



**National Asset  
Management Agency**

# **Code of Practice - Servicing Standards for Acquired Bank Assets**

**The Code of Practice was first approved by the Minister of Finance  
on the 5<sup>th</sup> July 2010, with this updated version approved by the Minister  
for Finance on the 30<sup>th</sup> June 2019**

## 1. Scope and Objectives of the Code of Practice

- 1.1 This document is designed to fulfil NAMA's obligation under section 35(1) of the National Asset Management Agency Act 2009 (the "Act") to publish certain codes of practice. In the event of any conflict between the Act and this code of practice, the Act will take precedence. Terms used in this Code have the same meaning as terms defined in the Act.

NAMA has statutory powers, including those set out in Section 12 of the Act, to manage loans and assets and to conduct its affairs in a way that best serves its objectives as defined in Section 10 of the Act. NAMA may be subject to guidelines and directions from the Minister as set out in Section 13 and 14 of the Act. NAMA will act at all times to obtain the best achievable financial return for the State.

- 1.2 NAMA is responsible for managing a portfolio of loans and assets which it has acquired under the provisions of the Act. Historically, these included three categories:

- a) **NAMA managed** – key credit decisions and relationship management carried out by NAMA with loan administration carried out by the participating institutions or third party loan servicers to facilitate the efficient management of the portfolio;
- b) **Participating Institution managed** – relationship management and loan administration carried out by Participating Institutions within NAMA parameters and credit decisions conducted by a Delegated Authority hierarchy with NAMA oversight;
- c) **Third party managed** – relationship management and loan administration carried out by a third party loan servicer under a service agreement with NAMA oversight

- 1.3 Since December 2015, all acquired bank assets are NAMA managed (as defined in 1.2 above) with loan administration carried out by a number of third party loan servicers. The purpose of this Code of Practice, pursuant to section 35(1)(b) of the Act, is to declare publicly how NAMA intends to manage servicing standards for acquired bank assets and generally in relation to its operations and performance.

- 1.4 The aim of this Code is to clarify, for the benefit of key stakeholders

/ stakeholder groups, NAMA's management of servicing standards for acquired bank assets in achieving NAMA's purposes as set out in Section 10 of the Act and the purposes of the Act generally as set out in Section 2 of the Act. Key stakeholders include:

- Taxpayers
- Government / Minister
- Debtors
- Participating Institutions
- Non-Participating Institutions
- Service Providers

A reference to stakeholders means anyone who has reasonable material commercial or public policy interests in NAMA's operations and activities.

- 1.5 This Code of Practice, approved by the Minister of Finance, serves to codify the manner in which NAMA's legal powers and functions shall be exercised by the Board, in this case pertaining to servicing standards for acquired bank assets. As such, it may be changed from time to time by the Board subject to approval by the Minister. The Board will review this Code at least annually and submit such revisions as it considers appropriate to the Minister for approval.
- 1.6 In accordance with Section 35(3) of the Act, NAMA will have regard to the Code and be guided by it.

## **2. Key Principles**

### **2.1 Priority of objectives**

NAMA's purposes are defined in Section 10 of the Act including the objective to protect and enhance the value of acquired bank assets in the interests of the State and contributing to the achievement of objectives in Section 2 of the Act, having regard to guidelines and directions from the Minister as provided for in Section 13 and 14 of the Act.

This Code of Practice applies to all aspects of NAMA's decisions and actions which relate to the servicing standards for acquired bank assets (Servicing Standards).

In furtherance of the purpose of dealing with acquired assets to obtain the best achievable financial return for the State, NAMA will manage the provision of relevant services for all acquired assets.

### **2.2 Code of Practice for Debtors**

There is a code of practice for risk management, including with regard to debtors, that sets out principles that relate to how NAMA intends to deal with Debtors in a reasonable manner in pursuing its commercial objectives to protect the interests of taxpayers.

### **2.3 Servicing the acquired bank assets**

The current business model adopted by NAMA is to have a core staff to control and manage acquired bank assets with the administration of acquired bank assets carried out by third party loan servicers.

NAMA continues to utilize its rights under the Act to direct AIB, as a Participating Institution, to provide relevant services. NAMA has also entered into contracts with other third party loan servicers for loan administration services for different segments of its bank asset portfolio. At all times NAMA will operate in accordance with the Act and all applicable laws.

NAMA has specified contractual standards of service to include:

- a) NAMA's right to audit the services;
- b) Security and business continuity planning;
- c) Regulatory compliance including (but not limited to) data protection, anti-money laundering and reporting to the Central Credit Register;
- d) Compliance with the Act and applicable law; and
- e) Service levels including remedies for defective services.

These contractual provisions set out the servicing standards for the range of servicing functions provided to NAMA; which include but are not limited to:

- a) Collection of monies due to NAMA in the normal course of business;
- b) Calculation of interest and fees due to NAMA;
- c) Processing drawdowns of further credit to an existing Debtor as a means to support them as part of an agreed recovery plan;
- d) The maintenance of records of receipts and balances due to NAMA;
- e) The provision of statements of amounts due to NAMA;
- f) Responding to requests from NAMA and Debtors;
- g) The maintenance of documents and records supporting the loan agreements;
- h) Following up on delinquencies and missed payments of amounts owing to NAMA on the instructions of NAMA;
- i) Updating of records for any variation in the terms of the original loan (such as the principal sum owed; the timing of repayments; the loan structure; or any covenants attached to the loan); and
- j) Any other function that would assist in the administration of acquired bank assets or that may be requested by NAMA.

## 2.4 Mutual Responsibilities of NAMA and Loan Servicers

The mutual responsibilities of NAMA and its third party loan servicers are set out in the relevant governing contractual terms and include:

- a) **Agreed Governance Structures:** Dealing with communications, impediments, service defects, change control and improvement programmes;
- b) **Servicing Fees and Charges:** fees and expenses agreed in respect of the cost of servicing. As provided in Section 134 of the Act, with

the consent of the Minister, NAMA may enter into arrangements with a Participating Institution that may provide for the inclusion of performance fees;

**Breach of Servicing Standards:** Non-compliance with servicing standards may be addressed through service credits and the established dispute resolution procedures

## 2.5 **Loan Servicers to assist Master Servicer**

NAMA will retain a Master Servicer to aggregate loan data and manage cash receipts from the third party loan servicer and report to NAMA on the status of its loan portfolio. The third party loan servicers will cooperate and supply all relevant information on acquired bank assets to the Master Servicer. Servicers are obliged to carry out these services in compliance with the General Data Protection Regulation.

## 2.6 **Loan Servicers shall have experienced competent staff**

NAMA's loan servicers will utilise experienced, competent staff in the administration of acquired bank assets.

## **Glossary** (terms defined in the Act have the same meaning as the Act)

### **Acquired Bank Asset**

means a Bank Asset that NAMA or a NAMA Group Entity has acquired, and in which NAMA or a NAMA Group Entity retains an interest.

### **Bank Asset**

Includes—

- a) a Credit Facility,
- b) any Security relating to a Credit Facility,
- c) every other right arising directly or indirectly in connection with a Credit Facility
- d) every other asset owned by a Participating Institution, and
- e) an interest in a bank asset referred to in any of paragraphs (a) to (d).

### **Board**

means the Board of NAMA referred to in section 19 of the Act;

Section 19: ‘The Board consists of—

- a) 7 members appointed by the Minister (in this Act referred to as “appointed members”), and
- b) the Chief Executive Officer of NAMA and the Chief Executive of the NTMA as ex-officio members.

### **Charge**

Includes —

- a) a mortgage, judgment mortgage, charge, lien, pledge, hypothecation or other security interest or encumbrance or collateral in or over any property,
- b) an assignment by way of security, and
- c) an undertaking or agreement by any person (including a solicitor) to give or create a security interest in property.

### **Credit Facility**

includes every kind of financial accommodation (including a loan facility, a line of credit, a hedging facility, a derivative facility, a bond, a letter of credit, a guarantee facility, an invoice discounting facility, a debt factoring facility, a deferred payment arrangement, a leasing facility, a guarantee, an indemnity and any other financial accommodation giving rise to a payment or repayment obligation) provided to a Debtor or Associated Debtor, whether alone or together with another person or persons and whether as part of a syndicate or otherwise.

### **Credit Institution**

has the same meaning as it has in the Central Bank Act 1997.

**Debtor**

means a person who is or was indebted or obligated to a Participating Institution under or in connection with a Credit Facility.

**Delegated Authority**

means authority obtained from another such as NAMA

**Establishment Day**

means the 21<sup>st</sup> December 2009 being the day appointed by the Minister under section 8 of the Act.

**General Data Protection Regulation**

means Regulation (EU) 2016/679 (General Data Protection Regulation) introduced on 25<sup>th</sup> May 25<sup>th</sup> 2018 in all EU member states.

**Guarantor**

means a person who has entered into a guarantee or indemnity in connection with a bank asset.

**Master Servicer**

means NAMA's appointed servicer provider for data management, reconciliation and aggregation services.

**Minister**

means the Minister for Finance.

**NAMA**

means the National Asset Management Agency.

**NAMA Group Entity**

means —

- a) a Subsidiary of NAMA (within the meaning given by section 155 of the Companies Act 1963), or
- b) any other body corporate and any trust, partnership, arrangement for the sharing of profits and losses, joint venture, association, syndicate or other arrangement formed, registered, incorporated or established by NAMA for the purpose of performing any of its functions under this Act.

**NTMA**

means the National Treasury Management Agency.

**Officer of NAMA**

Means —

- a) the Chief Executive Officer of NAMA, and

- b) any person assigned to NAMA in accordance with section 42 of the Act; and
- c) any person employed by NAMA under section 16(2) of the Irish Bank Resolution Corporation Act 2013.

### **Participating Institution**

means a Credit Institution that has been designated by the Minister under section 67 of the Act, including any of its subsidiaries that has not been excluded under that section.

### **Risk Management**

means a process of identification, analysis and either acceptance or mitigation of uncertainty.

### **Security**

includes—

- a) a Charge,
- b) a guarantee, indemnity or Surety,
- c) A right of set-off,
- d) a debenture,
- e) a bill of exchange
- f) a promissory note,
- g) collateral,
- h) any other means of securing—
  - i. the payment of a debt, or
  - ii. the discharge or performance of an obligation or liability, and
- i) any other agreement or arrangement having a similar effect

### **Service Provider**

means an entity that provides outsourced services to NAMA including professional advisers and third party loan servicers.

### **Subsidiary**

means a subsidiary (within the meaning given by section 155 of the Companies Act 1963) or a subsidiary undertaking (within the meaning given by the European Communities (Companies: Group Accounts) Regulations 1992 (S.I. No. 201 of 1992))

### **Surety**

means a person who has provided a Security in connection with the repayment by a Debtor of a Credit Facility or in connection with a Guarantor's obligations under a guarantee or indemnity.