



Gníomhaireacht Náisiúnta um Bhainistíocht Sócmhainní
National Asset Management Agency

Daithí McKay MLA
Chairperson, Committee for Finance and Personnel
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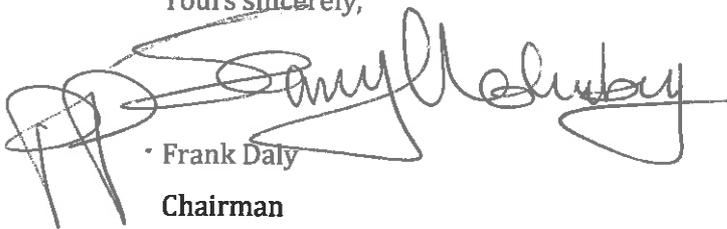
27 November, 2015

Dear Mr McKay

Thank you for your letter of 5 November to which you appended a list of follow up questions regarding NAMA's sale of the loan portfolio of Northern Ireland debtors (Project Eagle).

Attached are responses to the questions and relevant appendices. I trust that our responses and the various associated documents will be of assistance to the Committee in its work. Please note that we propose to copy these documents today to the Dáil Public Accounts Committee and to publish them on our website.

Yours sincerely,



Frank Daly
Chairman

**NAMA responses to questions submitted to it by the
Finance and Personnel Committee of the Northern Ireland Assembly
on 05th November 2015**

1. *Following on from its reply to CFP question 2(b), would NAMA please explain in detail its 'constructive working relationship' with the NI Executive?*

(See page 8 of NAMA's reply dated 4 September 2015.)

RESPONSE:

NAMA engaged with a wide array of public and business representatives in Northern Ireland (NI) who had a legitimate interest in its activities. NAMA sought, through these engagements, to explain its mandate and strategy in respect of NI in the same way that it engaged with stakeholders in the Republic of Ireland. One of the main objectives of these engagements, particularly in the early years following NAMA's acquisition of loans, was to explain that fears about a NAMA "fire sale" in NI, which had been repeatedly expressed by both public and business representatives, were unfounded. NAMA made clear that its approach in this regard was not particular to NI, but rather was entirely in line with the strategy that NAMA adopted towards assets in the Republic of Ireland. That strategy involved a phased disposal of assets by debtors and receivers over a medium-term horizon.

These engagements included interaction with the Northern Ireland Executive, namely the First Minister, Deputy First Minister and, in particular, reflecting NAMA's remit, the Minister for Finance and Personnel. Minutes of these engagements were provided by NAMA to the Northern Ireland Committee for Finance and Personnel ("CFP") on 4th September 2015. As is evident from these minutes, there was regular and open interaction between NAMA and, in particular, the Ministers for Finance and Personnel in relation to NAMA's overall strategy and activities in NI. This engagement followed and was informed by NAMA's introductory meetings with the Department of Finance and Personnel (28th January 2011) and with the Northern Ireland Executive First Minister and Deputy First Minister (28th June 2011).

One of the results of this engagement was a greater understanding of the rationale for NAMA's activities among business and political leaders in Northern Ireland. Up to the summer of 2013, senior Northern Ireland politicians had repeatedly and consistently expressed concerns about the possibility of a NAMA 'fire sale' of assets. That NI politicians appear to have accepted NAMA's assurances in this regard can be seen, for example, in comments by the former Finance and Personnel Minister, Mr Wilson, in August 2013 that

“without NAMA we might have had a *catastrophe*” <http://www.bbc.com/news/uk-northern-ireland-24166803>.

However, the stance adopted towards NAMA’s NI strategy by some senior NI politicians appeared to change in September 2013. On 18 September 2013, the First Minister Peter Robinson made a speech in which he stated that NAMA was inhibiting economic growth in NI and that the Agency’s policy of “holding onto properties for the long term does little to boost our economy right now”. He went on to state that “if these assets could be liberated then there is no doubt that they could play a major role in creating jobs in the construction sector and getting our economy moving”.

On 20 September 2013, according to the Irish Department of Finance, Mr. Robinson sought a phone call with the Irish Minister for Finance to discuss “***the need for a more pro-active asset sales approach***” by NAMA in NI.

Given the views expressed publicly and privately up to that point, this changed stance came as a major surprise to NAMA and that was reflected in an address by the NAMA Chairman to the Northern Ireland Chamber of Commerce on 24 October 2013, a copy of which is on our website www.nama.ie.

2. What was the established practice and or policy for communications between NAMA (including the NAMA Board and the NAMA NIAC) and the NI Executive?

RESPONSE:

NAMA’s engagements with the NI Executive, and more generally with stakeholders in NI, were conducted on occasion through the NAMA Chairman or more generally through meetings at which members of the NAMA Northern Ireland Advisory Committee (NIAC) were present. As advised, the detail of these engagements has already been provided by NAMA to CFP.

3. Within the Internal File Note dated 19 December 2013 regarding a conference call between NAMA and the NI Finance Minister, it states:

...FD asked if the DFM was aware of the interest and SH confirmed this to be the case with updates provided by the FM. SH indicated that he would be confidentially briefing both the FM and DFM following the call.

(See Appendix 5 of the NAMA’s reply dated 4 September 2015.)

Is this representative of the usual practice that NAMA relied on to ensure the NI Executive was fully and properly briefed in matters relating to the NAMA and the sale of Project Eagle?

RESPONSE:

Given NAMA's exposure as a secured lender in the property sector in NI, it was appropriate that NAMA's primary engagement with the NI Executive was through the Minister for Finance and Personnel. At no point between 2010 and 2014 was it ever indicated to NAMA by any party within the NI Executive that it should provide separate briefings to the First Minister, Deputy First Minister or to any other member of the NI Executive.

As is evident from the minutes of conference calls provided to CFP, the NI Minister for Finance and Personnel advised NAMA on two separate occasions that he was briefing both the First Minister and Deputy First Minister on the Project Eagle loan sale process. Internal communications between members of the NI Executive are a matter for the NI Executive.

Furthermore, the minutes of a conference call on 14th January 2014 involving Minister Michael Noonan, the First Minister and the Deputy First Minister record that the First Minister referred, during the call, to PIMCO's involvement in the sales process.

4. In relation to the CFP question 2(c-d) regarding the establishment of the NAMA NIAC, NAMA advises that the RoI Finance Minister:

...consulted with the NI Executive. Following this consultation process, the DFP wrote to NAMA on 21 April 2010 indicating the Minister's agreement to the appointments of Mr Brian Rowntree and Mr Frank Cushnahan as external members of the NIAC...

(See page 8 of NAMA's reply dated 4 September 2015.) Please provide a copy of this letter.

RESPONSE:

As outlined in the response to CFP on 4th September, the correspondence referred to was sent by the Irish Department of Finance, not the Northern Ireland Executive's Department of Finance & Personnel.

A copy of the correspondence is attached for reference – **Appendix 1**

5. What was the established practice and or policy for communications between the NAMA Board and the NAMA NIAC?

RESPONSE:

From the inception of the NIAC, final signed minutes of NIAC meetings were circulated to the NAMA Board as part of Board meeting briefing papers. CFP has been provided with a copy of the minutes of all NIAC meetings. The circulation to the Board of signed minutes is standard practice for all Committees of NAMA.

6. What information was shared by the NAMA NIAC with the NAMA Board, and the NAMA NIAC with the NAMA Board? Please provide full details for each occasion information was shared, including copies, notes, minutes, communications, papers and other.

RESPONSE:

As already explained NIAC's Terms of Reference were to make recommendations to the NAMA Board on matters pertaining to Northern Ireland including, inter alia, the potential impact on Northern Ireland of the Board's strategy in so far as it related to Northern Ireland assets. It is important to note that although NIAC could make recommendations to the Board it did not have decision-making powers. In this context, as noted above, NIAC minutes were circulated to NAMA Board.

In terms of feedback to the NIAC, a standing item on the NIAC Agenda was a Chairman's Report from Board. This took the form of a high level verbal briefing, with the Chairman outlining relevant matters to the Committee. There were no debtor related discussions at NIAC meetings at any stage. CFP has been provided with copies of all NIAC meeting minutes which reflect the Chairman's Report from Board

7. What were the specific reasons for each redaction appearing in all minutes of NAMA NIAC meetings?

(See Appendix 4 of NAMA's reply dated 4 September 2015.).

RESPONSE:

There are a total of 135 pages of minutes relating to NIAC meetings. Within the minutes there are 34 individual redactions which were no more than a few sentences on 27 pages out of the total of 135.

The redactions were made in accordance with the provisions of the Freedom of Information Act 2014, and other statutory obligations on NAMA, including Data Protection and Ethics in Public Office legislation, which prohibit the disclosure of certain classes of information, particularly personal information.

In relation to the redactions applied to the minutes of the Northern Ireland Advisory Committee:

- 23 relate to personal information;
- 3 relate to information that is protected from release under the Ethics in Public Office Act;
- 8 relate to information of third parties or information relevant to NAMA's performance of its duties.

None of the redactions relate to the Project Eagle loan sale.

8. What were the specific roles and responsibilities of the NAMA NIAC External Members?

(See Appendix 4 of NAMA's reply dated 4 September 2015.)

RESPONSE:

As outlined by the Terms of Reference, copies of which have been provided to the CFP, the purpose of the NIAC was to advise the NAMA board in relation to the strategies for NIassets.

The role of the members of the Committee was to provide advice and make recommendations to the Board of NAMA as they pertain to the Purpose and Objectives of the NIAC.

The role of the external members was to contribute their local knowledge and expertise and to offer their views about strategic NI issues.

9. *How did the NAMA NIAC External Members' roles and responsibilities compare to other Members'?*

RESPONSE:

See response to Q.8 above.

The roles and responsibilities of all members of the NIAC were the same as is clear from the Committees Terms of Reference. The role of the external members was to contribute their local knowledge and expertise and their views on strategic NI issues.

10. *On each occasion when a NAMA NIAC External Member declared a conflict of interest, how did the NIAC Chair address the issue? For example, did the External Member leave the meeting?*

(See Appendix 4 of NAMA's reply dated 4 September 2015.)

RESPONSE:

NAMA Committee members are required to comply with NAMA's procedures in respect of the disclosure of interests, which address Committee members' obligations in relation to (i) the Ethics in Public Office Act 1995 as amended by the Standards in Public Office Act 2001 ("Ethics Acts"); (ii) the National Asset Management Agency Act, 2009 (NAMA Act 2009); and (iii) the Code of Practice for the Governance of State Bodies.

Section 17 of the Ethics in Public Office Act 1995 requires members of the NAMA Committees established under 33(1) of the NAMA Act 2009 ("Committees") to furnish a statement in writing of material interests, where a function falls to be performed in respect of their designated directorship and the person has actual knowledge that he or she or a connected person (as defined in the Ethics Acts) has a material interest in a matter to which the function relates. In addition, pursuant to section 30 of the NAMA Act 2009, if a member of the Committee has a pecuniary interest or other beneficial interest in, and material to, a matter that falls to be considered by the Committee, he/she is required to disclose to the other members of the Committee the nature of his or her interest in advance of any consideration of the matter. Section 30 of the

NAMA Act 2009 also sets out the procedures to be followed where a member discloses a material interest. These include:

- a) not influence nor seek to influence a decision to be made in relation to the matter;
- b) take no part in any consideration of the matter;
- c) absent himself or herself from the meeting or that part of the meeting during which the matter is discussed; and
- d) not vote or otherwise act on a decision relating to the matter.

There were 8 disclosures of interest made over the course of 2011 and 2012¹ at NIAC meetings: all relating to external members of the Committee and only two of which related to matters which actually fell to be considered at a NIAC meeting. These two disclosures were made by Mr Brian Rowntree. Frank Cushnahan made a number of general disclosures (six in total) which did not relate to matters to be considered by the Committee and as such were not material interests for the purposes of either the Ethics legislation or the NAMA Act 2009.

On the two occasions on which Brian Rowntree disclosed an interest, he absented himself from the relevant part of the meeting and accordingly, took no part in the discussion relating to that matter.

Frank Cushnahan did not recuse himself from any NIAC meeting as the disclosures he made were unrelated to any matter to be discussed or considered at the relevant Committee meeting.

None of these eight disclosures related to Project Eagle.

11. Why did the NAMA NIAC secure legal advice regarding the scope of application of Section 202 of the National Asset Management Agency Act 2009?

(See Appendix 4 of NAMA's reply dated 4 September 2015.)

RESPONSE:

In order to provide the appropriate operational framework for the NIAC, and noting that some members of the Committee resided in a different jurisdiction, and that meetings could take place outside the jurisdiction, it was considered appropriate to seek legal advice in relation to the application of Section 202 of the NAMA Act 2009.

As outlined in the minutes of NIAC, dated 2nd July 2010, it was noted that Section 202 applied to all members of the Committee, including external members regardless of their place of residence. NAMA also advised the NIAC, however, that having regard to Section 33 of the NAMA Act and to the NIAC Terms of Reference approved by NAMA Board in May 2010, it was not necessary for the performance of the NIAC's functions for members to have access to debtor specific information (which is confidential information as defined in Section 202) because the function of the NIAC was to give advice to the NAMA Board on matters of a general and strategic nature, not to consider matters or take decisions in respect of debtors.

¹ There were no disclosures made before 2011

12. On each occasion when NAMA NIAC External Members provided 'feedback' to NAMA, including the NAMA Board and the NAMA NIAC, what were those views, opinions, comments and or communications? Please provide full details for each occasion, including copies, notes, minutes, communications, papers and other.

(See Appendix 4 of NAMA's reply dated 4 September 2015.)

RESPONSE:

The NIAC minutes, as previously circulated, provide a full account of NIAC meeting proceedings and feedback provided by external committee members.

As noted above, communication from NIAC to the NAMA Board was via regular circulation of NIAC minutes. In 2013 and 2014, external committee members of all NAMA committees were invited to attend part of the NAMA Board's Strategy Away Day to offer their views on issues of relevance to their Committee. The feedback provided from NIAC External Committee members is outlined in Q14 below.

13. Why did NAMA NIAC External Members attend NAMA Board away days?

(See Appendix 4 of NAMA's reply dated 4 September 2015.)

RESPONSE:

NIAC external members (and external members of NAMA's Planning Advisory Committee and Audit Committee) were invited in 2013 and 2014 to attend NAMA Board Strategy Away Days for a limited segment of the meeting. The segments to which they were invited included a general overview presentation from the NAMA CEO on NAMA and market outlook presentations by external presenters.

Brian Rowntree attended part of the Board's Strategy Away Day in February 2013 and March 2014.

Frank Cushnahan did not attend the Board's Strategy Away Day in February 2013 and was not a member at the time of the Board's Strategy Away Day in 2014.

14. What was discussed at those NAMA Board away days? Please provide copies of all documentation relating to those away days, including copies, notes, minutes, communications, papers and other.

RESPONSE:

NAMA Board Strategy Days involve discussion of key strategic issues and proposals. Strategic issues specific to Northern Ireland have not been on the agenda for any of the Board Strategy Away Days.

As noted, the external members of NIAC were invited to attend a segment of the 2013 and 2014 NAMA Board Strategy Away Days. Mr Rowntree attended in 2013 and 2014 and made contributions at both meetings.

Relevant extract minutes relating to Northern Ireland are provided below. These contributions were made mainly by Mr. Rowntree.

Extract from minutes of Board's 14th February 2013 Strategy Away Day meeting – comments made by Mr. Rowntree.

Northern Ireland

There are a number of challenges with implications for NAMA's portfolio in NI:

- 'De-zoning' will have to be addressed.
- There is a tangible increase in private renting as young professionals are not buying residential property.
- The retail environment is challenging with large multiples pulling out of NI.

Extract from minutes of Board's 5th February 2014 Strategy Away Day meeting

The NIAC External Committee member provided a succinct overview of the key challenges with implications for NAMA's portfolio in **Northern Ireland (NI)**. It was noted that there were some signs of economic recovery, albeit slow and painful. The Board noted that NI was a low wage economy with 73% of the population dependent on the public sector, the latter of which was a key player in the office space market. Analogous to RoI, there was (i) a significant demand for Grade A office space, however, unlike RoI, without evidence of upward price pressure (tenants were wanting more for less) and (ii) an oversupply of apartments. It was noted that NI was seeking to attract inward investment (via tax breaks) to Research and Development organisations and that progress was somewhat slow in this regard. There was also a drive to attract retailers back to towns and city centres.

15. Please detail how NAMA secured Lazard to undertake the sales process for Project Eagle.

RESPONSE:

Following the expression of interest received from PIMCO in the NI loan portfolio, the NAMA Board decided not to pursue a private sale to PIMCO as PIMCO had sought. Instead the NAMA Board decided that the NI loan portfolio should be appropriately marketed in a formal sales process.

In 2012, NAMA established European and US panels of loan sale advisors following an EU public procurement process. Lazard was appointed to both the US and European

loan sales panels.

Lazard was appointed on 8 January 2014 and its first task was to critically assess the level of market interest in NAMA's NI loan portfolio and to advise on an appropriate marketing process.

16. Please provide full details of any and all communications and contact between the deputy First Minister (dFM) and NAMA regarding PIMCO in relation to the Project Eagle sale.

17. In relation to any and all such contact or communications, please provide full details, including all records, copies, notes and minutes.

18. Please provide full details of any and all communication and contact between the First Minister (FM) and NAMA regarding PIMCO in relation to the Project Eagle sale.

19. In relation to any and all such contact or communications, please provide full details, including all records, copies, notes and minutes.

RESPONSE:

As stated in our response of 4th September and as pointed out by the NAMA Chairman to the Dáil Public Accounts Committee on 9 July 2015, NAMA received a copy of a '**letter of intent**' on 17th January 2014 from the principal private secretary to the NI First Minister relating to the proposed management of the Northern Ireland portfolio. The letter appeared to summarise an agreement between PIMCO and the NI Executive and its purpose was to require the purchaser of the portfolio to enter into a Memorandum of Understanding (MOU) with the government of NI confirming certain fundamental conditions relating to the future management of the portfolio. NAMA did not engage further in regard to the draft letter. This is the only engagement between the First Minister or the Office of the First Minister and NAMA in respect of PIMCO.

We attached a copy for reference – **Appendix 2**

There was no engagement between NAMA and the Deputy First Minister or the Office of the DFM in respect of PIMCO.

20. Did NAMA verify whether the dFM was aware of the position of PIMCO in relation to the Project Eagle sale? If so, how?

RESPONSE:

As pointed out in response to Q3 above, NAMA's main channel of communication with the NI Executive was with the Minister for Finance and Personnel. At no point between 2010 and 2014 was it ever indicated to NAMA by any party within the NI

Executive that it should provide separate briefings to the First Minister, Deputy First Minister or to any other member of the NI Executive, either in general or in relation to any particular issue.

The minute of the conference call of 7th January 2014 between the NAMA Chairman Frank Daly and the Minister for Finance and Personnel Simon Hamilton notes that Mr Hamilton advised that;

“the First and Deputy First Ministers (FM & DFM) were both fully engaged with regard to the unsolicited bid for NAMA’s NI Debtor Portfolio.”

NAMA had no basis to doubt this statement of Mr. Hamilton.

In addition, the minutes of the conference call of 14th January 2014 between Minister Michael Noonan, the First Minister and Deputy First Minister, note that the First Minister referred to PIMCO’s interest in the sales process. This indicated to NAMA that the DFM was aware of PIMCO’s interest in the portfolio and of the sales process that NAMA had engaged Lazard to run.

21. Did NAMA have any concerns regarding the payment or proposed or suggested or planned payment of any fee in relation to the Project Eagle sale?

22. What were those concerns, if any?

23. How were those concerns, if any, addressed?

24. Did NAMA change any practices or procedures in response to any such concerns?

25. What steps, if any, did NAMA take to satisfy itself that the winning bidder, Cerberus, was complying with its legal obligations in relation to any payments made in connection with the Project Eagle sale?

26. Please provide details of any communications between Cerberus and NAMA relating to any payment of professional fees in connection with the Project Eagle sale? In relation to any such communication, please provide all records including copies of all correspondence, notes, memos and minutes.

RESPONSE:

We will respond to questions 21 to 26 together:

On 10 March 2014, PIMCO informed NAMA that its Compliance staff had discovered that PIMCO’s proposed fee arrangement with Brown Rudnick included also the payment of fees to Tughans, a Belfast law firm, and to a former external member of NIAC. PIMCO named that individual as Frank Cushnahan. NAMA’s understanding was that PIMCO and Brown Rudnick had been engaging since September 2013 (and

possibly earlier) but it appears that its Compliance staff only became aware of the 'fee-sharing' arrangement involving Mr. Cushnahan in early March 2014. It is not clear to NAMA whether this late discovery arose because of internal communications issues within PIMCO or between PIMCO and Brown Rudnick.

Once PIMCO informed NAMA of the discovery made by its Compliance staff, a special meeting of the NAMA Board was convened on 11 March 2014. The Board viewed PIMCO's disclosure as a very serious development and it considered the most appropriate course of action. Whilst the former NIAC member was no longer a member of the NI Advisory committee at the time of the disclosure (he had resigned on 7 November 2013) and never had access to confidential information, the NAMA Board considered that the proposed fee arrangement could undermine the integrity of the sales process. The Board decided that if PIMCO did not withdraw, NAMA could not permit them to remain in the sales process. On 12 March 2014, NAMA indicated its serious concerns to PIMCO about the proposed fee payable to the former member of the NIAC. On 13 March 2014, PIMCO informed NAMA that it would withdraw from the Project Eagle process.

NAMA's primary concern, based on PIMCO's disclosure, was the possibility that a payment could have been made to a former member of the NIAC, Mr. Cushnahan. NAMA sought and received written confirmation from the successful bidder, Cerberus, prior to acceptance of its bid, that no fees were paid or payable to any current or former member of the NAMA Board, NAMA Executive or Board Committee. Cerberus confirmed the position as follows:

"We confirm that no fee, commission or other remuneration or payment is payable to any current or former member of the Board of the National Asset Management Agency (NAMA), any current or former member of the Executive of NAMA or any current or former member of an advisory committee of NAMA in connection with any aspect of our participation in the Project Eagle sales process."

27. Did NAMA change any of its procedures relating to the sale of Project Arrow and other proposed asset disposals following the Project Eagle sale?

RESPONSE:

NAMA plans and executes each loan sale according to the specific characteristics of the portfolio, the target market and any other relevant factor. NAMA's procedures are subject to periodic audit, review and revision to improve where we believe it is appropriate.

28. Please provide details of any communication between NAMA and Mr Frank Cushnahan since Mr Cushnahan stepped down as a member of the NIAC?

RESPONSE:

A copy of all correspondence is set out at **Appendix 3**.

29. Has NAMA received any contact from the US Securities and Exchange Commission or the US Department of Justice?

30. If so, what has been the nature of that contact?

31. Has NAMA received any contact from the National Crime Agency or the PSNI? If so, what has the nature of this contact been?

32. Has NAMA received any contact from the Law Society of Northern Ireland?

33. If so, what has the nature of that contact been?

RESPONSE:

NAMA has not received any contact from the US Securities and Exchange Commission, the US Department of Justice, the PSNI or the Law Society of Northern Ireland.

The NAMA Chairman and CEO met representatives of the National Crime Agency (NCA). At that meeting, the NCA confirmed that its focus was on the buyer side of the Project Eagle loan sale in NI, not the seller side, and that it was seeking NAMA's assistance in understanding the sales process and NAMA's engagement with third parties in NI. NAMA will continue to assist the NCA in this respect.

34. Can NAMA provide full details of all communications, either direct or through a third party, between NAMA and politicians both north and south of the border in relation to the Project Eagle sale?

RESPONSE:

Set out below is an excerpt from evidence provided by the NAMA Chairman to the Dail Committee of Public Accounts on 9 July 2015.

We first became aware of investor interest in purchasing the portfolio after the Minister for Finance, Deputy Michael Noonan, passed to us a letter he had received from the Northern Ireland Minister for Finance and Personnel, Mr. Sammy Wilson, on 24 June 2013. Mr. Wilson enclosed a copy of a letter, of the same date, that he had received from a law firm, Brown Rudnick, in which Brown Rudnick indicated that clients of the company were interested in acquiring the Northern Ireland loan portfolio. In his reply on 25 July 2013, and after his Department had consulted with us, the Minister, Deputy Noonan, pointed out to Mr. Wilson that parties interested in acquiring NAMA loans or assets securing NAMA loans should make direct contact with NAMA. The Minister, Deputy Noonan, also drew attention to NAMA's policy that loan and asset sales should be openly marketed and he furthermore pointed out that NAMA did not favour granting exclusive access to any potential purchaser as that would militate against achieving

optimal value for the assets concerned. I understand that the Department of Finance proposes to circulate copies of the Minister's correspondence with Mr. Wilson.

In September 2013, Brown Rudnick made an unsolicited approach to NAMA and indicated that one of its clients, PIMCO, was interested in acquiring NAMA's Northern Ireland loan portfolio. In its subsequent engagement with NAMA, PIMCO indicated a preference for a closed transaction, which did not involve open marketing of the portfolio. The board agreed that senior NAMA staff should engage further with PIMCO but with a view ultimately to completing an openly marketed loan sale in line with board policy. On 4 December 2013, PIMCO submitted a bid expressed in terms of a price range with the final price to be determined after due diligence. PIMCO indicated that its preference remained that the sale would be a closed transaction.

More generally, the CFP has been provided with a full list and minutes of all meetings between NAMA and the Northern Ireland Executive.

Whilst NAMA proactively engages with public representatives in the Republic of Ireland on the Agency's overall strategy, activities and milestones, there was no engagement in relation to the Project Eagle sale other than the engagement that took place at the PAC and the Oireachtas Finance Committee and through NAMA's input in a small number of Parliamentary Questions (PQs) that the Minister for Finance answered in the Dáil on Project Eagle. All PQs are available on the Oireachtas website, www.oireachtas.ie.

35. *In the NAMA NIAC minutes of 7 October 2013 it states (under heading Project Eagle) that discussion included external members' feedback on the proposed approach to support the Boards consideration of the matter at its meeting on 10 October. Could you outline what was the external members feedback at this meeting was? Was there any papers submitted in relation to this feedback? Can we have copies if so?*

RESPONSE:

As per the NIAC minutes the Chairman briefed the Committee on the approach from PIMCO. The NAMA Chairman outlined that were there to be a sale it would, in accordance with NAMA Board policy, have to be openly marketed. The feedback from the external members included acknowledgement that any sale and the process related to same were ultimately matters for the Board. Specific NIAC feedback is recorded in the minutes of the meeting of 7th October 2013 which have already been circulated to CFP. No papers were submitted to the NAMA Board as the Chairman updated the Board verbally on the NIAC feedback.

36. *How many times has NAMA received bids below the reserve price in relation to the sale of assets?*

RESPONSE:

NAMA's policy is to openly market assets including loan portfolios. When an asset is marketed, each market participant will determine the price it wishes to pay for the asset and submit a bid accordingly. NAMA will decide to accept or reject bids having taken appropriate advice and consideration of the facts at the point such a decision is made.

Project Eagle was sold at a level that achieved NAMA's reserve price.

37. *Has NAMA ever sold assets below the reserve price?*

RESPONSE:

NAMA sales, other than Project Eagle, do not fall within your Committee's remit.

38. *Can they confirm a part of Botanic Inns remains in their portfolio of properties?*

a) *If so, can they release any correspondence around this portfolio?*

RESPONSE:

All enforced properties, that is, properties to which an insolvency practitioner has been appointed, are listed on the NAMA website along with contact details for the appointed receiver or administrator. The link relating to Botanic Inns is:

<https://www.nama.ie/property/?propertytype=it-doesnt-matter&forsale=N&country=Northern+Ireland&county=it-doesnt-matter&townarea=it-doesnt-matter&tccheckbox=on>

You will note that the asset is under the control of the appointed receiver Keenan Corporate Finance (properties@keenanfc.com, (0044) 289 044 7153) who is an agent of the borrower, not NAMA.

39. *Was NAMA aware of any 'MoU' involving Cerberus relating to the sale of Project eagle having been sent to the Office of the First Minister?*

RESPONSE:

NAMA was not aware of any such MOU involving Cerberus.

40. *Please provide full details of any communications between NAMA and Paddy Kearney, David Watters, Lagan Group or Andrew Creighton respectively in relation to the Project Eagle sale or any matter concerning the sale of the NAMA loan portfolio in Northern Ireland.*

RESPONSE:

NAMA's engagement with NI debtors related solely to matters concerning their individual connections. NAMA is precluded from discussing its engagement with

specific debtors. For the avoidance of doubt, there was no engagement with any NI debtor on the wider strategy, management or implementation of the Project Eagle loan sale, which were matters solely for the NAMA Board.

RSM McClure Watters is a member of the NAMA panel of enforcement and insolvency advisers which was established in 2013, following an EU public procurement process.

All NAMA interactions with David Watters and with RSM McClure Watters have been pursuant to the terms and conditions governing this NAMA panel. RSM McClure Watters was paid fees of approximately €60,000 from 2011 onwards arising from the provision of services across a number of receivership appointments from that panel. The details are set out below:

*Table 1: Fees paid to RSM McClure Watters which were **not** in relation to Project Eagle cases*

Accounting Period	Transaction Date	Base Amount €	Description
2014/003	04/03/2014	13,465.69	Independent asset monitor - prior enforcement
2012/006	27/06/2012	3,014.09	Cashflow accounting services
2014/006	10/06/2014	14,667.75	Acting as independent monitor of the assets

Table 2: Fees paid to RSM McClure Watters in relation to Project Eagle Insolvency cases

Accounting Period	Transaction Date	Base Amount €	Description
2015/004	25/03/2015	852.47	Enforcement & insolvency services
2015/004	25/03/2015	4,175.72	Enforcement & insolvency

			services
2015/004	25/03/2015	11,915.30	Enforcement & insolvency services
2015/004	25/03/2015	4,130.35	Enforcement & insolvency services
2015/004	25/03/2015	8,086.07	Enforcement & insolvency services

41. What were the initial and final reserve prices and the receipt for the Project Eagle portfolio?

RESPONSE:

This information was provided by the NAMA CEO, Mr Brendan McDonagh, in his evidence to the Dáil Public Accounts Committee on 9 July 2015. NAMA provided the CFP with a transcript of this meeting.

Mr McDonagh outlined that in January 2014 the NAMA Board approved the sale of the Northern Ireland portfolio by reference to a minimum sale price of £1.3 billion which equated to the projected cashflows from this portfolio over a medium-term horizon. The minimum sale price was adjusted to £1.24 billion by early April 2014 to reflect asset disposals which had taken place in the period between the loan sale launch in January 2014 and closing of the loan sale in June 2014. The associated cash proceeds from these interim sales were received by NAMA.

NAMA made it clear to all potential bidders that it would not agree to a sale for less than its adjusted reserve price and that was the price ultimately achieved for the portfolio.

42. What was the nature and the amount of investment by NAMA in relation to its Northern Ireland portfolio?

RESPONSE:

NAMA advanced close to €100m in new funding to its debtors in respect of NI property assets between 2010 and June 2014. This included funding to preserve and to enhance the value of NI assets securing NAMA's loans. As stated publicly by NAMA in NI on a number of occasions (included in our earlier submission to the CFP), NAMA had actively sought funding proposals from NI-based debtors but very few proposals

were ever submitted to NAMA in response.

Appendices

- A copy of the Minister's proposed external appointees to the NIAC (**Appendix 1**).
- A copy of a 'letter of interest' from the principal private secretary to the NI First Minister relating to the proposed management of the Northern Ireland portfolio (**Appendix 2**).
- A copy of all correspondences between NAMA and Mr Frank Cushnahan since Mr Cushnahan stepped down as a member of the NIAC in November 2013 (**Appendix 3**).

Appendix 1

- A copy of the Minister's proposed external appointees to the NIAC.

From: Carrigan, Aidan [REDACTED]
To: Frank Daly
Cc: Brendan McDonagh; Nolan, Ann [REDACTED]
Sent: Wed Apr 21 15:16:36 2010
Subject: Northern Ireland Committee

Mr Daly

I wish to advise that the Minister would be agreeable to the appointment by the NAMA Board of Frank Cushnahan and Brian Rowntree as the external members of the NAMA Northern Ireland committee. Their contact details are provided below.

Aidan Carrigan

Frank Cushnahan

[REDACTED]

Mobile [REDACTED]

Email - [REDACTED]

Brian Rowntree

[REDACTED]

Tel: [REDACTED]

Mobile [REDACTED]

Email - [REDACTED]

Attention:

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Tabhair aire:

Tá an r-phost seo faoi phribhléid agus faoi rún. Mura tusa an duine a bhí beartaithe leis an teachtaireacht seo a fháil, scrios é le do thoil agus cuir an seoltóir ar an eolas. Is leis an údar amháin aon dearcaí nó tuairimí a léirítear.

Scanadh an r-phost seo le Sophos agus deimhníodh go raibh sé saor ó víoras leis an bpatrúnchomhad atá in úsáid faoi láthair. Ní féidir a ráthú leis seo áfach nach bhfuil ábhar mailíseach ann.

Appendix 2

- A copy of a 'letter of interest' from the principal private secretary to the NI First Minister relating to the proposed management of the Northern Ireland portfolio.

Brendan McDonagh

From: Ronnie Hanna
Sent: 17 January 2014 17:11
To: Brendan McDonagh; Frank Daly
Subject: FW: MOU
Attachments: Confidential Memorandum.docx

Frank/Brendan

FYI

Regards

Ronnie

From: Gardner, Jeremy [[mailto:](#) 
Sent: 17 January 2014 16:29
To: Ronnie Hanna
Subject: MOU

Ronnie I have been asked to forward you the attached MOU.

Thanks

Jeremy Gardner
Principal Private Secretary - First Minister
Stormont Castle
Belfast
BT4 3TT



CONFIDENTIAL MEMORANDUM

Any further third party ("**Third Party**") should be prepared to enter into a legally binding memorandum of understanding with the Northern Irish Government (an "**MoU**") confirming certain fundamental conditions to how such Third Party would deal with and manage the Debt Portfolio.

These conditions would be:

1. Firstly, upon acquisition of the Debt Portfolio, that the Third Party would release all corporate guarantees and personal guarantees and security (and any other similar "secondary security") of borrowers and any related parties (such as ultimate shareholders, group companies) for nil payment. Only the assets which are the primary and principal subject of the underlying debt should be retained as security;
2. Secondly, that any Third Party's fund structure would satisfy the following requirements:
 - (a) that it has sufficient existing cash reserves to ensure that the acquisition was funded fully from such existing cash reserves (i.e. any offer is not "subject to funding");
 - (b) that it's fund is structured in such a way that it is of a long term nature and that it would have sufficient further cash reserves to apply a longer term "hold and investment" strategy by utilising the long term rental streams of the assets and/or increasing value of the assets (as opposed to short term disposals or which would have a significant detriment effect on the Northern Irish market); and
 - (c) accordingly there should not be a significant disposal strategy in the shorter term.

Meanings as to these terms would require further discussion in due course.

3. Thirdly (and in connection with 2 above), the Third Party must commit to investing further significant funds (and show it has the ability to do so) for the development/improvement of the current underlying assets within the Debt Portfolio short to mid-term where viable.
4. Fourthly, the existing Northern Irish borrowers will be allowed to continue with the day to day management of the assets. Such borrowers would then be remunerated and incentivised on a proper commercial basis by way of management fees and profit shares/equity participation (following restructuring of the existing debt structures and levels). In the same vein borrowers should also be afforded the ability to be able to "re-purchase" some or all of their portfolios in the longer term subject to attaining proper market value levels.
5. Fifthly, the Third Party should commit in the MoU to utilise Northern Irish supply chains (construction, professional services and non-professional services for example) at all times on a preferred basis in respect any underlying assets within the Debt Portfolio whether situated in Northern Ireland, Great Britain or further afield.
6. Sixthly, the Third Party should be prepared to commit to having a permanent management base in Northern Ireland (populated with experienced professionals with track records of working in Northern Ireland) through which the management, administration and dealings with borrowers within the Debt Portfolio, will be undertaken. The expectation would be that a significant management presence is situated in Northern Ireland physically and not just be a "brass plate" exercise.

Appendix 3

- A copy of all correspondences between NAMA and Mr Frank Cushnahan since Mr Cushnahan stepped down as a member of the NIAC in November 2013.



Gníomhaireacht Náisiúnta um Bhainistíocht Sócmhainní
National Asset Management Agency

Mr Frank Cushnahan



19th November 2015

Dear Mr. Cushnahan,

I am writing to you in relation to your membership of NAMA's Northern Ireland Advisory Committee (NIAC) from 16th April 2010 to 7th November 2013.

During the course of that membership, you furnished me a number of annual statements of interests in my capacity as the designated officer of NAMA to receive such statements, pursuant to section 17 of the Ethics in Public Office Act, 1995. Section 11 of the Standards in Public Office Act, 2001 permits me, as the person to whom these statements were furnished, to request you to provide me with information relating to these statements or any matter arising in connection with them.

I have come to understand that you have confirmed that you held shareholdings in the Graham Group of companies. These companies were associated with NAMA. In this regard, I would ask you to provide me with the following information regarding your shareholding in the Graham Group of companies:

- a. Number of shares held
- b. Value of those shares
- c. Reason why the shares were not disclosed in any annual statement of interests or at any NIAC meeting.

I would also invite you to comment on the evidence of the NI First Minister, Mr. Peter Robinson to the NI Committee on Finance and Personnel, where it was stated that you, Mr



Robinson and Mr Ian Coulter met with PIMCO in May 2013 (at a time when you were still a member of NIAC) to discuss the sale of NAMA's Northern Ireland loan portfolio and Mr Robinson's assumption that the meeting had been organised by either you or Mr Coulter or both of you.

I would also invite you to provide details of any other meetings you had with PIMCO or other parties relating to the possible sale of NAMA's NI loan portfolio and details of your relationship with PIMCO or any other bidder in this respect.

Finally, I would invite you to comment on how you determined that no disclosure was required in respect of these matters under section 30 of the National Asset Management Agency Act, 2009 and section 17 of the Ethics in Public Office Act 1995 (relevant extracts of which are attached in the Appendix).

Yours sincerely,

Frank Daly

Chairman



Appendix

Legislation Extracts

National Asset Management Agency Act 2009

Disclosure of interests.

30.— (1) If a member of the Board has a pecuniary interest or other beneficial interest in, and material to, a matter that falls to be considered by the Board—

- (a) he or she shall disclose to the other members of the Board the nature of his or her interest in advance of any consideration of the matter,
- (b) he or she shall not influence nor seek to influence a decision to be made in relation to the matter,
- (c) he or she shall take no part in any consideration of the matter,
- (d) he or she shall absent himself or herself from the meeting or that part of the meeting during which the matter is discussed, and
- (e) he or she shall not vote or otherwise act on a decision relating to the matter.

(2) If a member discloses an interest pursuant to *subsection (1)*, the disclosure shall be recorded in the minutes of the meeting of the Board or otherwise duly recorded. The Board may, at its discretion, refer to the disclosure in NAMA's quarterly report.

(3) If a member of the Board fails to disclose an interest pursuant to *subsection (1)*, and with that member present the Board makes a decision on the matter, a contract entered into by NAMA in consequence of the decision is not, by reason only of that fact, invalid or unenforceable.

(4) If a member of the Board fails to disclose an interest pursuant to *subsection (1)*, and with that member present the Board makes a decision on the matter, the decision is not invalid if the Board subsequently reconsiders the matter without that member present and confirms the decision. If the Board does so, the decision shall be taken to have always been valid.



(5) If at a meeting of the Board a question arises as to whether or not a course of conduct, if pursued by a Board member, would constitute a failure by him or her to comply with *subsection (1)*, the Chairperson or member of the Board presiding over the meeting may determine the question. The Chairperson's or presiding member's decision is final. If such a question arises in relation to the Chairperson or person presiding over a meeting, he or she shall retire from the chair and the question shall be determined by majority vote of the remaining Board members. In either case particulars of the determination shall be recorded in the minutes of the meeting.

(6) If the Minister is satisfied that a member of the Board has contravened *subsection (1)*, the Minister may, if he or she thinks fit, remove that member from office.

(7) The Board shall issue guidelines as to what constitutes an interest for the purposes of this section having regard to the definitions in the Ethics in Public Office Act 1995.

Application of section 30 to committees

33 (7) *Section 30* applies in relation to a member of a committee established under *subsection (1)* who is not a member of the Board. For the purposes of that application—

- (a) references to members of the Board are to be construed as references to members of the committee,
- (b) references to the Board are to be construed as references to the committee, and
- (c) guidelines made for the purposes of *section 30 (7)* apply with the modifications set out in *paragraphs (a)* and *(b)*.

Ethics in Public Office Act 1995

Designated directorships

17.—(1) A person who holds or held a designated directorship of a public body specified in *subparagraphs (8) to (12)*, or standing prescribed under *subparagraph (13)*, of *paragraph 1* of the First Schedule —

- (a) shall, subject to *section 20 (3)*, in each year during any part of which he or she holds or held the directorship, prepare and furnish to the



Commission and to such officer of the body as may be determined by the Minister a statement in writing of—

- (i) the interests of the person, and
- (ii) the interests of which he or she has actual knowledge of his or her spouse or a child of the person or of his or her spouse,

during the appropriate period specified in *section 20 (1)* which could materially influence the person in or in relation to the performance of the functions of the directorship by reason of the fact that such performance could so affect those interests as to confer on or withhold from the person or the spouse or child a substantial benefit, and

- (b) in any case where such a function, or a function of any other office or position held by the person in that public body, falls to be performed and he or she has actual knowledge that he or she or a connected person has a material interest in a matter to which the function relates—

- (i) shall, as soon as may be, prepare and furnish to the other directors of the body a statement in writing of those facts,
- (ii) shall not perform the function unless there are compelling reasons requiring him or her to do so, and
- (iii) shall, if he or she proposes to perform the function, prepare and furnish to the other directors of the body and to the Commission, before or, if that is not reasonably practicable, as soon as may be after such performance, a statement in writing of the compelling reasons aforesaid.

- (2) There shall be deemed to be included in the terms on which a person holds a designated directorship referred to in *subsection (1)* a term that the person shall comply with that subsection.

Standards in Public Office Act 2001

Provisions in relation to statements under sections 17 and 18 of Principal Act.

11.—An individual to whom a statement in writing is furnished pursuant to section 17 or 18 of the Principal Act—



- (a) may request the person who so furnished it (“the furnisher”) to provide him or her with information in relation to the statement or any matter arising in connection with it,
- (b) if he or she considers that the furnisher may have contravened Part IV, he or she may make a complaint in writing in relation to the matter to the Commission—
 - (i) in case the furnisher is a civil servant (within the meaning of the Civil Service Regulation Act, 1956), under paragraph (d) of section 22(4) of the Principal Act as if the individual was the appropriate authority in relation to the civil servant (within the meaning aforesaid) and the said paragraph (d) and any other relevant provision of the Principal Act shall apply accordingly as if the individual was such an authority with any necessary modifications,
 - (ii) in any other case, under paragraph (c) of the said section 22(4) as if the individual was the public body concerned and the said paragraph (c) and any other relevant provision of the Principal Act shall apply accordingly as if the individual was such a body with any necessary modifications, and
- (c) if the Commission carries out an investigation under section 23 of the Principal Act into the matter, shall furnish to the public body concerned a copy of the report in writing of the Commission of the result of the investigation a copy of which is furnished to the individual.

FRANK CUSHNAHAN

Tom Ward
Secretary to the Board
National Asset Management Agency
Treasury Building,
Grand Canal Street
DUBLIN 2
Ireland



26 November 2013

Dear Tom

RETIREMENT FROM THE NORTHERN IRELAND ADVISORY COMMITTEE

I am in receipt of your letter of 14 November 2013 in response to my formal resignation of 7th November 2013 as a member of the NAMA Northern Ireland Advisory Committee.

Your comments on "Confidentiality" are duly noted and with regard to your observations as at '2 - Committee Documentation' I am returning herewith as requested the enclosed letter confirming that all documentation has been securely disposed of.

Kind Regards



Frank Cushnahan





Gníomhaireacht Náisiúnta um Bhainistíocht Sócmhainní
National Asset Management Agency

Confirmation of Secure Documentation Disposal

25 November 2013

Tom Ward
Secretary to the Board
National Asset Management Agency
Treasury Building
Grand Canal Street
Dublin 2

Dear Secretary,

I confirm that I have returned to you/securely disposed of all documentation obtained while a member of the Northern Ireland Advisory Committee of NAMA. This includes all information received on my behalf by my designated assistants at Tughans. I confirm that the documentation was returned to you/securely disposed of in a manner as to fully protect the confidentiality of its contents.

Regards,

Frank Cushnahan

Date: