

JOINT OIREACHTAS COMMITTEE
ON FINANCE, PUBLIC EXPENDITURE AND REFORM

Opening Address by NAMA Chairman, Mr. Frank Daly

24th October 2012

Introduction

Chairman, I also congratulate you on your appointment and I thank the Committee for the invitation here today. I fully endorse the CEO's concluding comments in relation to the anger felt by the NAMA Board and staff arising from the activities of an ex-employee of the Agency, Mr. Enda Farrell. I am conscious that, as a result of ongoing investigations, I am restricted in how I can discuss these matters but I do wish to try to be helpful to the Committee in relation to this issue and I'd like to make the following remarks.

We became aware in early August of this year of the fact that Mr. Farrell had acquired a property belonging to a NAMA debtor and that it was being suggested that this transaction had been financially advantageous to him and had been approved within the Agency.

On hearing of this allegation, we immediately requested our internal auditors, Deloitte, to review the events surrounding this transaction and to ascertain whether Mr. Farrell had breached protocols and to look at how the matter had been dealt with internally.

The Deloitte review quickly established a number of important facts.

1. That at no time had anyone within the Agency authorised Mr. Farrell to purchase the property in question.

2. That Mr. Farrell himself had not enjoyed any financial benefit from the transaction as the price paid was in line with an independent valuation given for the property to the vendor. Deloitte conclude on the basis of this that the price paid was in line with market value so there is no question of a sale at undervalue.
3. That not only was the transaction not approved within NAMA but that Mr. Farrell had failed to disclose the transaction to the Agency at any time either prior to or following the transaction, as he was required to do.
4. As part of their review, we asked Deloitte to carry out a forensic search of Mr Farrell's email account and that search uncovered evidence that confidential data may have been taken by him without authorisation from NAMA.

As a result, NAMA and the NTMA instituted High Court proceedings against Mr. Farrell and his wife seeking a number of injunctive orders including an Anton Piller order directing the defendants to deliver up all documents, communications and materials which contain confidential information relating to NAMA. On 3 September 2012, the High Court granted the orders sought and ordered that the proceedings be heard *in camera* until further order of the Court.

When, at NAMA's request, that *in camera* order was lifted on 12 September, and now armed with evidence that a criminal offence may have occurred, NAMA informed the Gardaí on the same date of their concerns and findings, referencing Section 202 of the NAMA Act. We also reported the matter to the Data Protection Commissioner. The Agency is, of course, cooperating fully with the Gardaí and with the Data Protection Commissioner on this matter. The proceedings are before the High Court again on 5th November.

Chairman, I have no doubt that members of this Committee have a legitimate interest in the findings and recommendations made by Deloitte and in the measures that we are taking as a consequence. The first general point to make is that the Board has accepted all of the recommendations in the Deloitte Report. Based on legal advice, we are precluded from publishing the report in full. However, I am committing today that we will publish details of the report just as soon as we receive legal clearance to do so.

Today, I would like to outline some of the key issues raised and how we propose to address them.

Deloitte found that there had been no financial benefit to Mr. Farrell arising from this transaction. At the time of that transaction in mid-2011, there was no requirement that all properties controlled by NAMA debtors and receivers should be openly marketed but, notwithstanding this, the practice in the vast majority of cases was to ensure that properties were marketed openly. Since October 2011, NAMA policy has been that all properties should be openly marketed, recognising that in certain limited circumstances this may not be practicable.

One of the Deloitte recommendations was that the Board should consider revising the existing Personal Account Transaction policy. The position at the time of the transaction in 2011 was that NAMA staff were prohibited from making direct investment in commercial property (regardless of the identity of the vendor) and, while they could acquire or sell residential property, they should not engage in investment activity which might in any way endanger or adversely affect the business or reputation of NAMA or which might conflict with or interfere with the performance of their duties on behalf of NAMA.

Accepting the recommendation made by Deloitte, the Board has introduced a revised Personal Account Transaction policy for NAMA staff. This requires that pre-approval be sought for the purchase of any property. The property is then checked against NAMA's property register. If NAMA has an interest in the property and it is commercial property, the transaction is prohibited. If the property is residential and intended for use as a principal private residence, pre-approval to purchase must be obtained and it must also be shown that the property has been openly marketed. Accordingly, where NAMA has an interest in a property, the only type of purchase that may be approved is that of a residential property for use as a principal private residence. To reiterate, there is an outright prohibition on the purchase of NAMA-related property by NAMA staff except in the case of a property intended for use as a principal private residence and, in that case, pre-approval is required and the property concerned must have been openly marketed.

Furthermore, NAMA is introducing a general requirement that all purchasers of property in which NAMA has an interest declare whether he or she or a person closely connected with them is a NAMA officer. The Board is also of the view that that the same policy should apply to staff of participating institutions in respect of assets managed by those institutions where the staff in question have access to NAMA information. NAMA is following up with each of the participating institutions on this point.

The Board has also directed that further compliance training be scheduled for all NAMA staff in light of this episode and, in fact, this is already underway and has now been completed by 85% of the 226 staff currently assigned to NAMA.

Confidential data removed from the Agency

In respect of the unauthorised removal of confidential data from the Agency by Mr. Farrell, I would like to make the following points.

As we stated at the time and as I now wish to reiterate, we regard any breach of data security with the utmost concern. We have launched a major review of data security and of data access within the Agency and of data transmission to external parties which have a business need to receive data from us e.g. service providers such as accounting firms, etc. However, I have to say, that the security processes in place in NAMA (which are derived from those of the NTMA and from which there has not been a single recorded instance of data theft in its 21-year history) are extremely robust. No organisation, short of installing system and process restrictions which will totally compromise its capability to conduct its day to day business with even a minimum of effectiveness, can absolutely guarantee that it will not have a theft of data. However, you can be certain that our objective is to ensure that, in so far as possible, there is no scope for a recurrence of the breaches that have been identified in this case and there will be no want of effort or investment in that.

I appreciate that the Committee might wish us to discuss this breach of confidentiality further but the last thing we would wish to do would be to compromise, in any way, the Garda investigation which is underway. In due course, we expect to be in a position to discuss the issues involved further with you and would be happy to do so.

Chairman, I don't for a moment underestimate the seriousness of this episode for the Agency and for our reputation. However, some of the suggestions which have been made about the potential damage caused to our work have been exaggerated, to say the least. Insofar as information, which in our assessment would be of limited value to potential counterparties, may have found its way to third parties, it is our best judgement at this stage of our investigation that it has not been used thus far to the detriment of the Agency and that it is unlikely to prove commercially damaging to the Agency at any point in the future. We are also reasonably satisfied at this stage that it has not been prejudicial to any of our debtors and it remains our objective to ensure that this continues to be the case. We are at an advanced stage in terms of identifying the extent to which the information was circulated and we are encouraged by the level of active co-operation that we are getting from the parties who received the information.

For the Committee's information, I can say that, other than Mr Farrell, there has been only one other employee subject to investigation. At this stage, I am legally advised that, in the interest of due process, I am precluded from making further comment until the investigation has been completed.

However, I think it is only reasonable to point out the larger context in which these issues have arisen: this agency has developed in less than three years from a start-up operation with five staff to a massive business with €74 billion of loans to manage. By virtue of our visibility and the commercial mandate that has been given to us, we have to be seen to be above reproach and we fully accept that. However, I would ask you to bear in mind that there are few businesses and organisations - public or private - that do not at some stage find themselves dealing with some of employee issues that we have had to face recently. We will learn from the experience as a healthy organisation should do and we will redouble our efforts to ensure that there is no scope for a recurrence.

It is ironic as we focus on the actions of Mr Farrell, that, looked at purely from a business perspective, the last few months have seen us record some significant achievements, including the net profit reported for the 2011 financial year and the continued strong financial results for the first half of 2012 which have just been referenced by the CEO. Nobody in NAMA is downplaying recent events but, in the interests of maximising the return to the

taxpayer, we also need to retain our focus on our core business and on the challenging objectives that face us.

So let me finish by very briefly highlighting two of these objectives today – debt repayment and our investment in the Irish market. These are pivotal to our confidence that NAMA will, at the very least, break even over its projected life.

Debt Repayment

Our target is to redeem at a minimum all our senior debt. Our first milestone on this is to redeem €7.5 billion by the end of 2013 – just 14 months away. This is important firstly because it derives from the primary mandate given to us by the Oireachtas of recovering, on behalf of the taxpayer, the consideration paid for the acquired loans but also because it is one of the key metrics that influence the perception of Ireland held by international investors and by the rating agencies in the context of our return to the sovereign debt markets. As if that were not enough, it is also monitored very closely by the Troika and influences their view of Ireland's progress.

We have to date redeemed €3.25 billion of that debt. Our current cash and liquid asset balance and strong cash-generation capacity leaves us in no doubt as to our ability to meet the end-2013 target of redeeming €7.5 billion in senior debt.

That will be €7.5 billion off the backs of the taxpayer.

Investment

Repaying debt, though important, is not our only purpose. We have a vital role to play in encouraging activity in the market and doing whatever we can to underpin re-emerging investor interest in Irish property. We have previously announced that we intend to invest at least €2 billion in capital to enhance and develop assets in Ireland controlled by our debtors and receivers. We are seeing the emergence of development opportunities including, for instance, the Dublin office market where the demand for Grade A, centrally-located, office accommodation is expected to outstrip supply within a few years. There are also emerging shortages in certain segments of the residential market, particularly in the Dublin family home market.

We also announced that we would make a further €2 billion of NAMA vendor finance available to prospective purchasers of commercial properties controlled by our debtors and receivers. Last year, investment transactions in Irish commercial property totalled just €200 million. Against this backdrop, €2 billion in NAMA vendor finance is a substantial injection of capital and we are confident that it will promote a significant increase in activity.

Conclusion

The NAMA Board has recently completed a detailed review of its strategy based on analysis of the composition of the portfolio securing our loans and on projections of disposal proceeds, recurring income and investment. Based on this review, we can re-affirm our expectation that NAMA will, at the very least, break even over its projected ten-year lifespan. This is grounded in our expectation of a sustained recovery in the Irish economy and in the banking sector over a medium-term horizon and our confidence that this will produce the modest recovery in Irish commercial and residential property prices that NAMA will require in order to achieve the primary commercial objective which has been set for it by the legislature.

Chairman, we consider that engagements such as those with this Committee are an extremely important part of our work and I thank you and the Committee for your attention.