

**Opening Statement by  
Mr. Frank Daly, Chairman of NAMA,  
to the Public Accounts Committee  
Thursday, 24 November 2016**

Chairman and Deputies,

We welcome this opportunity to discuss with you again the C&AG's Special Report into the sale of Project Eagle. In his opening comments, Brendan McDonagh has addressed the major issue of the price achieved for the transaction. In my comments, I will focus on a number of other key issues.

***Context***

There has been a lot of discussion of the detail of the sales process over the last few months but it is important not to lose sight of the overall context in which Project Eagle sale took place. In January 2014 when the Board decided in principle to sell the Northern Ireland debtor portfolio, NAMA had almost €23 billion in government-guaranteed senior debt outstanding. Ireland had just emerged from the Troika Programme and there was significant uncertainty about the sustainability of the emerging economic, financial and fiscal recovery as the NTMA sought to raise funding in the bond markets to finance the Exchequer. As has been discussed here on a number of occasions, there was pressure to ensure that NAMA's senior debt was repaid as quickly as possible, not least to enhance the financial position of the major Irish banks and to reduce the contingent liability position of the Irish State.

Up to that point, NAMA had redeemed €7.5 billion of its senior debt. An opportunity emerged in Autumn 2013 - in the form of an offer from PIMCO to buy the Northern Ireland debtor portfolio - which would have enabled NAMA not only to lock down the value of one of the less attractive

elements of its overall loan portfolio but also to generate cash proceeds equivalent to one-fifth of the total senior debt that had been redeemed over the previous four years. It would have been extraordinary, in the circumstances, if NAMA had not given the offer the most serious consideration as it was obliged to do under sections 10 and 18 of the NAMA Act.

Three years later, the €22.6 billion contingent liability has been reduced to €3.6 billion and we hope to reduce this further before the end of the year. It is important that the Committee – and indeed the wider taxpaying community - should appreciate that the €19 billion reduction in the State's contingent liability could not have been achieved if NAMA had been unwilling or incapable of operating on a commercial basis. Operating on a commercial basis means that you take advantage of a good opportunity now to sell assets unless you have reason to expect that a better opportunity will come along in two, three or five years' time.

NAMA proceeds cautiously but a commercial mandate means that you can never allow caution to lapse into decision paralysis. To achieve that scale of deleveraging has required thousands of commercial decisions, none of which could have been made with any degree of certainty as to how prices would evolve in the future. Decisions can only be based on information available at a particular point in time.

Would we have realised more if we had delayed all our sales by one year? Perhaps. Would we have realised more if we had delayed all our sales by two years? Perhaps. Would we have realised more if we had delayed all our sales by five years? Perhaps. We will never know and neither will anyone else.

What we do know is that a combination of developments, including a recovering Irish property market and an influx of international investors into Ireland, provided us with an opportunity to deleverage our risk by selling loans and property collateral and to thereby accelerate the redemption of our senior debt. As of now, 88% of the senior debt has been repaid and we expect that all of the €30.2 billion of guaranteed debt will be repaid by 2018.

If we were operating to our original 2020 horizon to repay all the senior debt rather than to a 2018 horizon, would we have realised more cash from our loans? We will never know and I am not sure that there is much point in speculating. What we sought to do, given the huge debt that we had to deal with, was to reduce that debt on an accelerated but phased basis as market opportunities allowed.

We are now in the fortunate position of dealing with outstanding senior debt of €3.6 billion, rather than the €22.6 billion that was there at end-2013, and, bearing in mind the significant uncertainties ahead, that is a good position for the Irish State. There is market speculation that the likely impact of the policies signalled by Mr Trump is that interest rates will rise faster than had been expected up to now. That is likely to reduce the attractiveness of property assets to international investors. The flow of international investor funds into property over recent years has been partly due to the relatively high yields available compared to cash and bond yields. A narrowing of that yield differential will likely reduce investor interest in property.

In that context, the big question that a commercially informed market analysis would ask is: ***“Did NAMA get its timing broadly right in terms of reducing this huge contingent exposure of Irish taxpayers to property and has Ireland’s cost of funding benefitted correspondingly in the bond markets?”*** I believe that we did and that has been reflected in the sovereign’s funding costs.

## ***Britain***

Contrary to suggestions made at earlier hearings, we did not claim that we foresaw the outcome of the Brexit referendum. What we did was to take advantage of favourable market conditions in Britain to reduce our risk exposure to that market on a prudent and commercially sensible basis.

According to official statements, the UK economy, after the Brexit vote, appears to be headed for a period of lower growth and reduced investment. News reports last week indicated that land values in central London had fallen by over 10% in the last year and that house prices are 11% below their 2014 peak. Our own analysis suggests that the fall in UK prices may be much higher than official estimates. Analysts are forecasting that prices will fall further over the coming years, partly in response to a weakening economy and to the likelihood that companies will move staff overseas in response to Brexit.

Nobody is suggesting that we saw all this coming; what we are entitled to claim is that our strategy since 2010 has been consistent in acting prudently and commercially and in taking advantage of good market conditions when they prevailed. For that reason, we do not now have to deal with the consequences of a weakening market. Our debtors now have only about £800m

in assets located in Britain; at one stage in 2011, we had an exposure in excess of £12 billion to the British and Northern Ireland markets.

### ***PIMCO withdrawal***

I wish to turn now to the issue of PIMCO's withdrawal from the sales process but before doing so I wish to address PIMCO's recent letter to the Committee.

The PIMCO letter to this Committee dated 8 November 2016 sets out a number of important facts, none of which were disclosed by PIMCO to NAMA in March 2014:

- The first fact which was not disclosed was that PIMCO was approached by Brown Rudnick and introduced to Mr Cushnahan in April 2013.
- The second fact not disclosed was that Mr Cushnahan was one of the organisers of a meeting in May 2013 at which PIMCO met the NI First Minister and the NI Minister for Finance and Personnel.
- The third fact not disclosed was that PIMCO was approached by Brown Rudnick in June 2013 about a success fee, one third of which was to be paid to Mr Cushnahan.
- The fourth fact not disclosed was that PIMCO had sought confirmations from Brown Rudnick in 2013 as to whether NAMA had been informed of, and had approved, the involvement of Mr Cushnahan in PIMCO's proposed transaction.

PIMCO's letter to the Committee is materially inaccurate because it states that PIMCO provided details of these matters to NAMA in a series of calls in March 2014.

PIMCO did not provide these details to NAMA in March 2014 or indeed at the time of its indicative offers in September or December 2013.

At no stage during NAMA's extensive engagement with PIMCO from September 2013 until 10 March 2014 did PIMCO inform NAMA that Mr Cushnahan was a potential beneficiary of the success fee arrangement proposed to PIMCO by Brown Rudnick.

Only PIMCO can explain why they did not tell us about these details and we have asked PIMCO why none of these details were disclosed to NAMA at that time.

I wish to outline again our state of knowledge at the time of the various calls with PIMCO in March 2014:

1. PIMCO first informed NAMA during the conference call on 10 March 2014 of a proposed fee arrangement involving Brown Rudnick, Tughans and Mr Cushnahan. PIMCO asked if NAMA was aware that Mr Cushnahan was potentially a beneficiary of this arrangement. NAMA confirmed that it was **not** so aware. For the avoidance of any doubt, NAMA only became aware on 14 October 2015, through evidence given by the NI First Minister, that Mr Cushnahan had been involved with PIMCO in relation to the potential purchase of NI debtor loans as early as May 2013.

The NAMA Board, at a meeting on 11 March 2014, considered that the proposed fee arrangement, in so far as it included Mr Cushnahan, represented a significant issue for the Board. The Board requested that this message be conveyed to PIMCO and this was done in a conference call at 11.00 a.m. on that day. PIMCO was asked to reflect on the matter in view of the Board's view of the significance of the issue.

2. Later on 11 March 2014, during a conference call at 5.00 p.m., PIMCO indicated that, having reflected on the matter, it was willing to withdraw and, on a call on 12 March 2014, PIMCO confirmed its withdrawal stating that it believed it did not have any choice other than to withdraw gracefully.

In my view, the Board, once it was informed of the Cushnahan matter, knew it was inevitable that PIMCO would have to leave the process and the Board provided PIMCO with the space to reflect and withdraw.

I am in no doubt that had PIMCO had made an effort to remain in the process, we would have had to formally remove them – but that did not arise, as by the time of the Board meeting on 13 March 2014, PIMCO had signalled their withdrawal from the process. In the circumstances, we were pleased that they did.

I don't believe that we have mischaracterised PIMCO's exit from the process but even if we did, in our view, nothing turns on it.

At its meetings on 11 and 13 March 2014, the Board discussed the PIMCO disclosure of 10 March 2014 and whether PIMCO did in fact wish to remain in the process.

On 10 March 2014, PIMCO asked if NAMA was aware of the Mr Cushnahan fee and indicated that, if it was an issue for NAMA, PIMCO would have concerns about continuing to deal with Brown Rudnick, Tughans and Mr Cushnahan. The only plausible reason for bringing this matter to NAMA's attention was that PIMCO wanted to receive confirmation from NAMA either that it knew about it or that it was not an issue for NAMA. Presumably if NAMA had indicated that it had no difficulty with the proposed arrangement, it is likely that PIMCO would, at the very least, have pursued the matter further with the three potential beneficiaries.

The Board's reaction to the proposed arrangement – and you have heard it from various individual Board members over recent weeks – was unequivocal: the Board decided on 11 March 2014 that PIMCO would have to go. I reiterate what I stated to this Committee on 9 July 2015: the Board was of the view that if PIMCO did not withdraw, NAMA could not permit it to remain in the process. In other words, if PIMCO had not withdrawn, the Board was minded to remove them and would have made a formal decision to that effect.

When it was made clear to PIMCO that the proposed arrangement involving Mr Cushnahan was indeed a significant issue for NAMA, the only residual question for them was the choreography of their withdrawal from the process. From the Board's perspective, it was preferable that PIMCO should leave the process voluntarily rather than that we should have to make a decision to remove them. The manner of PIMCO's exit suited both sides.

Subsequently, we informed Lazard of PIMCO's withdrawal but did not inform them of the reasons for it. Our key concern at that point was whether PIMCO's withdrawal was likely to have a serious impact on the level of competitive tension in the process. Lazard advised us that there was sufficient competitive tension in the process with the remaining two bidders. In retrospect, I accept that it would have been better if Lazard had been aware of the real reason for PIMCO's exit but we did not regard it as a major commercial issue at the time - given that Lazard considered the post-PIMCO competitive tension to be sufficient - and I do not believe that the information would have materially changed their advice in relation to the residual competitive tension in the process. As we have repeatedly stated, our primary concern was to ensure that Mr Cushnahan was not involved in a bid and PIMCO's withdrawal had the effect of achieving that outcome.

## ***'Other options'***

One issue which has received some attention is the reference in the note of the second call of 11 March 2014 (5.00 p.m.) to a query from the Head of Asset Recovery about 'other options' and his query as to whether the deal could be "shaped differently for the arrangement fee to come out". Taking these references in isolation, there has been an attempt to suggest that the Head of Asset Recovery was seeking to persuade PIMCO to remain in the process. This was not at all the case.

In raising these queries, the Head of Asset Recovery was following up on the question that PIMCO had raised during the call on 10 March 2014. During that call,

*TR [Tom Rice] said that if it was an issue for NAMA, PIMCO would have concerns with continuing to deal with the three counterparties and would have to consider whether the 'business' could proceed without the counterparties involved.*

In order to establish the outcome of PIMCO's consideration of whether the 'business' could proceed without the involvement of the counterparties, the Head of Asset Recovery asked about it on the second call on 11 March 2014.

In their letter of 8 November 2016, PIMCO make reference to NAMA's question on 11 March 2014 but for some reason fail to mention that the 'other options' were originally canvassed by them on 10 March 2014. The question from the Head of Asset Recovery was only to clarify, as a matter of fact, what PIMCO's decision was in relation to their consideration of whether the 'business' could proceed as outlined by PIMCO on 10 March 2014.

## ***NAMA response to the report's conclusions***

There have been comments by a number of Committee members to the effect that NAMA has been overly robust in its response to the C&AG report. I admit that we have been robust and I think we have been subject to very robust questioning at this Committee.

The reason for our robustness is that we think that there is unfair commentary in the C&AG report and that report has questioned our competence and has implied that we failed in our obligations to taxpayers under Section 10 of the NAMA Act. Its key finding implies that members

of the Board and of the Executive who have extensive commercial experience and expertise set a minimum price for this portfolio which had the effect of locking in a “probable loss” of £190m on its sale. This loss, according to the C&AG’s report, could have been avoided if NAMA had held on to the loans and worked them out over the period to 2020.

Brendan McDonagh in his statement points out the numerous flaws in the hypothesis grounding the report’s conclusion of probable loss. He draws attention again to the fact that the report’s reliance on a 5.5% discount rate appears to be based on an incorrect interpretation of a NAMA Board decision of June 2013.

The report also concluded that we authorised a sales process which may have failed to identify a market investor with the willingness and capacity to pay more than £1.322 billion for this portfolio. In reaching this conclusion, the report disregards the compelling evidence that the nine firms which were admitted to the sales process accounted for 88% (by par value) of all European commercial real estate loan sales of large portfolios (in excess of €1 billion) transacted over the period from 2013 to 2015.

The report took no account of Lazard’s opinion that *“there is no evidence that any other investors existed at that time (Q1 2014) who were as credible and as well qualified such that it appeared that they were in a position to pay a higher price to NAMA than that secured from Cerberus”*.

The report took no account of Lazard’s opinion that *“the process was open to the most qualified and credible potential counterparties. There were fewer participants in this process than in some other transactions because there were fewer investors that were sufficiently qualified and credible.”*

I would suggest that the views of NAMA, Lazard and the Department of Finance, all of which have loan sales experience and expertise, should be treated as having strong evidential value in any review of a major loan sale transaction, particularly if no market-based counter evidence is offered.

We had serious concerns with the key contentions of the report and yes, our response has been robust – but appropriately so in my view. In the circumstances, how else could we have been expected to respond? We are entitled to defend our position. I hope that it is not being suggested that NAMA is obliged to accept the conclusions of the report regardless of its own



views, not to mention the evidence submitted by us and Lazard which we think casts serious doubt over those conclusions.

We have always tried to run our business to the highest professional and commercial standards over the past seven years and I do not accept the implication of this report that, on this one occasion, we – Board and Executive - suffered a major collective lapse in managing our responsibilities which resulted in a probable loss of £190m of taxpayers' money.

My view then and now is that the Eagle deal was the best available at the time and nobody has come forward with any credible evidence to suggest that a better deal might have been available then or since. I note that Mr Patrick Long of Lazard stated unequivocally to this Committee on Tuesday that Cerberus paid the best price that was available in the market. Our view in 2014 was that the sale of Project Eagle was a good deal for Irish taxpayers and events since then have only reinforced that view.

## ***Documentation***

We have listened carefully to all of the evidence which has been presented to this Committee over the past two months. If there is one message above all others that has come home to me based on that evidence, it is the fact that we did not document in greater detail and with greater clarity the rationale for key Board decisions, particularly those taken in December 2013 and January 2014. Those decisions were taken after prolonged debate and discussion by the Board.

Given that Board members were very experienced in financial, property, banking and accounting matters, much of the discussion revolved around the very topics that are now the focus of the Committee's attention. These included the issue of the appropriate discount rate that the market would apply to a portfolio such as this, our acceptance of the fact that our carrying value was in excess of the market's valuation of the portfolio and the probability that we would have to take substantial additional impairment on the portfolio in 2014 and possibly later, regardless of whichever strategy was adopted.

As with all Board minutes, the minutes of those particular Board meetings record the decisions ultimately taken by the Board and do not provide a detailed account of the various considerations that were reviewed and discussed as part of the decision-making process. If, at that stage in December 2013 and January 2014, we had any reason to expect that the Board

papers and the Board minutes relating to Project Eagle were going to be subjected to the intensive review that is now taking place, I have no doubt that the Board would have been more than willing to set out a comprehensive and detailed rationale for its decisions. If we had done so, I have little doubt that many of the issues which have attracted scrutiny from Committee members since September would have been much clearer to them and that, as a result, we would all have spent less time now discussing them. That is a lesson that we have learned from this experience: nowadays, Board decisions and the rationale for them are recorded in much greater detail than was the case three years ago.

### ***Management of conflicts of interest***

The report concludes that Mr Cushnahan's potential conflicts of interest could not be managed by withholding of debtor-specific information and that NAMA should formally have considered whether his engagement in discussion of its Northern Ireland strategy was consistent with his involvement as a financial adviser to various Northern Ireland debtors.

Mr Cushnahan was a political appointee intended to represent the views of Northern Ireland and I think that we managed the potential conflicts of interest appropriately within the statutory framework.

The key question to ask in a conflict of interest situation is what is the function of the designated director? It is only if the interest is material to the performance of a function that an actual conflict will arise. In the case of Mr Cushnahan, his function was to sit on a committee which offered advice to NAMA about Northern Ireland. He had no function in the formulation of NAMA strategy or the sale of Project Eagle or any other loan portfolio and he had no function in relation to the management of any debtors or loans or assets. Should he have disclosed his involvement with PIMCO in 2013? Yes, I think he should have but that alone does not justify the conclusion in the report that the potential conflicts were not appropriately managed by NAMA.

### ***Conclusion***

This is the fourth occasion that Brendan McDonagh and I have appeared before this Committee to answer questions on Project Eagle and the second occasion since the C&AG published his report. In addition, current Board members, former Board members, members of the Executive and the former CFO have also appeared before this Committee since the C&AG published its

report. At every one of these appearances, my colleagues and I have answered the Committee's questions truthfully and honestly.

We have no difficulty with the Committee scrutinising our work and questioning our commercial decisions. It is right and proper that the Committee does so. We are accountable to this Committee and we deliver our testimony to this Committee in good faith.

I again wish to thank the Committee for agreeing to hear at first hand the perspective of individual Board members, current and former, an opportunity not afforded to them during the Section 9 review, and I trust that the Committee's review will take into account the totality of the evidence that has been placed before it.

My colleagues and I have devoted a huge amount of time and resources in appearing before you, in answering your questions honestly, and in responding to your written requests for information. Since the C&AG published his report, NAMA has supplied 1,500 pages of responses and records to the Committee in addition to the opening statements which have been made by Board members and NAMA executives. We take the work of this Committee very seriously and we hope that the Committee's further deliberations and final report will be fair, impartial and evidence-based.

Thank you.