that.

Senator Kieran O'Donnell: I am asking if the Central Bank has done factual analysis on that.

Professor Philip Lane: I seem to recall having an exchange with Deputy Pearse Doherty on a particular example. My recollection was that in that example there was a gearing rate of about 25%. Therefore it is nowhere near the gearing of a bank. However, I think that is a secondary issue.

When we think about what could happen, we absolutely think about the gearing, the debt, of these funds. We look at the scenario where investment funds lose access to funding and then their conditions change; we do think about that. That is a clear risk factor for the future. The scenarios in which that is going on are scenarios where banks are also facing issues.

On the investment funds, there is an ongoing issue into the future that by and large the structures they have are partial. They might have interest only or some intermediate case. Over

time the issue about how the-----

Senator Kieran O'Donnell: I ask that the Central Bank would continue to undertake empirical work on the area.

Professor Philip Lane: Exactly.

Senator Kieran O'Donnell: We are dealing with people on the ground, both people acting on behalf of people in distressed mortgages where the mortgages have been sold on to funds, plus the individuals themselves. There should be empirical work on that area where effectively a fund is borrowing for five-year funding but they are buying assets. I take the Governor's point but their model in many cases appears to be a short-term model. The role of the Central Bank is to look at that.

Professor Philip Lane: We absolutely agree with that. We are committed to it in the sense that we are committed at different levels regarding stability assistance but also in terms of what is going on fund by fund. We are committed to collect-----

Senator Kieran O'Donnell: The Central Bank should report back to us with an update at some future date.

Professor Philip Lane: We did it last year. This is an ongoing issue

Ms Dervile Rowland: Understanding the restructures that are being put in place by the banks and the non-banks and how they work out over time is a key focus for us in respect of the code of conduct on mortgage arrears. One of the chapters details the types of arrangements they have, but that is a point-in-time analysis. It is really important for us to see, for example, the most popular approach that was being taken by the non-banks; I think it was arrears capitalisation. However, they have a different loan profile from the banks.

It is important that supervision of the non-banks, their treatment of customers and the sustainable arrangements that are put in place is a priority area for us in the context of supervision. We will collect and scrutinise those data annually to see how the treatment of those loans is working out over time. If we see problems in how they are treating their customers, we will correct that in our supervisory work.

Senator Kieran O'Donnell: Will the Central Bank publish those findings?

Mr. Ed Sibley: Our work is on different layers. We get information from the banks and the non-banks on their loan books and the restructures that are in place on a quarterly basis. As Ms Rowland mentioned, there is a marginal tendency for more arrears capitalisation in the non-banks than in the banks. It is relatively marginal. They are split mortgages in the non-banks and there are also other solutions.

As well as that quarterly cut, deeper analysis is undertaken both from a data perspective and also through on-site work. As we did last year and will do into the future, that on-site activity is supported by high-quality data analytics in banks and non-banks.

Senator Kieran O'Donnell: That is fine.

Mr. Ed Sibley: The Senator asked about share prices.

Senator Kieran O'Donnell: Our guests were speaking about risk. We have invested €25

billion of taxpayers' money in the banks. That money is sitting there. That is a risk to the State and to taxpayers' money. In time, what impact will Brexit have? The banks' share prices have fallen in recent times as a result of Brexit. I have been following both the Irish and UK banks. I do not know how well they are doing today, but their share prices have fallen.

Professor Philip Lane: There is a wider European decline. There has been a pretty big decline in the past year. I am not sure if the current value is near €25 billion.

Senator Kieran O'Donnell: No, I am just saying-----

Professor Philip Lane: It is significant.

Senator Kieran O'Donnell: It is well in excess of €20 billion.

Professor Philip Lane: We might follow up on that. The bigger point is that I do not regard the risk-reduction strategy as a contest of maximising the value followed by disposing of the shares versus this issue about the balance between the banks and the non-banks.

Senator Kieran O'Donnell: I am making a statement. How does the Governor see Brexit and everything that has happened impacting on the State's policy over time?

Professor Philip Lane: Of course, Brexit on its own is negative. The broader issue, which is a European-wide one, relates to the future of banking, where the interest rate environment in Europe will be and so on. It is one factor among many. The overwhelming pattern has not been Brexit; it is just wider concerns about the future of the banking system, which is a fluctuating debate.

Mr. Ed Sibley: We are certainly looking very actively at it as a warning indicator. We can see that there are fluctuations in the Irish bank share prices relative to European bank share prices connected with news coming from the UK. There is an element of Brexit-associated movement there. As the Governor stated, there has been an underperformance in bank share prices across the EU, with concerns regarding the return on equity of European banks related to the cost of equity. This also features in Irish share prices.

Senator Kieran O'Donnell: In the context of trackers, the Central Bank states that its enforcement work is ongoing and that it is engaged in forensic investigation. Can our guests provide an update as to where the enforcement proceedings stand? How many institutions are involved and what is the timeframe for taking action?

Ms Derville Rowland: An enforcement case against Springboard Mortgages was concluded, with a €4 million fine imposed, and there are six open enforcement investigations against all the main lenders. These are at various stages. I anticipate some of them concluding this year but it depends on evidence acquisition and the interview schedules, as well as the issues that arise in each case, which are all different.

Senator Kieran O'Donnell: All the mainstream lenders in Ireland are involved.

Ms Derville Rowland: Yes, and individual culpability is part of the consideration in those cases. This means that it is even more forensic and detailed and we will consider all options.

Senator Kieran O'Donnell: I am of the view that the credit unions should inhabit the public banking space. Has any collective approach been made by the credit union movement, the Irish League of Credit Unions, ILCU, and the Credit Union Development Association, CUDA,

towards putting forward a plan to roll out a public banking model through the network?

Mr. Ed Sibley: There is a lot of discussion about the public banking model, including the role of credit unions. I have met Irish Rural Link and representatives of the Sparkassen on a couple of occasions and I have another meeting in the next couple of months on the topic. A lot of thought is being given to this but I have not seen a specific proposal from ILCU, CUDA or any other credit union body for a public bank. I believe they are interested and engaged but there are no firm proposals from the credit union sector, though Irish Rural Link and others have done work on what a public bank might look like.

Senator Kieran O'Donnell: The Central Bank has the network and there is a need for competition in the market. The credit unions already inhabit the space in a number of areas and we do not need to reinvent the wheel to do this.

Mr. Ed Sibley: We are engaging a lot with the credit union sector around business model development but we have received no formal proposal from the sector.

Senator Kieran O'Donnell: The Governor stated that, in recent months, the bank had stepped up its work on mitigating the most material, cliff-edge risks of a hard Brexit. What does that mean?

Mr. Ed Sibley: The best way to describe this is to think about the macro issues, which have been a feature of our work for at least three years. This funnels down to specific contingency planning for a hard, no-deal Brexit on 29 March or 12 April. We have thought about the inter-connections between the EU 27 financial system, including Ireland, and that of the UK and we have looked at the specific concerns around liquidity management, market dislocation and market shock, for banks and other entities. We tried to understand the consumer protection risks such as in the insurance sector, a lot of which is written from the UK. We have engaged with regulated firms in order to ensure that they do all they need to do to prepare for a hard Brexit.

Senator Kieran O'Donnell: Has the Central Bank had engagement with the Bank of England? Is it satisfied that we are Brexit-ready in the financial services sector?

Mr. Ed Sibley: We have lots of engagement with the Bank of England's financial regulatory authority and financial conduct authority. I exchange emails with the deputy governor on a weekly basis and yesterday and today we discussed specific matters associated with Brexit. We have worked very hard in a European setting to make sure there is a good, strong memorandum of understanding that will allow us to continue to co-operate and work collectively to ensure we are supervising and regulating the firms that operate on a cross-border basis post Brexit.

A hard Brexit would be bumpy and difficult but our role is to ensure that the financial system is not the cause of problems but will continue to support customers and businesses, after a hard Brexit, through all the difficulties Ireland will face.

Senator Paddy Burke: I welcome the delegation and I wish Professor Lane the best of luck in his new appointment. Has the Central Bank done any work on the price of houses? We have recently seen a decline in house prices in Dublin. Has the Central Bank done any work on the cost of building a house? Some builders state that it is not profitable to build houses at the prices they are getting outside Dublin.

Professor Philip Lane: We look at house prices on an ongoing basis. House prices move around a lot more than the cost of building and there are all sorts of demand factors. Income

levels change as the population changes and interest rates and rents change. These are the factors that move the price of houses but we look at the prices of houses that have been built, while the Senator asked why certain types of houses were not being built. House prices are one issue but the supply of housing is a different issue, as is the mix of housing that is built. We have to ask if the mix of starter homes outside Dublin is where it should be, compared to the mix in Dublin, and there are issues around apartments versus trophy homes. We have a good track on the price of houses but that is a separate issue.

Affordability is affected by constraints in the construction sector but there has been an increase in activity. This year there will be a 17% increase in construction on last year. Given the number of planning permissions, we are looking at another 13% next year. There was an increase in 2018 too but this is all from a low base. The collapse in construction was huge and we went from overbuilding to almost zero. This year we will get back to 23,000 homes built and we think there will be 27,000 next year. These figures are still below where they should be but the construction sector is responding. That takes time, which is why we are in this difficult situation in terms of the mismatch. So many people are either homeless or are renting when they would prefer to buy. When they do attempt to buy, the type of home they want is not available. I know that this is of major concern to the Oireachtas and the Government, as well as to the Central Bank but it will take time for the situation to improve. There is a lot going on but the situation will not be transformed overnight.

Senator Paddy Burke: On the sale of loans by various banks in recent years, I have received a considerable amount of correspondence from people who have had to vacate their homes. I presume the banks have been given permission by the Central Bank to proceed with the sale of these loans. Banks sell loans to companies such as Cerberus and other financial operators that do not function here on a day-to-day basis. They use intermediaries to operate on their behalf on a day to day basis - for example, companies like Capita. However, when a repossession comes up, the original bank carries it out. In that sense, the original bank obviously holds the deeds to the property. I ask the Governor to explain that process. Loans are sold to one company and often operated by another on a day-to-day basis but when an eviction is sought or the individual has to vacate the property, the original bank is involved. Does the original lender not give the security or the deeds to the company that buys the loans?

Professor Philip Lane: The way the Senator describes it is not quite correct. I will ask Ms Rowland to respond.

Ms Derville Rowland: In terms of the system, it is a little complicated and is about to change again because of legislation enacted. Loan ownership might rest with an entity but the framework that was put in place was such that credit-servicing firms would deal with consumers because we were at pains to ensure that consumers would always and only interact, in terms of arrears or any other loan issues, with a regulated entity. The Senator might recall a lot of discussion here and elsewhere about the underlying loan owner not actually being subject to regulation. As a result of those discussions, new legislation to provide that the underlying loan owners be subject to regulation was passed recently. That is in transition now so, in the future, all loan owners will be subject to regulation. As it stands, the system in place now is that a consumer deals with a regulated entity. Indeed, the law provides that he or she must do so. In that way, all the protections of the consumer protection code and the code of conduct on mortgage arrears must be complied with and the Central Bank can supervise to make sure it is done properly and that they meet their obligations to the entity. However, once a matter goes to court, it may very well be the case that the owner of legal title would have to be dealt with in

the legal proceedings and the loan ownership had previously been resting with the unregulated party or entity so the transfer of title could be at issue. In the new system, as I am sure members are aware, the underlying loan owner will have to be regulated. We are in a transition period right now and loan owners must make an application by 21 April to do so, at which point, that will no longer be the case. It might be something to do with the legal system requiring the title in possession proceedings to be dealt with by the owner.

Senator Paddy Burke: The original bank that extended the loan is holding the deeds. Is that correct?

Professor Philip Lane: No. Ownership is defined by the transfer of the title.

Mr. Ed Sibley: Is the Senator referring to cases involving banks that have now left the market?

Senator Paddy Burke: I am talking about cases involving loans that have been bought by one of the so-called vulture funds. When an individual has to vacate a property, he or she deals with the bank that extended the original loan. The papers that are served on the individual are being served by the bank that gave out the original loan.

Mr. Ed Sibley: To follow on from what Ms Rowland stated, I am just wondering if the circumstances described relate to a bank that is no longer authorised in this State-----

Senator Paddy Burke: No, the bank is authorised in this State.

Professor Philip Lane: It might be better to deal with this privately. There are many different possibilities because there have been so many different types of loan sales and credit-servicing arrangements. In some cases, a bank may have contracted the servicing to another entity. It would be better to follow this up with the Senator in terms of the example to which he refers. We will then be able to give him a more structured answer.

Ms Derville Rowland: If the Senator writes to me about the particulars of the case, I would be happy to look into it. It sounds like it is particular to-----

Senator Paddy Burke: I do not think it is particular to one case. It seems to be the norm for most cases that the bank that extended the original loan serves the papers on the person who is vacating the property. The papers are served by the bank on behalf of the entity that has bought the loan.

Professor Philip Lane: As already stated, we will have to come back to the Senator on that issue.

Senator Rose Conway-Walsh: To follow on from that, is it not explicit in the contract that the lender would remain responsible for all issues relating to the loan? Would that not override any consideration if it is contained in the original contract? Under contract law, would that not be the case?

Ms Derville Rowland: It is very difficult to answer that question without any of the particulars. The Senators are asking quite specific legal questions in respect of title, property and transfer. To give them a fair and informed answer, I would need a little bit more information. I am very happy to come back to them but these are technical, legal points and in order to give a fair and considered answer, I would need all of the details of the case.

Senator Rose Conway-Walsh: I understand that but the contract is the basis for everything. The Central Bank's role in the context of consumer protection is to protect the consumer, as one party to a contract. If the contract states that the lender is responsible for all administration of the loan, then surely that is a fairly simple situation.

Professor Philip Lane: Most contracts have an option whereby the loan can be sold so the lender will change with the loan sale. Then whoever has bought the loan will take on the responsibilities of the lender. Who fulfils the contract-----

Senator Rose Conway-Walsh: It does not state that in the contract. There is nothing about the loan being sold on or anything of that nature. It just states-----

Professor Philip Lane: By and large, most contracts include the option of the loan being sold. Clearly, the loan cannot be sold if that is not allowed for under the contract. Contracts do allow for loan sales.

Ms Derville Rowland: There is an interaction of two systems here. There is the system of financial services regulation, which has a role to play. There is also contract and property law and the role of the courts. There are two interactions here. Some of the issues to which the Senator refers might be particular to the wording of a particular contract. In general terms, one would want to take both of the interactions into account in giving an answer. If the contract is silent, there are other legal mechanisms that operate.

Senator Rose Conway-Walsh: So contract law does not supersede any other law. Is that what Ms Rowland is saying?

Ms Derville Rowland: They interact-----

Senator Rose Conway-Walsh: They interact but contract law does not supersede-----

Ms Derville Rowland: One would have to look at the circumstances. Sometimes statutory law overrides the wording of a contract and sometimes the contract has to be read pursuant to other factors. One would need to have all of the facts in order to provide a definitive answer.

Senator Rose Conway-Walsh: Perhaps Ms Rowland could furnish information to the committee on that point. If it is explicit in a contract, such as in this KBC Bank contract I have in my possession, that the lender shall remain responsible for all aspects of the administration relating to the loans, then the committee really needs to know this information. I ask that we be given it in writing.

Professor Philip Lane: It is best if we look at the contract the Senator is looking at and then we can see.

Senator Rose Conway-Walsh: It is in a lot of contracts. As Senator Paddy Burke said, it is not just in one contract. It is in a lot of the contracts the Central Bank deals with all of the time.

Mr. Ed Sibley: As Ms Rowland and Professor Lane have indicated, it is difficult to reply without looking at the contract. My guess is it would rest on the definition of the lender. As the Senator has read it out, it does not state "the original lender", it states "the lender".

Senator Rose Conway-Walsh: Yes.

Mr. Ed Sibley: That lender, as the Governor has described, could be different from the

originating lender. That is without-----

Senator Rose Conway-Walsh: No. At that point, the person had the contract with the lender.

Mr. Ed Sibley: In those contracts to which the Governor referred, there is also an ability to sell on the loans. Without looking at the specifics, that is probably where the interaction is.

Senator Rose Conway-Walsh: The lender is defined as, for example, KBC Bank.

Professor Philip Lane: I am not looking at the KBC Bank contract but, in general, the consistency is that the lender can change. Customers know that whoever is the lender is obliged to follow the contract but this does not rule out the fact the lender can change. The original lender can sell the loan to someone else. The entity performing the function of the lender does not have to be the original lender.

Senator Rose Conway-Walsh: There is no provision for that, which is why the Central Bank has a real-----

Professor Philip Lane: I suppose-----

Senator Rose Conway-Walsh: There is real ambiguity in the Central Bank's interpretation of all of this in terms of who the lender is in the chain and whether these loans are being sold and then sold on again. Surely everything has to come back to the original contract.

Professor Philip Lane: It is better to-----

Ms Derville Rowland: When a contract is entered into between a lender and a customer, the terms remain certain. Any lender must stand in the shoes of those contract terms because we cannot have a unilateral variation of contract except by operation of some other kind of law that would interact. It is permitted in statutory law and other laws for the lender to sell the title to that loan and pass it on to another entity. The lender can swap shoes with another who would step into that contract but all of the terms and conditions of the contract would persist and pertain and the new loan owner would be bound by those. That happens with an interaction of statutory property law, contract law and, for example, securitisation and other areas of law. It is allowed for a loan to be sold and for a new loan owner to step into the shoes of that contract. Our role is to make sure the protections of regulation stay in place no matter who owns the loan so the consumer is fully protected. In terms of contract law, a consumer is entitled to rely upon the terms and conditions and protections inside the contract. There can be a lot of complicated particular parts of law that come into play in this, as well as the actual precise written terms of the contract. I hope that is somewhat helpful.

Senator Rose Conway-Walsh: It is clear as mud. I want to move on to the tracker issue. The Central Bank has identified a number of people responsible for the tracker scandal.

Ms Derville Rowland: I cannot discuss the enforcement actions. To do so would prejudice the outcomes and serve as a way to make any outcome less likely.

Senator Rose Conway-Walsh: The Central Bank knows there is a number. I am not asking for details but the Central bank knows-----

Ms Derville Rowland: What I am saying is that the investigations are absolutely forensic and thorough. From the get-go, the Governor and I have been very clear that we have a strate-

gic commitment to individual culpability being part of our enforcement approach.

Senator Rose Conway-Walsh: Yes, I appreciate that.

Ms Derville Rowland: When cases are under investigation we look in a very detailed way at who was responsible as well as what was done. Where there is evidence to support individual accountability, we take those cases forward. The previous enforcement record the Central Bank built up over time demonstrates our commitment to this. We have brought more than 120 enforcement cases, with more than €70 million levelled in fines. There are approximately 30 outcomes, between disqualifications, prohibitions, refusals and suspensions against individuals, which demonstrate that where we have the evidence of individuals needing to be prohibited or disqualified, we will take those actions. We bring that same commitment to the enforcement cases, and the tracker mortgage examinations is a key part of our regulatory approach.

Senator Rose Conway-Walsh: Does Ms Rowland have a timescale as to when she expects the results to be known?

Ms Derville Rowland: Six cases are open. They started at different times. The information feeds we get from them come from the supervisory work we do in the examination of the work on tracker mortgages. They are all on different timelines with different degrees of complexity and different issues. We expect some outcomes this year.

Senator Rose Conway-Walsh: I want to go back to when Professor Lane was before us on 18 January. He spoke about the prevailing rates and we had a lengthy discussion on them. He stated that the Central Bank had got expert advice and that he was going to make that legal advice available to us. Has that been made available? It was with regard to the interpretation of the construction of the contracts.

Professor Philip Lane: I do not recall that particular exchange. In general terms, we have our understanding of the prevailing rate issue. As Ms Rowland stated earlier, the AIB cohort was included in the examination. A payment was made in recognition of the fact they should have been offered a tracker rate. I recognise that many in the cohort are dissatisfied with the tracker rate offers they received compared to-----

Senator Rose Conway-Walsh: I do not want to go over that again but when it was put to Professor Lane that it would be helpful if he and the Central Bank wrote to the committee setting out the assessment of the prevailing rate issue and the factors taken into account in arriving at the broad conclusion on the approach of the institutions in interpreting the prevailing rate, he stated that in a verbal two-way conversation on the issue, the Central Bank could give only a partial explanation whereas if it laid out an explanation on paper, it could be studied by the committee. Did the Central Bank lay out that explanation on paper to be studied by the committee?

Professor Philip Lane: We will have to check and follow up on whether that happened. In terms of being able to explain-----

Senator Rose Conway-Walsh: I have it here.

Professor Philip Lane: I am happy to write a letter-----

Chairman: The Senator is reading from the transcript.

Professor Philip Lane: If we were remiss on that, we can follow up by explaining our approach.

Ms Derville Rowland: If something was not followed up, we apologise. We often receive correspondence after a hearing setting out for us the precise areas to which we should respond and we endeavour to do so comprehensively. I do not believe that request was outlined in correspondence to us but we are very happy-----

Chairman: Is it our fault?

Ms Derville Rowland: No, I am stating that it could be an oversight, for which I apologise. I am very clear the Central Bank would not publish our internal legal advice. That would not be a course of action we would take. It would be against our confidentiality obligations whereby we cannot speak about particular issues affecting an individual firm. I was very happy to answer detailed questioning on the prevailing rate issue previously here-----

Chairman: Yes

Ms Derville Rowland: -----where the issue was on the meaning of one of the terms in the contract on the then prevailing rate. I recall a contract being read out to me and I discussed it. What I will say on our view and outcome on that particular case is the Central Bank has a very pro-consumer focus.

Senator Rose Conway-Walsh: I am sorry-----

Ms Derville Rowland: We demonstrate this in terms of the numbers included in the tracker mortgage examination. When we see an issue like this we recognise how important it is for people and how they would wish to be returned to a cheaper tracker rate. We take a very robust view of the interpretation of all of the relevant factors, including the contract. Where we could take a pro-consumer view, we did so. In this particular case, we took the strongest view we reasonably could and then determined an approach. I recognise that AIB prevailing rate customers are disappointed because they have not been returned to a cheaper tracker rate but they were included in the examination and, therefore, they got the benefit of the option to appeal or to exercise any of the other options available to them. We took the strongest reasonable approach we could but we felt we could not challenge the interpretation of AIB further.

Senator Rose Conway-Walsh: This really is not good enough. This is such a serious issue. The Central Bank committed to outline on paper exactly what informed its decisions in this regard. I absolutely know that this will be tested in the courts and I am concerned that Professor Lane will be gone at that stage. I wish him well in his new job. However, for the Oireachtas Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach not to have the explanation laid out on paper is a serious matter.

Professor Philip Lane: That is a reasonable point. We make an effort to follow up after these appearances. It is straightforward for us to lay out our general approach to this. That is reasonable and we can follow up.

Chairman: Perhaps both parties will check the transcript and the Central Bank will respond further-----

Professor Philip Lane: The distinction Ms Rowland is making-----

Chairman: Is that okay, Senator?

Professor Philip Lane: It is fairly straightforward-----

Senator Rose Conway-Walsh: I know what Professor Lane is saying but I also know that after each of these meetings, the transcripts are forensically examined by people in the Central Bank and all of the other banks as to the direction in which we are going and what frames this. I ask that, as a matter of urgency - because it has not yet been done - the Central Bank does what it committed to do on 18 January to help us in our work. Central Bank representatives speak all of the time about their consumer protection role. It is a role we take very seriously. In this regard, is it true that AIB's independent redress panel is rejecting all cases relating to prevailing rates? People are objecting to the way in which their cases have been interpreted retrospectively.

Ms Derville Rowland: I understand that a number of appeals have been made at the AIB hearings on that matter. I also understand that people have not succeeded at the appeal hearings.

Senator Rose Conway-Walsh: Does Ms Rowland know of any case that has been successfully appealed?

Ms Derville Rowland: On that particular point, my understanding is reflected as Senator Conway-Walsh has suggested.

Senator Rose Conway-Walsh: Is it that AIB is setting the narrative in such cases?

Ms Derville Rowland: What I would like to say about the appeals tribunal is that precisely because we knew it was very important for customers to have options inside the tracker mortgage examination and a right to appeal, we insisted on the appeals mechanisms existing and that they would be independent or that there would be a majority of independent people on and that consumer advocates would be included in those panels. This means that the credibility and decision-making of the appeals are at arm's length from the lenders and the Central Bank and are led by independent people, particularly consumer advocates, who are in the majority. This is an important safeguard for people in order that, as one of the options available to them, they can go to an appeal panel where the decision can be considered afresh with independent eyes. This is a significant characteristic of the appeals panels.

Senator Rose Conway-Walsh: Will our guests remind me of the make-up of the independent appeals panels? It seems unusual that all cases would be rejected in favour of the bank's interpretation.

Professor Philip Lane: More broadly, what we have seen in the aggregate throughout the entire system is that approximately half of the appeals decisions that have been made were in favour of the people making them. In the aggregate across all cases it is 50:50. This indicates there is plenty of willingness by the appeals panels to increase awards. That is the aggregate number. It is not the case there is structural resistance in the design of this. I view it as a success of the design that so many people receive higher awards. The appeals mechanism is there to bring into account individual circumstances. Every family is different. The person bringing an appeal may be able to provide extra detail about how the original decision was made or about the damage he or she faced as a result of the handling of that individual situation. The fact that across the system in approximately half of the cases people have received an increased payment when the appeal decision is finalised shows that the appeals mechanism-----

Senator Rose Conway-Walsh: We are speaking here specifically about the prevailing rates and this is what I am really interested in.

Professor Philip Lane: I know but-----

Senator Rose Conway-Walsh: If there is blanket rejection the Central Bank has had an interpretation of it and is standing over it. If that were to be tested in a court of law the Central Bank will stand over it. It has received its own advice and it will provide us with that. There is the issue of the banks trying to apply retrospectively commercial common sense. There is the issue of contract law.

Professor Philip Lane: We must remember that in the examination everyone involved always has other options of going to the ombudsman or the courts. In how we address this we must remember, as Ms Rowland said, there was a fixed amount of compensation for the fact people should have been offered a tracker. The right to appeal is also there. Perhaps Ms Rowland can speak on this.

Ms Derville Rowland: I am glad to be able to report that we wrote back to the Oireachtas on 1 May 2018 and No. 4 in the letter was with regard to the fact we were requested to inform the committee how the Central Bank assessed the prevailing rate issue, to include the factors the Central Bank took into account in concluding the interpretation of the prevailing rate as been the rate that applied at the time a person came off the fixed rate. We provided a response in the correspondence. There was no oversight on anybody's part. I am glad to report this is detailed in the letter of reply.

Senator Rose Conway-Walsh: This tells us when the Central Bank did it. Surely in contract law it would be when the contract was drawn up regardless of when the money was drawn down. Surely it should relate to the date of the original contract. We have a situation where the only variable in the contract is the ECB rate. The margin is the constant. I am trying to get the rationale for assessing this.

Professor Philip Lane: We have always been clear there have been all sorts of tracker contracts, some with a fixed margin and others where the margin could change. This goes back to the issue of the prevailing rate being that at the time someone rolled off a fixed mortgage and was looking to return to a tracker. This is the difference in interpretation. Our assessment is the rate at the time of roll off in autumn 2008 or early 2009, when trackers were not being offered but should have been offered. We are clear that those customers should have been offered a tracker. The assessment of the rate at which it should have been offered was in excess of the variable rates at the time.

Senator Rose Conway-Walsh: I need to get this clear. Does the rate apply to when the contract was actually signed?

Ms Derville Rowland: It depends very much on the particular contract and the wording. One would have to read the wording of the terms and conditions as a whole and in particular. One would come up with a different answer depending on the different words of a contract. In the particular case we are speaking about, there were a number of key clauses that had to be read in totality. One was a phrase in the contract called "the then prevailing rate". The question arises as to what does "then" mean and to what time does it relate? The view AIB took was that it related to the timing that the customer rolled off a contract and that it would offer the rate prevailing at that point, not the prevailing rates at the inception of the contract. One must look at these things in their totality. The Central Bank's approach had to be whether it could reasonably challenge the approach that AIB was taking in all the circumstances, taking all the contract terms into account and looking at the rate and the actions. The Central Bank took it as far as we felt we could. Of course, there could be particular things that each individual might be able to say - that we would not know about things that were done or said to them - and it was very

important to offer customers the opportunity to avail of the options available to them inside the tracker mortgage examination, for example, the appeal and any other options. We were as robust as we could be in that particular case. Our track record demonstrates our robustness given the numbers of customers who have been included in tracker mortgage examination. When we look at an issue, we do not just look at the contract, we look at the transparency requirements, the factors which pertained at the time the customer entered into the contract and what their legitimate expectations would be in terms of all those circumstances. We also look at what we see as a reasonable approach to that. We have not been behind the curve in challenging where we feel there is a reasonable interpretation and we are committed to that. However, I recognise that some customers will be disappointed in the outcome because there are people who would wish to have that cheaper tracker rate and do not have it. I understand that some might be disappointed. However, we have taken a robust approach on their behalf and have ensured that where we could challenge, we have done so. Where we can reasonably challenge, we do so.

Senator Rose Conway-Walsh: Ms Rowland agrees with the statement that that applies to coming off the fixed mortgage and going onto the tracker and not to the original contract?

Ms Derville Rowland: We were not in a position where we could reasonably challenge the approach which AIB took on that. We would support the right of consumers to take their options where they feel it is right for them to do so.

Senator Rose Conway-Walsh: It is important that the Central Bank has a position on the matter. Where the bank acknowledges a failure, it does not acknowledge a breach of contract. Does Ms Rowland believe there was a systemic breach of contract by the banks?

Ms Derville Rowland: Some of the instances in the tracker mortgage examination will result from a breach of contract scenario but some result from transparency requirements - the standards that we expect to be met - not being met. They can be different things. For example, some of the contracts simply were not clear and we expect the lenders to give the consumer the benefit of the doubt. That may not be a breach of contract but it is important that customers are very clear about the expectations that they can have. We are very strong with the lenders on that. A significant number of customers were included in the tracker mortgage examination precisely because we do not think the lenders were clear enough with their customers about what would happen throughout the course of the contract or the various changes. We have advocated very strongly for people and ensured that they have been included in the tracker mortgage examination redress programme because of that.

Senator Rose Conway-Walsh: Does the Central Bank believe that the banks have tried to apply commercial common sense retrospectively in many of these cases, which obviously goes against the contracts?

Professor Philip Lane: I am not quite sure in the sense that where the contract is clear that the commitment is in relation to pricing when the contract was signed that is where customers have been returned to their tracker mortgages. Where the case is made, in the alternative phrasing, when the customer has rolled off their fixed rate mortgage, then there is a different outcome. It depends on the contract. If it is clear that the pricing is at the time that the contract was signed, those are much bigger compensation cases. The tracker examination deals with all sorts of contracts and issues. That is why there is no single narrative here. There are many different categories of customer. The scale of awards is very different depending on what the problem was, the time, or the bank, and so on.

Senator Rose Conway-Walsh: That is true and is why I believe that the two most important words from here on are “the” and “then”, that is, “the then” and what that means.

Chairman: We must move on. Three more members have questions. Do the witnesses wish to continue or shall we take a break?

Professor Philip Lane: We are okay.

Chairman: In that case I call Deputy Paul Murphy.

Deputy Paul Murphy: I will try to take it easy.

Chairman: If the witnesses wish to break at any time, they should let me know.

Deputy Paul Murphy: I thank the representatives for their presentations. I was in the Dáil when they were speaking earlier but I have read them.

I will begin with a general question on the world economy. Do the representatives believe the prospects of the world economy entering into recession again are rising? Are they concerned by indicators such as the inverted bond yield in the US on Friday, the German manufacturing figures, the slowdown generally, trade tensions and so on? Where does the Central Bank put the kind of risks of entering a new recession in the course of the next year, for instance?

Professor Philip Lane: I would not characterise it as a question of a recession versus not a recession, where a recession means growth tipping below zero. At a world level, the global population is continuing to grow. The IMF has often published projected growth figures of around 3.5% to 3.9%. The world economy needs to grow around that rate in order to avoid *per capita* reductions in income.

In Europe, there has been a significant reduction in growth this year but the European Central Bank has reasons to believe that the second half of this year will be better. First, the reduction in growth in 2018 was sufficiently unexpected that inventories built up. There was over-production which meant inventories built up and manufacturers may have slammed on the breaks a little to run those down. When inventories return to normal then production resumes. Second, the price of oil has fallen. In 2018 it was increasing quite a bit then it started to come down in the last months of the year. The price of oil is quite important across Europe because energy is such a large part of household and wider expenditure. It is good news for Europe that the price of oil is coming down. Third, fiscal policy is loosening. There are various plans this year for looser fiscal policy. There are some countries where that has not yet kicked in. Therefore there are factors which lead us to believe that the second half of the year will look better than what is going on now.

More broadly, globally, I am sure that the Deputy reads the same material as I do -----

Deputy Paul Murphy: I think Professor Lane reads more of it.

Professor Philip Lane: There are concerns that China’s economy is growing more slowly. That will always happen as it matures into a higher-income economy and moves away from manufacturing into services. In the USA, the fiscal stimulus is fading so that the very high growth rates last year will not be repeated this year and definitely will not be repeated in 2020 under current plans, with the fiscal policies tapering.

Generally, as the world’s advanced economies go to lower unemployment rates, there is less

room to grow. Essentially, the last ten years has been recovery from the crisis. It is easier to grow when there are spare resources which simply need to be brought back into activity. When unemployment in the USA hits just over 3%, productivity must take the lead. There is a wide range of views about the scope for that.

Is it the case that there will be a slowdown? Yes, however the scale of the slowdown remains open to question. Tipping from that to outright recession is less likely. By the way, our researchers did some work on this and a recent publication from the Central Bank includes a recession probability calculator, which is at normal levels. Recessions do happen and while there is not an unusually high read from the indicator it is not the case that it is at a low level either. We do have to allow for the fact we have had a long expansion and the risk of the occasional recession must be part of how we run the economy in the coming years.

Deputy Paul Murphy: How would Professor Lane respond to the argument that given the nature of the growth we have had, and given that an important factor in fuelling it has been very cheap money, if we were to enter a recession the capacity for central banks, in particular, to intervene in response is very sharply limited, in quite a different way to 2007 and 2008? Martin Wolf wrote in *The Financial Times* that a powerful implication is that room for a response to a recession would be limited by historical standards, particularly in monetary policy. This is quite striking. If the US Federal Reserve had to make a standard response to a significant recession its short-term rates might need to be -2.5%. The European Central Bank and the Bank of Japan would have to go further still. By virtue of the response of the institutions of world capitalism to the most recent recession, another global recession coming would be in the context of having exhausted some of the toolkit for responding to recession, particularly monetarily. It is also the case politically but that has less to do with Professor Lane.

Professor Philip Lane: As the Deputy has said, the historical pattern is to have a significant move in monetary policy when recession hits. I emphasise that 2008 was extremely atypical because it was so severe. There was a clear set of imbalances in the run up to it that made the recession especially deep and nasty. The recessions we speak about now that might happen in the coming years are not of that nature. The more typical recession in the US, for example, is a contraction of less than 1% of GDP compared to the -5% seen in 2008 and 2009. We have to be measured about mild recessions. We do not have the imbalances of that period. On the other hand, it will be a mix of a number of factors. Central banks have already done quite a bit in terms of finding unconventional ways to have accommodating monetary conditions. At every monetary policy meeting of the ECB when we release a statement the final part of that statement indicates the responsibility on fiscal policy. In 2008 and 2009 there was a global co-ordinated fiscal response. In a severe recession situation there must be a fiscal response. This is one reason we and others elsewhere put so much emphasis in non-recessionary times on running fiscal policy prudently. It gives us the room to be aggressive in a downturn. We do not advocate surpluses for the sake of it. We advocate them in the good years to allow significant deficits in the bad years.

The Scandinavian countries are interesting in this regard. They want to protect public services and public spending so, therefore, they run a very prudent fiscal policy. In the mid-2000s countries such as Finland and Sweden had surpluses of the order of four or five percentage points of GDP. This meant they could have a big fiscal response in the crisis and avoid the austerity that was so damaging. These are the connectives. If we want to turn on fiscal stimulus measures in a recession we have to build them up in the good years.

Deputy Paul Murphy: I will move on to the impact of Brexit in the medium to long term

way as opposed to the immediate impact, with regard to the nature of the economy and the danger the Irish economy could become even more imbalanced or reliant on finance in the aftermath of Brexit. Does Professor Lane agree that this is a danger? It was reported in the *Financial Times* that the Central Bank received approximately 100 applications from financial firms to move here and, as of January, 27 were definitely moving from London to Dublin. The Government sees it as a big success that it is attracting firms in competition with other European Union states. The danger is that we are doubling down on our reliance on a substantially outsized financial sector, which has been referred to “Panama on the Liffey”. The dynamic of what Nick Shaxson called the “finance curse” - which is similar to the “oil curse” - will be to drive deregulation in the sector, which will then flow into the domestic sector as happened in the run-up to 2007-2008. The result will be a hollowed-out economy and a huge reliance on a sector that is not productive in Ireland. The number of jobs in the sector is not commensurate with other parts of the economy and there are real dangers of an imbalance in a post-Brexit scenario.

Professor Philip Lane: I share the view that we have to think seriously about the side effects of an increase in any one sector. Finance is one sector but there are other sectors that are very big too. It is often said that we have an over-reliance on multinationals, whether in financial or non-financial services and, while there are some similarities between them, there are also some differences. Concerns about crowding out other activities and over-concentration need to be addressed. We can do this by ensuring that there are supports and training so that other sectors of the economy can operate. We have a very open economy so many of the jobs in the multinational sector are taken not by domestic people but by immigrants, which reduces the risk of crowding out but adds to congestion in housing, transport and public services. The Government has to be alive to recognising the implications of rapid expansion in any of these international sectors.

The Single Supervisory Mechanism for banks and the fact that financial supervision and rule-making is taking place at European level reduce the risk of being captured. There is an idea that small countries can be captured by interest groups but the commitment to supervisory convergence across Europe ensures global firms do not play one jurisdiction against another. Many lessons have been learned by regulators, who exist to protect the public interest. The internationalisation of finance has to be met with the internationalisation of regulation.

Mr. Ed Sibley: I completely agree with the point. It is a very interesting question and worthy of consideration. On the regulatory side, the European and international dimension is as important as our own work and we were very active in European fora, such as the Single Supervisory Mechanism and the European supervisory authorities, to ensure convergence, consistency and the avoidance of a race to the bottom in supervision. The decisions that have been made by firms coming here have not been made on the basis of Ireland being a softer touch than other jurisdictions but on the basis of multiple other factors. The IMF has published research that found that there are risks around the political economy of regulation, going back to the tulip craze and other phenomena over the centuries. I am certainly very alive to these things.

Deputy Paul Murphy: Professor Lane said lessons had been learned but in the history of capitalism, lessons have been learned which then seem to be unlearned, with the same mistakes being repeated. In the US, some of the stricter regulation that was introduced in the aftermath of the crisis is in the process of being reversed. We have probably not seen the same effect in the European Union but pressure could yet come to bear. I take the point that the more regulatory supervision is done at European level, the more we are safeguarded from pressures but one of the things that came out of the banking inquiry was how deregulation in the IFSC washed

back into the domestic economy. Professor Gregory Connor said the IFSC specialised in regulatory arbitrage and tax arrangements that pushed at the limits, which is what offshore centres do but was done to excess in some cases in the IFSC. Furthermore, the philosophy washed back into the domestic economy and the regulation of financial markets in the domestic economy of Ireland was hobbled by the very light-touch approach that was one of the founding principles of the IFSC.

Professor Philip Lane: Another big lesson that was learned globally concerned the risks associated with shadow banking, in which some people engaged by employing regulatory arbitrage. We have been very active in this and there has been a big global effort on the part of the financial stability board to bring shadow banking out of the shadows. So much is out of the shadows now that a clear description of non-bank financial intermediation can be made. It does need regulation, as we did in relation to the transfer of loans to investment funds. The President of the European Central Bank, Mario Draghi, was here a couple of months ago and he acknowledged that, while a lot had been done on the regulation of non-banks, more should be done. The Central Bank has taken a leading global role in collecting and publishing information about what is going on. We are committed to shining a spotlight on the sector. We are showing what is going on in special purpose vehicles and in investment funds, what the origin of the money is and where it is going. We have published a lot and it might be helpful for the committee to see some of that. Ms Rowland takes the lead for us at the European Securities and Markets Authority, ESMA.

Ms Dervile Rowland: We have an international facing dimension to our financial services sector. The sector is quite considerable and we have a large funds industry that sells investment products to consumers in other jurisdictions. It is important that those customers can have trust and confidence in the strength of the firms and the products they are buying. The regulation to which they are subject is a really important factor and that has to be sustainable for Ireland to be seen as a trusted regulatory authority.

Since the crisis there has been a flotilla of measures to strengthen the regulatory framework, through which many funds and financial services entities operate, to ensure that we have far superior regulatory frameworks in place and access to information. Mr. Sibley referenced our work in the international arena, which we take very seriously. We take part in the European supervisory authorities to make sure we have a convergent approach with others. In ESMA, we look very carefully at some of the issues, such as in the funds area, to make sure we have a high-quality approach that exactly reflects the European norms. A significant number of regulations and laws were brought in after the crisis to strengthen the entire regulatory framework.

Deputy Paul Murphy: I have one final question, which is in some ways related, on the dangers of leveraged finance. Several reports have been produced recently. The IMF warned that speculative excesses in some financial markets may be approaching a threatening level. For evidence, we may look no further than the \$1.3 trillion global market for so-called leveraged loans. The Bank of England has suggested that is an underestimate and the ECB has also pointed to a significant relaxation of underwriting standards for US and European leveraged loans being observed in recent years. The likelihood of international contagion and system-wide spillovers is elevated in the context of a global search for yield and the figures for European leveraged loans indicates that we are almost at the levels of 2007. There was a steep decline in 2007 to 2009, inclusive, and then it went back up again. What is the danger and what relevance does it have for Ireland?

Professor Philip Lane: The good news, as the Deputy indicated, is that so many agencies

are looking at this now. It is not a gigantic part of the whole financial system, although nor was sub-prime back then, so it is very important that we all study this. The Financial Stability Board has announced a new product on it. There is a great deal of interesting material - I will turn to Mr. Sibley in a moment - but one basic point is that some of the lessons have been learned. For instance, one of the vicious spiral dynamics in 2007 was various types of loans being funded very short term. For many of those leveraged loans the funding line is significantly longer in maturity. The issue of a panic leading to the death of these entities very quickly does not arise.

There are plenty of reasons for us to look at this because it has been growing quite a bit. Perhaps Mr. Sibley can say something on this.

Mr. Ed Sibley: I will make one broad point before dealing with specifics. We in the Central Bank and more broadly in the wider European regulatory system are very focused on what we do not know, the assumptions that we are making and the risks that are out there. Different things will emerge to those which emerged previously and different mistakes will be made.

On specifics, as the Deputy and the Governor have observed, much attention is being paid in this area. The last time I was at the supervisory board of the Single Supervisory Mechanism, SSM, there was a specific discussion around leveraged finance following on from work that was done a year earlier. It looked across all the large European banks to see how active they are in the area, how much is staying on balance sheet, how much is being moved off balance sheet, what are the risks associated with it, what are the underwriting standards and how we can then look at it at a thematic level across the system. At a more local level, from an Irish perspective, we would look at the extent to which the banks operating here are active in this market. It is most definitely something we are attuned to and alive to, recognising all those warning signals to which the Deputy referred.

Chairman: I have a question for the Governor on the tracker issue. I am struggling to understand the paperwork of all the banks. My understanding is that on the very front page of the loan or arrangement, there was to be the information on that date around the amount of the loan, its duration, the number of repayments in the context of the loan and then, presumably, the interest rate and the description. The Central Bank's forensic examination of the paper work was referred to earlier. Is that information not on every loan document so that it is easy to pick up and say that a mortgage is or is not a tracker?

Professor Philip Lane: Unfortunately not. The tracker is a term -----

Chairman: No, but apart from the tracker, it is a description of the loan. Is there not a single document which can be read in layman's language that a customer can understand the type of loan they have, its duration, etc.? Is that information not there in the document, without having to forensically go through every single page of it?

Professor Philip Lane: These are legal contracts. One person might read the wording in a straightforward fashion. This is where the transparency issue comes in. There is an issue of interpretation of some of these terms. In some of the trackers it is not the case that the contracts said that it was the ECB rate plus a fixed margin, but rather phrases such as "the then prevailing rate", as we discussed earlier. Unfortunately, if it were as crystal clear as the Chairman suggests, we would not have faced the issues that arose. The contracts are complex, ambiguously phrased, and there is non-transparency. Even over and above the contract, there is an issue with surrounding material such as brochures.

Chairman: I understand that but I always presumed that there was such a page where the customer would understand the terms of the loan, that is that all the nonsense and the bumf would be cut away and what they were getting on that day would be set out for them. Now the Central Bank is looking at it in the context of what it is doing, which was never envisaged but is happening, one would expect that regardless of the finer detail or fine print of the packages, that at least everything would be on that page.

Ms Derville Rowland: Some 2 million contracts were in issue for trackers. Some of them

Chairman: Sorry, I would like the representatives to deal with the question, not specifically to do with the tracker investigation but to do with the information that the customer sees on the front page of their contract. Is there no simplified version of all that for the customer as part of their contract on that front page?

Ms Derville Rowland: There is an approach to these where there is an information sheet on the front of the document that should have all the relevant information but, unfortunately, sometimes that is not written out as clearly as it could or should be. That has been a feature that we have seen in the legals, as I call it, of the tracker mortgage examination and is probably somewhat more widespread than the tracker issue where not everything was crystal clear.

Chairman: Did the Central Bank find that page on every single document or contract?

Ms Derville Rowland: I should be clear that the Central Bank has not gone out and read every single contract involved in the tracker mortgage examination.

Chairman: But the Central Bank representatives said that it did a forensic examination of the paperwork.

Ms Derville Rowland: Yes, we have and we constructed an approach where all those things have been looked at in detail. We have sampled a lot of them. We have looked at customer journeys and the enforcement investigation is looking at other things.

Chairman: I ask Ms Rowland to stick with me on this. Did the Central Bank find that on that paperwork there was a note to the front of the document which set out all these details? Did the banks comply with this or did they not do so?

Ms Derville Rowland: I have not looked at every contract and nor has the Central Bank. What I can say is that some of the issues arose out of something that was not at all related to the contract and the issue has not arisen from that.

Chairman: Ms Rowland is going off on a tangent. I want to restate this - on the front page a notice in the form was to be set out which gave all the details that I have just described. I am asking the representatives of the Central Bank if in their examination - they should forget that it related to trackers - where someone in the Central Bank will have seen these contracts, a front page notice was found on every single contract?

Ms Derville Rowland: The examination would not have been focussing on that front page notice.

Chairman: Why?

Ms Derville Rowland: Because the examination would have focussed on the issues rel-

evant to tracker mortgages. It was just a tracker mortgage examination.

Chairman: I am not letting this go, sorry. The Consumer Credit Act 1995 states: “An agreement for a housing loan shall contain on the front page a notice in the form set out in Part II of the Third Schedule of the Act.” The form in question includes information on the date the loan was given, including the amount of credit, the period of the agreement, the number of repayments, the amount in euro of the cost of the loan, the total amount that would be repayable, the cost of credit, the annual percentage rate and so on. This is in the legislation so when I read that I thought that it cannot be as onerous a task as is being described. One is getting this contract which sets out on the front page exactly what was described to the customer on that day. That is a fact. That is what it says here in any case. If that front page is on every agreement, that information jumps out.

Ms Derville Rowland: The question is framed in terms of the front page information. That is a requirement of the Consumer Credit Act 1995 that it be set out in a particular way and that should be present on the front of all contracts because it is the requirement. In addition, one would always have to look at the information in the contract as well.

Chairman: I am asking Ms Rowland if she found that this notice in the form set out in legislation was available on top of every single contract that we are investigating.

Ms Derville Rowland: I could not say.

Chairman: Who could say? Can the Central Bank say?

Professor Philip Lane: The way to phrase this is that this has not been an issue of concern. It has not come to my attention that there has been a systemic deviation from that. I have read some of these contracts and I have gone through contracts. Often with contracts - even with that first page - is the way the interest rate is laid out is not a fixed number. When one looks at the phrasing of what the interest rate will be, it leads to some of these problems of ambiguity and so on. When the Chairman says it is very simple, it is not simple to express the interest rate unless it is a plain vanilla-type tracker mortgage where it is the European Central Bank rate plus a fixed margin. Most tracker mortgages have been fine. They have been simple and have been adhered to from day one. The problems typically emerge either when the contract has not been clear or there has been some event such as moving between a fixed and a tracker mortgage. We can follow up on this but it is not my understanding that there has been a systemic deviation from legal obligations to write that front page.

Chairman: This is what I have found. The front page of some but not all of the contracts I have seen has set out the amount of credit advanced; the period of the agreement; the number of repayment instalments; the amount of each instalment; the total amount repayable; the cost of credit in specific terms; the APR which is subsequently defined; the amount of endowment premium, if applicable; the amount of mortgage protection, if there is a premium; the effect on the amount of instalments of 1% and so on, which is specific to one particular case; and the annual percentage rate of charge. If that is not on the contract, according to the legislation, a “mortgage lender who is party to an agreement referred to in *subsection (1)* shall ensure that the agreement complies with that subsection.” The offences against that are set out thereafter. The legislation states the Central Bank will enforce this. My point to Professor Lane is that I have now seen evidence where this was ignored and it seems that it happened across the banks. Even if it did not happen across the banks, it states that if someone makes a complaint to the Central Bank, the bank is supposed to act because it is the body that provides oversight and enforcement

of the Act. That is what I found. It must be difficult for a customer who is supposed to read and understand the front page that, as Professor Lane said, there may be other specific detail hidden in the body of the agreement. I cannot accept that because that is not what the legislation says.

Ms Derville Rowland: An entitlement to a tracker can arise from a lot of circumstances and has arisen from lots of circumstances, not on the face of the contract and not on the face of any other document representing the contract terms. What we recognised is that in complicated situations where people might have an expectation of getting a tracker mortgage at a point in time from what was done or said, they should have the benefit of that protection. Neither what is written down on that document or what is written down in a contract would have served the expectation for those customers. That is what we mean when we talk about the transparency obligations. We mean what advertisements might have said or circumstances in which, in an engagement with a member of staff of a bank, a customer was given an idea that he or she might get a tracker later. When we were looking at the tracker issue, we looked at all of those kinds of things to inform us in terms of the factors that go into a customer journey at a point in time. We looked at what they could have reasonably understood to help them in their decision making at the time. This would be details written on the front sheet, details written in the contract and things that were done and said through advertisements or engagements with customers. We take all of those matters into account.

Separately, on the content of the front cover sheets, that is, the key information that is present in a contract and has to comply with under the Consumer Credit Act 1995, if that gives rise to a tracker mortgage issue, of course we would look at that. However, that information may not give rise to a tracker mortgage issue for the reasons that I have explained. It is true that the key information for a customer should be on the front of that document but it has been our experience that we had to go wider when we were looking at tracker mortgages to make sure we felt everyone had been dealt with fairly. It could be that there is an error in those documents.

Chairman: That is my point. If it is discovered that this page is either not there or does not comply properly with the legislation, it is a breach of the law and the Central Bank is meant to monitor that.

Ms Derville Rowland: Yes.

Chairman: Has the Central Bank pursued convictions on the basis of that legislation?

Ms Derville Rowland: No, the Central Bank has not pursued convictions on the basis of that.

Chairman: Why?

Ms Derville Rowland: We would take an approach where we deal with a wide range of issues right across all the different areas that we supervise. We take robust supervisory action where we see issues arise that have to be dealt with and we supplement our approach with robust enforcement actions across a variety of issues where we think the enforcement actions will support credible deterrents. I have already referenced some of the outcomes that we have taken. Where issues arise, we expect them to cease and we take a whole range of necessary actions within supervision in accordance with the magnitude of the issue.

Chairman: That is fine and I congratulate the Central Bank. This is a clear breach of legislation. If it is clear and the Central Bank gets a complaint, not specifically related to a tracker mortgage or something else, does it pursue that complaint?

Ms Derville Rowland: We will take a wide variety of actions.

Chairman: No, in accordance with the legislation.

Ms Derville Rowland: When we get complaints from the public we will definitely look at those. We will deal with those issues in the course of supervision and we have a wide range of options where we would pursue-----

Chairman: The Central Bank has never pursued a case under the Consumer Credit Act 1995 related to the breach of that part of legislation as applied by the banks. Has the Central Bank received complaints of that nature?

Ms Derville Rowland: I am aware a single issue complaint of that nature came in. I can confirm that we have not taken a prosecution in that regard but what we do is look right across-----

Chairman: Is the Central Bank not obliged to do so under this Act?

Ms Derville Rowland: We are absolutely obliged to look at the issues and take a range of actions up to and including enforcement actions, depending on the gravity, the magnitude and the prevalence of the issue.

Chairman: It states here that if they do not comply with that part of the legislation, they are guilty of an offence. One is either guilty of the offence or one is not. It is not a flexible-----

Professor Philip Lane: We have a-----

Chairman: It applies to other cases; it is not just one.

Professor Philip Lane: Let me say that regardless of what the issue is, we are always driven by our legal obligations. We have a very significant legal division which guides us on what we should be doing under different circumstances. We are absolutely driven by our legal obligations. By and large, as Ms Rowland said, there are many ways to respond to violations of whatever regulation or law we are charged with enforcing. That is essentially what we do on a day-to-day basis. We always operate to conform to our legal responsibilities.

Chairman: People were not aware of this Act in the context of mortgages and the requirements on banks. Therefore, they may not have made the connection, or made the complaint to the Central Bank. This Act, and I want the witnesses to confirm this to me in writing, sets out what has to be done very clearly, what the offence is and what the penalties are. The Central Bank does not have flexibility in this matter. It has to abide by this Act, even down to an individual case. The witnesses said that they have an individual case, and that is fine. I am applying this to what I and other financial advisers have seen. It is now the case that there is considerable disquiet over the fact that this covering page was never there, is missing or did not contain the information that legislation requires it to do.

The question I started out with was whether, in the context of the Central Bank's examination of these documents - the witnesses said there was forensic examination of the documents - it found that throughout the banks, not just one bank, this was a feature of the documentation of the banks generally? I want the witnesses to consider this and they may want to examine this issue before they answer. I have seen it and I am deeply concerned that this information was not made available to people.

Ms Derville Rowland: I am very happy to take any information the Chairman has and that

he can give me on this-----

Chairman: I have given it to Ms Rowland.

Ms Derville Rowland: If the Chairman has any documents about the prevalence of this-----

Chairman: The witness has seen the documents. I am asking her to tell me about the prevalence of this.

Ms Derville Rowland: I have information about this issue in a single circumstance-----

Chairman: No.

Ms Derville Rowland: -----and I am happy to take any further information the Chairman may have. We can definitely come back in writing. I will be happy to do so and I will confirm-----

Chairman: I am giving the witnesses the information to the extent that I have been informed of breaches of that legislation throughout the banks. I am asking the witnesses, in the context of their examination of the tracker mortgage issue where they would have been privy to seeing these agreements, whether this correct or is it not.

Ms Derville Rowland: That did not come up as a significant issue in the tracker mortgage-----

Chairman: The witnesses would have seen this in the paperwork. Are they saying that they did not see this at all?

Professor Philip Lane: I can tell the Chairman that we are acutely aware of our responsibilities and what is contained in that Act. It has been part of the tracker examination to bear in mind the intersection with that Act. To repeat, if we receive additional and new information from the Chairman or from others, we can respond to that.

Chairman: I will ask this again. I am just the Chairman of this committee. I do not have a troupe of people behind me advising and assisting me. The bank has. Will the representatives of the bank reflect on the statement in the report that this may be an issue for every single bank in that they did not comply with this legislation and did not provide the front page notice in a form set out by legislation? That is all I am asking. Was this a feature of the examination of paperwork that was carried out? It is a simple question. Do not put it back on me.

Professor Philip Lane: We will come back to the Chairman on that point.

Chairman: I thank the Governor. I call Senator Horkan.

Senator Gerry Horkan: I thank the Governor for his opening presentation, which seems like a long time ago at this stage. I congratulate him also on his appointment, which obviously reflects very well on him but on the country as well. We will all bask in some reflected glory and I wish him well in that role.

In that connection, tomorrow in the Seanad we will deal with the Land and Conveyancing Law Reform (Amendment) Bill 2019, which is a Bill being put forward by the Minister of State, Deputy Kevin Boxer Moran. *The Sunday Business Post* alluded to the fact that the Governor's new employer or boss, Mr. Mario Draghi, is not very keen on this, and there is a European Central Bank, ECB, opinion on this Bill. What are the Governor's thoughts on this

legislation?

Professor Philip Lane: I share the concerns expressed in the opinion of the ECB that this would give rise to a lot of new issues in how any troubled mortgage would be handled. Many of the specifications in the Bill would give rise to a lot of contestation in a court process. This is basically asking the court to do a lot of work by bringing in all sorts of extra information as to how it should assess whether to grant a repossession order. The ECB opinion is quite comprehensive in laying out all of the possible downsides to that approach. We would share those concerns.

Senator Gerry Horkan: It is effectively being brought forward as Government legislation.

Professor Philip Lane: I appreciate that, but regardless of who brings it forward, we have to look at it and we share the ECB opinion.

Senator Gerry Horkan: I thank the Governor for that. A lot of points have been covered, so I will try not to be repetitive. I am not sure anybody referred to the limits in terms of house prices and mortgages and so on. There are mixed views on that. Some would argue that it is suppressing prices and keeping a lid on them. Others would say that it is not allowing people who want to be able to buy to get on the market at all, because their salary multiplied by three and a half times will not get to anywhere near the price they want to buy at. I think it is keeping prices down and that is not a bad thing for anyone trying to buy. What are the bank's thoughts on this issue? These are the bank's rules.

Professor Philip Lane: The Senator has identified some of the issues there. Clearly, we have two sets of rules. One is the loan-to-income ceiling. The other is the loan-to-value ratios. What has happened over the past year or so is that the loan-to-income ceiling has started to bite. Essentially, people may have deposits, but the three and half times income is limiting their ability.

One point to make is that we recognise that that kind of ceiling should have exceptions to it. In the case of a younger person starting off in his or her career, for example, he or she could make the case that his or her income in five to ten years will be higher than today, so perhaps that person can afford more than three and a half times his or her current income. That is reasonable and that is why we have the system of allowances.

In the end, the thinking behind the loan-to-income rule, which is an anchor of the system, is to avoid a situation we had before where house prices depart from income. In the mid-2000s, the ratio of house prices to income climbed a lot higher than that. The three and half times income is an average over a long period of the historical relationship between mortgages and incomes. It is biting and that is maybe the point, which is to ensure that house prices do not go too far above incomes. I will qualify that by saying that this is only in relation to those who have the income levels needed to compete for the house prices we are seeing. It is not a commentary on the fact that there is an affordability issue here. Many people on middle or lower incomes are unable to buy houses in the range that they could afford. I share with the whole system a concern about the availability of affordable housing. As the Senator knows, there will be a mix of more social housing through different channels. As the amount of house building increases, I hope more houses will be built in that category to satisfy the provision of starter homes for regular people in the community. There are more houses being built this year than last year and there are more coming on stream for next year. The affordability issue is a concern. The fact that house prices are stabilising or coming down a bit because of the rules shows

the rules are having an impact.

Senator Gerry Horkan: On a related point, many people are paying significant amounts of money in rent at the moment. If they were able to get on the housing ladder, they would be paying far less than they pay on rent. In the case of those who have paid rent for four, five or six years, could the Central Bank allow the banks to recognise in some way that these people have consistently been paying monthly rents of €2,000 or €2,500, given that a mortgage payment might be much less, perhaps €1,200 or €1,500 per month? There does not appear to be a mechanism to give recognition to people who cannot save for a deposit because they are paying so much in rent. It is very difficult for them to put a deposit together. I do not want people to be over-indebted or find themselves in circumstances in which they will lose their homes. Is there some way or mechanism by which the Central Bank could give people recognition for setting aside money every month for their rent given that this money would be more than adequate to service a mortgage?

Professor Philip Lane: The Senator is bringing together different elements of this difficult situation. At the level of showing a consistent track record of paying significant rent, our view is that this is something the bank should be looking at in assessing the capacity of that individual couple to pay a mortgage. The question then is whether the rules should be different for that category. That is where we would say “No”. It is still important to have a deposit because it protects the individual from negative equity risk. The deposit is, therefore, needed.

As to the loan-to-income issue, we still think it is necessary to have a relationship between the loan and income levels because we know from historical experience that when loans are too high relative to incomes today, it may be cheaper than paying the rent today or for the next two years or five years but, with the risk of a downturn, we may see a loss of income. The loss of employment is a bigger probability in a downturn. This brings us back to the data analysis behind our decisions. We know that loan by loan and experience by experience the loan-to-income ratio has been an important factor as to whether a person ends up in arrears and in a difficult position. This is a difficult situation and the key is to build more houses and, in turn, the price of housing coming down so that the rules that we think are important can be met, while still delivering the housing people need.

Senator Gerry Horkan: On the Governor’s point on changing circumstances, downturns in the economy and so on, one of the chief executives who appeared before the committee - I think he was from KBC Bank - stated that we are closer to the next recession than we are to the previous one. I heard the Governor’s points on the rate of growth decreasing or reaching a plateau. The Minister for Finance has been relatively fortunate in the amount of corporation tax generated in recent years.

Nobody predicted and expected this. The Minister has also been quite fortunate in the interest rate environment in servicing the national debt. An argument about FDI might be that the only way to deal with having a small number of large FDI companies is to get more of them so that we are less dependent on any one of them. We are very exposed to at least ten which are contributing half of the FDI corporation tax, along with having very low interest rates. In terms of the Governor leaving this jurisdiction and heading off to the ECB, there are challenges there in regard to interest rates being as low as they are and what they might go to in the future and FDI. What would the Governor’s parting thoughts be?

Professor Philip Lane: I am going to return to this, so today will not be my last word on this. I intend to take this up in a speech or a paper in the coming weeks. This is a very important

issue. It is a separate issue from the risk of recession. The world can slow down and so on and for that reason, as I indicated in my opening statement, we turned on this extra capital buffer called the countercyclical capital buffer. That is to recognise when the economy has advanced to where we have unemployment of around 5% now, that is much more cyclically advanced than it was when unemployment was 15%. There is that cyclical risk, which is normal up-and-down economics.

The big issue, which the Senator referred to, is that Ireland also faces structural risk. The structure of the economy, with this dependence on multinationals, which in many ways has delivered a lot, is risky. There is a structural risk there. With the interest rate environment, there is a cyclical component to interest rates, but there is also a big long-term issue, where if one opens any economics journal, the discussion is how interest rates have come down on a long-term basis. The question then is whether those corporation tax revenues will remain high for a long time and whether interest rates will remain low for a long time, regardless of what is happening with the short-term business cycle. When one has those structural risks - my deputy, Ms Sharon Donnery, made a speech a number of weeks ago along the same lines - that is why we believe the system needs high capital buffers. We believe we need these robust mortgage rules and we say all the time that if the Government wants the ability to run a relaxed fiscal policy during the next downturn, which is important, it needs to build up the surpluses, going to above zero. Getting to zero is much better than not getting to zero, but going into significant surplus, if conditions are good, will give the Government more room in the next downturn to avoid austerity, and to increase spending and maintain it in a downturn, which is very important.

Senator Gerry Horkan: On the €665 million that has been paid out on the track mortgage issue, is there a breakdown of redress versus compensation? People have said it cost the banks a certain amount. Effectively, we are giving back to people the money that the banks - not the Central Bank - should never have had in the first place. This is the people's money.

Professor Philip Lane: I think that is a fair comment. I am sure we have the-----

Ms Derville Rowland: I may not have it precisely to hand today but we have it and will certainly publish it in our final report. It is information that we have given out before and we anticipate making as much information as possible available about the tracker mortgage examination in the final report, from a number of different points of view, that being one of them.

Senator Gerry Horkan: I would like to-----

Professor Philip Lane: I would like to say as a reminder that our focus so far has been on returning the money that was taken from the customer, plus an element of compensation. If our enforcement actions end up in conclusions that there needs to be a significant fine on these banks, that remains to be determined in the future.

Ms Derville Rowland: This may not be precisely up-to-date, but I can say that of the sum we have given the committee to date, about 76% of that is redress and 21% is in compensation. The remaining 3% is the independent advice element of it. That is where we are at the moment, which may change slightly over time, but it is probably representative.

Senator Gerry Horkan: It would be useful in the final report to see the costs the banks incurred in having to employ all those people to sort out their own mess, plus the total cost of redress and of compensation. Ultimately, there will obviously be fines, enforcement, and so on. I assume the process is ongoing and that, therefore, the witnesses cannot comment in detail on

the enforcement action. Nevertheless, many people still wonder how every bank managed to make the same mistakes in the same way independently of one another. It stretches credibility to imagine there was not somebody speaking somewhere because they all managed to do the same thing in the same way at the same time to their customers, and it does not help.

On that basis, the committee has discussed the culture of banking in recent weeks. What are the witnesses' thoughts on how banking culture has developed and how it needs to develop in future?

Professor Philip Lane: I will ask Ms Rowland and Mr. Sibley to comment on this. The work that we did on culture last year was important but the focus is ongoing. It is not a matter of just writing a report and moving on. Rather, there is an ongoing focus on our supervisory work.

Ms Derville Rowland: The provisions the banks have made to date on the tracker mortgage examination are in the region of €1 billion, which includes the redress and compensation they are quite rightly paying to their customers as well as the costs because they had to dedicate much of their resources to obtaining external support and assistance.

On the culture of the banks, the committee will know we wrote a cultural report last year and demanded that the banks give us a credible plan to address the cultural deficits we saw. We have been particularly focused on risk and Mr. Sibley might speak on the wider risk considerations because they are important. There are risks the banks pose to their consumers through their consumer culture and attitudes. We approached the banks' boards to discuss our expectations and get a feel for their views and for how committed we thought they were to addressing the matter properly. Culture cannot be changed overnight. I heard a wonderful phrase that compared it to a lifestyle change rather than a New Year's resolution. If one is truly committed to changing the culture, there must be a serious programme, spanning a number of years, on the most important areas of focus. We found that the banks had only recently developed a true consumer focus and that there were significant deficits in some of their leadership and their degree of optimism because they had emerged from a crisis and might have had an unrealistic view of what they faced in the future.

We put the expert team back together more recently. Our Dutch colleagues, who are world leaders in cultural assessment, returned to work with our prudential and conduct colleagues, who met to consider the plans they had submitted to us on how they would approach the issue. We evaluated those plans, some of which we are pleased with. We believe that if they implement those proposals with vigour, it will be a good outcome. On the other hand, we were disappointed with some of the plans because we thought they reflected too much optimism and lacked the detail we expect to see. In future, from both a prudential and conduct perspective, the plans will be a priority for us. We will meet the CEOs of the banks again to give them our feedback on the quality of those plans and, as we roll out the different parts of our supervisory exercises, we will examine what we consider to be the most important transmission points for cultural risk to consumers, such as the sales channels and incentives. When we examine products and demand they demonstrate to us the groups to whom their products should be sold, for whom they are suitable and for whom they should confer a benefit, we check that against whom they actually sell to, which should tell us all we need to know about a consumer-focused culture because customers should be able to gain an appreciable benefit from the products they buy in the medium and long terms.

We want to see that kind of approach and, as a result, we have strengthened our approach to consumer protection and are becoming firmer and more specific. It is a continuous part of what

we expect but, ultimately, culture is something the firms must change and is the responsibility of the board to lead on. We need to see that transmitted through the pressed middle to the front-line staff, who need to be supported by their leaders in delivering the consumer focus we expect to see. It is a journey on which we will need to see the banks' demonstrable commitment over a matter of years rather than being a flash in the pan that they can speak about the following year after it goes away. We will demand that from them.

Mr. Ed Sibley: If one puts similar people in similar circumstances and asks them to make similar decisions, there are likely to be similar outcomes, which is why we have focused on both culture and diversity for a number of years. In addition, as part of the responses to our work and plans on culture, we have required the banks to revert to us and tell us what they are doing to enhance diversity, at not just the board level but also that of the executive and the layers below that, but that takes time. We can see there have been some incremental improvements across the financial system and, in particular, in banking. When the CEOs appear before the committee, members will see there are different faces and a bit more diversity. In the case of those who lead the revenue generation parts of their businesses, however, such as the chief financial officers, who drive the business forward, one will typically see similar people.

We are continuing to drive, therefore, to enhancing significantly the level of diversity in financial institutions in order that there will be people with different views and that we will prevent groupthink. If there is to be real, visible cultural change, what the banks and other institutions espouse about being customer focused, needs to be demonstrated in decision making, including on the topics we have discussed, such as front book and back book pricing on mortgage loans. That is something the committee could usefully discuss when the CEOs appear before it.

Senator Gerry Horkan: I attended the Whitaker lecture last week on the future of money, payments and so on, which was interesting and thought-provoking. The witnesses' bank is the Central Bank of Ireland and it controls the mint in Sandyford. Am it correct that it will continue to produce coin but not notes, or *vice versa*?

Professor Philip Lane: The production of notes is reaching its conclusion.

Senator Gerry Horkan: Coins will continue to be produced.

Professor Philip Lane: Yes, there will be coins of the realm, which have the Irish symbol. The final pressing will be carried out by the Central Bank.

Senator Gerry Horkan: On the future of money, we see statistics about banks being branchless and in the cloud, while there are new mobile phone applications and so on to allow people to pay for things. There are many changes. People use the tap feature on their cards much more often and are not using cash the way they were. How does Professor Lane, as the Governor of the Central Bank, expect the situation to develop? How does he expect society to change the behaviour of people who are not so comfortable with technology, debit cards or credit cards or who are not so trusting of the banks for many reasons, some of which are justified? It probably does not make sense for people to store cash under the bed or for vans to be Army-escorted out of Sandyford at the end of every month to be put in automated telling machines that will be dragged out at 3 a.m. by diggers and so on. Cash will be less influential than it was. How does Professor Lane expect that to develop?

Professor Philip Lane: We are in an area with many possible futures, some of which will be technologically driven, relating to what people want and what they find convenient, but there

will be also a role for policy. Members may have read that certain cities, such as those in the United States, are insisting that shops accept cash. For shops, cash is increasingly a security risk and insisting that everyone must pay by tapping a card may make sense for an individual shopkeeper but, as the Senator has outlined, it may exclude some people. We have an internal desire for this question to become more of a national one again. Before the crisis, there was some advancement in developing financial literacy and capability at a national, systemic level, but then we all went into crisis-fighting mode and it all fell away. The future of cash and payments and the education needed for everyone to respond and adjust to this world is a societal issue that is broader than our regulatory framework. It is possible to exaggerate the speed at which cash is disappearing. By and large, across Europe, it is still continuing to grow. However, the nature of basic payments is changing, with people tapping their bank cards more frequently. The role of the Central Bank is to be ready for all of it, responsive and recognise the reality of what people want. Obviously, we have a particular role to play. It is not just currency but also what is in one's bank account. We will see what happens in the future.

A fundamental point is we are insistent on all entities which have that relationship with the customer being regulated. There is the idea of a Wild West of unregulated FinTech. If these companies are going to deal with customers, they should face the same regulatory protections. We have a good consumer protection framework. It should be available, whether it is a bank, a tech company or a new start-up. What we have seen elsewhere around the world is under-investment in meeting regulatory requirements by some FinTech firms. In Ireland and elsewhere in Europe we have to ensure that, no matter what kind of new entrant arrives, it will deliver for consumers.

We are neutral in the sense of let us see what happens. There is a role for the Legislature in framing what is permitted. Within it, we know what consumer protection and financial stability look like. We are not here to protect the incumbent banks. If they are blown away by new entrants, that will be the reality. What is important is maintaining a stable system which protects consumers.

Senator Gerry Horkan: There has been a 79% decrease - €67 billion - in the number of non-performing loans, NPLs, since the peak in 2013. While I do not want an analysis, was it due to vulture funds, write-offs or restructurings?

Professor Philip Lane: We have the breakdowns.

Mr. Ed Sibley: We can send them to the Senator.

Professor Philip Lane: Although loan sales have been important in the past year, it must be emphasised that Ireland has been a leader through the code of conduct on mortgage arrears, CCMA, in encouraging restructuring. Many mortgages have been restructured. It has been a large success and explains why repossession rates have been quite low in an international context.

Mr. Ed Sibley: On the number quoted by the Senator, it is the aggregate number of non-performing loans which include commercial, small and medium-sized enterprises.

Senator Gerry Horkan: The figures I quoted were taken from the opening statement. Most will argue that Professor Philip Lane has done a pretty good job. Where does he consider he has failed or not achieved what he wanted to do? What is the remaining greatest risk in the banking sector?

Professor Philip Lane: Our strategic plan signals the way forward for the next few years. It is to continue the work and move forward in the same direction of travel. We think the Central Bank should be in a phase of consolidation and continuity in the direction inherited largely from my predecessor and it is largely in line with broader European trends. As I said, we need to do more in dealing with structural risks, not just cyclical risks. As Ms Rowland said, our approach to consumer protection should add this extra layer of looking closely, firm by firm, at what is going on. Rather than just writing codes, being reactive and focusing on whether the information is clearer, we must be asking the banks in a challenging way if the consumer is central in their focus, as well as if there is consistency with their plans for new products and sales strategies. That is the line of travel.

On Brexit, the reality for whoever will come into my position is that it is not just an issue of what will happen in the coming weeks. It will be a long-term issue in the context of the separation of the United Kingdom from the European Union.

On organisational capability, the Central Bank failed before the crisis. There has been a big rebuilding effort since. Much has been done in expanding staff numbers, as well as improving IT and other facilities. One cannot have an understaffed Central Bank. It is an ongoing issue to ensure the organisation is excellent and up to the job. It is vital that it be a well run and capable organisation.

Deputy Pearse Doherty: While I understand certain investigations are ongoing, I have been a strong advocate for individual accountability. With Professor Lane exiting his position in the next few weeks, is there anything the committee or the Oireachtas should do to ensure, if there was to be another scandal like the tracker mortgage or banking crash, individuals would be held to account in a clearer way and beyond what was recommended in adopting the British model here? Are there other measures we need to put in place? It is an issue that is raised with me consistently and which bugs many ordinary people. If someone does not have a television licence, he or she can be up in front of the courts. However, €665 million had to be given back to 40,000 customers and years later we still do not even know if an individual will be held to account. I understand the Central Bank must work with the rules. I have always been of the view that the problem is that, as legislators, we have not brought in rules to make it clear-cut that somebody involved in activity such as the tracker mortgage scandal will be prosecuted more easily. Is there a proposal which the Central Bank could provide for the committee or does it believe the legislative framework in which it operates is robust enough?

Professor Philip Lane: We have made specific proposals to the Law Reform Commission. They are part of the planned Central Bank Bill. However, Brexit is interfering with the timeline. Those involved in Ms Rowland's area have been leading on the details.

Ms Derville Rowland: We have made many proposals to the Law Reform Commission which we believe would be valuable. We took the opportunity to repeat them more recently in the culture report. There will be a hearing on the issue of individual accountability in several weeks' time on 18 April.

We support the effectiveness of the approach to white collar crime in this jurisdiction. We made a proposal in that regard. It is about capability, resourcing and having the staff to deploy. Capability is a significant component, as has been the case since as far back as the time Mr. Matthew Elderfield told the committee about people, powers and process. One has to have law but also the investigative ability, technology and skill set to do this detailed work.

In the regulatory world the enforcement powers and the administrative sanctions procedure are key tools. Effectively, being able to break the link between participation and proving the allegations against a firm will absolutely strengthen them as a toolkit. We have asked for it and I want to see us get it, together with the individual accountability regime which we have suggested. This is in the vanguard of the approach. The United Kingdom has this regime in place and it is leading edge. Other jurisdictions are moving in this area. We are a leader in Europe in that context. The Australians have had an horrific set of scandals and the authorities are looking at what they term BEAR, banking executive accountability regime. Singapore and Hong Kong are also moving in this direction. It is the right one to take. The effectiveness of the legislative regime will allow us to work it well. Those are the areas of focus for us.

Deputy Pearse Doherty: We have been waiting a long time for actions to follow from the Central Bank's recommendations. Is it a year and a half or nearly two years since the LRC submission?

Ms Derville Rowland: I do not have that date.

Deputy Pearse Doherty: It speaks volumes about what is being prioritised. The Central Bank liaises with the Minister about regulatory or legal changes which are needed. It would also be appropriate to inform the committee if the Central Bank believes there are areas which need strengthening.

On the topic of Brexit, Senator O'Donnell asked about the sanctioning of Barclays Bank and the Bank of America, which are now located here, one of which is up and running. How many applications for authorisation has the Central Bank received in total? I know two have been authorised but is there a pipeline of applications? I understand that, insofar as countries can lose or gain from Brexit, Ireland is losing out on financial services mainly to Paris for reasons to do with accommodation and whatnot.

Professor Philip Lane: I will make a couple of observations on that before I turn to Mr. Sibley and Ms Rowland who are responsible for different authorisation processes. What we are seeing now is not necessarily the end of this. For now, firms must have a contingency plan in place. By and large, one basic element and important influence on where firms go is where they already are. It is a lot easier to expand or think about a location about which one has some knowledge. That is to our benefit because we have plenty of firms here already.

This will be a dynamic process because financial systems tend to cluster depending on a particular line of activity. Paris has quite a lot of trading floors and there is a match with the skills available in the city. Ireland has a lot of asset managers and risk and compliance-type functions. The single financial system in Europe means there can be different clusters in different cities. Frankfurt also has a cluster of banks. There could be a second round to the process whereby companies which initially relocated to the most convenient place re-examine that decision and decide that this or that location is a better long-term home. It is not just a question of what is happening this year or next year.

Mr. Ed Sibley: To supplement Professor Lane's answer, there are well over 100 applications either for new licences or extensions to existing ones. That is a relatively meaningless number in some respects because at one end are the likes of Barclays Bank and the Bank of America and, at the other end, are small investment firms or payments institution which have low levels of employment and will have low impact. That is the full spectrum.

We have ensured that we are applying a rigorous, robust, transparent and predictable authorisation process that respects and is consistent with our role as gatekeepers to ensure that we are protecting financial stability and consumers here and from a wider European perspective. We touched earlier on the fact that, from the very start of this kind of trend, we have engaged effectively in the various European forums on banking, asset management, investment firms and so on to ensure that the regulatory and supervisory approach is consistent across jurisdictions so that the firms making choices to go to Paris, not Dublin or Frankfurt, not Paris are making that decision based on factors other than the softer or lighter touch regulation they would get in a certain jurisdiction. There were one or two isolated instances of that at the very start but the work we pushed in European forums, and which was subsequently taken up by other competent authorities, has focused on making sure that we continue to converge regulatory standards to have a robust and consistent approach.

Deputy Pearse Doherty: How many significant firms are looking for new authorisations from the Central Bank?

Mr. Ed Sibley: That all depends on what the Deputy means by “significant” but he will be well aware of the two material banks that have received extensions.

Deputy Pearse Doherty: They were authorised, yes.

Mr. Ed Sibley: A couple of extensions of banking business in the State are in train although some of those may not yet have come into the public domain. There has been quite a lot of activity in the insurance market, both to deal with those firms that have been writing fairly significant business from the UK into Ireland but also those firms that have been writing business from the UK into the rest of the EU.

Deputy Pearse Doherty: I appreciate that. Those companies are doing that so they can continue to operate in the EU.

Mr. Ed Sibley: Yes.

Deputy Pearse Doherty: As to the impact of Brexit, I am trying to get a sense of whether firms are deciding to leave London, or Britain, and locate here and have Ireland as their European headquarters, as opposed to just rearranging their structures.

Professor Philip Lane: It is an interesting issue. The EU 27 and the regulating community have been crystal clear that these cannot just be post boxes or front ends for the London operation to meet some legal requirements. It would be a dereliction of our duty to European citizens to say that the real power is in London and this is just a local shop or something like that. It does mean there will be substantial jobs here because the responsibility will lie here. We cannot have a situation whereby the Dublin office of a firm replies to questions by saying that it must phone London.

Deputy Pearse Doherty: Yes.

Professor Philip Lane: It is a rupture with the UK in that sense. These must be self-contained firms, satisfying EU 27 customers. Of course, there will be linkages because global firms will have operations in America and London but the substantial message here is that the Dublin offices will be sufficiently stand-alone that we can be effective supervisors and Europe can say that we have sufficient oversight and regulation to satisfy what is expected of a regulator.

Deputy Pearse Doherty: I appreciate that and that is welcome but perhaps I am not framing my question clearly. How many applications are before the Central Bank for firms which were previously located or headquartered in Britain, whether indigenous to Britain or acting as a European headquarters, and are now applying to operate a European base from Ireland? Has the Central Bank a sense of that? There was an expectation at the start of the Brexit process that a significant number of firms would relocate here and use Ireland as a headquarters or European base.

Mr. Ed Sibley: This all depends on the Deputy's understanding of "significant". There has been a significant inflow of firms, the majority of which are focused on EU and international activity and have set up EU 27 headquarters in Ireland. Some other firms of significant size, such as those in the insurance industry that I referenced earlier, have located to Ireland to serve the Irish market as well as the European market where they have had substance here before. There is also a reasonably large number of quite small firms, which will not have any kind of impact from a wider economic perspective, that may relocate here.

Professor Philip Lane: A firm may have a headquarters in London and engage in a lot of activity there. Equally, firms may have their headquarters here but have a branch or subsidiary elsewhere in the EU 27 and there may not be a lot of activity engaged in here.

Deputy Pearse Doherty: I am dealing with a number of people who are deeply frustrated at the sale of Permanent TSB loans to Glenbeigh Securities. They are involved in restructuring arrangements and want to repay their mortgages in full when they come out of arrears, but Permanent TSB will not allow them to do so. That is mind-boggling. It does not make sense to me that it is telling them that they have to wait until the end of the six-month period and then deal with Pepper. The Central Bank told me that the Permanent TSB website stated people could pay off their loan at any time but only to clear the entire loan. I am talking about people who are involved in restructuring arrangements and may be repaying 70% of their mortgage.

Professor Philip Lane: I appreciate the distinction.

Ms Derville Rowland: We are clearly of the view that someone should be able to pay more if he or she wants to do so. A person can keep an arrangement which should travel with him or her, but if he or she asks for a review and is able to pay more, he or she should be allowed to do so. I ask the Deputy to forward the information on the case in question.

Deputy Pearse Doherty: I will ask the individual. Emails have been sent backwards and forwards which show that they are being prevented from doing this.

Ms Derville Rowland: That makes no sense at all to me.

Deputy Pearse Doherty: Nor to me. Last week we discussed the transfer of mortgages to vulture funds and will discuss it again next week when we deal with the legislation. This may be the final time Professor Lane appears before the committee as Governor. What is his personal view on loan sales to debt charities, as opposed to vulture funds? What does the Central Bank think of not-for-profit charities entering the market to buy loans from the commercial banks in order to restructure them?

Professor Philip Lane: Setting up a charity involves a lot of altruistic work by committed individuals or groups. If they are capable of doing it and have the financial resources to do so, it is okay. All housing systems around the world have a mix of commercial activity and bodies such as housing associations and not-for-profit organisations. As long as they are able to do it

without requiring a discount from the seller-----

Deputy Pearse Doherty: Every vulture fund gets a big discount from the seller.

Professor Philip Lane: Exactly. There would be no difference. As such, we have no problem with it.

Deputy Pearse Doherty: A little later, I will revisit the issue of the prevailing rate which has been brought up by a few speakers. I have raised the issue of Glenbeigh Securities not paying any tax. We have seen issues with the funds industry and section 110 bodies. The European Parliament has just voted, by a significant majority, to declare Ireland a tax haven. Ireland is now on a list of tax havens, with five other member states. Professor Lane is to take up a new role in a couple of weeks. What is his view on the significance of member states coming to that conclusion?

Professor Philip Lane: The taxation of particular types of loans is a particular issue. The broader point is about Ireland's tax arrangements being brought into question at European level, and Christine Lagarde of the IMF also made a speech on the subject last night. It is a global issue. One dimension of it is that tax is not available to developing countries. The question of what is a fair and sustainable way to tax corporations in advanced economies, so that they do not end up paying too little tax by using legal structures, has also been asked. Ireland has to be part of the discussion. There is an OECD framework, which is nearing the stage when it will reach some conclusions, and we should wait to see what comes out of that. There was a digital tax debate in the EU last year but it did not conclude because of the fact that it is a global issue. This partly reflects the changing nature of world business. In my academic research, which I have maintained to a degree, I have found an increasing role for multinational firms in the global financial system with superstar firms making huge profits. How we tax them is a global issue.

There are some interesting issues with funds and we will publish some more work on them fairly soon.

Deputy Pearse Doherty: On the taxation end?

Professor Philip Lane: Yes. There are always multiple ways to take money out, such as if the parent firm makes a loan and there is no profit because of the interest payments on the loan. There are also questions as to the practicalities of debt as opposed to equity, which we are working on. The tax situation interacts with the price paid so if a fund believes that it is going to pay no tax on a portfolio, it will pay a higher price than if the tax rate was different. The Oireachtas can, of course, change the tax law and it has done so at times so an original expectation may change over time.

Deputy Pearse Doherty: Will the report to which the Governor refers look at rent and the property sector? Yesterday, we discussed the issue of the biggest landlord in the State purchasing something based on the knowledge that it will pay very little in terms of an effective tax rate, on account of being an external investor.

Professor Philip Lane: The focus is on exactly that. There is a particular issue relating to debt versus equity and the tax changes in that area. There is always a distinction between corporations and the issue of financial engineering. It comes back to the question of what a fund is and there is a set of issues in this area. There is increasing resolve, globally, to move away from where we are now.

Deputy Pearse Doherty: We saw increasing resolve in Europe when the Parliament named us as a tax haven for the first time. It is a global issue but many of our partners in Europe are not on the list. My concern is that certain member states have an agenda in the area of tax sovereignty and harmonisation and these headlines do nothing for our case to resist that agenda. There are real issues that need to be tidied up.

The prevailing rate has been discussed in some detail, particularly by Deputy Michael McGrath who raised it at last year's meeting. The Governor is coming to the end of his term and this is the sting in the tail. I genuinely believe the Central Bank has got this very wrong. I cannot for the life of me understand how it has allowed the banks to engineer a rate that did not exist. I refer to where there is ambiguity in the contract. Ms Rowland, Professor Lane and Mr. Sibley all mentioned ambiguity in the contract. If there is ambiguity in the contract, one must operate in favour of the borrower, as stated in law. That is very clear. For the Central Bank to say the prevailing rate at the time in question did not exist because the product did not exist will not stand up to legal challenge. This will be challenged in court.

I note the report the Central Bank gave this committee in which it states this issue was tested legally by it. I understand it was not a unanimous view and that there was not a case here that could be presented. I may be mistaken in that regard. I am concerned about requiring 6,000 customers to go through an appeals process. Some will not bother doing so.

Ms Rowland talked about the Central Bank's track record. Its track record in recent years has been good, apart from in respect of a number of small issues, the one in question being an example. The Central Bank was asleep at the wheel for a long time before recent years. A considerable amount of money was taken from people although the Central Bank's role is consumer protection.

One of the key moments was the case of Irish Life and Permanent plc v. Financial Services Ombudsman and others, heard by Mr. Justice Hogan. The defence put up by Permanent TSB at the time was that the contract was broken. Mr. Justice Hogan was very clear in his deliberations and findings. He made it clear that if a key clause of this kind is to bear sophisticated construction, it behoves the bank to spell this out in plain language for the benefit of the customer. AIB provided this committee with the contracts. They are standard contracts. They are ambiguous. They refer to a prevailing rate that does not exist. They outline the rate in Part 1 and in a different part outline that the tracker rate is set out in Part 1. It is, at the least, ambiguous. Therefore, there is a failure to outline the rate clearly. What it indicates is an intention to apply a rate applicable to the market conditions of the time but that is not what is in the contract. A clause refers to the prevailing rate and a later clause stipulates it is set out in Part 1.

Based on legal premises, the Central Bank has got this wrong. If there is ambiguity in the contract, which there clearly is, it should never be the bank that benefits. Ms Rowland will know this better than I do. It has to be the borrower. By not taking this case, the Central Bank is really failing the customers concerned. What is happening is not right for individuals who will take this case. I hope they win. I am confident about this. Much legal opinion has been sought from very eminent individuals in regard to this matter and it indicates it should not be the banks that benefit. The elephant in the room is consumer protection under the Central Bank.

I have listened to Professor Lane and I respect him and the job he does but the Bill sponsored by Deputy Moran was regarded as no good, the idea that there should be no sale to the vultures without consent was regarded as no good, and Deputy Michael McGrath's Bill about capping interest rates was regarded as no good. The Central Bank was also critical of the pro-

positional on the regulation of the funds. There are four items of legislation on consumer protection - one already in law, one from the Government and one from me - but the Central Bank stands foursquare against them. It stands in the corner of the banks and the vulture funds. This points to the main contradiction. The Central Bank has the dual role of protecting the interest of the banks and, supposedly at the same time, protecting the interests of the public. That is best shown in the ten years of the tracker mortgage scandal.

Professor Philip Lane: Let me respond on two levels. I will first deal with the issue of the prevailing rate and then the wider issue of the mandate. On the issue of the prevailing rate, the Deputy should think about why we are here. We absolutely know we have two mandates. They are not ranked. The consumer protection mandate is as important as the financial stability mandate. I assure the Deputy that the making of the decision on the prevailing rate did not have any financial stability factor whatsoever. It was entirely based on what we believed we could stand over. As Ms Rowland stated earlier, it was based on whether we could challenge the interpretation we had on what was meant. It is not the case that the decision was driven by any other concern.

This is a whole-bank initiative. We have an excellent internal team of lawyers whose role is to work out what we can do within the legal framework we have. This has been such a body of work, especially driven by the people on the front line of consumer protection. The only reason these staff work for the Central Bank is to protect consumers. There is such a dedicated team, such that we have done everything we regard possible within the legal limits. As the Deputy said, this issue could well arise in a courtroom. Let us see what happens. We took the view, however, that this could not go further than where it went. This may go back to the question of what the famous phrase meant.

Let me come to the wider issue. This is ongoing. We have had this conversation repeatedly. I am absolutely clear that, irrespective of how much members may disagree with and criticise our consumer protection work, consumer protection would be at a lower level if it were run by a different agency. When we think about consumer protection, we are not thinking only about the individual in trouble with a particular mortgage. We also have to think about all the consumers who are paying at high interest rates on their mortgages and all future consumers who may be looking for loans. Let us say some of the legislation benefited a particular group. It would have to be assessed based on whether it leads to higher costs elsewhere or to the risk of the financial system going into distress. When the new Central Bank law was introduced in 2010, the first wave of comments, which I read in the Oireachtas debates, there was repeated commentary to the effect that consumers are not protected if there is financial instability. Therefore, in regard to the legislation in question, we place a lot of emphasis on the view that ultimately there is not really tension between consumer protection and financial stability. An unstable financial system does not protect consumers. That is our perspective. A separate consumer protection agency would not deliver in the same way as the Central Bank.

Deputy Michael McGrath: Our guests should have taken the break when the Chair offered it earlier. I admire their endurance.

I have two points, the first being on the Brexit-related inflow into financial services. Professor Lane has been very consistent in stating that he does not want brass-plate operations and that when businesses move their headquarters or prudential regulation to Ireland, he wants substantive operations to be moved. When it comes to CEO and chief financial officer level, functions such as risk and compliance, public policy functions, Government relations and so forth, is Professor Lane satisfied that where a headquarters or prudential regulation moves, those tiers

are coming as well?

Professor Philip Lane: Broadly speaking, it has been a big success of our robust approach that we have insisted that these are firms of substance. We have a fitness and probity regime so when somebody is put forward for a senior role we must make the assessment of whether the person is capable, without turning to other parts of the firm for guidance, of being stand-alone and fulfilling those functions. My view is “Yes”.

Mr. Ed Sibley: The short answer is “Yes”. In the authorisation activity for any firm that is in any way significant we have had a high degree of engagement before a draft application comes in, in the review of the draft application and in the review of the final application. That has ensured that we understand the type of business that is coming and the proposal for how that business will be run. It enables us to make sure that the controls, governance and risk management are commensurate with the risks inherent in the business. In virtually every case the initial proposal was not sufficient for our purposes or to our minds and they have been required to put more people into key positions to locate the key management in Ireland, at least substantially enough to run the business from Ireland consistent with it being an EU entity.

Deputy Michael McGrath: The witnesses are satisfied that is happening at the levels of CEO, CFO, chief risk officer, compliance, public policy and public relations.

Professor Philip Lane: In a broad sweep, yes. There are circumstances where there might be a firm that has its CEO here and a substantial operation in another jurisdiction, and it has a CRO in that operation and a deputy CRO here. In the round, the EU entity is intact and substantial.

Deputy Michael McGrath: Was the Rebuilding Ireland home loan scheme raised? Professor Lane will be familiar with the background and the fact that the scheme was in the news recently because the money has essentially dried up. Just under 600 loans have been drawn down under the scheme and approximately 1,000 further mortgages have been approved. The initial tranche of money was €200 million. That has now been accounted for and the Department of Housing, Planning and Local Government is requesting sanction for an additional €600 million. It will be €200 million for this year and the same sum for each of the next two years. I understand the Central Bank is being consulted from the perspective of financial stability and macro-prudential rules. What is the Central Bank’s position on the possible expansion of that scheme? To the surprise of some it has been popular, but it is not a surprise to me that there would be great demand for the scheme.

Professor Philip Lane: We have looked at this. I should make a few points. One is that ultimately it is for the Oireachtas to decide if this is the best use of that €600 million. We do not comment on that. It is up to the Oireachtas to decide. It is €600 million being raised by the Government-----

Deputy Michael McGrath: The Housing Finance Agency.

Professor Philip Lane: -----and because it is Government finance there is low cost of funding. The level of €600 million is a small part of the overall mortgage market so we do not have concerns about financial stability. Of course, it is more of a political judgment about the questions that are raised. These are people who have been turned away by the banks and they are receiving these cheaper, more favourable mortgages. Given that, we think the risk of default will be higher. On the other hand, they are receiving cheaper mortgages which are locked in for

the duration of the mortgage. Those who have access are benefitting. It is a beneficial product. The issue is how big that product should be because if it gets too big and if there is a downturn, any losses that might be incurred will be a loss to the State. When it is at the level of €600 million, however, it is not big enough to be a macro relevant programme, so I am not concerned about the programme from a macro financial stability point of view. The judgments are political with regard to whether it is the best use of the funding compared with other uses of that funding as well as the issues about fairness and who gets to access cheap long-term mortgages.

Deputy Michael McGrath: Is Professor Lane saying that the Central Bank does not have concerns and will not be raising objections to the proposal that the scheme would go from €200 million to €800 million?

Professor Philip Lane: That is correct. It is not a big enough number to be financially destabilising.

Deputy Michael McGrath: Has the Department written to the Central Bank to ask for its opinion?

Professor Philip Lane: Yes, and we have written back. That gives the Deputy a taste of what we said. The Deputy wrote to me as well.

Deputy Michael McGrath: Yes, I did.

Professor Philip Lane: We have responded.

Chairman: I have two questions arising from the Central Bank's meeting with the EBS tied agents. They made some allegations of criminality at that meeting. What is the process from there? Does the bank pass on that information to the Minister for Finance or to the Garda?

Mr. Ed Sibley: I met the representatives, or certainly some of the representatives. I know there is a separate court case involving different tied agents. They made some allegations around pressurised selling which we have looked into, and I responded to the committee's letter in December. They also wrote to the committee, to us and to the Minister for Finance in January with testimony about these allegations. I am slightly limited in what I can say, but I am being as expansive as I can be. Looking at what has been alleged, the type of investment products that were being distributed through the EBS tied agents, the risks associated with them, the controls that are in place both from an EBS perspective and from the perspective of the provider, which was Irish Life, the level of complaints that we have seen come through and any evidence of detriment, we do not see that there has been mis-selling. Clearly, there were cultural issues there and there is pressure on selling, but I do not see evidence of detriment or of mis-selling of those investment products, which are Irish Life investment products.

Chairman: Their complaints rest with the bank and do not go any further.

Mr. Ed Sibley: We have looked into the information we have received, and we are always happy to receive more if there is anything else. There is an ongoing court case and we will continue to monitor that. We recognise there is a commercial dispute and they raised a couple of other issues, which we responded to directly. In terms of our work on this, however, we are satisfied.

Chairman: The allegations of criminality-----

Ms Derville Rowland: Mr. Sibley and I worked on this together. We saw no evidence of

criminality.

Chairman: Okay.

Ms Derville Rowland: However, if we did, we take our duties to report very seriously and we would do so.

Chairman: In the context of the minutes of that meeting, they wrote back to the witnesses and asked them to confirm if their record of the meeting was accurate. They had a meeting with the witnesses on 31 October last and then they wrote to them with their version of the minutes and asked for the witnesses' opinion on them, but they did not get a response. The witnesses might have a look at that.

Mr. Ed Sibley: I can look at it. We have responded to them, although not on the version of the minutes. They sent a version and then withdrew it, effectively. I will check back and if I need to close it out with them, I will.

Chairman: Okay. My last question is on another matter. The UK's Financial Reporting Council made a comment on calculating solvency. It said that the fourth directive requires that assets be valued on a prudent basis, but that this does not explicitly state that assets such as bank loans cannot be shown at above their recoverable amount or that all future expected losses should be recognised. The witnesses will be familiar with that commentary. Does the Central Bank agree with that approach and is it something that is part of the industry?

Professor Philip Lane: Mr. Sibley is our representative on the EBA.

Mr. Ed Sibley: The Chairman has outlined the UK approach. Banks are required to comply with internationally recognised financial reporting standards across all their financial reporting. It is not specific to the UK but internationally recognised International Financial Reporting Standards, IFRS. We expect them to comply with that but it is a matter for the-----

Chairman: It is at that level that the banks would comply. There is a European level of reporting standard and the banks are required to comply with that.

Mr. Ed Sibley: The banks are required to comply with international accounting standards and with regulatory standards in terms of how they report to the regulator. There is a large amount of consistency between the two but there are some differences. If the Chairman has a specific question, perhaps we could follow up on it.

Chairman: Yes. Rather than take them now we can send them to the officials.

Mr. Ed Sibley: Perfect.

Chairman: It might be the best way to do it.

Senator Rose Conway-Walsh: I wanted to ask the opinion of the witnesses on the insurance companies. As Professor Lane leaves, is he satisfied enough is being done by the insurance companies to reverse the upward trend in insurance costs? I am mindful of his predecessor's comments about the low interest rate environment having challenged the Irish industry over the past five years. That was in 2015. As a result, a number of non-life insurance companies took an optimistic view of the economic outlook. Professor Lane's predecessor also spoke about imprudent pricing, the underwriting approach and all of that. Does he see that over the course of his tenure that has changed and insurance companies are now doing enough? It was a fairly

stark analysis.

Professor Philip Lane: There has clearly been much supervisory emphasis on ensuring those companies operate in a prudentially sound manner, including, as the Senator mentioned, taking a realistic view of the prices required to cover incoming claims. This will be an ongoing area of focus and insurance in a pan-European market. The prudential approach to insurance supervision will be important but it is only a minor part of the fundamental issues here with the high cost of insurance. Much of those relate to volume of claims, the legal system and all the work that the different parts of the system are doing. We are not the prudential supervisor of many firms that operate here. We supervise the brokers and conduct of business but not the prudential decisions. The risk of underpricing and price wars could be there in future because of pricing by foreign firms active here.

Mr. Ed Sibley: This is a topic in its own right that we could usefully spend some time on with the Senator. I would certainly be very happy to come back and do so if she so wishes. Much work has been done by us, including in the cost of insurance working group, to get at the cost of insurance in Ireland. There has been analysis comparing claims in Ireland and other jurisdictions, as I am sure the Senator will be aware, including cost of claims, soft tissue matters and the like. Recommendations have recently been made in trying to put more certainty and consistency into the claims environment, particularly with court awards-----

Senator Rose Conway-Walsh: I understand all that in the wider context. At the time, Professor Honohan said there were cases where the Central Bank was given false or misleading information by regulated entities or individuals in regulated entities, often in the form of information designed to cover serious shortcomings or inadequacy. Has that happened during Professor Lane's tenure? Has false or misleading information been given or has that stopped?

Professor Philip Lane: The practice in the time period to which the Senator refers is quite different from that in more recent times. Importantly, under the forthcoming Central Bank (Amendment) Bill 2018, which is similar in spirit to the proposals of Deputy Pearse Doherty, there will be a reinforcement of the adverse consequences for delivering false or misleading information.

Chairman: Does EBS have a separate licence to AIB?

Mr. Ed Sibley: It does. It is part of the AIB Group but it has a separate licence.

Chairman: It is licensed separately.

Mr. Ed Sibley: Yes.

Chairman: That brings us to the end of our meeting.

Professor Philip Lane: As this may be my final appearance before the committee, I wish to express my appreciation for the work it does. Globally, central banks do a lot of work and have a significant impact on many people, so accountability is very important. This committee is the primary way in which the Central Bank of Ireland is held accountable. I appreciate the care and attention the committee has put into these hearings. Although we in the Central Bank must work hard to ensure we are ready for the meetings, we recognise that they are essential and we appreciate the work done by the committee.

Chairman: I thank Professor Lane and his colleagues. The committee appreciates their at-

26 MARCH 2019

tendance. We wish him the best of luck.

The joint committee adjourned at 6.51 p.m. until 2 p.m. on Tuesday, 2 April 2019.