

**Opening Statement by
Mr. Frank Daly, Chairman of NAMA**

**Public Accounts Committee
Thursday, 9 July 2015**

Good morning Chairman and Deputies,

You have invited us today to outline the background to the sale of the loans of Northern Ireland debtors (Project Eagle) and the process which was followed by NAMA in securing the sale. We welcome the opportunity to put the facts on the record. The facts, that is, as they are known to us. In so far as there may have been some wrongdoing on the part of certain individuals at the periphery of the transaction in Northern Ireland, individuals who acted as advisers to potential purchasers, we are not in a position to comment as we have no knowledge of what may have taken place. The facts, as they pertain to those individuals and their activities, are a matter for authorities in Northern Ireland to establish.

However, in view of the very extensive commentary around this issue in recent days which has conflated alleged wrongdoing involving individuals in Northern Ireland with the sale by NAMA of Project Eagle, I wish at the outset to make four points very clear:

- The NAMA sale process for Project Eagle was robust, competitive (right to the end) and secured the best outcome for the Irish taxpayer.
- When NAMA became aware of a concern surrounding the participation of one of the bidders for Eagle, we immediately, and without hesitation, took steps to ensure they withdrew from the process.

- No pressure from any source, political or otherwise, influenced NAMA in regard to the decision to sell the loans of Northern Ireland debtors or the decision to accept the winning bid from Cerberus.
- If a payment did find its way to an account in the Isle of Man, as has been alleged, then wherever such a payment came from, it most certainly did not come from NAMA. In fact NAMA had no knowledge of this alleged payment to Mr. Coulter by Brown Rudnick until recent days when it was put into the public domain.

Sequence of events

As Chairman both of the NAMA Board and, since October 2011, of the Northern Ireland Advisory Committee (NIAC), I am well placed to outline the sequence of events leading to the sale of the Project Eagle portfolio:

- We first became aware of investor interest in purchasing the portfolio after the Minister for Finance, Mr. Michael Noonan, passed on 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 theirs were interested in acquiring the Northern Ireland loan portfolio.
- In his reply on 25 July 2013, and after his Department had consulted with us, Mr. Noonan pointed out to Mr. Wilson that parties interested in acquiring NAMA loans or assets securing NAMA loans should make direct contact with NAMA. Mr. 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 their clients, PIMCO, was interested in acquiring NAMA's Northern Irish 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 which was expressed in terms of a price range with the final price to be determined after due diligence. PIMCO indicated that their preference remained that the sale would be a closed transaction.
- At a meeting on 12 December 2013, the NAMA Board decided that the portfolio should be openly marketed as part of a competitive process; the Board also set a minimum price below which it would not be willing to proceed with a sale. This minimum price reflected NAMA's valuation of the underlying assets.
- At a further meeting on 8 January 2014, the Board approved the appointment of Lazard to advise NAMA on the appropriate marketing approach and to oversee the sales process. It was envisaged that this would involve marketing to suitable targeted bidders who would have the financial wherewithal to submit credible bids on the portfolio.
- On 17 January 2014, NAMA received from the Principal Private Secretary to the NI First Minister a copy of a 'letter of intent' relating to the proposed management of the NI 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 Northern Ireland confirming certain fundamental conditions relating to the future management of the portfolio. NAMA did not engage further in relation to the draft letter.
- 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 NAMA's Northern Ireland Advisory Committee (NIAC). PIMCO named that individual as Frank Cushnahan. Our 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 in early March 2014. It is not clear to us whether this late discovery arose because of internal communications issues within PIMCO or between PIMCO and Brown Rudnick.

- 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 committee at the time of the disclosure (he had resigned on 8 November 2013) and never had access to confidential information, the 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 arrangement to the former member of the NIAC.
- On 13 March 2014, PIMCO informed NAMA that it would withdraw from the Project Eagle process. I understand that, in recent days, PIMCO have disputed the facts as outlined above and have suggested that their withdrawal from the sales process was voluntary. I do not propose to enter into a debate with PIMCO as to the meaning of the word 'voluntary'. Suffice it to say that they were left in no doubt that if their withdrawal was not voluntary, it would have to be involuntary.
- Lazard engaged with a total of nine potential purchasers, including PIMCO, during the first quarter of 2014 and, at the end of the process, the best bid from the two remaining bidders was received from Cerberus. The Cerberus bid was

accepted by the Board on 3 April and was announced on 4 April 2014. The transaction was completed in June 2014.

For the avoidance of doubt, no fee payment was made by NAMA to Brown Rudnick. NAMA had very limited engagement with Tughans on this sale and did not instruct Tughans to advise it on any aspect of the sale. Fees totalling €7,839 were paid to Tughans as payment for delivery of title documents and assistance with due diligence queries. NAMA's legal advisor on Project Eagle was Hogan Lovells.

Cerberus has stated that it made a fee payment to Brown Rudnick and that Brown Rudnick advised that the fee would be shared with Tughans. Cerberus state that this was payment for strategic advice relating to the sales process and for work which Brown Rudnick and Tughans had already carried out on the portfolio. From NAMA's perspective, there would have been no reason to question why a purchaser of a loan portfolio would have been making payments to two law firms.

What did concern us, based on PIMCO's disclosure, was the possibility that a payment would have been made to a former member of the NIAC. We sought and received written confirmation from Cerberus at the time that no fees were paid to any party with a connection to NAMA. 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.

I am confident that the NAMA Board acted quickly and decisively and took every measure available to it to protect the integrity of the sales process as soon as the proposed fee arrangement came to light.

Tughans, in their recent statement, stated "that a former partner diverted to an account of which he was the sole beneficiary, professional fees due to the firm without the knowledge of the partners". Tughans also confirmed that the individual in question no longer works for the firm and that they have "reported the circumstances of the departure of the former partner to the Law Society". These disclosures by Tughans are a matter for them and they had no impact on the competitive sales process which was run on behalf of NAMA. If there are suggestions that there was wrongdoing by certain parties, it is a matter for the Northern Ireland authorities to investigate them. Given the facts as outlined above, it would be entirely wrong and dishonest to conflate NAMA's process with the unrelated Tughans' issue.

Northern Ireland Advisory Committee

I wish to outline the role played by the Northern Ireland Advisory Committee in relation to NAMA's activities in Northern Ireland.

NAMA has four statutory committees – the Audit Committee, the Credit Committee, the Finance and Operating Committee and the Risk Management Committee - which were established under Section 32 of the NAMA Act. Section 33 of the Act provides that the Board may establish such advisory committees as it considers necessary or desirable to advise it in the performance of its functions. The NAMA Board established two such committees – the Planning Advisory Committee and the Northern Ireland Advisory Committee (NIAC).

The latter was established in 2010 at the suggestion of the late Minister for Finance, Mr. Brian Lenihan. The Minister felt that the Committee would be useful in advising the Board in relation to strategy for Northern Ireland assets. Following consultation with the Minister, who in turn, I understand, had consulted the Northern Ireland Executive, the NAMA Board decided in May 2010 to appoint Mr. Brian Rowntree and Mr. Frank Cushnahan to the NIAC. From 2010 to 2011, the NIAC was chaired by Mr. Peter Stewart, a member of the Board. After Peter's resignation from the Board and the NIAC in October 2011, I myself became Chairman of the committee until its dissolution in September 2014.

Let me clarify a few points in relation to the role of the NIAC:

- Its role was to advise on the broad economic and social context in Northern Ireland in which NAMA was operating and on the overall state of the property market.
- The NIAC had no role in relation to NAMA debtors or to the assets securing their loans.
- No discussion of particular debtors or particular assets was permitted at NIAC meetings.
- No specific information relating to debtors or assets was ever provided to external members of the NIAC and the NIAC had no decision-making powers.

I am aware that over recent days, Mr. Rowntree, a former member of the NIAC, has stated that the NIAC 'was kept in the dark' about the Project Eagle transaction. I agree. While the Committee was informed at its meeting on 7 October 2013 that an unsolicited approach had been made by PIMCO to purchase the portfolio, it was made clear that key information and key decisions relating to the portfolio were a matter for the Board and for the Board only. For the avoidance of any doubt, therefore, it is important to point out that external members of the NIAC did not have access to any information about the portfolio which would have been of value to a potential bidder.

For reasons which Brendan McDonagh will outline later, the Board took the view that the best commercial option was to sell the portfolio on the basis that there was limited prospect over a medium-term horizon of a significant improvement in values.

Conclusion

The sale of the Eagle portfolio received a broad welcome when first announced. To the extent that the sale has acted, and may continue to act, as a catalyst to stimulate activity in the NI property market and in the economy more generally, that is to be welcomed. I

am confident that, ultimately, the transaction will be seen as benefitting both Northern Ireland and the taxpayers in the Republic.

We have no difficulty in discussing NAMA's commercial rationale for the sale. All documents and records relating to the sale of Eagle were available to the C&AG as part of his audit of the 2014 Financial Statements. We are aware that, as required by the NAMA Act, he is planning to initiate his second Section 226 triennial review of NAMA (2012-2015) over the coming months and I assume that this will be one of the transactions assessed as part of that review. I welcome the C&AG's forthcoming Section 226 review as I am confident that it will show that we have acted commercially and properly.

However, whatever about the commercial aspects of this sale, we do take great exception to any suggestion that anyone representing NAMA, be it a current or former Board member or a current or former member of staff, was engaged in wrongdoing. I reiterate that, if there has been wrongdoing at the periphery of this transaction in Northern Ireland, it has nothing to do with NAMA and, in the absence of any evidence to the contrary, it is wrong and dishonest to claim otherwise.