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### **Seanad Éireann Debate - Thursday, 29 Oct 2009: Vol. 197 No. 10: National Asset Management Agency Business Plan: Statements.**

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# Seanad Éireann debate - Thursday, 29 Oct 2009

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Vol. 197 No. 10

## National Asset Management Agency Business Plan: Statements.

- [Back to table of contents](#)

### Minister of State at the Department of Finance (Deputy Martin Mansergh)

I thank Senators for the opportunity to contribute to this important debate on the draft business plan of the interim National Asset Management Agency, NAMA. I look forward to hearing the views of Members during the course of this debate. Today is the final day of Committee Stage deliberations on the National Asset Management Agency Bill 2009 by the Select Committee on Finance and the Public Service, with Report Stage to be taken in the Dáil next week. The Bill will come to the Seanad shortly afterwards, giving Senators a fuller opportunity to debate and tease out its provisions with the Minister for Finance. It is important that there is no undue delay and that the legislation completes its passage through the Oireachtas by the first half of November.

Before dealing with the details of the draft business plan, I will briefly mention some of the more general issues relating to NAMA and the banking system, which set the background against which the plan was drafted. There

is no disputing that one of the key essentials for our economic recovery is a healthy and functioning banking system that will serve the needs of the broader economy. We are all aware of the necessity to position ourselves to take advantage of the economic upswing that will inevitably occur in the global economy. In the absence of a properly functioning banking system, our economic recovery simply will not happen.

The establishment of NAMA will represent another decisive step by the Government in support of the banking system. The agency will acquire certain bank assets which are at the root of the current systemic difficulty, and their removal from bank balance sheets will facilitate the restructuring of credit institutions which are of systemic importance. At all times the Government's overarching objective has been to facilitate the flow of credit to ensure that Ireland is well placed to benefit from the global economic recovery when it occurs. It goes without saying that the Government has also sought to protect the interests of the taxpayer to the maximum extent possible. In managing its portfolio of acquired assets, NAMA will have a commercial mandate to obtain the best possible financial return for the taxpayer and will be given all the commercial powers it requires to achieve this. The Government is firmly of the view that the establishment of NAMA is the most cost-effective option from the taxpayers' perspective to ensure a properly functioning banking sector that can carry out its vital economic role.

In view of the responsibility that NAMA will carry, it is important that the organisation sets out a business plan that informs the public as to how it intends to achieve its objectives over the course of its lifetime. From a transparency and public confidence perspective, it is important that the markets, media, informed commentators and the public have the opportunity to examine the targets NAMA has set for itself, as well as the assumptions underpinning those targets. The NAMA business plan will not be published until the NAMA legislation is enacted and the board appointed. This means that the formal requirement for such a plan has not yet arisen.

Nevertheless, recognising the need for transparency at all stages of the process, the Minister for Finance instructed the interim NAMA managing director to draw up a draft business plan setting out how the agency will carry out its functions and duties on the basis of the information already available to him.

The Minister acknowledges that the plan is a key element in informing the debate on the NAMA legislation as it progresses through the Houses. That is why he ensured that copies of the draft plan were distributed to all Members of both Houses towards the end of the Second Stage debate in the Dáil some weeks ago. That was the earliest possible opportunity to do so after he received his copy. Publishing a draft plan is an unusual step for the Minister to take. He did so as proof of his determination to ensure to the maximum extent possible that there will be full transparency and accountability in the way NAMA operates. He stressed that a more detailed business plan will be prepared by the NAMA board once the legislation is in place.

The data on which the plan is based are provisional in nature. The estimates are based on data provided by the five credit institutions that have stated their intent, and are most likely, to engage with the agency, namely, Allied Irish Banks, Anglo Irish Bank, Bank of Ireland, Educational Building Society and Irish Nationwide Building Society. However, definitive figures will not be available until NAMA has had the opportunity to assess in forensic detail the loan books involved. The draft plan emphasises that much of the information relating to the prospective NAMA loan book portfolio is based on provisional aggregate data provided by the institutions themselves. The interim managing director and his team have not had direct access to individual records and are unable to verify the accuracy of the data until such time as NAMA conducts its own due diligence on an individual loan basis. The loan book details will be liable to further adjustment once the agency begins its detailed analysis and due diligence exercise, following its establishment on a statutory basis.

The interim plan deals with operational planning matters required to ensure an efficient asset valuation and transfer process, the establishment of NAMA and the key governance structures of the agency. It also addresses various areas that are critical to the success of the NAMA initiative, including purpose and objectives; key parameters of the NAMA portfolio; preparatory work carried out to date; work programme to be undertaken until June 2010; operating governance structure; asset valuation and transfer process; credit management and servicing arrangements; and key risks facing NAMA. Despite the extensive pressures involved in its preparatory work, the interim team has produced a most informative and helpful report, for which it should be commended.

One of the key areas of the debate since the Minister for Finance announced his proposal to establish NAMA has been the price to be paid for the loans. The draft business plan affirms that the agency provisionally expects to pay some €54 billion for loans with a book value of €77 billion. The €77 billion figure comprises some €28 billion in loans for land purchase, €21 billion in development loans and €28 billion in loans where there is a strong association with land and development loans. The €54 billion provisional price, which is effectively the long-term economic value that can be expected to be realised over the lifetime of NAMA, implies an estimated aggregate discount of 30%.

Based on information provided by the institutions, the average loan to value ratio, LTV, is estimated to be 77% across the entire portfolio. This figure assumes that the loans NAMA will acquire were authorised over a period of several years and that not all loans were advanced at the peak of the property cycle. Therefore, for some institutions, the LTV is likely to be lower and for others higher. It is estimated, again based on the provisional figures provided by the institutions, that €9 billion of the €77 billion consists of rolled-up interest. This means that €68 billion in loan principal was originally advanced, which suggests that the aggregate value of the underlying real estate was

€88 billion when the loans were originally advanced. The current market value on property loans being transferred to NAMA, estimated at €47 billion, represents a fall of approximately 47% on the original €88 billion. This includes overseas markets where declines are expected to be less severe than in Ireland.

It is clear therefore that banks and borrowers will take a significant hit on the original book values of the loans and the underlying collateral. The €54 billion payment estimate represents a 15% uplift on the €47 billion current market value estimate. When subordinated debt, which is 5% of the total, is taken into account, it is estimated that the required recovery in asset prices for NAMA to break even is only 10% over ten years, which is an achievable target. Tables in the draft plan provide further breakdowns on the NAMA loan portfolio, geographical breakdown and cash flow projections. In terms of the breakdown as between institutions likely to participate, 37% of the NAMA portfolio is expected to include loans acquired from Anglo Irish Bank, 31% from Allied Irish Banks, 20% from Bank of Ireland, 11% from Irish Nationwide Building Society and the remaining 1% from Educational Building Society. Some 67% of the underlying assets will be based in Ireland, 6% in Northern Ireland and 21% in Britain, with the remaining 6% spread across the rest of Europe and the United States.

I will deal now with the estimated net present value of NAMA over its lifetime, in other words, the current best estimate of the ultimate outcome of NAMA in purely financial terms. The interim team estimates that NAMA will return a positive net present value of €4.8 billion over its anticipated lifetime. This is based on several criteria, including the fact that approximately 40% of the loans that will be acquired are income generating. The interest rate assumptions used in the plan are derived from market consensus rates available on the Bloomberg service and are based on six-month EURIBOR forward rates for the first five years and the forward five-year rate for the 2016 to 2020 period.

A significant amount of information is provided in the plan concerning the underlying assumptions that led to this projection. This brings me back to the point I made earlier about enhanced transparency. The agency has published its underlying assumptions for all to see and examine, which can only assist the debate. Furthermore, the plan includes sensitivity analyses which stress test some of the core assumptions. One of these analyses is that the assumed default rate of 20% on the €77 billion book figure would have to rise to 31% for NAMA not to make a profit. A separate part of the plan outlines several key risks facing the agency, which will be monitored by the board and its risk committee to ensure appropriate risk management policies are in place.

An important part of the plan outlines how NAMA proposes to value and acquire loans. It is intended that the largest ten to 15 borrower exposures will be transferred to NAMA by the end of this year. The Minister qualified this statement in the Dáil yesterday by saying that this could be delayed into January. It is also expected that the 100 highest exposures, which account for almost 50% of the €77 billion aggregate book value, will have been transferred by the end of February 2010. The transfers will continue in tranches based on the size of exposure up to June or July 2010.

The plan outlines the key stages in the valuation and acquisition process. These include the obligation on participating institutions to ensure that all collateral has been valued by professional external valuers in line with NAMA guidelines, which includes a duty of care to the agency. Another key stage is the appointment of a legal services panel to review the due diligence data provided by each of the institutions. Where defects in title or security are identified, NAMA may refuse to acquire the loan concerned or discount the loan value appropriately. The appointment of an audit co-ordinator to collate valuation and due diligence data of loans and to prepare a draft acquisition of schedules to be approved by NAMA for each participating institution is another important stage in the process.

The plan anticipates that a core team of 30 will be required to manage the immediate loan valuation and acquisition process on the establishment of NAMA and that this will later rise to a core of approximately 75. The Minister for Finance stressed the importance of NAMA moving quickly to establish itself and immediately having the resources available to it to value and transfer the largest loan exposures. It is intended that the largest 100 to 150 borrowers will be managed directly by NAMA, with each of these borrowers having to submit a detailed business plan within a specified period of the loans being acquired by the agency. If the business plan is rejected and a borrower is assessed as being no longer viable by the NAMA credit committee, NAMA will take whatever action is required to protect the value of its security. Where a plan is approved, the borrower's subsequent performance will be monitored closely to ensure no deviation from the targets in the plan.

For borrowers outside the top 150, NAMA will make an early determination as to each borrower's credit-worthiness, and the agency will take appropriate action with regard to the larger and more impaired of these exposures. The important point here is that NAMA will not operate in practice as a bail-out mechanism for developers who have operated irresponsibly. NAMA will treat them as borrowers who continue to owe the full amount of their loan. The draft plan recognises the duty of the agency to maximise taxpayer returns and the Government's expectation that it will use the range of powers available to it under the Bill to meet that objective. Any developer whose bank loan is purchased by NAMA will have to repay NAMA, just as they would have had to repay the bank originally.

There has been much talk about the need for accountability. The draft plan outlines the extensive provisions in the NAMA Bill regarding the accountability and reporting requirements which will apply to the agency when it is established. These requirements include the submission of an annual statement to the Minister for Finance before the start of each financial



year, which the Minister will then lay before the Houses of the Oireachtas; the submission to the Minister of the agency's annual accounts which will be subject to audit by the Comptroller and Auditor General and will be reported to the Oireachtas; and the submission of quarterly reports to the Minister, which the Minister will then lay before the Houses of the Oireachtas. The chairman and CEO of NAMA will be required to appear before the Committee of Public Accounts and any other committee appointed by the Oireachtas to consider matters relating to NAMA, whenever they are required to do so. The reporting requirements are extensive and comprehensive. This is as it should be given the scale of the portfolio that NAMA will hold.

I consider the draft business plan produced by the interim NAMA team as a substantial body of work which casts a significant degree of light on the targets of the agency, the way it will organise its business and the assumptions that underpin its targets. While a more detailed plan will be published under the authority of the NAMA board once the agency is established, this draft plan provides detailed information, albeit on an aggregate basis, that has further informed the debate so far. The aim of publishing the plan in draft form was to enhance transparency to the greatest extent possible and in that regard it has been successful.

### **Senator Liam Twomey**

I thank the Minister of State for his presentation. As he pointed out, we will be dealing with the NAMA Bill in the next two weeks, but it is nice to get an update on what is going on. There are significant concerns about NAMA and where it is going, including the figures thrown out by the Minister of State in his speech. He states that the original value of the loans taken over by NAMA was €88 billion, but that their value dropped to €77 billion when it was first proposed that NAMA take them over, yet €9 billion of this money was roll-over interest. Therefore, the value of these loans dropped from €88 billion to €68 billion over a very short time. A huge percentage of these loans were

taken out from these banks over three or four years during the peak of the market. That is why we are seeing such massive drops in the value of these loans over a relatively short period of time. When they were first issued, the loans were valued at €88 billion but now they are worth €47 billion. That is a significant drop in value, but the concern is that values are still dropping.

A total of €28 billion of these loans are for land only, €21 billion comes from development and €28 billion comes from mixed land and development loans. If I valued my house and my surgery at the peak of the market, these would have dropped to half their value today, but that is a house in which I live and the practice is a fully functioning business. It is not a piece of land in a provincial town which was bought for millions of euro per acre. If good properties have dropped to half their peak value, much of this stuff is almost worthless in financial terms. I do not see a recovery in the period of time to which the Minister of State refers. The Minister for the Environment, Heritage and Local Government is at pains to point out to us that we have rezoned enough land to keep us going for 30 years. There is a glut in the market and I do not think it will be cleared in ten years.

I am not saying that my opinions are better than those of the Minister for Finance or his experts. There is much speculation on what will happen with NAMA, just as there is much speculation about what happens in the markets anyway. Every year, the Financial Times asks a number of financial experts which stocks they believe will rise and which stocks they believe will fall, and these opinions are compared with stocks that are picked by monkeys, or randomly picked stocks, and invariably the monkeys win. We do not know what can happen in the future. We do not know what will happen next year and we certainly do not know what will happen in five years. When we try to predict what will happen in ten years, we are really in the land of guesswork. We can only make an informed opinion, but I do not think we can trust it that much. That is why there must be transparency and accountability to the Irish people regarding NAMA. We just do not know what will happen in the next

decade. It is almost impossible to do a cost benefit analysis on the decisions being made by NAMA and the special purpose vehicle that the Government has set up to run NAMA.

When the Minister for Finance is receiving his Christmas cards from the bankers in the Cayman Islands, Barbados and Monaco, he should be careful with some of the things he is saying. I was taken aback by his remarks in the Dáil on Committee Stage of the Bill. He mocked the Opposition and claimed that when history is written in years to come, there will be questions as to why the Opposition focused so much on this special purpose vehicle costing €100 million, even though the central issue is costing the taxpayer €54 billion. If one of these bailed out bankers went to see the Minister tomorrow morning, thanked him for the bailout, but told him the bank was going to set up a special purpose vehicle for some of the loans and then put them off balance sheet because it did not want to show people what was going on, the Minister would fire that banker if he could get his hands on him. He would say that this is the sort of thinking that has got us into the mess in which we find ourselves.

The idea that we should not be worrying about the SPV is nonsense. It is just an accounting trick. We are trying to keep the €54 billion off the books because it will otherwise directly affect the national debt of this country. It is just a mechanism. Every person who buys Government bonds over the next decade will be well aware that there is an SPV managing massive loans on behalf of the Irish taxpayer. That will be taken into account when we are trying to obtain international loans. There is a need for a full explanation of the SPV to the Irish people. Which investors will be on the board? How will the board be structured? What type of governance will exist? How much direct control will the Government actually have over the board? We do not want the sort of answer we get from Ministers when they tell us they have no control over bodies like CIE and the HSE. We will not accept such an answer when we ask the Minister for Finance about the SPV that will be responsible

for €54 billion of taxpayers' money. The Government will have to stick to the core principles of accountability and transparency when it is establishing the SPV's corporate governance mechanisms. If it does not do so, it will lose any remaining goodwill among the people for the National Asset Management Agency Bill 2009.

There are ongoing concerns about the devaluation of the properties that will be dealt with by NAMA. Property values have dropped over the past six months and continue to drop. We do not know when the market will bottom out, but I do not think it will happen for a number of months. I am surprised that these loans have not been subject to deeper due diligence. When the banks really open up their books, I have a feeling NAMA will discover that these loans are worth even less than the Government thinks they are worth at present. Has the Government put arrangements in place in case it is discovered that these loans are not worth €47 billion, but are worth closer to €40 billion? God forbid that they are worth even less than that. If it is the case that there is €9 billion of roll-over interest, quite some time has passed since those who owe this money to the banks stopped paying interest. Therefore, the loans have been in a distressed state for some time. I would say they are pretty toxic. The Government needs to apply its systems of accountability and transparency to NAMA fairly quickly. It should find out what these loans are like and give the people the relevant details. We do not want to be landed with another surprise next year, which is what would happen if the Government were to discover at that stage that these loans are worth much less than it thought in May or June of this year.

I would like the Minister of State to comment on another issue in his response. Throughout the debate on NAMA, Ministers have used the populist line that the Government will go after developers who default on loans. Nothing about this legislation is constitutional in any way. How can the Government go after developers when there is no security on their loans? Some developers have been incredibly clever. The normal rules of

engagement did not apply to developers whom the banks approached to lend them vast amounts of money to buy property. If I were to apply for a loan to buy property, the bank would seek to use practically everything, even the shoes on my feet, as security before it would give me a penny. As the banks courted these developers to get their business, many of them did not use their own personal assets as solid security. As we saw in the Carroll case in the High Court and the Supreme Court, many developers used businesses that were connected solely to their commercial lives rather than their personal lives as security. If one of these developers bought a property for €55 million or €56 million on the basis of a trust that is in the name of another family member and without any other form of security, am I right in saying the property cannot be touched? Such cases can be encountered throughout the country.

As far as I am aware, nothing in this legislation will allow the Minister for Finance or the board of NAMA to approach the Revenue Commissioners to get a full list of all the property transactions or the complete tax details of any of the 100 developers who will be managed personally by NAMA. There is nothing in the Bill to say that details of the developers' tax affairs can be handed over to NAMA so that it can look through their accounts and ascertain what sort of property transactions they were involved in over the past five or ten years. Any developer of this calibre will have had access to sophisticated financial information over the past decade and thereby established a number of trusts and bought a number of personal properties that have nothing to do with their commercial activities which are now in such a mess. The Government is saying it will take a gung ho approach to Irish financial regulation by going after these guys, but the reality is that it cannot touch them. As their personal assets are untouchable, the Government will be able to go after their most valueless assets only. Recent media reports have suggested that some of these individuals have transferred assets to family members in advance of the establishment of NAMA. There is nothing retrospective in this legislation to prevent them from

doing that. They can transfer assets worth €1 million, €2 million or €10 million to members of their families before handing over the dross to NAMA and asking it to sort out the mess. I ask the Minister of State to comment on this aspect of the matter in his reply.

The Government said that the need to improve bank lending was one of the reasons for the introduction of NAMA, but bank lending has not improved by one iota since we started talking about the transfer of billions of euro in taxpayers' money to NAMA. The reality is that bank lending will not improve until the economy improves. The Government cannot make the banks lend any more money. They will not consider doing so until the economy improves. The Government needs to stop saying things that are clearly untrue about matters it cannot affect.

The Green Party had referred to the social capital element of the issue of subordinated debt, but that seems to have fallen off the radar. Is serious consideration being given to the social capital proposal in regard to some of these NAMA loans? What does the Government have in mind? I hope the Minister of State will answer some of these questions when we have a more in-depth discussion on NAMA next week. Perhaps answers will crop up in the continuing debate in the other House.

While the maintenance of a healthy and functioning banking system is of systemic importance to the economy, that should not be done at any cost. We will keep an eye on the risk the Government, which does not really know what will happen in the future, might bankrupt the country, in effect, by spending too much money on something it considers to be systemically important. The Government threw out the proposals that were made by the Opposition a number of months ago. I note that our "good bank, bad bank" proposal has been taken up by the British Government. The Government should maintain an open mind when those of us on this side of the House make suggestions. One never knows. It might learn something from us.

## **Senator Marc MacSharry**

I join others in welcoming the Minister of State, Deputy Mansergh, to the House. I am pleased to have an opportunity to make a few points about the NAMA business plan. Like others, I have made it clear in this House over many months – even before NAMA was proposed – that I am in favour of aggregator bank style vehicle to help us to get out of the drastic situation we are in. The NAMA proposal is an acceptable version of such a vehicle, which involves the pooling of toxic and impaired assets so they can be centrally managed. I am delighted that the NAMA proposal is based on the American model of an aggregator bank, although I have to say it makes many improvements on that model. The wisdom of the proposal has been acknowledged throughout the world, not least by the international markets and eminent international entities such as the IMF, the ESRI, the Financial Times and Goldman Sachs. That this approach to dealing with our difficult position is the correct one has been acknowledged by many people, including the great Dr. Garret FitzGerald and Mr. Alan Dukes.

None of us would have wished to be in this position. We could spend many months debating how and why we are in this situation. That would be great scenery for the public, but it would get us no closer to finding the solutions for which we all strive and yearn as we navigate through these difficult international and national economic times.

The Minister of State has elaborated on a number of the details of the business plan. I welcome its publication by the Minister, Deputy Lenihan, towards the end of the Second Stage debate in the Dáil. It adds great transparency to the process. I am sure it will maintain openness in respect of one of the most important initiatives the State has ever undertaken and provide some clarity on how NAMA and its organisational structures will operate.

As the Minister of State, Deputy Mansergh, mentioned, the plan focuses on the purpose and objectives of the initiative; the key parameters; much of the work carried out to date; preparatory work carried out to date; the work programme for the year ahead; the asset valuation and transfer process; the credit management and servicing arrangements; and the key risks facing NAMA.

Immediately after the publication of the plan, Professor Kinsella of UCD announced his views. He is a critic of aspects of NAMA but stated the business plan was credible and would be deemed such by international commentators. He stated credit ought to be given where credit is due and that the plan is very specific, one which markets will find credible. We obviously share his point of view and welcome his comments.

Senator Twomey, I believe, stated it was impossible to do a cost-benefit analysis of our plans. On the contrary, we have provided such an analysis to the fullest extent possible. Fine Gael carried out no costing at all on its good bank-bad bank proposal. It is clear that the party felt it was impossible to do a cost-benefit analysis of its plans. We on the other hand have tried to provide the best possible one based on international best practice and historical references. Within that, we have found the vehicle that will take us through these difficult times.

As the Minister of State said in this House and as the Minister stated in the Dáil, it is projected that NAMA will make a profit of €5 billion by 2020. This is based on the estimate that 20% of the loans taken over by NAMA will default, meaning that €62 billion of the €77 billion being taken over will be repaid. When the provisional figures to which the Minister referred are valued on a loan-by-loan basis, the amount will be less than that. There is no proposal to pay telephone number prices for land that is only of agricultural value. If the panel of valuers to be appointed believes the land to be worth a certain



amount, that is what will be paid. The appointments are being made at present.

It is absolutely reasonable to assume, on the basis of my limited experience of business, that over a ten-year period there will be a 1% increase in the values, on average. If one were to carry out an analysis of trends over the past 40 years, one might find it incredible to note that the decade in which prices rose the most was between 1970 and 1981. The increase was in the region of 600%, which is incredible. Those times were very different and I am not saying they are remotely comparable to today, yet it is interesting to note some of these points.

As the Minister of State said, the ten biggest loans, amounting to €16 billion, are due to be transferred by December. However, it could be January, as the Minister stated yesterday. I am not at all paranoid about the timescale. I welcome the unprecedented Committee Stage that is taking place in the Dáil in terms of the time allowed and listening on the part of the Minister, his officials and his colleagues in Government. I welcome the Minister's openness to worthwhile proposals and his willingness to take them on board, although not many of the Opposition's amendments included in the 80 or 90 amendments made to date were considered worthwhile according to the informed view of the officials and the Government. Many more amendments will be made today.

There is a proposal on imposing a levy on banks in the event of NAMA making a loss, although I do not believe this will be the case over the medium to longer term. I would favour such a levy and am interested in the debate on how it might work. We will look with interest at how the Select Committee on Finance and the Public Service will deal with this proposal which I favour.

NAMA's organisational structure, as outlined in the business plan, will be streamlined and the board will consist of seven members appointed by the Minister. There will be a chief executive officer and the chief executive officer of the NTMA. The agency will have five divisions led by the head of credit and risk, the head of portfolio management, the head of business banking and lending, the head of business services and the head of legal and taxation affairs. There will be in the region of 70 staff.

NAMA does face risks. I am hopeful, if not confident, that over the medium to longer term, there will be a profit. If not, we will have the subordinated bonds to fall back on, on which bonds no capital or dividend would be paid in the event of a loss. It may also be possible to levy the banks if there is a loss.

One economic commentator stated, "heads the taxpayer wins, tails the banks lose". Given the palpable and justifiable anger of the public, it is vital the hit taken with regard to any losses or risk first affects those developers and bankers who operated under what was a somewhat reckless international and national financial regulatory regime. They must be the first in the queue and the taxpayers must be protected to the fullest extent. On the basis of the proposals for NAMA, its business plan and the amendments in consideration in the other House, I believe we have achieved such protection.

I once referred to our receiving our "pound of flesh", as I once put it in a debate with Deputy O'Donnell from the other House. I would like my pound of flesh and share much of the anger felt by others. However, I am confident that due process will satisfy our wish in this regard as we work through the processes of NAMA in navigating these difficulties over the coming year and on foot of forthcoming budgets.

On the question of accountability, the considerations of the NAMA proposals over recent months by the Joint Committee have led to suggestions that there should be an oversight commission. The Minister was to consider this. I

am listening to the debate in the other House to ascertain what further improvements can be made in this regard. As matters stand, accountability and reporting requirements are such that quarterly reports must be submitted to the Minister and the Houses of the Oireachtas, annual accounts must be submitted to the Minister, the annual statement must be submitted to the Minister three months prior to the end of the financial year, the Comptroller and Auditor General must audit NAMA's accounts, and the CEO of NAMA will be required to give evidence to the Committee of Public Accounts when called upon to do so. All these are positive aspects of the business plan and I very much welcome them.

There has been some talk in recent days about the special purpose vehicle. I am not at all paranoid about this. Clearly, more detail will have to be known but it is perfectly clear the reason behind it is to maintain a position in which the lending and accounting will be off the balance sheet. This is important in terms of our debt ratios and the cost of funds to Ireland. When we keep the ratio low and keep the NAMA debt portfolio out of the general EUROSTAT considerations, it is certainly positive.

I have questions about the special purpose vehicle. For example, with the limited return proposed in the briefing document circulated some days ago to the private investors, it is difficult to ascertain who the investors will be. Will it be the banks or pension fund managers? Why would they invest if the return were limited to approximately 10%? I would prefer a little more detail in this regard but I am sure it will emerge in due course. Even without the EUROSTAT decision, NAMA would have set up special purpose vehicles. This was provided for in the legislation and I welcome it.

Even if private investors were to have majority control over the loans, which they theoretically will have with 51% of the special purpose vehicle, 49% will remain with NAMA. NAMA's board members will have an absolute veto on any issue. This is a further protection and comfort for anybody with concerns.

At the end of the day it will be the private investors' goal to ensure that they recoup the loans and make a profit. If that were the case there would be more incentives for them to do well in that regard.

Overall, I welcome the publication of the business plan. I am pleased the appropriate time is being taken over it. While we cannot afford to lose a day in the context of getting NAMA up and running, equally, I welcome the time that has been given to the detail, and the openness of the Minister and the officials to listen to any suggestions that have been made and to take some on board, perhaps not as many as the Opposition might like but, nevertheless, I do not recall a process such as this in the past.

There has been much talk about a social dividend to this situation. Deputy Bruton referred in the other House to a NAMA for the public, for mortgage defaulters and others. Aside from the NAMA debate, which needs to be separate, the issue of potential mortgage defaulters needs to be dealt with. The Minister for Finance, Deputy Brian Lenihan, and the Taoiseach, Deputy Cowen, mentioned in recent weeks that there is no evidence to suggest such a proliferation of mortgage arrears or defaulters that would require something to be done. They pointed to the Irish Banking Federation protocol and the code of conduct for dealing with arrears, and I agree with them.

The Government is being advised by Rothschild. On the ground where people such as me operate, there is evidence to suggest that families are coming under pressure. While it might not currently be the kind of pressure that requires consideration of repossessions or serious default, given the inevitability of interest rates rising when the eurozone economy begins to improve our employment situation will not be able to improve relative to the pace of the rise in interest rates and the improvement of the eurozone economy. As we constitute less than 1% of that economy, rates will go up.

As I said many times previously in the House, in many ways part of our problem was that with 2% money available and 8% growth rates we all got a little bit out of control in terms of spending. If one takes the average couple with a double income and no children who pushed themselves to the pin of their collar to buy a house for €350,000, perhaps now one of them is unemployed and the second person has experienced a reduction in salary, and they might now have two children. If interest rates climb by 2% or 3% they face a serious situation.

As the Minister of State, Deputy Mansergh, is aware, as are Members of the Seanad because I have laid the report before the House, I and others have come up with a set of proposals that could form the legislative basis for a series of measures that could be introduced to help prevent what could be a social catastrophe. It is not that I am trying to scaremonger. The report is based on research and has been put together by a representative sample of professional people who are in the know in the industry and in life.

I do not advocate that the Government should set up a scheme whereby it would pay people's mortgages or write off debt. We advocate that people would be given breathing space. They would still owe all the money but we would give them a longer level of moratorium and renegotiate a lower rate for a period of time. I worked in the areas of banking, business and auctioneering, professions where much of the blame might lie for the difficulties of the past. We should focus on ways to implement such measures rather than the many less obvious reasons not to listen or to implement them.

That point is not directly related to NAMA, which is an appropriate vehicle to lead us out of the mess in which we have found ourselves. The Minister, Deputy Brian Lenihan, is susceptible to ideas. His demeanour has been to listen and he has displayed a great ability to improvise and adapt as the situation has developed. As we have continued to improve NAMA we will

have a vehicle that will help us to navigate these difficult waters. I thank the Minister of State for coming to the House. While it is not directly related to NAMA, I ask him to take on board my closing remarks on mortgage defaulters.

### **Senator Joe O'Toole**

I welcome the Minister of State, Deputy Mansergh. I begin by saying "ditto" to the points that have just been made by Senator MacSharry. I am sure the Minister of State is as aware as we are that this is an issue of grave concern to people. Even though it is different from NAMA, in the people's minds both issues are being discussed together in that they are saying we are doing everything for the bankers and asking what is being done for ordinary people. There is a political balance to be struck. I do not say it should form part of the NAMA legislation, that is not the point I make, but that ordinary people should see that something is being done. I welcome the fact that the Minister of State referred to the importance of public confidence in all that we are doing. The point Senator MacSharry has made is crucial to that and people need to understand that.

I am in favour of NAMA. I generally support the structure. I examined the genuine proposals made by Fine Gael to have a good bank and a bad bank, and the proposals of Labour to partially or temporarily nationalise the banks, but I could not drill down sufficiently into them to get to the point where they would be effective enough. They were thought out, in particular the Fine Gael proposal, but I do not think it met the case. I was able to grasp and go down through the different levels of NAMA and, while I cannot say it with the same confidence as the Minister of State's party, I believe it will work. I hope it will work. As I see it, it is the best of the three options and the better of the two between it and the Fine Gael proposal.

I compliment the Government on publishing the draft NAMA Bill. In broad terms I would like governments to take a lesson from that. The publication of that legislation in July, which in effect was an expanded heads of the Bill because there were so many gaps in it, allowed an extraordinary debate to take place. That is something that is very much lacking in our legislative process. The Minister of State will, in his former life in this House, have heard me say on Second Stage debates that I thought there was a need for a protracted discussion with interested parties. That is very important and sometimes it does not happen. What the publication of the draft Bill did was it allowed people to take it on holidays with them and talk to people on the ground. It also allowed a serious debate to take place. I was taken by the commentary Deputy Richard Bruton made on it, which was thoughtful and effective and raised issues. That is what it was about.

I wrote to the Minister at the time about a number of points that bothered me a great deal in the original Bill and a number of them have been taken on board. I could see in the writing of the draft Bill where there was not time to fill in the gaps in July, that a great deal was left to the Minister to intervene and be the final arbiter. I was horrified by that. In the latest version of the Bill that has, in effect, been addressed in almost all the areas about which I was concerned, such as, for example, in the evaluation process. In the main that approach has been removed from the Bill and there is a vast improvement in it.

The Minister of State referred to public confidence and transparency. He also mentioned the importance of the operating governance structure. I would like him to convince the Government that this is the same thing. Public confidence and operating governance structure are intertwined with each other. That was the problem with the Central Bank regulation, people did not feel that involvement there. This should be done from the outset.

One of the problems I have with the current National Asset Management Agency Bill is that I do not know, for instance, how the board will be appointed by the Minister. This is a classic example of where, in order to have public confidence in NAMA, we should have public confidence in the directors of NAMA and the members of the board in all cases. Some mention of that is made in the Bill but the Minister of State did not refer to it. It is clear that whether it is to be by advertisement and public appointment – I am not sure whether that would be appropriate – the people whom it is proposed to appoint to the board of NAMA or the board of the special purpose vehicle mentioned by the Minister for Finance in the Dáil this week should be invited to appear before a committee of the House, a joint committee, the Committee of Public Accounts or the oversight committee, to which the Minister of State and Senator MacSharry referred.

The establishment of such an oversight committee is extremely important. I want to be clear in this respect. I am not talking about the type of public grilling and embarrassment of people that goes on in Washington. I am talking about providing an opportunity for a person to come before a committee who would be asked about his or her knowledge, expertise and experience in this area. Such a person could say in response that he or she wants to be on the board of NAMA because he or she can bring something to it. I am not suggesting the committee should be entitled to overthrow a Government decision. I would not be in favour of that because, after all, this is the Government's responsibility. The Government must have the people it needs and wants on that board. There is not a conflict in this context. Such a committee would bring openness and transparency to this process and it would also give confidence to the people concerned. Knowing the Minister of State for who he is, I know he would not sit on a board if he did not believe he could contribute to it. It is people of that ilk who I would like to see on the board of NAMA or the board of a special purpose vehicle, people who would be inclined to say they would be delighted to come before a committee, not to be embarrassed or dealt with unfairly but to show a CV, show where they



come from and the reason they can offer something. At least that would be on the record and reported, and that would be helpful.

The matter of how we will deal with the governance issue of the process should be taken further in the legislation. We need to know about the audit committee and finance committee of that board. I agree completely with the point being made by Fine Gael in the other House in regard to the proposed special purpose vehicle. I cannot understand the reason the State, or public sector, side of that vehicle would not have a majority interest of it. I understand the reason NAMA will have a veto over its decisions. I do not have a problem with the concept of a special purpose vehicle. It is a good idea. I have not heard any rationale as to why the public sector should not hold the balance of power in regard to that vehicle. That is an important consideration. However, I do not have enough information on it to argue about it.

We had a draft Bill and a protracted debate in the other House. The Minister may have given the wrong impression in this regard yesterday and, if he did it deliberately, I believe he is wrong. A protracted debate on the legislation in the other House is a good thing. I cannot understand how that will delay the work of NAMA. The Minister has said to me, privately and publicly, that NAMA is working away, getting all its ducks in a line and moving on with the work. I do not want the legislation rushed through this House in a few days, neither do I want its passage delayed. Its consideration should be expedient and efficient. However, I do not want the legislation rushed in on, say, a Friday afternoon to get it out on a Saturday evening. We should deal with it as a week's work or whatever period is required and go through it properly and effectively on that basis.

The accountability measures in the legislation are a major improvement on the draft Bill. The Minister of State mentioned the agency would submit reports to the Minister a number of times a year, which the Minister would then lay before the Houses. In addition to those measures, I would like there

to be another layer of accountability in the form of an oversight group. A report was submitted in mid-summer. If the Minister of State knows the answer to the question I am about to ask, I know he would be not be prevented from disclosing it. When the original draft legislation was brought by Government memo to Cabinet, there was a proposal that the Minister should set up a committee made up of Deputies Bruton and Rabbitte and a few more to have an oversight role of the process, but the Government was not too keen about that. It made a mistake there. It would have been brilliant, politically, for it to do that. It is always good to bring people into the tent, so to speak. The setting up of an oversight body of some description would be beneficial. I am not talking about a body that could interfere, pervert or subvert the work of NAMA but that the agency would be seen to be accountable and answerable to a responsible body. That responsible body could then draw attention to issues it was concerned about and it would be up to the rest of us to get involved at that point. These are belt and braces activities which would very helpful to the Minister.

The 1% per annum thesis is not unreasonable. We must believe there will be a 1% per year improvement generally in the world over the next ten years. If not, we had better all start emigrating. That is not a huge ask in terms of credibility and it is not unreasonable. That presumption is based on the loans having a valuation of €47 billion or €54 billion, whichever it happens to be. I am not too sure or too unsure about that, rather I am agnostic about it because I cannot work out how the valuation has been done. A leap of faith or a trust in God is required in respect of that part of the process. That is the critical element on which this will work.

I did not hear all of the Minister of State's contribution but I do not believe he mentioned the Asset Resolution Corporation, ARC, Mark Duffy's new vehicle. It is interesting that Mr. Duffy got involved in that. Many of those opposing NAMA have said that if the concept proposed was so good, the private sector would be doing this – that the banks would be doing it for themselves. This is

a private sector operation, where private equity and private sector money is being put into another vehicle which will produce something similar in terms of the non-NAMA banks, for want of a better word, or the non-Irish banks that are not included in NAMA. That is a good thing. I would like to hear the Minister of State's view on this.

How will that vehicle interact with NAMA? I am posing that question in a vacuum because we do not know all the details of the ARC business. I would like to hear the Minister of State's vision as to how NAMA and it will engage with each other. If ARC is operating, two things will happen. It will create a market of some description. It will be considering similar, although not the same, assets as NAMA. It will not be a real market in the sense that it does not appear that they will be bidding against each other, but they will establish prices and valuations. If ARC buys a piece of property that happens to be owned the Bank of Scotland Ireland and a comparable property is in the ownership of NAMA, at least we will then begin to see the valuation of such property.

I may be wrong in what I understand will happen and I pose this question seeking information on it. If ARC, Mark Duffy's vehicle, is in the business of collecting, buying or investing in assets, it could off-load, purchase or take over certain assets from NAMA – instead of putting them on the public market NAMA would sell or transfer them to ARC. This is my reading of how it might work, but I have yet to hear any public debate on that. If these two large vehicles are in place – NAMA will be much larger – operating at the same level, it is important for us to understand what will be the engagement and the interaction between them.

I understand section 15 the Bill effectively gives NAMA the authority or power to basically become a land developer. There is a nettle to be grasped here. If NAMA has a half-developed or an undeveloped property which it and its advisers believe is worth developing as there is a market for it, it will have to

deal with bankers, builders, developers and financiers. They are a small group of people in this country. It is very likely – in fact, it is certain – that some of the people with whom it will have to deal are the people who have led us into the difficulty in which we are currently. This is fraught. I do not see a way out of it. I will not just take a simple line on this, but we need a public debate on this. We need a public debate for people to understand this is the way it is going to be. There are only so many builders and if NAMA needs to develop land it will have to approach these builders. The chance is that these will be builders that led us into this current difficulty. If that is to happen, the assurance Irish people need is that these guys do not screw us one more time, that the next time they are asked to do something, it is done in a controlled environment where they work for us or where we make the profit on them rather than becoming millionaires or billionaires all over again on the backs of the problem they created for us on their first outing.

I have one more sentence on that just to reiterate it. I think section 15 of NAMA is to dispose of assets in various different ways, including development, building, etc. Would the Minister of State, Deputy Mansergh, say a few words in his response on how that will happen and who will do the development financing because the banking, building and selling afterwards will need additional financing? The Minister of State sees the point at which I am getting. We should be open and honest about this and state this is how it will work.

### **Senator Dan Boyle**

This debate is something of a cart before the horse exercise in that the National Asset Management Agency Bill will not come to this House until it has finished its passage through the other House, but it is useful in its own right in the sense that the business plan is now part of public debate and this House is only right and proper to address it and those ongoing concerns.

The business plan is meant to be an exercise in public confidence. It is necessary that people understand how NAMA can and will work. I am not necessarily hung up on the details of the business plan. What is important from a Government perspective is that NAMA works, that money flows in the economy again and that our banks and financial institutions become viable entities once more. The question of whether NAMA makes a profit, breaks even or makes a moderate loss is an incidental concern in the wider picture, however much consideration is being given to it.

What I worry about – obviously, Government has a responsibility in this regard – is that debate centring around NAMA has become divisive. With the term NAMA and the introduction of special purpose vehicles, SPVs, it seems that if an acronym exists, it is intrinsically wrong and evil, and that does not help towards healthy debate. I participated in a public debate last night at the Leviathan group and while public debate is always useful, I am not too sure how the type of Pavlovian responses that are triggered by the mere mention of the acronym NAMA is helping public debate. It is clear there is widespread public concern and there are organised campaigns against the concept of NAMA. In a democracy, it is right and proper there be such questioning.

What is failing to be addressed in the debate is that there is no clear, consistent, cohesive, coherent alternative. The Opposition parties have their own proposals and they have obviously put thought into how they might work. However, if one takes the public debate involving the 45 or 46 economists who do not like NAMA, were one to place them into a room and ask what they would have instead, the likelihood is you would get 45 or 46 different responses. This is the difficulty in which the Government finds itself. There is acceptance that we have a problem with our financial institutions and there is further acceptance that it is a problem that must be got right if we are to restore a degree of financial solvency and viability in our economy,

yet there is no agreement on what the solution should be if not the NAMA structure.

The responsibility of Government is to listen, adapt and amend. It is a process that has been done, however lengthily, as well as is possible. Senator O'Toole mentioned that the draft NAMA Bill was introduced in that form to allow particular amendments to be made prior to its official publication. That period allowed the concept of risk sharing to be introduced and the concept of the social dividend to be developed. These are constantly evolving processes.

I am somewhat disappointed in watching Committee Stage in the other House in that Deputies are making arguments as if what is being decided now is the end of a process. It is a continuing and evolving process that will involve this House. The eventual finished legislation will be a very different animal from the draft Bill that was published in July last. We should all be taking part in that process and take particular pride when it happens at the end of the day.

There are ongoing concerns about the premises on which the business plan is established, the fact that the benchmark is taken from the experience of a UK bank and that it is a narrow base for a benchmark. I take a view that there is a possibility, even a strong one, that prices will decrease further in the short term. They may go down by 10% to 15%. On the figures on which NAMA is established, namely, if there is approximately 1% inflation over the next ten years and there are no changes in the prices, we should recover our money, even if there was a 10% to 15% fall in prices in the short term, it is not unrealistic to think that a 2% to 3% average in inflation over that same ten to 15 year period will have exactly the same effect. We are talking about a medium and long-term approach to this problem.

The business plan which contains an element of exuberance – I was somewhat misquoted on the newspaper today – does not state that this will be a vehicle to solve the financial problems in this country. It states that if NAMA is profitable, the level of profit that can be obtained over this ten-year period is in the region of 1%. It is certainly not the type of profit margin on which anyone would set up a commercial business but it is meant to be, as I stated earlier, part of a confidence exercise for the people of this country on what will be the biggest level of expenditure on any particular project this country has ever undertaken. On those grounds we need those measures. However, we need a questioning of the basis on which the figures are reached and we need a constant analysis and a revisiting of those figures.

I am happy that the reporting mechanisms of NAMA seem to be improving as the Bill goes through the other House. We have a role to play in this House as well. Information is key over the next ten years. How will this particular agency affect the property market and the economy itself? Will it do so in a positive sense? If it does so in accordance with the real fears, that the winners are those who have contributed to the nature of this problem and those who are disproportionately benefiting from wealth in this country, then we will have failed as a political system and as legislators to ensure those occurrences do not happen. However, I am satisfied that at least those questions are being asked and mechanisms are being put in place to avoid them.

The difficulties we have with NAMA are only an element of the overall economic difficulties we face and while we need to get this right, we also need a common approach to our wider economic difficulties. The next three months will be vital, especially the budget on 9 December. That can only be informed by combating a narrative that the Government has been less than successful in combating, that there are those who have benefitted who have yet to accept responsibility for the nature of the economic slowdown and collapse that has occurred in our society. Until those actions are taken and until those signals are made, the idea of accepting the very difficult

economic choices we must make and the unacceptability and implausibility that NAMA represents to many of our citizens will be a bridge too far. The Government and whichever Governments are formed subsequently will have to see through a NAMA process over the next ten to 15 years.

On those grounds the business plan is useful. It should not be taken as writ, but it shows the direction in which matters can go and offers the opportunity for further public debate to allow for the degree of public confidence that, unfortunately, is still lacking and needs to be put into the system in gaining public trust before the vehicle that is NAMA can achieve what we all hope it can achieve.

### **Senator Alex White**

I wish to share time with Senator Doherty.

### **An Cathaoirleach**

Is that agreed? Agreed.

### **Senator Alex White**

There is no point in, as Senator Boyle said, planning the future on the basis that we hope the public will gradually gain confidence in this process, which is a flawed basis for proceeding. Unless there is confidence in the taxpayers and the public committing themselves to what is proposed now, and unless that confidence is sought and achieved now, it will fundamentally undermine what is being proposed in our name and what looks likely to be enacted in our name. This is not the kind of project which is amenable to a "let us suck it and see" approach or to hoping that people will come around to it after a few months or years. While there are some elements of public policy where that case could perhaps be made, this is not one of them.



The taxpayers and the people are being asked now to make an irrevocable commitment. It is not an exaggeration to say it is a commitment of historic proportions in terms of the amount of money which is being committed for this generation and for at least one if not two future generations. I can understand Senator Boyle hoping that people would come around to this as the months and years progress. I can see where he is coming from given his political point of view of wanting things to change and wanting people to develop confidence in the future. However, as he rightly acknowledges, there is little or no confidence in it now. This is not the type of proposal where it is acceptable for us just to hope that people will change their minds.

I have been listening for some time for an explanation or clarification from the Green Party in government about the so-called social dividend. Where is it? Where are the amendments? Where is the social dividend that was trumpeted by the leader of the Green Party as being something they would put into the heart of this process? We were listening to this for days at the time of the negotiation of the renewed programme for Government. Speaker after speaker said that the programme for Government would be transformative and that, in particular, the social dividend would be put into the heart of NAMA.

I may be mistaken in what I understood Senator MacSharry to say when he referred to the social dividend. It did not sound to me as if he was referring to it in particularly warm terms, certainly not in any sense that was informing me as to what is meant by it. The lack of confidence among the public in the NAMA project, as acknowledged by Senator Boyle, points to the fact that, regrettably, there is no social dividend on the table in respect of NAMA. A very large bill is being handed to the Irish people and taxpayers in respect of what is about to occur. All of this fig leaf talk about social dividends is precisely that.

There has been vague talk about changing the planning system. I agree the planning system needs to be altered fundamentally and I agree with some elements of the Bill currently before the House, which represent an improvement. However, the NAMA legislation is not a planning measure and there is very little in it which concerns planning. That is not the type of measure the NAMA legislation is or purports to be. There is no point in people trying to mislead and add further to the undermining of confidence that has been referred to by suggesting that some so-called social dividend will emerge from this process.

I thank the Minister of State, Deputy Mansergh, for his address and welcome him to the House. Several points arise from his address. With regard to the course of the debate in this and the other House, I am sure the Minister of State will say he was not suggesting – I hope there is no suggestion from the Government or from Senator Boyle in light of his comments on the Order of Business earlier – that the debate will in any way be curtailed in either House. I ask not only that it should not be curtailed but that the Government should take the view that the maximum amount of scrutiny and debate should occur in this and the other House in the next week or two. If there is any hope of the Government bringing the people with it, one of the ways of doing this is for the Government to be prepared not to carp and appear to get irritated – as it did last July, for example, when we wanted to debate measures under the completely different heading of justice – by what is sometimes called undue delay, which was referred to by the Minister of State in his speech.

I remind the Minister of State and the House that the original proposal in respect of NAMA was announced in the supplementary budget on 7 April this year, which is some considerable time ago. A consultative document was published in July, the Bill was published in September and it is only now, in the past week or two, that the debate is taking place in the other House. It is proposed to come to this House within the next two weeks. Of the time that has been taken up in devising and putting in place this scheme, the

percentage of time it is proposed to give to Parliament in the context of those months of preparation, discussion and debate is quite low.

It is striking to consider just one aspect of the business plan which deals with the preparatory work that has been done. The business plan states there has been "intensive engagement with financial institutions likely to participate in NAMA", which is understandable. It also refers to discussions with interested third parties, including the foreign-owned financial institutions which operate and lend in the Irish property market, the Irish Bankers Federation, the Irish Bank Officials Association, the Irish Congress of Trade Unions, the Construction Industry Federation, the Irish Property Council, individuals and organisations who have operated and worked with similar operations overseas, for example, in Sweden and the United States, as well as with the UK Treasury, the Bank of England, the UK Financial Services Authority, the Central Statistics Office, EUROSTAT and the European Commission's DG Competition. I can understand there would be a reason for the Government to consult with all of these bodies in their own right. However, it cannot have any basis for seeking in any sense to curtail or complain about proper debate happening in these Houses, given the length of time it has taken, perhaps understandably, to bring this complex legislation on to the floor of the other House.

The central argument in the Minister of State's speech and the one that comes across constantly from the advocates of the NAMA project is an objective with which nobody can disagree. The Minister of State in his speech stated: "one of the key essentials for our economic recovery is a healthy and functioning banking system that will serve the needs of the broader economy" and that we want "a properly functioning banking system". Of course, that is absolutely true, but how does this initiative deliver that? It is not enough for the Minister of State or the Government to rhetorically say they are doing it so we can restore the health of the banking system. I presume that is why they are doing it. Why else would they be doing it? I take

that as read. What I want is an elucidation and elaboration as to how that will lead to the consequence the Government suggests it will do.

What basis does the Government have for saying the banks will start lending once the NAMA process goes through? It is not just a question of finalising the NAMA process, but also of what Senator Boyle called the probable requirement for further capitalisation of the banks, which will also happen – Senator Boyle is quoted in today's The Irish Times as having said that. All of that having occurred, can the Minister of State give us an indication as to the basis for his believing the banks will turn around, change their lending strategy and genuinely become a functioning banking system in the interests of the country, taxpayers, small businesses and householders, rather than shareholders? I am not attacking shareholders and I understand how the system works but we should not restore the banks to health just so that the shareholders profit. I presume the Minister intends the plan to benefit the wider economy. Can he give us any proposal which ensures lending genuinely resumes to the productive economy?

### **Senator Pearse Doherty**

Gabhaim buíochas leis an Seanadóir Alex White as ucht a chuid ama a roinnt liom. Cuirim fáilte roimh an Aire Stáit, atá anseo arís chun an cheist tábhachtach seo a phlé. Tá a fhios aige go bhfuil mo phairtí, mar aon le mórchuid de phobal na hÉireann, go hiomlán in éadan moladh an Rialtais chun an eagraíocht úr seo a bhunú. Sílim go ndéanfaidh NAMA dochar do phobal agus eacnamaíocht na hÉireann sa todhchaí.

The Minister of State is well aware of my and my party's position on the NAMA proposal, which has the potential to bankrupt this country. In preparing for the debate I sought the NAMA business plan in the Oireachtas Library. I looked under the political category and the economic category, but could not find it. I finally found it under the fiction category. In reality, this is

complete fiction. The first six pages are not too bad but once one gets to page 7 there are numerous references to estimates. This is guesswork on the part of officials from the Department of Finance. There are 32 references to estimates in this document. The Minister of State will find more facts in The Da Vinci Code than in the NAMA business plan.

This guesswork has the potential to cripple the country. One only has to look at the guesswork carried out by Department of Finance officials and the Minister in the past. The predictions for this year's tax take are already €2 billion behind the actual figure. The Department's economic forecasts have been spectacularly wrong in the past year, not once, not twice, three or four times but five times. Economic policy is decided on tax receipts so it is crucial to get the numbers right. In July 2008 the Department forecasted that tax receipts would be down by €3 billion. Two months later it changed the figure to €5 billion and the following month the figures changed again, the Department this time suggesting there would be a deficit of €6.5 billion. Even with all the changes, the forecasts were still nowhere near the final figure of approximately €8 billion. In a short period, five different figures have predicted an increased deficit because the previous estimate was wrong and the shortfall multiplied and multiplied to a higher figure.

This is a bad plan even if the figures are accurate, but we can only imagine how bad it will be if the figures grow as the estimates for tax receipts did. Not only is it fiction, in which the Minister tries to look into the future by gazing into a crystal ball, but the figures are wrong, as are the premisses on which they are based. The property bubble has not bottomed out and prices are still falling. The Government does not acknowledge that fact so its figure for a current value of €47 billion could turn out to be lower. I believe that will be the case and economists such as David McWilliams and Professor Morgan Kelly say prices will continue to fall. While the net worth of these loans may have indeed been €88 billion when they were taken out, the €77 billion identified as the amount borrowed on the projects in question could also

prove inaccurate because the dogs on the street know that many developers borrowed the additional money from other banks to make up the full purchase price.

### **An Cathaoirleach**

The Senator's time has elapsed.

### **Senator Pearse Doherty**

There are a number of fundamental flaws in this document. The figures are wrong and it is based on myth. It has the potential to ruin this country. In addition, the Government has given a commitment to the Irish people that it will pursue developers to repay their loans. However, a vigorous pursuit will, according to the plan, result in only €1 billion of the €54 billion being recouped in 2010, only €1 billion in 2011 and only €2.5 billion in 2012. Only by 2013 will we start to recoup money. The Government is telling developers who got us into this problem to hang tight as they will be all right and will not be pursued until 2013 when most of them will be retired on ministerial pensions. It will be left to a later generation to deal with at that time.

### **Senator Ivor Callely**

I welcome the opportunity to participate in the statements on NAMA. I declare that any financial interests of mine are shown in my annual declaration of interests statement.

Since the last quarter of 2007 the Government has been telling us how serious the financial situation is. I have great admiration, respect and appreciation for my colleagues, the Minister for Finance, Deputy Brian Lenihan, and the Minister of State at the Department of Finance, Deputy Martin Mansergh, for the manner in which they have gone about their

business on this issue. They have been constructive and consultative and have shared with all Members of the Upper and Lower Houses all matters relating to our very serious and challenging financial position, including matters relating to NAMA. The Minister of Finance was prudent to be open, transparent and consultative on the importance of our economic recovery process. The engagement of the Minister on this matter has been essential to ensure full understanding of the issue and of his proposals in light of the critical difficulties posed in the current climate.

The greater the level of understanding in identifying the extent and nature of our problems, which have been seriously compounded by international financial factors, the greater the prospect of success in the resolution of our problems. We must be serious in our purpose, have firmness of resolve and have belief in our ability to overcome these difficulties. A number of international factors conspired to create the perfect storm and place us in this the biggest of financial whirlwinds. The last speaker blamed the Government for the changing financial position as if we were a protected island not affected by anything happening in the international sphere. The Minister of State and the officials in the Department of Finance may like that to be the case but there is a global recession and financial problems in virtually every country in the world. It has hit some harder than others and it has not yet reached some countries, while others are showing signs of recovery.

Work is well under way on the Government's framework for economic renewal. The economic renewal plan sets out a number of priorities and actions the Government is taking in the short and medium term. In the preparation of this plan in the last quarter of 2008 a vast amount of critical assessment, research and effort was put in by a host of experts to ensure we took the correct course of action. The Government set out objectives in the plan, identified the supports and resources needed and worked out how best those supports and resources could be activated to ensure we achieved the

optimum benefit. All are agreed that one of the key factors for our economic recovery is a healthy banking system with a clear objective to facilitate a flow of credit and cash into the economy. If I have one criticism it is that the NAMA business plan should have been before the House in the first quarter of this year. We have all known since 2007 the seriousness of the challenge. Work commenced on a resolution in 2008, yet we are still discussing the matter in the final quarter of 2009. It is sad and not good enough. I have already expressed my views to my colleagues, including the Minister for Finance and the Taoiseach. I appreciate there was a need for open debate to the extent that has been done. On balance, however, there is a cost implication in the protracted debate and the impact on business is massive. At last we are now at the stage of a draft business plan for NAMA prepared by the interim agency team to try to get a handle on the prevailing position. It sets key parameters, sets out its stall for an initial work programme, and commences asset valuation and transfer processes. In addition it carries out what one would expect from a process of due diligence. NAMA's mandate is simple: to obtain the best achievable financial returns. It will have all the necessary commercial powers. As we know, NAMA's powers and functions include the acquisition of certain bank assets to cleanse our bank balance sheets of possible toxic loans.

These financial institutions should then be able to use their improved position to obtain cash from the ECB or other international lenders. It is expected that this will result in our financial institutions being in a position to mobilise the flow of cash and credit into our economy. I have heard some speakers mention their concern as to whether banking instructions will do this, should they be in a position to mobilise their own access to cash. This is a critical marker for the success of NAMA.

I have taken the opportunity to speak to some senior banking personnel, both at AIB and Bank of Ireland. They have explained their difficulties in obtaining cash. In addition, they have indicated what they are doing in the



current restricted climate and what they would like to be able to do should they be in a better position. I do not see why I should mistrust them. That is their business and it is what they wish to recommence. I have no doubt the Minister of State, Deputy Mansergh, and his departmental colleagues have discussed this issue with the banks in question. I would like to think that given the scale of the Government's commitment to assist our financial institutions, there has been some level of acknowledgement and understanding to ensure our economic recovery. That, of course, is in the wider public interest.

The draft plan strikes me as a good attempt, with limited and sensitive information, to address our problems. The figures include a loan book value of €77 billion at a cost of €54 billion, with a breakdown of 70% to 30% Irish to overseas portfolio, in addition to an estimated recovery over the ten-year period of the business plan and a possible €5 billion net gain. There are many questions concerning those type of figures. Why pay €54 billion? Why was it not less? Where is the €77 billion? How was the €5 billion figure calculated? We could tease this out until the cows come home. I have no doubt that within the portfolio there are some good and valuable assets, while there may be some difficult projects that will need a certain amount of effort, perhaps a fresh pair of eyes and a determination to make a success of the project. I believe that, by and large, it will happen.

The old mantra "location, location, location" will come into play concerning the NAMA portfolio. How NAMA will address the portfolio will only be fully realised when a detailed assessment of exposure is calculated as well as what the market might present. The management of the 70% of the loan book that comprises the Irish portfolio will impact on the economy and will require careful consideration. The 30% overseas portfolio might be managed differently and may attract a choice of options, especially if clean and easily disposable, thus attracting money in quickly without any great management headaches.

I offer Mr. Brendan McDonagh, the interim managing director of NAMA, and his team, every good wish with their challenging task. The nature of the present crisis is different from anything we have ever experienced in this country. It permeates across every parish and region and consequently is felt everywhere. Members of the public who have never had any great knowledge of or interest in national financial matters and who up to now have not normally wished to be informed of them are anxious. They want to see their legislators taking decisive action to resolve the issue. I understand there was, to an extent, a need for a protracted debate on what we are doing. We saw what happened in the markets yesterday and overnight, so it is now appropriate for the Minister to proceed, albeit without haste.

### **Senator Eugene Regan**

I will preface my remarks by drawing attention to what the Minister for Finance said yesterday in the Lower House and what the Minister of State, Deputy Mansergh, is saying today about delay. I find it extraordinary that they are talking as if it is the fault of the Houses of the Oireachtas that there is a delay in introducing the NAMA legislation. The Minister for Finance chose to publish a draft of this legislation before the summer. He also chose not to recall the Dáil to pass this legislation. It has been his decision to have a protracted public dialogue on the issue. The legislation was only introduced recently in the Lower House. We are not dealing here with the legislation itself but with the business plan which is an adjunct to the Bill. In suggesting that both Houses are in some way at fault in causing a delay, the Minister for Finance is denigrating the Oireachtas. I have no doubt the Minister is doing that in the context of the fall in bank share prices yesterday. He is intent on implying a criticism of Members of the Oireachtas for causing a delay, which in turn caused concern in the markets. It is a cheap shot and I ask the Minister to clarify the position in this House.

The importance of scrutinising legislation is self evident. However, the importance of scrutinising this legislation is paramount since it is probably the most important Bill ever to come before the Oireachtas in terms of its scale, risk and impact on the country's credit worthiness. This is a major undertaking even if the accounting practices the Minister wishes to pursue will keep it formally off the figures for the national debt. To suggest there should not be proper scrutiny in these Houses of the NAMA legislation, as the Minister is suggesting, is inappropriate. A considerable number of issues have emerged which were not quite clear when the Minister initiated this project. We were led to believe that it had the approval of the European Commission and the European Central Bank, but in fact it has not been formally approved. We have seen that the European Commission in particular has taken a specific line with these type of projects in recent days which is quite strict, and has an impact on the markets and on the manner in which governments can act in subsidising their financial institutions.

The Commission is concerned that undue state aid to banks will distort competition and present moral hazard. It wants state aid granted during this crisis to be repaid quickly by financial institutions, encouraging them through raising equity and capital or asset sales by the banks. It is also true in the context of EU state aid policy that the Commission does not approve of state aid to companies that are going out of business. I shall come back to that point.

The ECB has also made clear that it does not want the Government to pay excessively for the loans in question. There is no question but part of its approval rests on a preference that the banks remain substantially in private hands. That is acknowledged. We have been led to believe there is no alternative to NAMA. However, the scheme approved for Northern Rock in the United Kingdom, which involves a good bank-bad bank approach, proves otherwise. Also in the UK is the variant of insuring a proportion of bad loans, so the notion that there is no alternative to NAMA is misleading, loading the

argument in favour of a project which we all know risks bankrupting this country.

We are led to believe the whole purpose of the legislation is to lead to more bank lending. However, the latest euro area bank lending survey concludes that banks, including the Irish banks, are tightening up on credit terms and lending. We are also led to believe the draft Bill and the business plan provides the necessary transparency in relation to this project. Very recently, however, we learned that there is a whole new aspect to this operation, namely, the special purpose vehicle, SPV, designed to keep the debt involved off the national balance sheet, the type of accounting that got the financial institutions into trouble in the first instance. We, on a national scale, are undertaking a similar type of operation designed to camouflage, in effect, the true import of the NAMA project. Why was this SPV arrangement not disclosed by the Minister until recent days?

We are also led to believe that one of the main purposes of the NAMA project is to allow the banks to improve their balance sheets and lay the basis for the raising of further capital. Given the recent share prices in Irish banks, there is serious doubt as to their ability to do just that. As regards the business plan, the Minister's economic advisers indicated at one point that NAMA would wash its face every year. However, when the business plan was produced some weeks later, it projected in real terms a €4.5 billion profit. While I appreciate that it is important for the Government to put the best face forward in relation to this operation, it has made assumptions, not all of which were outlined in the business plan. It is important that it shows a profit whatever it has to do as regards the assumptions. The assumptions follow the result to be achieved and not the other way around, because this has implications as regards how the matter is viewed by the European Commission in terms of state aid, and by the European Central Bank.

Some of the assumptions are already known to be false in terms of valuations. We have had a detailed examination of one of the main property developers and a scrutiny of its business plan in the High Court. We have seen the value of a very significant property portfolio, the Irish Glass Bottle site, revalued downwards by 85%. These are the type of loans that NAMA is taking over. We do not know, of course, the true values of the loans because no due diligence exercise has been done. In a sense, therefore, the Government is acting on the blind. However, there is one question I want to ask, as regards Anglo Irish Bank.

This is not a bank that is lending and it is unlikely to lend in the future. There is a serious question mark over its viability. The Government has already injected and lost €4 billion in this regard. What is the logic of including Anglo Irish Bank in this project when it has no future and will not be lending in the Irish market, which is one of the primary purposes of the NAMA operation? Some €28 billion in Anglo Irish Bank property loans are to be transferred to NAMA.

In that regard and in terms of commitments from the banks in general to credit lending, we find nothing in the Bill that commits the financial institutions and holds them to account in terms of lending in the Irish market, divesting themselves of any foreign assets which would enable them to do that and to organise their funding to ensure they realise the quid quo pro inherent in the project.

### **Senator Larry Butler**

I welcome the Minister of State. He and the Minister for Finance probably know more about NAMA than anyone in the country who has been dealing with this over the last 12 months. There has been a great deal of misinformation from people who did not understand the workings of NAMA, and how it would operate. There are still quite a number of people who do

not understand NAMA and it is the job of this House to try to get the message across.

The Minister for Finance has done an extremely fine job in insuring that NAMA is understood perfectly in light of the business plan laid out for us to discuss. Jones Lang LaSalle, in an article in The Irish Times yesterday, said the property market has more or less bottomed out now, which is good news. This is an international company which has its finger on the pulse in terms of reviewing property markets on a worldwide scale, and I value its opinion very much. When we originally proposed NAMA to ensure that the banking sector was put back on a solid basis for lending, everybody assumed the banks would not lend. I believe that is a wrong assumption. The banks at the moment cannot lend as they are undercapitalised. This is where the business plan comes into play with the recapitalisation of the €54 billion which will go back into bonds and back into the banks again. That will put the banks on a very solid financial footing to ensure they meet the demands for coming years and the future of the economy.

Sitting suspended at 1.30 p.m. and resumed at 2.15 p.m.

### **Senator Larry Butler**

I was speaking before the sos about the availability of credit. There is a general perception that the banking system is not lending currently and that the reason for this is insufficient capital. As a result of recapitalisation via NAMA, banks will be able to resume prudent lending, but – and it is important to emphasise this – they will not be in a position to offer the same degree of credit as they did prior to the crisis. We all must get used to that new reality. There has been much comment to the effect that the NAMA legislation should include a provision compelling the banks to lend. That is impossible to do, mainly because each individual credit application is different. The reason the banks find themselves in such difficulty is that they

lent unwisely in the past. It is our job to encourage and facilitate them to be more prudent in the future. People simply cannot borrow at the same level as they did last year and the year before. The reality is that we must shrink the economy back down to its 2004 level. That will not be pleasant but there is no point in misleading people. There is no escaping the reality that credit will no longer be available to the extent to which we had become accustomed.

The Minister of State told the House that the book value of €77 billion for the loans to be taken over by NAMA includes €28 billion in loans for land purchase and €28 billion in loans associated with land and development loans, and that the current estimated market value of the loans being transferred is €47 billion. The Minister of State also told the House that approximately 40% of those loans are generating income, something not generally taken into consideration when criticism is levelled at the NAMA initiative. Moreover, 30% of loans relate to assets outside the State, including in Northern Ireland, Britain and the United States. Given that the global upturn, when it comes, will likely benefit those economies before our own, that 30% could come good very quickly as places like London, Manchester and cities in the United States begin to recover.

It is important to bear facts such as these in mind when appraising the points made by those who are opposed to NAMA and who would offer alternative proposals. I value everybody's proposal, but when I hear somebody like Senator Doherty of Sinn Féin make statements about estimated valuations and so on, I have to laugh because I do not think Sinn Féin has an economic policy.

### **Senator David Norris**

They knew how to rob the banks.

### **Senator Larry Butler**

They were very good at robbing the banks all right. When I heard Senator Doherty's contribution, I had to laugh.

NAMA is there to improve our banking system and also to ensure the banks are much more prudent when they start lending again. We need the banks to lend to the greater economy. If we are to see an upturn in the economy by 2011, we will need a good banking system, but it will not be at the same level as existed heretofore. We must get this across to people and we should not mislead them. If we get this across, then we are on the right track to making our economy more viable. It has been declining for the past two or three years.

If the National Asset Management Agency Bill is not before the House next week, then we should have a debate with the unions and others and ask them to understand the situation in which the Government finds itself. There is no use in asking who caused this or that. We are where we are. We should not be playing the blame game at the moment. We need to find out how to get out of the current situation quickly and efficiently. The smart economy document which we produced last year is a key part of the plan to get us out of the current problem. It will create anything up to 30,000 new jobs immediately. There are 5,000 registered contractors in the insulation business owing to the grant system that has been introduced, and they are doing very well. We should move any carbon tax towards the retrofit industry to ensure we develop it. We will also save ourselves a carbon tax from Europe and create jobs. Examples such as these are vital in the creation of the new green collar worker who will take over from here.

### **Senator David Norris**

I welcome the Minister of State to the House. There is a crisis of confidence. The public are a bit shell shocked and they have no trust in the banks. I do not agree with much of what this Government is doing, but at least there is



some degree of comfort in the fact that we have, in the Minister for Finance and the Minister of State, two very professional, intelligent and competent people. There are some errors in this, but I may very well be wrong and they may be right. I hope that is the case.

The Minister of State referred to targets and assumptions, and that is part of the weakness of the case because the financial figures are not spelled out in any great detail. Owing to the methodology employed, it is not even possible to do so at the moment. Unlike Senator Doherty, I got a copy of the business plan. It was not in the fiction section but in my pigeon hole. I thought that if I presented it as a private individual to one of the banks, the bank would not be likely to give me the €54 billion. The sums are so staggering in this case that we need to be very careful.

The Minister of State said that definitive figures will not be available until NAMA has had the opportunity to assess in forensic detail the loan books involved. Why did they not go straight in, seize the books and examine them immediately? Who the hell are these people in the banks? They have been irresponsible and stupid and they have helped to propel us, with some assistance from the Government, into this situation. What happened to the idea of reckless trading? I have been a board member of a number of companies, all of them profitable, but I never took a penny out of them. On a couple of occasions, I had to warn the other directors that reckless trading was a criminal offence. Why is nobody being prosecuted for this? What these people have done even goes beyond reckless trading, yet they are still sequestering their assets abroad. They are disappearing with large amounts of taxpayers' money which has been pumped into entities such as Anglo Irish Bank.

We are also in a situation where the Government's figures have been provided by the institutions themselves. There is a story in today's newspapers about a doctor severely censured and nearly removed from the medical

register precisely because he supplied inaccurate information about himself. Nobody would rely on information supplied by those in the dock without any real investigation or cross-examination.

The Minister of State talks about figures of €77 billion and €54 billion, but many people are suggesting that the write down will be 50%, making the second figure €38 billion. There is a big gap and it is the taxpayers who will have to pay for it. The Minister of State claimed that the recovery in asset prices required for NAMA to break even is only 10% over ten years and that this is an achievable target. It is an achievable target, but it also may not be achieved. To use the market analogy as we hear it every day on the radio, investments can go down as well as up. This plan projects a small but steady inexorable rise, but this may not happen.

I honestly do not know why Anglo Irish Bank was rescued. A total of €4 billion was shovelled down that black hole. Will Mr. Fitzpatrick's loans be provided for? Will he get anything out of this? I do not want to be personal or to impugn people but I do wonder.

I have a file of e-mails from individuals that is about an inch and a half thick. These people are really concerned and some of them work in the accountancy profession and the financial world. Professor Joseph Stiglitz is a Nobel prize-winning economist, adviser to the Clinton Administration and so on. He said of the situation here:

[T]his bank bailout is a simple transfer from taxpayers to bondholders, and it will saddle generations to come. The only thing that might give you solace is that, as chief economist of the World Bank, we see this type of thing happening in banana republics all over the world. Whenever a banking crisis happens, the financial sector uses the turmoil as a mechanism to transfer wealth from the general population to themselves.

That is a rather chilling statement to read, but it comes from somebody who needs to be listened to.

Let us look at the loans and mortgages in particular. About €148 billion has been given out in 650,000 loans. Estimates vary, but the projections are that between 200,000 and 350,000 people will be in negative equity in the next year or two and may not be able to repay these loans. What will happen to them? While we are massaging the bankers, what about the ordinary people?

I have received a submission from the Free Legal Advice Centres, which provide an excellent service. According to the submission, approximately 350,000 people will be in negative equity by the end of 2010 if house prices fall by 50%, which could happen. The Free Legal Advice Centres speak glowingly about the Money Advice and Budgeting Service, which I have spoken about previously in this House. The Money Advice and Budgeting Service is under-funded and over-subscribed. Is there any plan to provide extra funding and resources to the service? Given that we have cut back on all the supports for the most vulnerable sections of our community, it is absolutely essential that we prop up the Money Advice and Budgeting Service so people can get good advice. I appeal to the Minister for Finance to do that.

In a recent newspaper article, a former Member of the other House, Mr. Ivan Yates, made an interesting observation about the NAMA business plan when he suggested that Mr. Justice Peter Kelly or Mr. Justice Frank Clarke would "give it the same treatment as Liam Carroll's Zoe business plans". Mr. Yates suggested the estimates contained in the business plan are wildly unrealistic. I have previously, in the presence of the Minister of State, described the contents of the banks as "flubber", or a volatile green substance that cannot be quantified. At least we have some headline examples. The value of the former Irish Glass Bottle site in Ringsend has reduced from €413 million to €60 million, for example. The value of the aforementioned Zoe Group has

decreased from €1.3 billion to €300 million. That is what the market is telling us. We have to bear that in mind when we are looking at the situation. In light of the under-funding of the Money Advice and Budgeting Service, I find it extraordinary that we are budgeting for €2.64 billion for the bureaucracy of NAMA. I would like further detail on that, if possible. Who are the people involved? Have any names been mentioned in this regard? Are there specific instances of salary? Why is this expenditure required?

We need to reflect on the functioning of the market, which is often invoked when people speak about NAMA. The banks that are not included in the NAMA scheme have formed a separate entity – the Asset Resolution Corporation – and will go to the market themselves. The Minister of State will be aware of the plan to provide for a haircut of 30% under NAMA. The market, in the case of the Asset Resolution Corporation, is providing for a haircut of between 40% and 50%. I suggest that the Minister for Finance should have a similar target. I would like some specific information on the NAMA valuation methodology. What methodology was used to arrive at these circumstances? We have heard a lot of nonsense from the Fine Gael leader, who has said that a referendum on the future of the Seanad would solve the problems of Ireland. What rubbish. It would be much more important to have a referendum on NAMA, which will cost €54 billion, because we will all be in debt forever if it does not work. If we are to hear the views of the people about the Seanad, we should also have a referendum on NAMA.

I would like to ask some specific questions. What evidence, if any, does NAMA have that the current market price of property and land is the correct price to pay? What evidence does NAMA have that the current market price will not decline over the coming years? Why would the temporary nationalisation of the banks be a bad thing? In a proposal that pre-dated the Government's NAMA plans by two months, I advocated the establishment of a national property management agency. The Minister of State, Deputy Mansergh, who

is a good country man like my ancestors were, might approve of a slight tweaking of the NAMA proposal that I would like to advocate. Some of this country's major centres of population are surrounded by huge land banks. At a time of high unemployment, I suggest that some of those lands should be divided into allotments for the use of the unemployed. Such people could be given a small range of seeds, implements and manuals. If we get them out of the house in this way, we might lead them out of depression. If we employ them productively in the growing of food, they may be able to supplement their incomes and improve their diets. Why can we not have an independent analysis of the whole NAMA question?

I wish the Minister, Deputy Brian Lenihan, well and hope his plan succeeds. I am concerned that these assets will be disastrously overvalued because no proper method of valuation is being provided for. I am concerned that Professor Stiglitz's prediction that there will be massive transfer of wealth, from those least able to afford it to the bankers, will come true. It is right that the main bankers, as opposed to bank employees, are held in contempt in this country. I listened at lunchtime to a report about the Irish Bankers Federation conference, which took place this morning at a luxurious Radisson Hotel somewhere in Dublin. I was struck by the comments of a banker who said that the grieving period is over. That might be the case for the bankers, but I am afraid it is only beginning for the people.

### **Senator Mary M. White**

Professor Patrick Honohan, who was recently appointed as the Governor of the Central Bank, has said that "with its fiscal, competitiveness and banking crisis, Ireland is among the most severely affected countries in the global crisis". Our banking system has been on life support since 2008, when the Government announced a two-year guarantee of the liabilities of the four Irish-controlled banks. The share prices of the banks fell immediately and Anglo Irish Bank was nationalised within days. By the end of April 2009, it

was generally expected that the State would take a large equity stake in the two main banks, AIB and Bank of Ireland.

Although international pressures contributed to the timing, intensity and depth of the Irish banking crisis, the underlying cause of the problem was domestic and classic. The growth of the Celtic tiger over almost two decades was admired all over the world. Until 2000, that growth was secure, led by exports and underpinned by wage restraint. Between 1986 and 2000, wage restraint helped to generate an unprecedented era of full employment. As a result of surging numbers of births, improvements in life expectancy due to a higher standard of living and immigration, the population of Ireland increased by almost 17% between 1996 and 2006. A domestic crisis arose after 2000, however, when wage competitiveness deteriorated. By 2008, hourly wage rates in Ireland had raced ahead of those in competitor countries. When measured in a common currency, this country's rates were up to 36% greater. While the loss of wage competitiveness ultimately undermined employment expansion, that was masked by the construction boom. Among the triggers for the property bubble was the sharp fall in interest rates after Ireland joined the euro.

I do not doubt that by borrowing from abroad, Irish banks fuelled the boom, especially from 2003. They exposed themselves to funding and solvency pressures. Competitive pressures on the leading banks to protect market share among Irish-controlled retail banks resulted in reckless and feckless expansion. Funding for banks became particularly challenging after the collapse of Lehman Brothers in September 2008. The result was a severe banking crisis that undermined the Irish banking system at home and abroad. Commercial activity has almost been brought to a standstill as a result of a lack of finance and credit provision.

We are aware that the Irish banking system is in crisis. The key challenges that have been identified and broadly agreed on relate to credit provision and

bad loans. NAMA addresses these challenges in so far as it reduces uncertainty about the balance sheets of the banks. Banks receive bonds that can be cashed at the European Central Bank. Most importantly, banks must focus on lending to small and medium size enterprises and households. The objective of NAMA is to strengthen the balance sheets of the banks, thereby reducing uncertainty over bad debts. It will ensure the flow of credit on a commercial basis to the real economy, which must be the main focus in ensuring Ireland can capitalise on the worldwide recovery that, according to some indicators, is already under way. The Irish economy, while suffering major damage as a consequence of the recession, could return to a period of quite rapid economic growth once the world economy enters a recovery phase. Over the past six months, there have been increasing signs of a return to more favourable conditions.

To return to my initial point on competitiveness, bearing in mind that the unemployment rate is 12.5%, I would like to refer to Dr. Whitaker who, at the Lemass International Forum in Dublin during the summer, stressed the need to restore competitiveness to the Irish economy. He stated:

[W]e cannot afford to forget that we will benefit from a global economy only if our goods and services are competitive in price and quality. The greater part of our income as a nation comes from exports of goods and services, so incomes and jobs are vitally dependent on competitiveness.

I wish the Minister of State, Deputy Mansergh, every success in his Ministry. He has been close to the Government over many years and I am sure he concurs with me that while we have been through many crises and know the present one is the worst, we will come out of it.

**Senator Paschal Donohoe**

I welcome the Minister of State, Deputy Mansergh. I want to focus on an aspect of the business plan that was not referred to in his contribution and which has not been part of the public debate on the NAMA legislation to date.

The objectives of NAMA, as laid out in the draft business plan, are very clear: "The eligible assets to be acquired from participating institutions are land and development loans and associated loans." This forms the basis of the discussion to this point. I want to probe why the State will be taking on from the banks derivatives that are worth €14.6 billion in total.

Appropriately, the entire discussion on the business plan focused on the property loans that form the bulk of the transactions that the State seeks to engage in. However, as part of the transactions, NAMA will be taking on responsibility for 1,000 derivative positions, as mentioned in the plan, at a cumulative value of nearly €15 billion. This is a huge undertaking on the part of the State. The legislation defines what derivative instruments are and gives the Minister the ability to take them on board on behalf of the State if he believes it to be necessary.

We understand that one of the principal causes of the near collapse of the global economy last year was the effect of these derivatives on multiplying risk that people did not understand across institutions all over the world. My broad question concerns why these derivatives are included in the NAMA business plan. What is the rationale for the State taking them on board?

I have four questions to which I would appreciate an answer in the Minister of State's response. First, what are the derivatives the State is taking on board? The document states they concern interest rate swaps or interest rate hedging tools that the State will take on board on behalf of the banks. However, this is a very small amount of information on the very big position the State will be taking on board. What is the duration of the derivatives to be



taken on board? Are we really sure all the instruments for which the State will be responsible concern the property loans the State is taking on?

Given that a large proportion of the loans the State will be managing includes properties outside the euro zone, it strikes me as very odd that the documentation on the derivatives makes no reference to currency hedging, which I believed would form part of the transactions that are taking place. What are the derivatives? We need more detail than what is included in the business plan.

My second question is fundamental. How is the figure of €14.6 billion arrived at? I ask this in the context of the fact the only item of public information I could find on this derived from a statement in the The Irish Times in August 2009: “The National Asset Management Agency (Nama) may acquire derivative instruments nominally valued at up to €40 billion as part of the deal to buy property and development loans from banks.” The spectrum laid out this summer involved a position worth between €20 billion and €40 billion. The business plan lays this out at just under €15 billion. How are these positions being valued? Given that the State has just put out to tender the contract for an agency to value these positions, how can the business plan value what the hedges are worth when the State has not yet employed the agency to do this work?

Third, who are the counterparties to the derivatives? Did Irish banks sell these instruments to each other? Was it the case that Bank of Ireland was selling derivatives to Anglo Irish Bank, or vice versa? I am more worried about the question of whether the counterparties to these positions are located outside Ireland. Who are they? This is pertinent because a great number of the hedge funds that have been acquiring these positions abroad are going broke because of what is happening in the global economy.

Our party put forward a proposal in the Dáil on a register of property liabilities so people could understand exactly who will be receiving the support of NAMA. It appears obvious to me that, at the very least, the same clarity should be brought to the €15 billion in derivatives for which the State will be responsible if and when NAMA is in operation.

My fourth question concerns the write-downs, on which there has been much discussion thus far. We spoke at length about the haircuts that are proposed and which will take place and about the fact the markets assume a greater discount will be arrived at in the valuation of properties. If the total value of the property loans in question has decreased from €77 billion to €44 billion or €45 billion, has a similar adjustment been made to the value of the derivatives NAMA will be taking on? Have we adjusted the position in the business plan to take into account what happens if the value of the loan upon which the derivative is based is either wiped out or impaired?

What are the derivatives and to what are they attached? How are they being valued given that the only information we have had to date suggests they are worth between €20 billion and €40 billion? The current figure is €15 billion and the State has not yet employed the agency to carry out the valuation. Who are the counterparties? Has any adjustment been made to account for the reduction in the value of the loans upon which many of these derivatives will be based?

Let me make a simple but very important point. One reason the whole banking system nearly fell apart is because these kinds of questions were not asked. A shadow banking system developed alongside the banks we knew and understood. Much of that took place off balance sheet and the regulators we were employing and the governments that were in place did not understand what was happening. I hope there are straightforward answers to the questions I have posed, but I am disturbed to see that volume of money in the business plan with so little information and detail about it,

against instruments we have seen wreak such havoc on the banking industry and then on the real economy.

### **Senator Jim Walsh**

I join in welcoming the Minister of State, Deputy Mansergh, to the House for this very important debate.

The business plan is an aid to the overall analysis and discussion of a complex and unprecedented project. The points made by Senator Donohoe are worthy of some response from the Minister of State. The information on derivatives is reasonably sparse. I can understand that. Senator Boyle outlined how NAMA fits into the overall picture. The banking situation contains an amount of distressed loans. In addition, there is the budgetary and fiscal deficit, which is challenging, and which it is essential to address if we are to restore confidence. Finally, there is the overall economic situation and the unacceptably high level of unemployment. I am pleased to note that commentators have said that at least unemployment will not reach the earlier predictions of 15% to 17%.

Our exports are holding up well. The investment in the national development plan and other stimulus packages will be needed to maintain the economy. Since the crisis developed more than 14 months ago I have been struck by the number of Government and Opposition politicians who have applied themselves to research and made an input into the most serious challenges we will face in our lifetime and that the State may have ever faced economically. I pay tribute to the Government and to the Minister for Finance in particular for facing up to those challenges. I have been impressed by what has been done in the banking area in particular.

I will not pretend, any more than anyone else in this House can pretend, that we are experts in the field and that we can comprehend the complexities of

everything that is being done but looking at the various options that have been put forward NAMA appears to be the soundest. It is based on models that were used previously, especially in Sweden in the 1990s. When Sweden chose that option two factors assisted the process which they acknowledged subsequently, namely, that there was considerable political consensus for the measure within parliament. We have not had that here, which is a pity. The more important factor is that it was done against a background of a benign global economic situation, which is not the case either. Therefore, we are doing it in riskier times and we need to be mindful of that.

I compliment the Minister of State on the many debates he has attended in the House on the economy. If we do not do something about the distressed loans in the banks through the engagement of NAMA then credit flows into the economy will be retarded. Therefore, we must be ready when the global economic upturn arrives. There are some doubts about the prediction of that. If one goes back a month people were perhaps more optimistic than they are today. The situation is changing all the time: it is in a state of fluidity. I think that will remain the case until some time next year. Ultimately, as the Minister of State rightly said, the upturn will happen. There is no doubt it will happen, as these things are cyclical. We have been talking ourselves into a serious erosion of confidence and almost into a depression. I warn against that. We need realism. I am not looking for false optimism, but on the other hand the negativity that is being injected every day into the public mindset is definitely counterproductive to what we are trying to achieve and will, ultimately, have its own effect on the downturn.

Some of the borrowing that took place in the past was sentiment-based credit, founded on optimism. I am not sure that even when we take those loans from the banks following the issue of bonds to off-set the NAMA structure that it will give rise to any immediate flow of credit into the economy. First, confidence in the investor sector will have to be restored. An issue that is sometimes overlooked in the debate is that there is not the same

demand for credit that existed previously. There has also been a culture change within the banks. When Lehman Brothers and Bear Stearns collapsed, that sent shockwaves throughout the global economy which affected everybody, even down to consumers. Something we have not accepted is that people working in the banks also took that shock.

From talking to people in the accounting world who represent businesses at different levels and who have been negotiating with banks, they are finding that the culture change within the banks means that small loans for the business sector that would have been processed almost within a number of days are now taking six to eight months to process even in situations where there are sound business plans. It will take some time to get that culture back to a more prudential level of lending rather than back to the irresponsible lending we saw in the past.

Senator MacSharry and others have spoken strongly about the level of personal debt. That is an area of concern to me also. Some but not all of the debt is attached to mortgage repayments and there is an increase in house repossessions. That is having an impact on consumer spending and consumer confidence. It was stated in the programme for Government that the Government would examine how best to approach that issue. I wonder whether some proportion of the bonds that will be made available to the banks at 1.5% could be directly off-set to address that issue.

Senator Boyle complimented the Minister on bringing forward the draft NAMA Bill, which gave an opportunity to commentators and, in particular, the political parties to have an input into the evolution of the Bill that is now before the Dáil. I welcome the publication of the interim business plan. I expect significant changes to be made to it, as was the case with the Bill as a consequence of the consultation period, especially after the due diligence on the loan books of the banks has been carried out. That will help give a shape to the plan. Currently, we are working on assumptions within the business

plan. One thing struck me about the figures. There is quite a lot of information in the plan but there are missing links in it also, which I understand. I note the €77 billion is made up of the net original loans of €68 billion and an interest roll-up of €9 billion. When account is taken of the market value of the loans at €48 billion and their estimated long-term value at €54 billion, it is projected there will be a 30% loss on the loan book, which will bring the market value of the loans at €77 billion down to €54 billion. However, if one takes it that the €9 billion is mostly attached to non-cash generating land banks, it is fair to assume that €9 billion is a straight write-off. When I do the sums, deduct that €9 billion and reduce €68 billion to €54 billion, I only get a 20% write-down. It comes back to the collateral that has been given. I suspect in most instances it is probably not greater than the assets upon which the loans were based.

There are risks in this process, as there is in everything, but unless we take an initiative, which hopefully will be successful, we will find that, as European and global economies pick up, we will be unable to avail of that for some considerable time, perhaps a decade or longer. I welcome aspects of this process and we will have an opportunity to elaborate further on it when the Bill comes before us in the next few weeks.

### **Senator Ivana Bacik**

I wish to share time with Senator Hannigan.

### **An Cathaoirleach**

That is agreed.

### **Senator Ivana Bacik**

I join others in welcoming the Minister of State. I also welcome the draft business plan, although I will be critical of it. It is useful to have a draft plan, but we have to treat it with caution given that, as the Minister said, the data on which the plan is based are provisional in nature. The estimates are based on data provided by the five credit institutions which are most likely to engage with NAMA, namely, AIB, Anglo Irish Bank, Bank of Ireland, EBS and Irish Nationwide. Clearly, NAMA has not yet had the opportunity to assess in forensic detail the loan books involved. Therefore, we could anticipate that there is likely to be some degree of change in the figures we have been given. Therefore we must be cautious about them.

Having read the draft plan, I echo the words of Deputy Burton's response when the plan was first introduced in the Dáil. She described it as showing that Christmas will come early for the top developers and their bankers. She commented that, given that ten to 15 of the largest loans will be transferred to NAMA before Christmas of this year and that the exposure of the top ten gives a projected value of €16 billion in total, it is likely, given the discount NAMA is applying, that it will pay €11.2 billion for these debts. The likelihood is that a high proportion of these will be in Anglo Irish Bank. As Deputy Burton said, it does not restore confidence among taxpayers when this is the sort of discount that is being given to big developers. Nothing in the content of the business plan or in the discussions since then has changed that view.

I noticed in one of last Sunday's newspapers that the business plan was referred to as a triumph of optimism over aggression, the view being that it was unduly optimistic in its forecasts and in the figures it contained and insufficiently aggressive in terms of the stated intention to pursue developers for loans outstanding. One of the figures the Minister of State quoted and that jumps out on page six of the plan is the estimation that 40% of the assets to be acquired by NAMA will be cash-generating. Again, that seems to be based on a rather optimistic view of the nature of the assets to be acquired. Will the Minister of State indicate from where precisely that

estimate is derived and is it likely that it will be altered once the forensic analysis has been done?

The key question about NAMA that has been asked, which perhaps Simon Carswell put most concisely in an edition of The Irish Times in September, is that if the bank loans destined for NAMA are only currently worth €47 billion, given the 47% fall in value that NAMA's team has estimated, why will the Government pay the five participating lenders €54 billion? That key question remains. From discussions outside this House, it is the question that is plaguing taxpayers. I will await the Minister of State's attention before proceeding.

The question, as Simon Carswell has suggested, is that the Government's purchase price does not reflect the full scale of the decline in property value, and represents an overpayment of €7 billion at least given the market value. I have read the NAMA legislation and I know the Minister of State's response to that point would be that it is based on a different valuation having regard to a projected increase in values and so on. This is still the key question taxpayers will ask. Simon Carswell memorably referred to NAMA as a lifeboat, which the Government hopes will be seaworthy with oars and a powerful motor leased cheaply from Europe that should ensure safe navigation to calmer waters. The lifeboat of the Minister for Finance, Deputy Brian Lenihan, requires a chart to map its way through the turbulent waters ahead. The draft plan is all we have by way of such a chart; this draft business plan represents the seafarers' chart. A concern about it is the over-valuation and over-payment for assets.

I wish to raise a few queries I have from my reading of the plan. A concern, which others have raised, as covered on page 8 of the plan, is the enormous proportion of NAMA loan portfolio made up of Anglo Irish Bank loans. The Minister of State said that 37% of the overall portfolio is made up of Anglo Irish Bank loans – €28.4 billion of the €77 billion book value of the loans. That



is a concern knowing what we now know about Anglo Irish Bank. More than two thirds of the property on which the loans are based is in Ireland, but one third of the property is outside Ireland and there is an issue around pursuing those loans.

I wish to raise two further points, one of which relates to the staffing of the agency. The Minister of State said, as is stated on page 20 of the plan, that the staffing of the agency will be 30 to 35 by December of this year and a further 40 to 45 staff will be taken on by March of next year. He said the agency will have a full staffing capacity of 75. Is he satisfied that is a sufficient number of staff? We heard this morning at the Joint Committee on the Implementation of the Good Friday Agreement that Intertradelreland regards a staff of 42 as barely adequate to cover dealing with approximately 1,500 firms. Is a staffing capacity of 75 sufficient for NAMA given the enormous task it is undertaking?

I note the administration of loans will remain with the original institution, as stated on page 28 of the plan. That is a concern, given that the Minister has repeatedly assured us that NAMA will pursue developers aggressively. The Minister of State said that only 100 to 150 of the main borrowers will be managed directly by NAMA. That means the others will all be managed by the existing institutions. Taxpayers would rightly be concerned that would mean they would not be managed or pursued sufficiently aggressively.

### **Senator Dominic Hannigan**

I welcome the Minister of State. I thank Senator Bacik for sharing time. I will not repeat the points she or other members of my party in this and the other House have made.

I will concentrate on a few figures I would like the Minister of State to clarify. I agree with previous speakers that this is essentially a high level business case. It is extremely optimistic. One could argue that the figures have been worked

to give the right answer. In my previous existence I have seen many business cases, including for projects as basic as a train station, that would be more detailed than this business plan. Given that an expenditure of more than €70 billion is involved, I was surprised to see something as light as this document when it was published.

We will table amendments on Committee Stage, but I wish to pick the Minister of State's brain regarding a number of points. Page 10 of the plan deals with the assumption that loan defaults at a rate of 20% would provide a MPV of €4.8 million. It is noted in the Minister of State's speech and in the plan that if that rose to 31%, it would wipe the potential profit of NAMA. What sensitivity tests have been done and what analysis is there to support the contention that a 20% figure is reasonable? I would like the Minister of State to address that point.

The second point on which I seek clarification relates to fees and expenses. They are shown from 2010 on as being €240 million a year. They are broken down on the bottom of page 12 of the plan, although I am not sure if the Minister of State has it in front of him. I refer to table 7, NAMA budget projection 2010 to 2012, for the years 2011 and 2012. It shows liquidation expenses of €160 million in 2011 and €160 million in 2012. I am at a loss. No doubt the plan states somewhere – I want the Minister of State to confirm and clarify where exactly – why are we incurring liquidation expenses in 2011 when, according to the business case table, table 5, on page ten, we do not get any asset recoveries until 2014 and we do not get any debt repayment until 2013. I am wondering why we are incurring liquidation expenses of such a high figure, €160 million, from January 2011 onwards. If the Minister of State could clarify that, I would appreciate it. As I stated, my party will be tabling amendments on Committee Stage of the Bill and I will reserve my further comments until then.

**Senator Paul Bradford**

I am glad to have an opportunity to say a few words in this debate. I am looking forward to the NAMA legislation which will come to the House within the next few weeks. In that regard, it would be important, notwithstanding the urgency of having the legislation finalised, that we would have sufficient time in this House to reflect on the legislation. There has not been any legislation passed through the Houses of the Oireachtas which has not improved as a result of detailed and genuine analysis in this House. Therefore, the Minister of State might advise both his colleagues in Cabinet and the Leader of this House that it should not be rushed legislation as far as Seanad Éireann is concerned and we have more than a role to play in the debate. I am sure there will be viewpoints, analysis, suggestions and possible amendments from this House which could certainly be taken on board by the Government and I would hope that we will have sufficient time to debate the legislation in full when it will come to us within the next week or two.

As an overarching summary of my views, there have been alternatives to NAMA presented. There has been a well-thought out Fine Gael analysis of the financial crisis and the banking crisis and how we could respond, there has been a Labour Party analysis and there have been other various ideas put forward, but it appears, by virtue of the Second Stage vote in Dáil Éireann, that for better or worse NAMA is now finally the only show in town and we will be obliged to work with it. There is a responsibility to try to ensure it works well and that it is amended in so far as it can be. I hope the suggestions being presented by the various Opposition spokespersons are being listened to and reflected upon. It is in the interests of every citizen of this country that NAMA works because we need a working banking system. The financial response is not about saving bankers; it is about saving a banking system. We know that an economy cannot work and work cannot be created without a proper banking system. The broader debate is about the banking system, not about individual bankers. We all know that what many of them did was wrong, that the taxpayer is now facing a considerable bill, that the Government and the political establishment, if there is such an

entity, faces significant choices and challenges, but we must respond and put a banking system in place. One House of the Oireachtas has decided that the NAMA approach is what we are now left with and we must work with it and try to see how it can be improved.

Public confidence in NAMA and in the Government response to the banking crisis is crucial if this is to work. We cannot expect that every citizen of the State is an expert on economic matters, on banking matters and, certainly, on NAMA, yet everybody has some degree of knowledge of NAMA because of the presentation it receives from the media, the considerable degree of public comment and the significant degree of political debate. There is not a radio show to which one can listen or a political show on television which one can watch without NAMA somehow coming into the debate. Those in the media and we politicians are entitled to our own opinions but sometimes they are not always entirely accurate. From the point of view of good governance and acceptance of the project, but more importantly from a perspective of public knowledge, information and confidence, it is important that there be clear information available about what NAMA is and where it is going, not only to every Member of this House but to every citizen of the State.

I ask the Minister of State to suggest to his colleagues in Government that the Minister for Finance would communicate to every household in the State outlining where the country is from a banking perspective, what needs to be done, what NAMA is and is not about, the financial parameters and the future expectation of where the taxpayers' money is going. It is important that there is not simply a broad acceptance, because that is a political issue in that one cannot force people to accept something, but that the Minister should be in a position to advise them on what exactly is being done, what the plan is and what the hope is for light at the end of the tunnel. Every household in the country should be apprised of the Government's proposal and the Minister's idea as to how NAMA is to work so that it is not simply

picked from the front pages or the back pages of newspaper or the leftovers of Oireachtas debates and Oireachtas reports.

Of my two greatest concerns about the NAMA business plan and the NAMA legislation to which we will return in the Second Stage debate in this House, my first would relate to our ability or otherwise to ensure the banks will work in the sense that money will be available to small business. My colleague, Senator Twomey, and one or two other Senators raised this earlier. There does not appear to be a section or emphasis in the legislation to ensure the reconstituted Irish financial banking system will make as a priority the lending of money to small business, to agriculture and to small enterprise to get the economy moving and to save and create jobs. Perhaps there is a hidden line, section or subsection in the Bill to ensure it will happen. We believe there is a moral responsibility on the part of the financial institutions to respond to Government and to the taxpayer, but moral authority does not always work. Legal authority would work a little more effectively. I want to know why we can be so confident that lending will flow again. I am sure that question has been asked of the Minister of State on many occasions previously and I look forward to his response.

The second issue of concern, which also was raised by Senator Twomey, relates to our expectation, which is written into the law and was certainly part of the Minister of State's speech and is part of the Minister's speech every time speaks on the matter, that the taxpayer will be protected by virtue of NAMA chasing these developers and lenders who have built up such enormous debts for every remaining euro and cent available. As was pointed out effectively by Senator Twomey, however, in many cases that appears unlikely to work because with new company formations and assets being transferred, many of those who have built up these considerable debts and who have caused the grave financial crisis in which the country finds itself will be able to escape the rigours of the chase by NAMA. That is something that will disappoint the taxpayer, not in a begrudging, bitter way that we should

be chasing after these persons but simply from the perspective that money is owed, the taxpayer is footing the bill to a significant degree and it should be possible to extract the maximum possible financial redress from the maximum number of these persons. I am just not sure how it will work when, under company law with limited liability etc., many of these persons will have no personal exposure to the debts which they have created. That is an area where public confidence is low and where we must try to restore public confidence if this broader NAMA project is to work.

We all understand the scale of the crisis. We all understand that the issue of the future of this project and whether it works is central to the economic recovery of this country. That is why it is important, in so far as we in the Opposition have proposed alternatives, that we now have to accept the weight of majority opinion in the other House, which has made a decision as to what is the plan going forward. We must try to bring forward ideas and suggestions as to how to improve that plan, and the Minister of State and his Government colleagues should be willing to listen in so far as they can learn from some of the ideas that will come forward from this House.

Public confidence is the key. It is disappointing that so much of the debate at present is sloganeering. We make bold, bland statements that bankers caused the problem and that it has nothing to do with us, so let somebody else solve it. In one sense, that could be correct but, of course, that cannot be the solution because we will all become part of the solution. With NAMA, every single household in the country will take on in some intangible way a certain proportion of the debt. We need to keep the public very much advised as to what is the project. We need to be able to demonstrate that there is a workable solution in place and that there is light at the end of the tunnel. It is very important to transmit hope to the Irish public in this grave economic crisis. If we want to turn it around, we have to point out clearly what we propose to do but we also have to offer some degree of hope and confidence. Much of that is lacking in the NAMA debate to date and we need

to transmit the explanation to the public and give them an idea as to how this proposed solution will turn into reality.

### **Minister of State at the Department of Finance (Deputy Martin Mansergh)**

I thank all 16 Senators – more than one in four of the Members of this House – who contributed to what has been a very constructive debate overall. A very large number of points were raised and I will do my best in the time available to answer them.

To pick up the general point made by Senator Bradford, he said correctly that this is not about saving the banks or developers but about saving the country and the economy. We cannot do that without a functioning banking system. I will certainly pass on to the Minister for Finance the Senator's suggestion as to whether, when the legislation has completed its passage through the House, any broader information exercise to the general public should be considered.

With regard to Senator Twomey's remarks, nobody is suggesting or implying that prices will recover to their peak any time in the foreseeable future. Some €88 billion was the value of the assets, including the equity put in by the borrower, and €68 billion was the value of the loans, excluding equity, which works out at 77% of the loan to value rate.

I have reservations about the notion that the tax authorities could make their files available to some other State agency in a way that would break the confidentiality of the tax system. I wonder if that suggestion was reflected upon and whether it would ever be the considered policy of Senator Twomey's party.

### **Senator Liam Twomey**

Excuse me. The theory behind it is that, otherwise, one will never really know what developers did or did not do. We would be going on trust.

### **Deputy Martin Mansergh**

One has to look beyond the confines of this Bill. It raises a general issue about the confidentiality of the tax system except, obviously, where people are gazetted for reasons of tax evasion. I am simply expressing a reservation about that. The Senator can of course put these points to the Minister for Finance when the legislation comes through the House.

If the toxic loan valuation paid on loans after due diligence is different, that will have to be addressed and NAMA can deal with it at that time. The price paid will reflect the actual level of the loan. The price paid for a loan asset will reflect a number of criteria, including current market value and long-term value of the loan as underlying collateral. Clearly, the degree of security is a factor.

The point was raised with regard to social capital. The Minister for Finance has accepted a Labour Party amendment in the Dáil re expertise in social housing and community development when appointing members of the NAMA board.

Several Senators raised the issue of bank lending and asked when it would improve. Without NAMA, bank lending obviously could not improve even when global conditions improve. In the context of recapitalisation, AIB and Bank of Ireland reconfirmed their December commitments to increase lending capacity to SMEs by 10% and to provide an additional 30% capacity for lending to first-time buyers in 2009. If mortgage lending is not taken up, the extra capacity will be available to SMEs. AIB and Bank of Ireland have also committed to public campaigns to promote actively small business lending at competitive rates with increased transparency on the criteria to be met.



The Financial Regulator has been monitoring compliance with the above commitments and no issues have arisen requiring attention.

Additionally, Members might like to be aware that the Tánaiste and Minister for Enterprise, Trade and Employment has set up a clearing group chaired by her Department and including representatives from the main banks, business interests and State agencies. The purpose of the group is to identify specific patterns of events or cases where the flow of credit to viable businesses appears to be blocked and to seek to identify credit supply solutions.

There was some controversy about the perception of credit availability in the Irish economy. The Government investigated the issue through a comprehensive independent review of SME lending from both demand and supply perspectives. This was undertaken in the context of recapitalisation and published in July. The review showed that demand had fallen sharply, with the value of new applications for credit down by 42%. Stock of credit remained static, indicating that new credits matched repayments. The review, conducted by Mazars, found that refusal rates vary markedly by sector from 6% to 48%, according to the SMEs surveyed. This finding clearly contradicts the allegation of a blanket refusal to lend. Mazars also examined a sample of files where credit was refused and found that, in general, "refusal seemed reasonable in the context of normal commercial and business criteria". A follow-up review covering the period to September is currently under way and is expected in the coming weeks.

The Government shares the concerns that have been expressed by many Senators and others about mortgage problems and what they may lead to. Obviously, repossession or being forced out of the home is hugely traumatic for anyone. However, fortunately, the rate of repossession in Ireland has so far and, indeed, has always been low, far lower than in the UK or US. For example, the lenders covered by the State guarantee, the so-called covered

institutions, reported to the Department of Finance that their total legal repossessions of homeowners this year to the end of September is 20. Media reports of repossession cases taken through the courts show that most involve sub-prime lenders which made mortgages available to borrowers who would not have been customers of the mainstream lenders, often because of perceived higher risks. It is important to be aware that a great many repossession orders granted by the courts are not actually enforced. Through the code of conduct on mortgage arrears and the mortgage subsidy scheme the Government is providing practical help for people in difficulties and the new statutory code of conduct on mortgage arrears, announced in February and which applies to all mortgage lenders, introduced a waiting period of six months to commence legal action on repossession. Around the same time the recapitalised banks agreed to a waiting period of 12 months. These periods run from the date a borrower went into arrears. The mortgage subsidy scheme provides a safety net for those who need financial support in meeting the interest costs on their mortgage. Funding for the scheme has been substantially increased in 2009 and the scheme is currently being reviewed. The number of people benefitting from the scheme has risen to 14,000 as of the end of September.

Mortgage arrears continue to be closely watched. According to the Financial Regulator's retail credit report on the covered institutions, the percentage of homeowners in arrears is notably lower than that of investors. While the number in arrears is still rising, figures for the second quarter to June show a marked slowdown from the first quarter. Some commentators have raised fears about the impact of negative equity. Since activity in the property market has remained low it is very difficult to assess realistic price levels. Many who bought at high loan-to-value rates close to the peak of the market are in negative equity now and a member of my family is in that situation. Any estimate, however, of how many there are or how long the position is likely to last is largely speculative. In any event, being in negative equity does

not change the level of mortgage payments so the problems it may cause are more long term.

Senator MacSharry correctly pointed out that the draft business plan provides a cost-benefit analysis of the NAMA project. I welcome the broad support of Senator O'Toole for NAMA. He made the very good point that the publication of the Bill and the business plan helped a debate to take place well before the legislation was debated in either House.

On the special purpose vehicle, the off-balance sheet approach is not a dodge. The Minister was up front about the fact that liabilities have increased while we receive countervailing assets in return. We need equal treatment with EU member states such as France and Germany and we must ensure we are treated in the same way as other countries from the point of view of EUROSTAT.

Senator O'Toole also raised the question of additional oversight of NAMA, suggesting a committee be established for that purpose. The Bill already provides for significant accountability to the Dáil through the Committee of Public Accounts. The Minister for Finance has indicated he is open in principle to a special committee on NAMA but has a difficulty with the idea that another Oireachtas committee should be legislated into existence or that an Oireachtas committee should have some form of executive oversight role regarding the agency.

Senator O'Toole also made a point about developers changing ownership into the names of family members, creating the danger that a developer whose loans were in default could walk back into the market at some time in the future without any penalty. There is a section in the Bill that deals with this issue. Committee Stage of the Bill is still being discussed in the Select Committee on Finance and the Public Service so I do not want to say too much. However, the Minister is concerned to ensure that developers who

have lost a lot of money on development schemes cannot walk away from their responsibilities. This can be debated in further detail when the Bill is presented to the Seanad in a couple of weeks.

I take the point made by Senator Alex White to the effect that we need public confidence now, rather than at some time in the future, although none of us can be against confidence growing in the future either. He also asked about Anglo Irish Bank. Some €4 billion was provided to Anglo Irish Bank to protect the economy from the wider losses that would have occurred in the event of the failure of the bank to protect its €64 billion of deposits and the consequent threat to the financial system. The board of Anglo Irish Bank is currently finalising a restructuring plan which will give consideration to all options for the future of the bank and will set out its future strategy. The restructuring plan will also address the issue of compensatory measures for the capital provision and will have to be approved by the Minister for Finance. It will be submitted to the European Commission for approval under EU state aid rules by the end of November.

One Senator raised the issue of EU state aid. The Government has worked very closely with the EU at every stage of the legislation to ensure there is no contravention of the rules. Senator O'Toole suggested appointees to the board should come before an Oireachtas committee to explain their credentials, more as a confidence-building measure than a public grilling. He may raise the matter with the Minister in due course but I will pass on his suggestion.

Senator Boyle pointed out that there had been and perhaps still are some organised campaigns against NAMA, mainly from outside this House. He made the valid point that while alternatives have been put forward the Government does not consider that they have as much coherence or depth as the present scheme.

I compliment Senator Callely on his contribution. There is a school of thought that the less Members of the Oireachtas have in the way of outside interests the better and the more disinterested they will be. Senator Callely referred to his full declaration of interests in this regard but there is an alternative point of view that sees having various interests as giving a legislator knowledge and expertise he or she would not otherwise have. Members of this House come from many different backgrounds, occupations and interests, the last of which have to be declared. Provided they are open and transparent those interests enrich rather than diminish a debate.

I do not accept Senator Regan's complaint that the Oireachtas is being rushed, cajoled or denigrated. No guillotine will be applied to the Bill in either House. Many hours have been put in this week on Committee Stage which is due to finish tonight. There is a public interest in having reasonable expedition consistent with close scrutiny and debate. I do not think the Government can be criticised on its handling of the matter in that respect. As regards why it has been put forward now rather than six months ago, the obvious answer is the importance of getting these things right.

I agreed with Senator Butler's contribution. He said the banks need to lend and will not be able to give the same kind of credit as they did in the recent past.

### **Senator Liam Twomey**

I hope not.

### **Deputy Martin Mansergh**

Thank God for that. We do not need any more bubbles. We need a tighter operation. At the same time, however, I also agree with his point that banks cannot and should not be compelled to lend to projects that simply do not

stand up. We must be careful that in seeking socially desirable responses in return for the support that is being given to the banking system, not for the sake of the banks but for the sake of the country and the economy, we do not do things that defeat the objective we are setting ourselves, which is to get the banks up on their feet. This is being done on the basis that healthy banks and a healthy economy should go together.

It is easy to talk about reckless trading, as Senators Bradford and Norris did. Of course there was reckless trading and we certainly have not heard the last on that from the Office of the Director of Corporate Enforcement. At the same time, however, we cannot decide what to do on the basis of moralistic outrage. We must do what is in the best interests of the country. The public welfare is at stake. If it were just the welfare of a select few, that would be dealt with easily and disposed of, but it is bound up with the whole public welfare.

I do not agree with the suggestion that there should be a referendum on NAMA. We have had recent experience of two referendums on a pretty complex issue and the difficulties that entailed. We are talking now about something infinitely more complex in this case. We have a system of representative democracy because it is mainly for the Oireachtas to legislate and govern. Except where it is clearly provided for, I do not think that responsibility should be passed back to the people who do not want the responsibility of having to make a decision on something like that. That is what they send us to these Houses to work out and decide upon.

With regard to the question of allotments, my colleague the Minister of State, Deputy Sargent, is very interested in that subject. I am sure Senator Norris could raise that with him on the Adjournment. The Minister of State would be only too delighted to discuss that and I understand he is coming here shortly.

**Senator Liam Twomey**

Will we not have an allotment on Leinster Lawn? That could be symbolic.

### **An Cathaoirleach**

The Minister of State to reply, without interruption.

### **Deputy Martin Mansergh**

Senator Mary White stressed the importance of competitiveness. In the general debate we are having about budgetary matters and cutbacks, a key element is the fact that we belong to the eurozone, which has many advantages. One fears to think where we might be if we were not members of the eurozone. We can all remember the crisis of 1992-93 in much more benign circumstances than those that currently exist. That membership carries certain consequences, which means that if we become uncompetitive, as we have done in many but not all respects, then we must make the adjustments ourselves. The old rules that applied when devaluation was available no longer apply. In the old days, a country could devalue its currency and nobody needed to drop their income. It was just that the real value of their earnings dropped. Arguably, with the strength of the euro, the purchasing power of any set level of income has actually increased rather than reduced. That is also the case given the not unconnected fall in inflation. We will not get out of the current economic difficulties until we think through the implications of belonging to the eurozone and realise that we must act accordingly. I would love to see that fact featuring more prominently in the discourse of all the social partners.

Senator Donohoe raised a number of interesting and detailed points on the subject of derivatives. If I may, I will reply to him first in general and then in particular. This is a draft plan based on information provided by five institutions. A more detailed plan will be produced under the authority of the board after loan-by-loan due diligence has been completed. The agency

referred to by the Senator will have a role in valuing the derivatives. They refer to interest rate swaps, which are a means of hedging against movements in interest rates, and there can be a wide range of financial instruments. The damage referred to by the Senator was really done by complex structured products which had insufficient transparency even for colleagues working in the same financial institution, let alone anybody outside.

International accounting standards require that derivatives are clearly documented as being part of the loan transaction. If it is not clearly documented, NAMA will not take it as it is a trading derivative separate to the underlying loan. The duration of the derivative is probably dependent on the duration of the loan. The valuation of the interest rate swap agreement changes daily as interest rates move. Their valuation is, relatively speaking, not that important because if they linked to an underlying loan that is impaired, the valuation of the whole loan will include the value of the derivative.

With regard to the question about the write-down on derivatives and how that is being adjusted, it would not be in the bank's interest to provide false valuations. Although I cannot comment on the valuation until the derivative valuation agency appointed by NAMA completes its task, it is likely that the reduction is reasonable.

Senator Bacik asked if 75 staff would be sufficient for NAMA. At this stage it is considered that 75 is sufficient, especially as much of the administrative work regarding interest collection will be conducted by the participating institutions on an agency basis.

That pretty well covers most of the questions as stated in the beginning and repeated. The Senators will obviously have an opportunity to pursue these matters in further detail when the Bill comes before the House and goes through Committee Stage here. I understand the Minister for Finance will be present for that process.



## **Acting Chairman (Senator Terry Leyden)**

When is it proposed to sit again?

## **Senator Larry Butler**

At 2.30 p.m. on Tuesday, 3 November 2009.

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- **Order of Business.**
- **Back to table of contents**
- **Adjournment Matters.**