

# DÁIL ÉIREANN

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

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

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*Déardaoin, 6 Bealtaine 2021*

*Thursday, 6 May 2021*

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Tháinig an Comhchoiste le chéile ag 12.30 p.m.

The Joint Committee met at 12.30 p.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
Mick Barry,	Pat Casey,
Pearse Doherty,	Alice-Mary Higgins.
Bernard J. Durkan,	
Mairéad Farrell,	
Steven Matthews,	
Neale Richmond.	

I láthair / In attendance: Senator Barry Ward.

Teachta / Deputy John McGuinness sa Chathaoir / in the Chair.

## Consumer Credit (Amendment) Bill 2018: Discussion

**Chairman:** I welcome the Minister and his officials. I advise members that unless they are in Leinster House or the Convention Centre Dublin, they will not have full privilege and will therefore not be able to participate. Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the House or an official either by name or in such a way as to make him, her or it identifiable. I ask members to turn off their mobile phones and invite the Minister to make his opening statement.

**Minister for Finance (Deputy Paschal Donohoe):** I welcome this opportunity to briefly highlight my views and those of my Department on the Private Members' Bill brought forward by Deputy Doherty.

As the committee will be aware, the Department of Finance provided a detailed submission during the original scrutiny of the Bill. The Department also provided an updated submission last November. I do not support the Bill for a number of reasons. First, an interest rate cap based only on the annual percentage rate, APR, is not considered the best approach, particularly for loans with a duration of one year or less. The APR represents the annual cost of a loan over the full term. It includes fees and additional costs that are not captured in the simple interest rate. While APR has benefits in the wider lending market as a comparison tool between loans offered by lenders for the same term, it has significant limitations when used in the short term credit market. APR is significantly affected by the term of the loan if the latter is less than one year and may appear to be extremely high on shorter-term loans when, in fact, the actual cost of credit increases the longer a loan term is. Another key concern with the Bill is the impact the proposal to reduce the APR to 36% may have on the future provision of credit to people with a need for small amounts of accessible credit, in particular people on low or irregular incomes and/or impaired credit records and who may not be provided credit by mainstream lenders.

The proposed cap of 36% APR in this Bill would mean that the chargeable interest on a typical €500 loan for six months would be reduced from €150 to just under €41, a revenue reduction for the lender of about 74%. In APR terms, the change would be from 187.2% APR to 36% APR. In simple interest terms, 30% would reduce to about 8%. I agree completely that the current interest rates are too high but a sudden change of this magnitude could be extremely difficult in any industry and sector and could lead to exits.

The Social Finance Foundation, a key stakeholder in this area, has stated on several occasions that the only thing worse than high-cost credit is no credit. Any changes in this area must be gradual as we must be careful that any actions we take to protect customers of moneylenders will not have unintended and very negative consequences for those customers who depend on a legitimate, functioning moneylending market in their day-to-day lives. I acknowledge that Deputy Doherty has said that he is open to a tiered approach for the reduction of interest rates and this is welcome.

If supply was reduced significantly, then customers in the home collect sector would have to either do without credit or seek it elsewhere, including from family and friends. A small

proportion may turn to illegal moneylenders. It should be acknowledged that research on this latter point is scant. One of the only indicators we have is a projection in research quoted by the Financial Conduct Authority in the UK several years ago that 6% of home collection customers may turn to illegal moneylenders. While this sounds small, when one applies it to the circa 120,000 home collection customers in 2018 or the circa 150,000 home collection customers in 2017, one is talking about approximately 7,000 to 9,000 people.

My Department carried out a public consultation in 2019 and has identified, in conjunction with various stakeholders and the regulator, a number of policy proposals that will not only address the issue of interest rates in the moneylending industry but will help modernise and enhance consumer protections in the industry. The events of last year have had an impact on the timetable for this work. However, these proposals are now at an advanced stage and I intend to bring them to Government shortly.

I agree that there should be an interest rate cap on moneylenders and this will feature in the proposals I will bring to Government. However, as I hope members can appreciate, I am not in a position to share the details of the proposals I will be bringing to Government today because I have to first circulate the proposals in a draft memorandum to my Government colleagues for their views and input. That should be the context in which my colleagues in Government learn of these proposals. However, in general terms, I will be proposing the introduction of interest rate caps.

Given the potential risks, I am proposing that the introduction of caps be done gradually. In that context, I intend to propose that the Minister for Finance will have the power to vary the interest rate caps in the future by regulation taking account of appropriate factors and impacts, including the viability of the moneylending sector, the potential impact on supply of a change, the evolution of average interest rates and the potential impact on financial exclusion. It is intended that these regulations will be made by the Minister for Finance after consideration of a report prepared by the Central Bank that evaluates the potential impact of a reduction in the caps taking account of the factors outlined above.

An interest rate cap at the recommended limit will give the moneylending industry time to review its business practices and identify areas in which operational efficiencies can be achieved. It would also allow time for the Central Bank to monitor the impact of the cap, to check that loan terms and amounts are not being manipulated in order for caps to be met and to advise the Department of Finance of its findings.

Deputies will also be aware that the Department of Finance's public consultation in 2019 also sought views regarding digitalisation, updating the licensing regime and whether the term "moneylender" should be changed. My proposals will address these issues as well. I thank Deputy Doherty for bringing the Bill forward. The Bill I intend to bring forward soon with the support of Government aims to address many of the issues highlighted in the work done by Deputy Doherty in advance of his Bill. When I receive Government agreement to my own proposals, I will be very happy to engage with the committee at that point.

**Deputy Pearse Doherty:** I welcome the Minister and his contribution as part of this pre-legislative scrutiny of this legislation, which has now been published and passed Second Stage unanimously a number of years ago. We have had thorough scrutiny of this. I welcome the Minister's comments today, which have gone further than ever before. It now appears that Government and all the partners that have appeared before us in the committee are of the view that the interest rates being charged are too high, as we know, at 187% APR and that this needs

to be reduced. That was the intention behind this legislation.

The Minister referred to my views on pre-legislative scrutiny in the committee. He may be aware that the committee has agreed to accept a submission from me in respect of pre-legislative scrutiny. He is right to point out that part of that will be, as I have already stated, a tiered approach to a reduction in the cap. What we will be proposing is a move away from APR to a multiple of the cost of credit that exists within the market as determined by the Central Bank. We will be proposing that this cap be no more than three times the existing cost of credit that exists in the market as determined by the Central Bank and varied by the Central Bank from time to time. That is what pre-legislative scrutiny is. I hope the Minister works with this piece of legislation, which has already passed Second Stage and has nearly completed pre-legislative scrutiny, and gets it across the line because, with respect, the legislation has been spoken about for years and while “soon” is a very small word, it can have a long timeline. What does “soon” mean? When is the Minister going to publish this legislation?

**Deputy Paschal Donohoe:** I am aiming to bring a proposal to Cabinet in the next number of weeks. I anticipate that it will take a week or two to get feedback from other Departments and aim to publish the legislation well in advance of the summer recess.

**Deputy Pearse Doherty:** The Minister talks about a cap. He may not want to be precise about what it is. He obviously knows in his head what the cap is so what is he looking at? Is he looking at multiples of cost of credit? He says he is moving away from the APR road so what is he looking at? Can he give any indication as to where he sees the eventual restriction being?

**Deputy Paschal Donohoe:** At this point, I cannot give the Deputy an indication as to what I see the eventual figure being because it is only appropriate that I talk to other Government colleagues about it first because there is widespread interest in the issue. What I am trying to do is, as I said in my statement, is get the balance right between the affordability of interest rates being charged on this credit and a recognition that in many cases, that cost is too high and on the other hand, helping to contribute to the fact that after the passage of this Bill, we will still have credible and reputable moneylenders involved in the supply of credit within our country to those who need it. That is the balance I am looking to achieve in the work I am doing at the moment.

**Deputy Pearse Doherty:** I differ with the Minister but I will not argue. Whatever about his intentions, this committee of the Oireachtas is engaged in pre-legislative scrutiny of legislation that has passed in the Dáil. The Minister may decide to say he does not want to play with that ball but with his own ball and that he will not tell us what he will do. I would argue that it is seriously disrespectful to the committee process we are going through for the Minister for Finance to say he will not give us his view on what the cost of credit should be because he is introducing his own Bill. It undermines the work this committee has done and the time it has afforded to this legislation, given the other pressing matters we have faced.

Does the Minister agree with Social Finance Foundation, which he rightly mentions as a key partner in this regard, when it states it is ethically and morally wrong for such rates to be charged?

**Deputy Paschal Donohoe:** I struggle to see how Deputy Doherty thinks I am disrespectful to the committee in what I am saying. I also have to be respectful of the procedures that are in government. I have a duty there and the process, as the Deputy knows, is that I will circulate a memorandum to colleagues in government as to what I propose the Government should do. When I have done that and gained Government members’ input, I am more than happy to give

an account of my views and my recommendation to Cabinet in front of this committee. The Deputy is focused on is the Oireachtas process and I understand why. When I have gained the views of Cabinet colleagues on the proposals, I am happy to come back before the committee and engage with the Deputy on why I am doing it. It is not about being disrespectful to this committee but about acknowledging that in the respect I have for the committee, I have other procedures which I must and will follow. When I have done that, I am happy to come back to the committee.

On the Deputy's second point on whether the rates are unethically high, in the language the Social Finance Foundation used, I believe a number of them are far too high and that we can get the balance right in meeting the needs of those who need credit in difficult circumstances and having legitimate companies providing that credit. Some of the interest rates out there at the moment are far too high and need an intervention such as I am proposing.

**Deputy Pearse Doherty:** I will not go into a debate or dispute on this but I make the point that the Minister has had years. This Bill did not appear last week, last month, last year or the year before. It has been on the go for a while and the Minister has had years to get the views of his colleagues at Cabinet. I would argue it is disrespectful but I will not knuckle down on that point.

The Minister has decided to vote against this legislation and to stop it in its tracks, as opposed to allowing it to go to the next Stage, namely, Committee Stage, which could be heard in the next number of weeks, and using this vehicle to end the immoral and unethical high interests rates that are being charged. Why is the Minister taking that approach?

**Deputy Paschal Donohoe:** It is because I believe the legislation I will bring forward will be more effective in doing that. Likewise, I will not get into an argument with the Deputy but I reject again the idea I am being disrespectful to the Deputy or the committee. I am taking this issue seriously. The public consultation in relation to this happened across 2019. I accept a year has elapsed since then. The public consultation came to an end towards the end of 2019 but I have had many issues to deal with since then and I will get to this as quickly as I can. I aim to get Government agreement to this legislation in the coming weeks.

**Deputy Pearse Doherty:** Why does the Government not have a financial inclusion strategy? The last one it had was about a decade ago.

**Deputy Paschal Donohoe:** Financial inclusion is an objective of much of the policy and legislation in which I am involved. I specifically said in this proposal that financial inclusion and exclusion will be a matter on which the Central Bank will make a report and will be an input into the decision that the Minister for Finance makes.

**Deputy Pearse Doherty:** That is not the question. The question is on strategy. The Minister, the Government and the Department have no strategy on financial inclusion. The last time the Government had a financial inclusion strategy was 2012. Why does the Government not have a financial inclusion strategy?

**Deputy Paschal Donohoe:** The financial inclusion strategy-----

**Deputy Pearse Doherty:** More important, will it bring forward-----

**Deputy Paschal Donohoe:** The Deputy put a question to me, which I will answer. Regarding the financial inclusion strategy of 2012, perhaps the Deputy could update the committee on

what he thinks is wrong with that strategy that needs revision or change. If he has views on that, I am happy to hear them. Just because I have not updated the strategy or published a new one in the past number of months does not mean the issues of financial inclusion are not important to me. They are. One of the reasons I am committing to bringing forward this legislation is that I recognise that issues of financial inclusion matter and that in the current way this market operates, there are serious issues, which I aim to address.

**Deputy Pearse Doherty:** Maybe the Minister will send us the financial inclusion strategy because nobody can find it on the Department's website, even the old one. Basic bank accounts need to be reviewed and how effective they are. We need to look at minorities like the Traveller community and the difficulties they have in opening bank accounts. Huge changes have happened as a result of money laundering directives that have come in and which rightly place responsibilities on banks to verify people. That has changed and has put more onerous pressures on individuals. There is a need for a financial inclusion strategy that meets this decade. I encourage the Minister to bring forward such a strategy.

When will the increase of the rate from 1% to 2% that will apply to credit unions come in? That is to go hand in hand with caps on interest rates for moneylenders. When will the interest rate cap imposed on credit unions be increased?

**Deputy Paschal Donohoe:** I will have to come back to the Deputy with an answer on that. I cannot give an exact date now.

**Deputy Pearse Doherty:** That is a couple of years in the making, as well. In relation to some of the developments, maybe the Minister can enlighten the committee as to what we are anticipating over the next number of weeks and months in terms of our work schedule.

The Minister is the chief architect of the taxation structure for these vulture funds and investment funds which have been scooping up properties under the noses of first-time buyers. In fairness, he is the main cheerleader for these funds. He has refused to look at taxation structures and voted against my proposals last year in this committee to even look at the issue of stamp duty, despite officials in his Department talking about increasing stamp duties on these funds. He has defended that by saying they are only a small player, he will monitor it and so on.

The reality is they are buying up hundreds of millions' worth of property. What happened in Maynooth is not unique and the Minister should not try and fool this committee because we are not stupid. Look in Leopardstown, Lusk, Dundrum and many other areas. Some 27% of private rental sales last year were after construction. That is hundreds of millions' worth of property that was sold privately off the market after construction. When will the Minister bring forward proposals? Will they be finance-related? Will he end the tax structure for which he has cheered for many years and that he introduced? When are we, as a finance committee, expecting to see legislation on this?

**Deputy Paschal Donohoe:** I am also the Minister for Finance who oversaw a fundamental change in relation to the taxation structure of these entities in 2019. I would have expected, in the long list of claims the Deputy made, for that to be acknowledged at least. I brought in front of the committee significant changes to deal with the taxation and structuring of these entities. This came from a commitment I gave in respect of the Finance Bill 2018. In combination with the tax strategy group process I put in place that year and the work the Revenue Commissioners did, that led to significant change regarding how they are taxed. I made those changes



**Deputy Pearse Doherty:** What changes?

**Deputy Paschal Donohoe:** There has not been any acknowledgement of that in what the Deputy said. In regard to the other point the Deputy made on the support I have for them, I believe these funds have a role to play. It is also the case, on the question of the funds and the apartments that are owned by these institutions, that it is some 15,000 apartments within our country at the moment, which is a small share of the total number of apartments within our country. The reason I believe these funds have a role to play is that they lead to the creation of homes, which, in the absence of the funding they provide, otherwise would not be built. That is why I have made the case for them.

Equally, however, as I said as recently as Tuesday, I do not support what I became aware was happening in Maynooth, and I am now looking at the tax structure we have in place, and assessing it to see if any changes are merited or need to be made.

**Deputy Pearse Doherty:** The Minister is-----

**Deputy Paschal Donohoe:** The Deputy is well able to put the questions to me but when I answer them, he does not have any interest. He was the representative of a party that in Dublin, when 17 proposals were made to rezone industrial land in this city and to turn it into housing, voted against 14 of them. It is the party that, on Dublin City Council alone, for Coolock, where there is a proposal to deliver 800 homes to families who need those homes, has delayed that plan by up to eight years. That is its record. This is not going to be one-way. The Deputy can come in here and make his charges but I will point to the changes I have made. I have pointed to the role these funds play, in particular in forward-funding development. I will also point to the fact that the Deputy's party's record on housing and the decisions that its councillors are making are leading to homes not being built or being delayed for people who need them now. That is its record.

**Deputy Pearse Doherty:** The Minister is talking absolute nonsense and rubbish. The reason he is doing that is because he is desperately trying to scamper to find a way to save face because he is the vulture lover. He is the main architect for this taxation system. He turbocharged these funds. He is trying to pretend to us, as if we are some type of fools, that Maynooth is unique and that now he has to do something. Some 27% of private rental sales were done after construction, and that is 27% of €1.2 billion last year. This year, the biggest transaction that has happened in the first quarter in residential property is €450 million. This has been the case at Leopardstown, Lusk, Lucan and lots of different places right across the city of Dublin, not this year, not last year but going back to 2019. The Minister knew about it. We told him about it and he defended this right up to the hilt. Now, there is a public outcry, rightly so.

I said directly to the Minister at the finance committee that the public is oblivious to what he is doing in terms of these tax structures and how he is creating them, and now he is trying to say he is some great person because he introduced a change in 2019, which was the dividend withholding tax. That is the proposal I actually put forward and I told him afterwards that it is not effective enough because dividend withholding tax is not applied on pensions, and because of the other issues that pertain in terms of tax treaty arrangements.

The Minister's own officials, and I have the freedom of information documents on this, were talking last year about additional taxation. I actually put down those proposals in the finance committee, even to have a study on this, but the Minister voted against that because he believed this was okay. Now, he cries crocodile tears in here and suggests that we are opposed to hous-

ing development. What we are opposed to, and I make no bones about it, is the Minister's party selling off public land to build majority private housing that is out of the reach of ordinary people. We can see that with the affordable housing strategy, which talks about €450,000 being affordable in Dublin. Seriously, we talk about cuckoo funds but the Minister lives in cuckoo land if he thinks that is affordable.

The Minister would not do this six months ago and he voted against it, along with Fianna Fáil and Fine Gael. Now, he is saying he is going to introduce changes to the taxation structure, and I welcome that. Will he tell me when we are likely, as a committee, to see those changes take place and what those changes are likely to include?

**Chairman:** We have strayed a good deal away from the Bill.

**Deputy Paschal Donohoe:** Will the Chair allow me to make a brief response? I clearly got under the skin of Deputy Doherty as I remind him of the-----

**Deputy Pearse Doherty:** Not at all.

**Deputy Paschal Donohoe:** We can see, when we remind Sinn Féin of what their record is, what they are reduced to - the hurling of names, the constant interruptions, the heckling. It is a matter of fact that when Dublin City Council has had the opportunity to rezone land to lead to the delivery of more homes, Sinn Féin votes against it. They voted against it in regard to 14 different proposals that could have rezoned industrial land to provide the very homes that Deputy Doherty pretends he cares about. Where is the empathy from him and his party when they are delaying homes being built in O'Devaney Gardens or Oscar Traynor Road? Where is the empathy he claims?

As I said, and it is important to make the point in the context of the charges the Deputy is making, I have made changes in regard to the taxation of, in particular, real estate investment trusts, REITs, and IRES REIT. I have done it after the process that I went through, and that I outlined, in recognition of issues that are there. The funding these funds are providing does play a role in the delivery of additional homes within our country.

I am currently looking at this particular issue and whether there is anything in our tax code that is incentivising the purchase of homes that are already built. It is a matter my officials and I are engaging with at the moment and, as is customarily the case in regard to matters of tax, I will not give an indication in regard to timing on that matter because of the responsibility I have in regard to tax policy. However, I and the Minister, Deputy Darragh O'Brien, are looking at this matter. Nonetheless, in the context of the risks and the many difficulties we have within our property market at the moment, I do not want to see homes that are already built subject to what was reported over the weekend.

Deputy Doherty cannot come here and make charges about my record, a record which includes 85,000 new homes being built since 2016, and not expect me to point out the reality of how Sinn Féin votes when there is an opportunity to deliver more homes.

**Deputy Pearse Doherty:** I have a simple question.

**Chairman:** Is it a question on the Bill?

**Deputy Pearse Doherty:** These funds have been snapping up these houses for years and not just last week. Will the Minister be honest with the committee that he is aware of that or



maybe explain to the committee how he has been ignorant of this fact for years, despite us pointing it out to him?

**Deputy Paschal Donohoe:** There Deputy Doherty goes again. He makes claims about honesty.

**Deputy Pearse Doherty:** Answer the question.

**Chairman:** Can you both hold this conversation for a general election?

**Deputy Pearse Doherty:** Answer the question. Did the Minister just find out about it last week?

**Deputy Paschal Donohoe:** I am aware of the issues to which the Deputy has referred in regard to the purchase of some homes that were built. Up to this point, they have been a minority of the total amount of activity in which these funds have been involved. I want to ensure-----

**Deputy Pearse Doherty:** It is 225 in Maynooth and 250 in Leopardstown.

**Deputy Paschal Donohoe:** There you go again. When I make any-----

**Chairman:** Will the Minister complete his statement, please?

**Deputy Paschal Donohoe:** In an effort not to answer questions about his own record, the Deputy is only interested in putting the questions. He is not interested in the answer and he is not interested in my genuine efforts to deal with this housing issue and to ensure more homes are built, and to deal with this particular matter.

**Chairman:** Is Deputy Doherty finished with his questions on the Bill?

**Deputy Paschal Donohoe:** Some 85,000 new homes have been built since 2016, and that is my contribution to this. We have seen 30,000 families come off social housing lists since 2016. Of course, I acknowledge there is great difficulty and I acknowledge that more homes need to be built, but I am playing my part in trying to fix that and to turn that around, unlike Sinn Féin councillors when they have the opportunity to vote on proposals.

**Deputy Pearse Doherty:** I am glad the Minister will be implementing the policies that we put forward last year, the year before and as far back as 2016. I am glad that the penny has finally dropped but the Minister needs to deal with the taxation of this structure. I would welcome that.

**Chairman:** I want to bring the Minister back to the Bill.

**Deputy Paschal Donohoe:** On the specific issue, I am going to look at whether the tax code is playing a role in the incentivisation of homes that are already built. However, the balance I need to get, a balance that Deputy Doherty is not at all concerned about, is that it does not undermine the delivery of new homes and new apartments being built. What I want to do is fix this crisis and make progress. That is what progress is for me, not making political charges about it.

**Chairman:** Has Deputy Doherty a question on the Bill?

**Deputy Pearse Doherty:** No, I will leave it at that. I know the Minister had set his face against it, but I welcome the fact that he has come on board. It has taken a while for the Gov-

ernment to come on board with the idea that we must reduce interest rates. I look forward to his Bill in that regard and I will make my submission in the next week to this committee's pre-legislative scrutiny process.

**Chairman:** Dr. Noreen Byrne from University College Cork appeared before the committee and spoke about the ease of access, convenience, family tradition and good relationships with some of these moneylenders. That is all true, but there are instances where the credit unions took many of the customers, as it were, of the moneylenders and were able to support the families not just with loans but also with the repayments and so forth. Dr. Byrne was suggesting that we need to think in a community context and to consider that moneylending leads to a massive drain of wealth out of the community, which can shift the conversation somewhat. Is there a space here for the credit unions, as they did before with penny banks when they were able to collect it in community halls and so forth, save money or assist families in saving money? When that went it left a gap in the market. Has the Minister considered the role of the credit unions relative to this moneylending sector?

**Deputy Paschal Donohoe:** Yes, absolutely. I am also aware of the case that has been made for the role of the credit union sector in trying to meet more of these needs. A number of different proposals have come forward on this issue, which has led to the proposal to increase the maximum monthly interest rate that is possible on credit union loans from 1% to 2%. That is the background to that proposal. This has been supported as recently as 2019 by credit union representative bodies. I will refer back to the committee with a date regarding when I will be able to implement that via legislation. I am aware of those issues. In fact, that is the main issue the credit union movement has raised with me, so far, in respect of the greater role it can play in this sphere.

**Chairman:** Would the Minister accept Dr. Byrne's view that policymakers and borrowers alike must think differently? That describes where we are, and in thinking differently we are not reinventing the wheel but returning to the way people with little or no means were facilitated in borrowing for one thing or another by using the credit unions.

**Deputy Paschal Donohoe:** Perhaps, but we will be doing it in a slightly different environment where there will be a stronger regulatory regime in place in respect of the moneylending sector. We will be responding to a specific proposal to allow an increase in the maximum monthly interest rate. In some ways, yes, perhaps it is looking to reassert the role of the credit union movement in meeting the credit need here. On the other hand, however, there will be a significant change here in terms of the interest rate it is able to charge on that credit.

**Chairman:** I wish to refer to a submission made by Ms Corcoran from Social Finance Foundation. She described her work with the credit unions and the It Makes Sense loan product. She also said that the measure is designed to make credit unions more attractive to borrowers than moneylenders. She said the State needs to do this. I am a big supporter of credit unions. I have seen the difference they have made, in a small version of community banking. They are over-regulated in that context and in that work. I would like to see some movement towards alleviating the burden of bureaucracy and regulation on credit unions, even though they would say that they know the regulation and so forth must be there. I accept that, but we could be more flexible, particularly at this end of the market. In his discussions with the credit union movement or with Cabinet colleagues on legislation in this area, is the Minister conscious of all this input on the part of those operating at the coalface?

**Deputy Paschal Donohoe:** I am, but the main issue that has been raised with me so far by

the credit union movement that could relate to this issue is the rate of interest that credit unions can charge. In the discussion I had with the movement's representatives regarding the regulatory regime in place for making this credit available, it has, by and large, followed the theme the Chairman referred to a moment ago, which is that while most of the credit unions find that the implementation of regulation can be intense and administratively difficult at times, ultimately, they acknowledge the need for the regulation and they support the principle of the regulator. If I am missing something and if there is some other issue the credit union movement has raised with the committee that is not covered by the interest rate matter, the Chairman could let me know now or after the meeting and I will be happy to consider it.

**Chairman:** I thank the Minister. At the risk of having Deputy Doherty intervene again, I have another question. The Minister mentioned the taxation changes in 2019. To what do those taxation changes relate? I know they are REITs, but what were the results of these?

**Deputy Paschal Donohoe:** A number of different changes were made across that and I am happy to outline the details. First, we made a change in respect of the introduction of what was referred to as a wholly and exclusive test when calculating the REIT profits that are available for distribution. The test was introduced to ensure that inflated costs, for example, inflated management fees, cannot be used to reduce distributable profits. The second change was that we restricted the deemed disposal provisions which apply upon a REIT ceasing to exist, to ensure that the REIT had to be operation for at least 15 years before it was able to cease to exist and avail of the taxable benefits of ceasing to exist. Finally, we made changes in 2019 to extend the obligation to deduct the dividend withholding tax to include distributions that were the proceeds of capital disposals. They are, broadly, the three significant changes made in 2019.

**Chairman:** Is that in terms of section 110?

**Deputy Paschal Donohoe:** That deals with the issue of securitised companies, but most of the changes I made in the Finance Act 2019 related to REITs and IREFs.

**Chairman:** To return to the former Minister, Michael Noonan, was there a commitment that section 110 would be reviewed?

**Deputy Paschal Donohoe:** I am not sure of any particular commitment made by the former Minister, Michael Noonan, but further changes were made in the Finance Act 2016 which then led to the creation of IREFs to deal with issues that were being raised at that time regarding aggressive tax planning. Perhaps that commitment was the context to the changes that were made in 2016.

To deal with more recent changes, the changes I made in 2019 were the result of asking the Revenue Commissioners to review the status of taxes that were being paid by some of these entities and also a process I put in place through the tax strategy group papers. I looked at some of the issues that are being referred to and made significant changes at that point.

**Chairman:** Accountancy firms are currently giving the same advice on the structure of the tax in the context of section 110. As a result, it is not tax avoidance. I suppose it is tax management to bring about schemes whereby people pay less tax. Many of these companies, these financial vehicles, that are being established are able to use that section 110 to drastically reduce their tax exposure. Has the Minister examined that matter?

**Deputy Paschal Donohoe:** The Chairman will need to give me a specific example of what he is referring to that might merit further examination of section 110.

There is an inference that REITs and IREFs are entities upon which no tax is paid at all. That is not the case. A REIT has a requirement to distribute 85% of the profit that it makes every year. When that profit is distributed, a 25% dividend withholding tax is paid. Depending on the jurisdiction in which the investor is, they will then pay either corporation tax or income tax when they receive their payment from the REIT. The suggestion that no tax is paid on the distribution of income from REITs, for example, is wrong. It is paid through the dividend withholding tax and then it is paid by the person who receives the income. Similarly, for IREFs, there is also a 20% withholding tax for non-resident beneficiaries of those funds. A resident beneficiary of these funds is required to pay exit tax on the income that is distributed from these funds to the beneficiary.

I am not suggesting that the Chairman is saying it, but a suggestion that tax is not paid on income distributed from these funds is wrong. Tax is charged in a different way, namely, in the way that I described.

**Chairman:** How long will it take to deal with the controversy that arose in recent days - it has been raised in the Dáil - about the buying-up of housing estates and pushing the first-time buyer out of the market? Is that something the Minister will be addressing?

**Deputy Paschal Donohoe:** The two Ministers who are assessing this at the moment are the Minister for Housing, Local Government and Heritage, Deputy Darragh O'Brien, and me. The Minister for Housing, Local Government and Heritage is obviously assessing it from a planning point of view and whether he believes any changes are required to planning policy and law. I am examining whether the current structure of our tax code is offering an additional incentive for the purchase of homes that are already complete. The vast majority of these funds operate by pre-financing homes to allow the delivery of homes which otherwise would not be built. That is the intention of these funds overall. As we saw at the weekend, some of them have been purchasing homes where they played no role in the delivery of them. I have asked my officials to assess whether the tax code is incentivising that particular kind of purchase. That is being done at the moment. The Chairman will know that any indication I might give on either a potential outcome or the timing of that outcome could, of itself, have effects. I am conscious of that whenever I talk about tax.

**Chairman:** My views on these funds are well known. In the interests of first-time buyers in particular, I encourage the Minister and the Minister for Housing, Local Government and Heritage to act as quickly as possible. Has the Department carried out an analysis on the more aggressive funds that have bought loans from banks, the ones that are constantly in the courts that we hear all the stories about? Is there an analysis of the impact that they have had on the housing market or on the banking issue in terms of banks selling off big tranches of loans to vulture funds? Has any analysis been carried out in respect of the damage or otherwise that has been done to society by the activities of these funds?

In recent times, the committee tried to engage with some of these funds but with no success whatsoever. Much of the correspondence one sees from these funds and those who manage these funds contains no contact details. When they refused, we had to ask the clerk to the committee to contact each one to get the contact details and to make them available to the members. At every step of the way these vulture funds seem to duck and dodge the regulations in the State. It is not doing the banking sector any good either because it is diminishing people's confidence in that sector. The sooner they are removed from the banking and financial landscape in Ireland the better. Does the Minister have any such analysis?

**Deputy Paschal Donohoe:** The level of purchasing by first-time buyers is now at its highest since 2007. When we are analysing the effects of these funds and their activities on first-time buyers, it must be noted that the level of purchasing by first-time buyers is higher than it has been for many years. Regarding the evaluation of funds more generally, it is important not to conflate two different issues. The issue that we are mostly debating here is the role of investment funds - in most cases they are either REITs or IREFs - in funding the supply of new homes and in a small number of cases funding the acquiring of homes that are due to be built.

The Chairman referred to other companies and organisations purchasing loan books. That is a different issue. We have constantly evaluated how loan books are dealt with when they are acquired. As the Chairman knows, the owners of those loan books are subject to the same laws as our banks are. We do not have evidence that there is a really big difference in how those loans are managed by the new owners of the loan books versus how they were managed by the banks, themselves.

**Deputy Bernard J. Durkan:** Like the Chairman, I have had an interesting relationship with vulture funds - they call themselves investment funds - over the years. I mean no disrespect to them and I fully understand and appreciate the reason they were introduced to the country initially because no money was moving anywhere, nothing could happen and the ATMs were going to run dry. Something had to happen and business had to be moved. However, everything needs to happen in its own time and place.

The kind of activity that took place in my home town in the past few days whereby an investment fund acquired a housing estate under construction is unacceptable. This raises many questions. I understand that it was not involved in the provision of the funding for the construction in the first instance. If it had been, it would not make it any better because it could have had both hands in the pie at the same time, first, in the funding of the construction and, second, in acquiring the constructed houses in order to control the sale in the marketplace. Given that the Taoiseach and Tánaiste have both expressed concern about this issue, can an evaluation be done as to whether the Irish pillar banks have resigned from the business of funding the construction sector or if they have in any way limited the availability of funds to the construction sector? I hear complaints, as I am sure we all do, to the effect that developers or builders are being forced to go to the funds to get money. We resolved the problems the banks had. The banks have sold off their bad loans, essentially, to the investment funds. Now, it would appear that they are restricting the availability of credit to the construction sector.

Two issues arise. One is that there will be an upsurge in the requirement for extra houses as the year progresses and the lockdown is lifted. There will be an increased requirement from the public building sector, that is, the local authorities or their equivalent, to build houses for those who are eligible. There will be an equal upsurge from the people in the private sector who are first-time home buyers. There is the speculative sector but, as time goes by, the urgency to get on the property market is increasing.

I have never received so many emails from people who are concerned about the degree to which their choices are being limited. Government is actually being blamed for doing something that is not responsible for at all. Is it possible to very quickly evaluate the extent to which the pillar banks are assisting directly the construction sector at present? Are they resigning from it, as the case may be? If it is the latter, what action can be taken to deal with it?

**Deputy Paschal Donohoe:** In acknowledging the great difficulties we have with regard to supplying enough housing at the moment, it is still worth acknowledging that for last year, more



than 20,000 new homes were delivered, which is the second highest number of new homes that have been delivered over the last decade. Of course, demand has grown because savings have grown and the construction sector has been shut down for many months, a closure which, incidentally, most if not all political parties supported.

With regard to the role of our banks and the credit they are supplying for the housing sector, again, it is important to distinguish the two different issues at play here. The banking sector is lending as much need as it can to fund the delivery of new homes. However, many home builders are not looking for credit, *per se*. They are looking for equity, particularly when it comes to the delivery of housing. Large global firms, particularly in an environment in which interest rates are so low, are willing to provide that. They want to provide it in anticipation of getting a return in the future, particularly when it comes to the provision of rental accommodation. That is why these funds have a role to play in leading to the creation of new homes that otherwise might not be built.

Some credit needs are not being met by our banks, which is why we have Home Building Finance Ireland, HBFI. It will be producing a report tomorrow about the additional credit it supplied for developers who would otherwise not be able to get money or credit to build more homes. We have HBFI in place to do that. We are, however, in an environment in which we have had two banks leave Ireland. That could well affect the credit that will be available in the future for meeting needs such as the delivery of more homes. That is why it is not only our banks that have a role to play in funding new homes, but it is why inside certain parameters there is a role for funds to deliver, in particular, high-density apartment development.

**Deputy Steven Matthews:** I believed we were going to be discussing the Consumer Credit (Amendment) Bill 2018 but as we have moved on to planning and housing matters, I will take the opportunity to engage with the Minister on that. I believe he has a role to play in this, however.

I refer to what Deputy Durkan said about what we saw happen in County Kildare last week. It is really undermining and demoralising for first-time buyers who have probably been watching these houses being built for quite a considerable amount of time and saw the planning applications going in. They probably had their hearts set on it and were organising mortgages and experiencing that excitement that comes with purchasing one's first home. To see an investment fund swoop in and deny all those dreams for those local people who wanted to live in that area is really damaging. It really damages communities to see locals being deprived of that opportunity to buy in their own area. Of course, they can rent but that is not what their hearts were set on.

I acknowledge what the Minister said. There is a role for that kind of investment. Institutional landlords such as pension funds can play a role in the rental market and provide those funds to allow that development to continue. We really need to address that with policies to disincentivise the speculative activity in it, however. A pension fund seeking a 3% to 4% return over the lifetime of that investment is okay. That does not affect the affordability of it. When we get the speculative aspect swooping in with high rents, however, or trying to exploit an undersupplied housing market, that is where real problems exist. The Minister has a role to play in that.

Planning also has a role to play in it. We need to look at that. When we set out development plans, zones and land, and set the density on that land, we often do not get down to the detail of saying what type of tenure should be in there or who can own it. There is a role in the planning

system that will need to be teased out. I will take this up with the Minister, Deputy Darragh O'Brien, to see if we can change planning regulations to see if local authorities can designate certain percentages of these new developments for owner-occupiers. It is not to deny rental because rental will always be part of a healthy housing market. We will always have owner-occupier and rental.

We should not lose sight of the fact that the Affordable Housing Bill 2021 and the Land Development Agency Bill 2021, two really important pieces of housing legislation going through the Houses of the Oireachtas at the moment, will introduce, for the first time ever, cost-rental housing. We could introduce cost-rental housing properly, as they have done in Vienna. We met the Viennese Green party recently to discuss cost-rental over there. It is really successful. If we do that right, we can bring at-scale, long-term, secure, affordable, good quality housing for rental at a really affordable price. It will be long-term; it will not be about people living in rental where they are always in fear of the landlord knocking on the door. This is long-term, secure and affordable. We should not lose sight of that. Cost-rental would be a game changer. I am delighted to see it being introduced into Irish legislation for the first time. I would welcome the Minister's comments on that.

**Deputy Paschal Donohoe:** As the Deputy said, funds have a role to play in allowing for the delivery of certain kinds of homes in certain locations. The figures are there to prove and indicate that the amount of forward purchasing they have been involved in has helped with the delivery of more apartments, in particular.

As the Deputy said, however, we need to look at different ways of intervening in the housing market to meet the needs that we know are there and are growing. That is why I was very pleased to input into the legislation that was brought forward by the Government on Tuesday. In particular, the provision of cost-rental accommodation through the Land Development Agency, LDA, and the work it will do when that legislation has passed will have a big impact on the issues we are discussing. The active role of the LDA in the provision of cost-rental housing will be an important part of getting the provision of homes, including affordable homes, into a far better place than it is now for many families.

**Deputy Steven Matthews:** It is extremely important that we make it very clear that the equity return referred to in respect of cost-rental is a limited equity return. It will be suitable for that type of pension fund investment but not for speculative large-scale, profit-type investment. We must be very clear on this issue. That is the cost-rental model in Vienna and it is the model that works.

**Deputy Mairéad Farrell:** I apologise for being late; I was in the Chamber. On section 110 of the Taxes Consolidation Act 1997 regarding tax concessions, what concerns people is that this provision allows an entity to use interest payments to write down taxable profits. Artificial inter-company loans made through the anonymous trust ownership structures can be used for profit shifting and tax arbitrage. The introduction of limitations on interest tax deductibility was delayed in last year's Finance Bill. Will the Minister confirm that such limitations will be introduced in this year's Bill? Will he prioritise that? Reports in the media have referred to €118 billion being funnelled to Russia using this mechanism. I would like to hear the Minister's thoughts on that issue.

**Deputy Paschal Donohoe:** I will have to revert to the Deputy with an answer to her question regarding when the issue of deductibility will be dealt with. I am not in a position to give her a detailed answer to such a detailed question now.

**Deputy Mairéad Farrell:** I hope that the Minister will come back to me and the limitations will be introduced immediately. We can all live in hope. Many questions have been asked about the media reports at the weekend. We know how concerning it has been for people trying to get into a position to buy their own homes. It is galling for the generation of people who are simply locked out of the housing market. On my way here, I saw a comment on social media by a person called Tony Groves which sums up the current situation. He wrote: “Michael Noonan invited them in, Simon Coveney set the table, Paschal Donohoe served the appetisers and Eoghan Murphy poured the drinks”, yet we have “Leo Varadkar [saying] that [Fine Gael] had no idea that they’d eat so much”. This is concerning and frustrating for all those who cannot get a mortgage, afford their rent or make a down payment. We now have a so-called affordability scheme under which affordability in my home city of Galway is capped at €400,000. That is simply out of reach for people. I would like to hear the Minister’s thoughts on this issue.

**Deputy Paschal Donohoe:** The first question the Deputy put to me is a detailed one. She does not have to wait and hope concerning when I will respond to her. I will get back to her with an answer.

I am sure that if Mr. Groves is watching, he will be equally disappointed to hear on how many occasions Sinn Féin has voted against rezonings which would lead to the delivery of more homes. The party voted against the setting up of the Land Development Agency and it is against the Affordable Housing Bill 2021 which was introduced earlier this week by the Government. All these measures seek to make more homes available or make them more affordable. As Deputy Farrell is aware, the figure of €400,000 to which she referred is a cap. For her to suggest that is the price at which those houses would be made available ignores the fact that when the Minister for Housing, Local Government and Heritage, Deputy Darragh O’Brien, was introducing the Bill, he said the figure was the cap. If a cap was not in place, I have no doubt Deputy Farrell would be criticising the Bill for not having one.

**Deputy Mairéad Farrell:** I was not suggesting that the Minister was not going to respond to me. I hope he comes back with an answer which states he will shortly and swiftly enact change on deductibility because it is extremely important. That was what I was suggesting, and I apologise if I did not finish the sentence correctly.

Returning to the €400,000 cap, what angers us and galls so many people are the huge amounts of money being pumped into this area, which are being seen as a gift to developers. While the Minister said it is a cap of €400,000 in Galway city, the reality is that I and many other people fear it will be seen as a target. I hope that clarifies my points.

**Deputy Paschal Donohoe:** It does clarify the matter but I stand by the point that if a cap was not in place, the Deputy’s party would be equally critical of that.

**Deputy Mairéad Farrell:** Absolutely, but it is important that the cap is affordable for people, and €400,000 is simply not an affordable amount.

**Deputy Paschal Donohoe:** I am glad to hear the Deputy accepts the need for a cap.

**Deputy Bernard J. Durkan:** I am sorry to come back in, but I am a little worried that we might be sliding slowly in a direction I think the Minister would not want. I had several irate phone calls from constituents arguing both sides of this issue. Some of the information I picked up on this issue of housing and investment funds and their impact on the market has made me a little worried about what might be happening. I ask the Minister if, in the near future, he can

do an evaluation of what the banks and investment funds are doing. I ask that because other acquisitions are planned in the area where I reside. As a public representative, I and everybody else here need to be able to say to the general public that we stand for something on this issue.

Not everyone will agree with me, but I have a small amount of business experience and it is important to keep that in mind when we are dealing with events that seem to have the ability to circumnavigate the system, regardless of what the outcome might be. Harold Robbins used to write about this back in the 1950s and 1960s. Some Members would not remember that far back. I am not criticising them for that. The fact of the matter is that I am worried that we might find ourselves in the not too distant future in hock to the funds that require equity. That is the bit that worries me.

I remember once being told by a lending institution that it wanted equity in my business. I had set up the business and I was certainly not going to give equity to some smart guy sitting behind a desk who was going to tell me how hard I would have to work, how much interest I would have to have pay and so on. That was at a time of high interest rates.

I was unable to raise this issue with the Tánaiste during the Order of Business in the House because we ran out of time. The request to the Minister was and is for him to try to get some information from the lending institutions regarding what is happening. Are we being moved inexorably, and at whose volition we do not know, into an area where the investment funds control our existence? I say that because if those funds control the funding of the construction of houses, then get involved in the acquisition and renting of the houses to consumers afterwards and are also involved in the selling of the houses to the people seeking to purchase them, they will control too many aspects of the game. That is my opinion. I plead with the Minister to examine the impact this might have because I fear the worse if it is allowed to continue.

**Chairman:** I ask Deputy Doherty to conclude on this Bill.

**Deputy Pearse Doherty:** Will the Minister elaborate on the categories of investors that are investing in these funds? Who is making those investments?

**Deputy Paschal Donohoe:** I do not have detailed information to hand on categories of investors. If the Deputy could be more specific, I am sure I can get the information for him.

**Deputy Pearse Doherty:** My point is that, in the main, these international investment funds are made up of pension funds, life assurance funds and other types of investment funds like that. Does the Minister agree that is the case?

**Deputy Paschal Donohoe:** Yes, I agree with the general observation that pension funds are a key player behind the REITs.

**Deputy Pearse Doherty:** Pension funds, life assurance funds and other collective investment undertakings are what make up these investment funds.

**Deputy Paschal Donohoe:** Yes.

**Deputy Pearse Doherty:** I am making this point because the Minister may pull me up on the fact there is tax being paid by these funds in the form of dividend withholding tax, which is correct. Will he acknowledge, however, that dividend withholding tax does not apply to pension funds, life assurance companies or collective investment undertakings, which are the categories of investors that make up these funds?

**Deputy Paschal Donohoe:** Yes, it is the case that exemptions from withholding tax are in place for pension funds.

**Deputy Pearse Doherty:** In summary, pension funds make up these investment funds and those pensions funds are exempt from withholding tax. Therefore, the only tax that would apply does not, in fact, apply.

**Deputy Paschal Donohoe:** I am happy to get a further answer to the Deputy's question. He is referring to the fact that withholding tax does not apply to pension funds. I will check whether it is the case that other taxes are subject to the income that pension funds receive.

**Deputy Pearse Doherty:** The funds pay no capital gains tax, corporation tax or tax on their rent rolls. The only tax that is payable is dividend withholding tax. However, in the case of life assurance funds, pension funds and other collective investment undertakings, which are the funds that invest in these structures, there is no dividend withholding tax.

**Deputy Paschal Donohoe:** I will provide a more detailed answer to the Deputy's question on pension funds. In regard to the REITs, dividend withholding tax is charged on income when an investor exits a REIT. Taxpayers also have to pay either corporate tax or income tax, depending on what kind of taxpayer they are, when they receive the income from the REIT. It is from this income that the dividend withholding tax is deducted. The Deputy asked a specific question about pension funds. I have confirmed that they are exempt from the dividend withholding tax. To be complete in my answer, I will ascertain whether they pay another tax.

**Deputy Pearse Doherty:** It is all there in the Department's own publication from 2019, which states that the funds use these structures for tax efficiency purposes.

I have a follow-up question. I am concerned about what the Minister is planning to do in the light of what happened with the Maynooth development. Deputy Mairéad Farrell made an interesting point about the punchbowl analogy, when to take it away and when to stop turbocharging these types of structures. Does the Minister see the trajectory of what is happening here? Cairn Homes is one of the largest developers in the country. A total of 20% of its output was sold to these funds last year and the plan is to sell 45% next year. The same is happening with Glenbeigh Construction and others. These funds are turbocharged as a result of the taxation system the Minister introduced and, as a result, developers are skewing their developments to this area.

If the funds wanted to get around what the Minister is possibly planning to do in terms of the Maynooth development, all they would have to do is pre-fund the properties as opposed to post-purchase them, and then it would be okay. Is that what the Minister is saying? The funds can get around it by going to the developer before the homes are built, as opposed to purchasing them afterward, and saying, "Look, we will buy them off the plan and here is the money." That is what is happening with the biggest contractors. They are moving more in this direction because higher prices can then be charged for the properties. We are seeing huge prices. In Lucan, for example, the fund that bought houses is charging €1,975 per week in rent.

We see from the CBRE report that the investment in this area in Ireland is huge. There are three reasons for that. The first reason relates to the tax structures the Minister introduced whereby the funds pay no tax. The second is the fact that there are no returns internationally in terms of the negative rate environment. The third is that the funds are now entering into long-term leasing from the social housing authorities. The model for that was not there before but



because of the new long-term lease system, which provides for leases of 25 years, they are buying up these properties off the plans, from under the noses of first-time buyers, and then renting them back to local authorities at €2,000 or €3,000 per month.

**Chairman:** I am anxious to conclude the meeting. I will give the final word to the Minister, if he wishes to respond.

**Deputy Paschal Donohoe:** Yes, I wish to respond. Deputy Doherty has made the assertion that the investment funds pay no tax, despite also acknowledging that they do, in fact, pay a dividend withholding tax. I definitely will further establish where we stand on his detailed question in the context of pension funds. I want to be really clear on a particular point. In July 2020, for example, IRES REIT paid €65 million worth of tax in Ireland on €352 million worth of taxable activity. That is the tax that was actually paid. The Deputy claimed that IRES and other REITs pay no tax. In fact, as he knows, they are subject either to an exit tax or a withholding tax when the income is distributed.

On the question regarding pre-funding, I am saying that if developers do not have the funding, or do not believe they can get the funding, that would allow them to go ahead and deliver a development - an apartment development in particular - I believe that institutions can play a role in funding that kind of apartment development. The Deputy referred to the CBRE report. The same report stated that the number of apartments being constructed increased from 1,000 in 2016 to 4,000 in 2020, that these funds are playing a role in that regard and that the amount of forward-commitment funding has increased to €2 billion. These funds can play a role in getting new apartments in particular built.

**Chairman:** We have had a fair consideration of the Consumer Credit (Amendment) Bill 2018. We will return to discussing it next week, when we will be joined by representatives from the Central Bank. I thank the Minister for going beyond the scope of the Bill and entering into a debate on a number of current issues. It is only fair to acknowledge that he came in to discuss the Bill and has undertaken to address a number of other issues. We look forward to his response in writing on those issues.

Before we adjourn, I note that apologies were received from Deputy Jim O'Callaghan and Senator Higgins. I thank the Minister and members for their attendance.

The joint committee adjourned at 1.58 p.m. until 12.30 p.m. on Wednesday, 12 May 2021.