

Statement of Minister for Finance on Formal Publication of NAMA Bill

The Minister for Finance, Mr Brian Lenihan, TD, has said the National Asset Management Agency (NAMA) Bill 2009, published today, is the outcome of a detailed and intensive process of consultation which has taken place since the draft legislation was published in late July.

“The Bill contains a number of important changes that will allow NAMA to achieve its goal of stabilising the banking sector and restoring the flow of credit to business and consumers while minimising the risk to the taxpayer. I want to thank all those who have contributed constructively to improving the text of the Bill.

“The proposals to establish NAMA have been endorsed by the ECB, the IMF, the OECD and others. It is now clear that NAMA is the most effective solution to the issues confronting the banking sector and the economy. Of course, I have continued to receive suggestions and observations on the Bill and I remain open to further refinements of the legislation to ensure NAMA can achieve its objectives. My Department is in ongoing consultation with the European Commission about the legislation and EU approval will be necessary before the legislation can be finalised.

“I want to stress that under the Bill, each individual loan will require a separate valuation once the Act has commenced. Therefore, the figure I will be providing to the Dail on September the 16th will be an estimate. Only after the valuation of each loan will an exact price be determined,” said the Minister.

Mr Lenihan added that he will seek the views of the leaders of the opposition parties on appointments to the Board of NAMA. “I sought their views on my appointment of public interest directors to the Boards of the guaranteed banks. This approach has resulted in the appointment of individuals of the highest calibre whose service has been invaluable to the State at this time of great difficulty in our financial system,” concluded the Minister.

Changes to the draft published in July

Many of the changes in the published bill are technical in nature. However, the Minister drew attention to the following significant new provisions:

Risk Sharing

The Bill provides that the banks will share a portion of the risk associated with NAMA by receiving part of the payment for loans in the form of subordinated debt. This will enable NAMA to suspend certain payments to the banks in the event of a loss, and will help to incentivise institutions to work with the NAMA process in the best interests of all of us. The Bill will provide for the level of subordinated debt to be set by ministerial order.

Developers & the Market for Development Land

The Bill has been amended to provide that NAMA must have regard to the need to avoid undue concentration or distortions in the market for development land.

NAMA must have a significant degree of commercial discretion in its operations, and in completing developments or improving properties within its ownership. Any involvement by borrowers in the development or completion of properties acquired by NAMA will be subject to strict limits and controls. Under the Bill, there will be no “easy terms” available to borrowers from NAMA. All borrowers will be pursued by NAMA for their debts.

Criminal Offence to Lobby NAMA

The Bill includes a specific provision to outlaw lobbying of NAMA in relation to any of its decisions. Only a borrower and his or her agents will be authorised to deal with NAMA. It will be an offence to influence the Agency in the course of its work.

This provision, taken together with the applicable codes of practice and ethics, and the provisions within the Bill governing the application of Prevention of Corruption legislation in the NAMA context, as well as the governance structures contained in the Bill, will ensure that NAMA operates to the highest standards of propriety.

Transparency & Accountability

The revised Bill will ensure accountability and transparency in the operations of the Agency. The changes require more frequent reporting by the Agency and by the Minister to the Oireachtas. A new provision requires the Comptroller and Auditor General to review the progress of NAMA every three years. This is in addition to his annual review of NAMA's accounts.

Taxation of Windfall Gains on Rezoned Land

The Minister will bring forward a Committee Stage amendment to ensure that windfall gains on rezoned land will be subject to Capital Gains Tax at the rate of 80%.

The Flow of Credit to the Economy

NAMA will allow banks to focus on their core business. It will strengthen and improve their funding position so that they can lend to viable businesses and households. Specific credit supply measures were incorporated into the Government's recapitalisation agreements with Allied Irish Bank and Bank of Ireland. The Government is examining specific measures to ensure that NAMA will result in an improved flow of credit from banks that benefit from its operations.

Corporate Governance Reforms

As part of the Government's proposals to reform the financial regulatory system, on which legislation is in preparation, the Minister will include measures to strengthen corporate governance across the banking sector. These measures will include a prohibition on a CEO immediately becoming the Chairman of a bank and will limit cross directorships.

ENDS

10th September 2009