



# TUARASCÁIL ón gComhchoiste Fiosrúcháin i dtaobh na Géarchéime Baincéireachta

An tAcht um Thithe an Oireachtais  
(Fiosrúcháin, Pribhléidí agus Nósanna Imeachta), 2013

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## REPORT of the Joint Committee of Inquiry into the Banking Crisis

Houses of the Oireachtas  
(Inquiries, Privileges and Procedures) Act, 2013

Volume 1: Report  
Volume 2: Inquiry Framework  
**Volume 3: Evidence**

**Oireachtas**  
**OIR : Core Book 49**

January 2016

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## **THEME: R1**

Effectiveness of the regulatory, supervisory and governmental regime structure

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## **LINE OF INQUIRY: R1a**

Appropriateness of the regulatory regime

Dave Doyle - to see

Minister

From: Brenda McVeigh

24/01/01 agreed

I agree @ below  
these are the "Pfandbrief"  
proposals which industry raised  
with you. We are anxious to  
press ahead with these provisions.

**Re: Financial Services & Central Bank Bill**  
**[Mortgage & Public Credit Bonds (Pfandbrief)]**

In relation to the above mentioned Bill, we asked the relevant Government Departments and Offices to forward their views on the draft Heads of Bill and draft Memorandum for the Government by 18 December, 2000. To date, we still have not received the views of the Department of Enterprise, Trade & Employment.


The Bill, although consisting of eight separate parts, effectively has three "stand-alone" sections:-

- (i) Regulation of Mortgage and Public Credit Institutions and Securities;
- (ii) "Miscellaneous Provisions" amending various statutes relating to, *inter alia*, the Central Bank, the Stock Exchange etc.;
- (iii) Provisions which implement the recommendations of the Review Group on Auditing, certain of the recommendations of the Public Accounts Sub-Committee on DIRT and some of the recommendations of the McDowell Group.

Currently, we are examining the views received, and amending the draft provisions as required.

This note is to inform you of the current position, and to request permission to detach the provisions relating to the mortgage and public credit bonds so that they may be drafted in the form of a separate Bill. This will not alter the provisions, as seen by the other relevant Departments, in any way. Industry (particularly organisations in the IFSC) and the Central Bank of Ireland have shown considerable interest in the issuance of these bonds in this jurisdiction, and we have information which indicates large revenue generation on foot of issuance of the bonds. In addition, we have been informed that there are negative implications for the IFSC with the continued absence of a mortgage bond market. Therefore, as the draft provisions are at a very advanced stage of preparation, I think it would be expedient to progress with these provisions in the form of a stand-alone Bill.

If you agree to the drafting of a separate Bill for these provisions I have attached a draft letter, for your signature, requesting that the Tánaiste and Minister for Enterprise, Trade & Employment forward her Department's views on those proposals as a matter of urgency.

  
Brenda McVeigh  
24 January, 2001

24/1/01



An Roinn Airgeadais  
Department of Finance

Office of the Minister

24 January, 2001

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**Ms Mary Harney, T.D.,  
Tánaiste and Minister for Enterprise, Trade & Employment,  
Department of Enterprise, Trade & Employment,  
Kildare Street,  
Dublin 2**

**Our Ref: F31/22/99**

Dear Mary,

I refer to the issue of the "Financial Services & Central Bank Bill".

My Department circulated draft Heads of a Bill together with a draft Memorandum for the Government on the matter, in November 2000, to various Departments and to the Office of the Attorney General, requesting views. Because of the scale of the Bill, it is understandable that your Department's views have not been finalised.

I would like to proceed, as a matter of urgency, with Part II of the Bill, which relates to the regulation of mortgage and public credit institutions and securities, (the "Pfandbrief" proposal), and I propose to seek Cabinet agreement to this as a separate Bill.

I would be grateful if, in advance of finalising views on the rest of the Bill, I could have your views on these "Pfandbrief" proposals.

Yours sincerely,

**Charlie McCreevy, T.D.,  
Minister for Finance**



## **THEME: R1**

Effectiveness of the regulatory, supervisory and governmental regime structure

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## **LINE OF INQUIRY: R1c**

Appropriateness of the macro economic and prudential policy



An Roinn Airgeadais  
Department of Finance

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Address by the Minister for Finance, Charlie McCreevy T.D., on the announcement of a New  
Structure for Financial Services Regulation 20 February, 2001

I am delighted to be able to join my colleague, the Tánaiste, here today to announce the Government's decision to set up a new structure for financial services regulation. Financial services are going through a period of rapid change and development. Now more than ever, we need an effective system of regulation which has the confidence of the public and which is able constantly to deal with a wide range of challenging new issues.

As a country we need a financial services sector which delivers an internationally competitive service. As individuals, we need a regulatory system which ensures that the financial sector operates to the highest standards in its dealing with the public. As members of the euro area, we also have international obligations in relation to monetary policy and we need to be able to fulfil those appropriately.

In planning for the introduction of a new financial services regulatory structure, we have benefited greatly from the work of the McDowell Group. I want to take this opportunity to thank all the members of that group and in particular the Chairman, Mr. Michael McDowell for an excellent report. They reviewed all the issues arising in relation to this complex area and by bringing together expertise in relation to law, banking regulation, public policy and corporate governance, they were able to put together a range of proposals which have formed an authoritative reference point for subsequent policy formation.

All the proposals of the McDowell Group for the integration of financial services regulation and consumer protection are being implemented in the proposal which the Government has agreed. Having reviewed the proposals contained in the McDowell Report for linking of monetary policy and financial services regulation., what we have done, in addition, is to devise a new structure within which that single regulatory authority can operate effectively.

The Tánaiste and I are satisfied that the effective coordination of the two functional areas and the efficient use of resources would be best achieved by linking a monetary authority responsible for ESCB-related functions and a single regulatory authority for financial services within a new structure of the 'Central Bank of Ireland and Financial Services Authority'.

I want to emphasise some aspects of the proposal:

Firstly, we are integrating prudential regulation and consumer protection regulation. This will ensure effective communication of information between those responsible for consumer protection and those responsible for licensing and prudential regulation. It will also ensure that the new Financial Services Regulatory Authority will be able to make use of the expertise

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of the prudential regulator to develop the monitoring and supervision activity currently carried out by the Director of Consumer Affairs.

Secondly, we will establish within the overall new structure of the Central Bank of Ireland and Financial Services Authority, a Monetary Authority. This will deal with implementing all monetary policy and related functions of the new structure.

We are establishing a financial services ombudsman on a statutory basis to deal with customer complaints, this ombudsman will provide a single office for complaints about all financial services providers.

Also, we are setting up consultative panels, including a panel dedicated to consumer interests. This should provide an effective forum for issues to be raised and analysed. It would be my hope that this would help to bring the discussion of regulatory issues into the public domain and facilitate informed public debate on issues to do with the financial sector.

The overall focus of all these changes is to develop a renewed focus on consumer issues, while facilitating the development of a competitive, modern financial system. We have all witnessed the growth of the IFSC. We have seen the development of new forms of banking:- automated, telephone and internet banking and the emergence of firms which provide both banking and insurance services. We have seen key European banks come into Ireland and offering effective competition to the large domestic banks. We have seen those domestic banks continue to develop their investments abroad. There has also been significant consolidation among the smaller banks here.

The financial services sector is a vibrant industry. One which lies at the heart of our economy, providing a huge range of services to business, personal and Government customers.

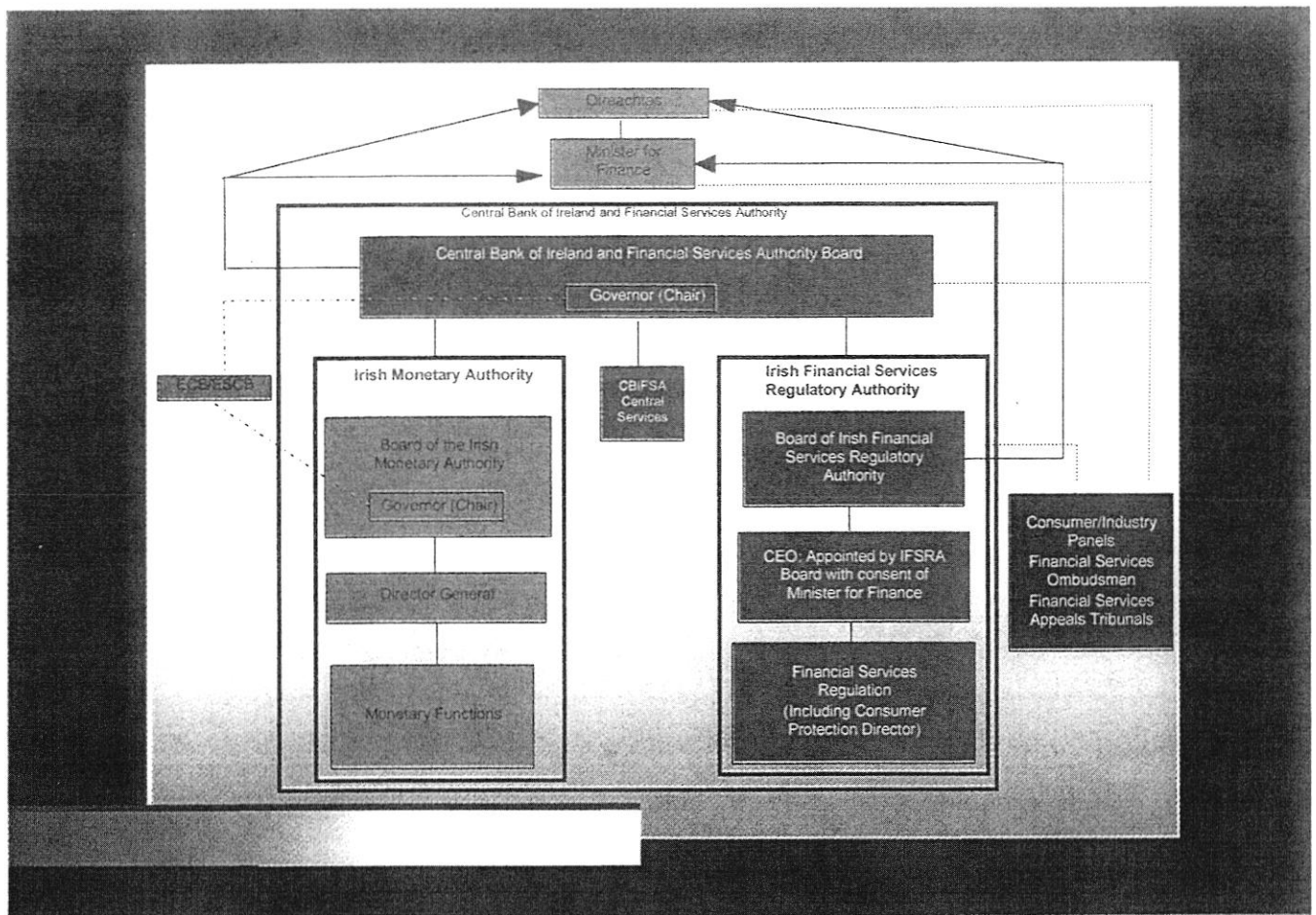
This is a time of tremendous change for the consumer and the industry to deal with. The pace of change will, if anything, be intensified in the period ahead.

Those developments alone would make it necessary to review our regulatory arrangements to ensure that they keep up with developments. Also, it is fair to say that both the industry itself and the Government wants to see the highest standards followed by the financial sector. The interests of the customers are important and must be taken into account. A thriving, vibrant and well regulated sector is good for the customer, the industry and the economy. We need to ensure that there are no obstacles to an effective regulatory system which ensures that the pricing of financial products is transparent and competitive. It must also ensure that the institutions themselves deal with their customers at all times on the basis of standards of decency, probity and fairness that we all have a right to expect.

Of course, we already have a good prudential regulatory regime - one which has ensured financial stability and encouraged new entrants into the market. Ensuring that firms are financially secure - that customer's money is safe - has always been, and will continue to be, a key objective of the regulatory system.

I will ask an official of my Department Mr. David Doyle, to outline the new structure for you in more detail.





- ▶ The result is the new structure as set out on the screen.
- ▶ On the right hand side (in green) is the new authority for financial services regulation.
- ▶ On the left (in yellow) is the new authority for monetary functions.
- ▶ In the middle (in blue) is the overall board which ensures coordination between the two and provides central services.
- ▶ Over to the side on the right are the new ancillary structures, the ombudsman, the consultative panels and the appeals tribunal which are designed to reinforce existing regulatory practice and promote the interests of customers.
- ▶ The various lines between the different bodies seek to capture the relationships within the overall structure.
- ▶ This approach delivers an unequivocal commitment to a single authority responsible for financial services regulation.

## Irish Financial Services Regulatory Authority:

### Some Key Points:

- The Minister appoints the Board
- The IFSRA Board appoints its CEO with the approval of the Minister for Finance
- The IFSRA Board will also appoint-
  - Customer Protection Director
  - Registrar of Credit Unions
- The IFSRA Board will decide its own budget, subject to the Minister's agreement.

- ▶ With that structure in mind, I want to return again to the Irish Financial Services Regulatory Authority.
- ▶ The Minister will appoint a Board of ten members. It will have an independent Chairperson. The CEO and the Customer Services Director will be on the Board. The remaining members will be representative of the main social partners, consumers and people with appropriate legal accountancy and other expertise.
- ▶ The board of the IFSRA will appoint its own CEO and statutory officers.
- ▶ It will decide its own budgetary and staffing requirements.
- ▶ The Minister will approve its budget.
- ▶ It will be operationally independent in relation to its prudential and consumer protection functions.
- ▶ Six members of the Board, including the Chairman and CEO will be on the Board of the Central Bank of Ireland and Financial Services Authority.

## Irish Financial Services Regulatory Authority Accountability

- Separate annual report
- Board accountable directly to Minister for Finance for prudential regulation and customer protection.
- Chairman, CEO, Customer Affairs Director will appear before Oireachtas Committee, if requested.

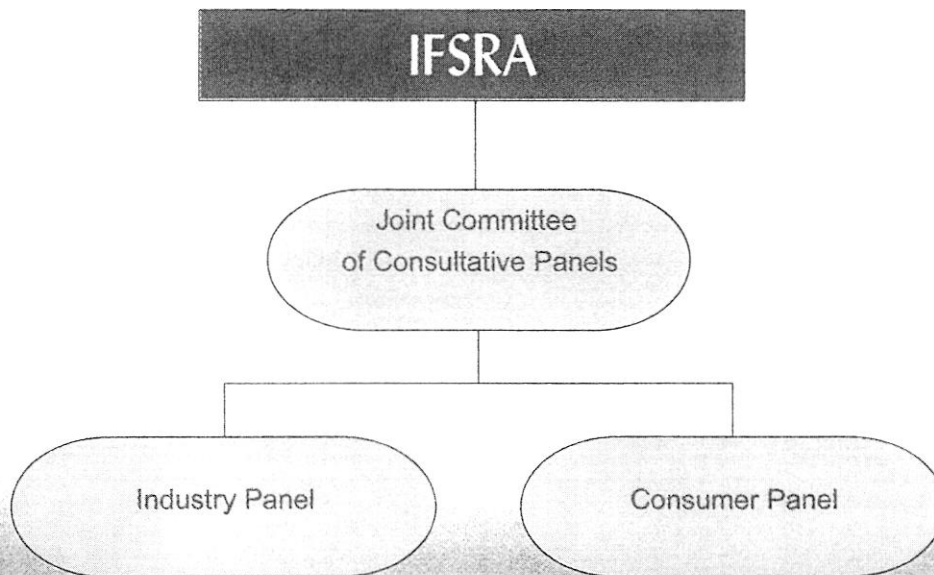
- ▶ The IFSRA will issue its own annual report. The CBIFSA will also produce a combined annual report for the overall structure.
- ▶ The Board of the IFSRA will be directly accountable to the Minister
- ▶ The Chairman, CEO and the Customer Protection Director will all appear as required before an appropriate Oireachtas Committee in relation to the discharge of their statutory functions.

## Financial Services Ombudsman

- Existing Position: Separate private sector schemes for insurance and credit institutions.
- Proposal: Statutory scheme establishing single ombudsman for all financial services providers regulated by IFSRA

- ▶ An important innovation is the provision of a range of new bodies to reinforce and re-focus regulation.
- ▶ Firstly, it is proposed to establish a Financial Services Ombudsman.
- ▶ This will be a statutory scheme covering all areas of financial services provision regulated by the IFSRA.
- ▶ It will be linked to the IFSRA so that the Ombudsman can benefit from the experience and authority of the IFSRA in dealing with the industry.
- ▶ However, the Ombudsman will be fully autonomous in investigating complaints.
- ▶ .The Ombudsman will publish an Annual Report and be appropriately accountable to the Oireachtas.

## Consultative Panels



- ▶ There will be a formal system for the industry and consumers to express their views about the industry to the Regulator.
- ▶
- ▶ The industry and consumers will each have a separate panel where they can discuss issues and formulate ideas.
- ▶
- ▶ A joint committee will then present a shared view to the IFSRA.
- ▶
- ▶ It will remain open to each panel to present its view directly.

## Appeals Tribunal

The IFSRA will have the power to impose sanctions on a financial services provider. If the financial services provider does not accept the determination, an appeal will be determined by an independent Tribunal.

- ▶ The McDowell Report identified a need to set up an appeals system for financial institutions. This is part of an overall proposal to review all existing provision for sanction and penalties.
- ▶ It is now proposed to set up this appeals system against decisions of the regulator. The penalties arrangements will be reviewed and details published later.
- ▶ This will provide additional powers for the regulator, who, at present is largely limited to threatening to revoke licences.
- ▶ It will provide an independent forum for resolving any disputes concerning penalties.

## Briefing Note

### Re: Selection of graphs relevant to the Banking Crisis, prepared by FTI Consulting

#### Government Net Debt and Government Gross Debt

*General Government Debt (GGD)* is a measure of the total gross consolidated debt of the State compiled by the Central Statistics Office (CSO) and is the measure used for comparative purposes across the European Union. The *National Debt* is the net debt incurred by the Exchequer after taking account of cash balances and other financial assets. Gross National Debt is the principal component of GGD. GGD also includes the debt of central and local government bodies. GGD is reported on a gross basis and does not net off outstanding cash balances and other related assets – unlike the National Debt. The CSO estimates that GGD at end December 2014 stood at €203.3 billion or 109.7% of annualised Gross Domestic Product (GDP).

The CSO produces a measure of General Government Net Debt by subtracting from the General Government Gross Debt figure the value of the financial assets corresponding to the categories of financial liabilities which comprise General Government Gross Debt. The CSO estimates that at end December 2014 General Government Net Debt stood at €166.7 billion or 89.9% of annualised GDP.

#### 'Real GDP'

Unlike nominal GDP, real GDP can account for changes in the price level, and provide a more accurate figure.

For example, in 2004, nominal GDP is \$200 billion. However, due to an increase in the level of prices from 2000 (the base year) to 2004, real GDP is actually \$170 billion. The lower real GDP reflects the price changes while nominal does not.

#### 'Current Account'

The difference between a nation's savings and its investment. The current account is an important indicator about an economy's health. It is defined as the sum of the balance of trade (goods and services exports less imports), net income from abroad and net current transfers. A positive current account balance indicates that the nation is a net lender to the rest of the world, while a negative current account balance indicates that it is a net borrower from the rest of the world. A current account surplus increases a nation's net foreign assets by the amount of the surplus, and a current account deficit decreases it by that amount. The current account and the capital account are the two main components of a nation's balance of payments.

### **'Output Gap'**

The measure compares the actual GDP (output) of an economy and the potential GDP (efficient output). When the economy is running an output gap, either positive or negative, it is thought to be running at an inefficient rate as the economy is either overworking or underworking its resources. Economic theory suggests that positive output gap will lead to inflation as production and labor costs rise.

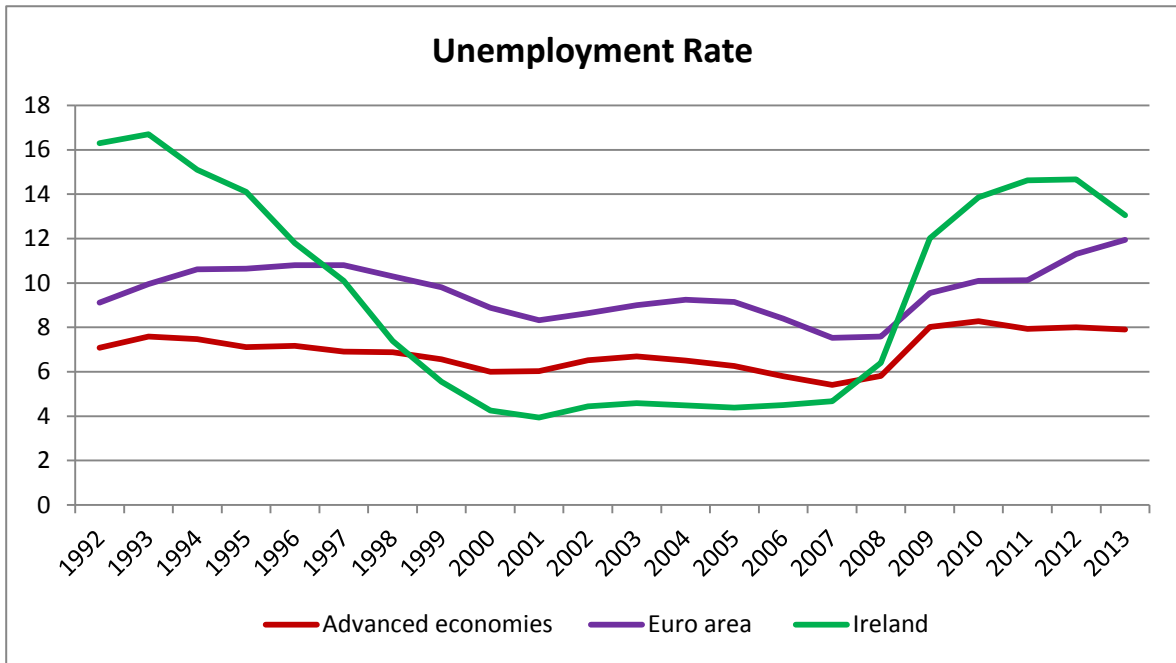
### **'Structural Balance'**

The budget balance can be decomposed into a cyclical and a non-cyclical, or structural, component. The decomposition is aimed at separating cyclical influences on the budget balances resulting from the divergence between actual and potential output (the output gap), from those which are non-cyclical. Changes in the latter can be seen as a cause rather than an effect of output fluctuations and may be interpreted as indicative of discretionary policy adjustments.

It should be noted, however, that changes in resource revenues -- as a result of oil price changes, for example -- and in interest payments -- as a result of past debt accumulation or changes in interest rates -- are neither cyclical nor purely discretionary. Yet these changes are reflected in the evolution of the structural component of the budget balance.

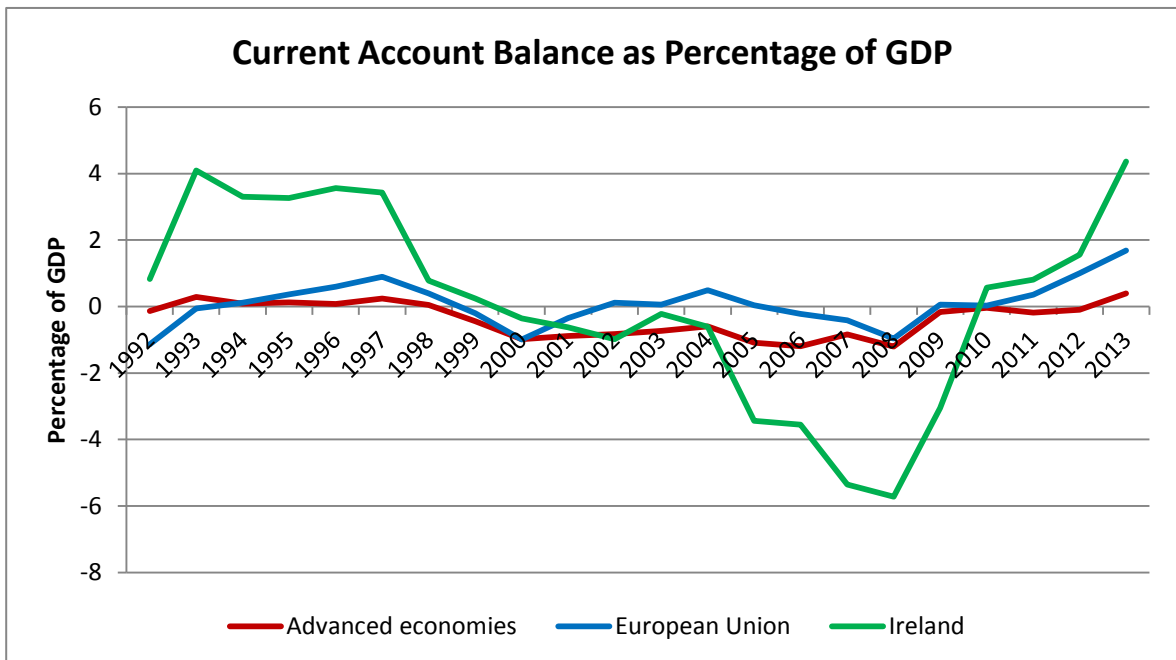


**Figure 3: Unemployment Rate (1992 - 2013)**



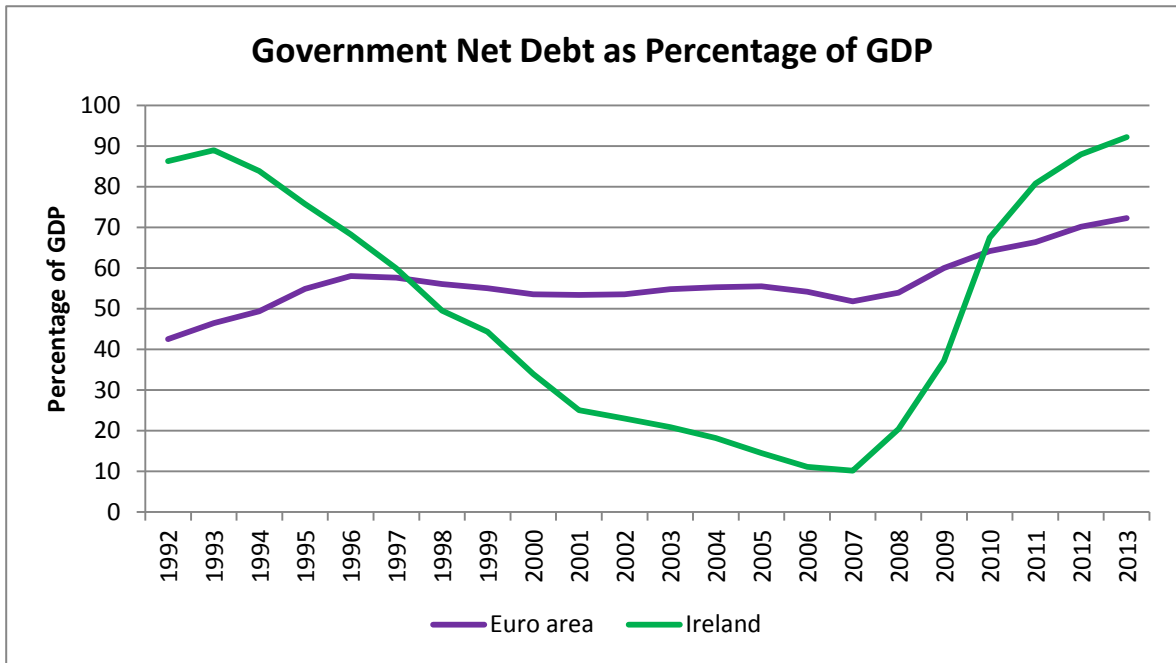
Source: IMF data, Advisory Team analysis.

**Figure 4: Current Account Balance as Percentage of GDP (1992 - 2013)**



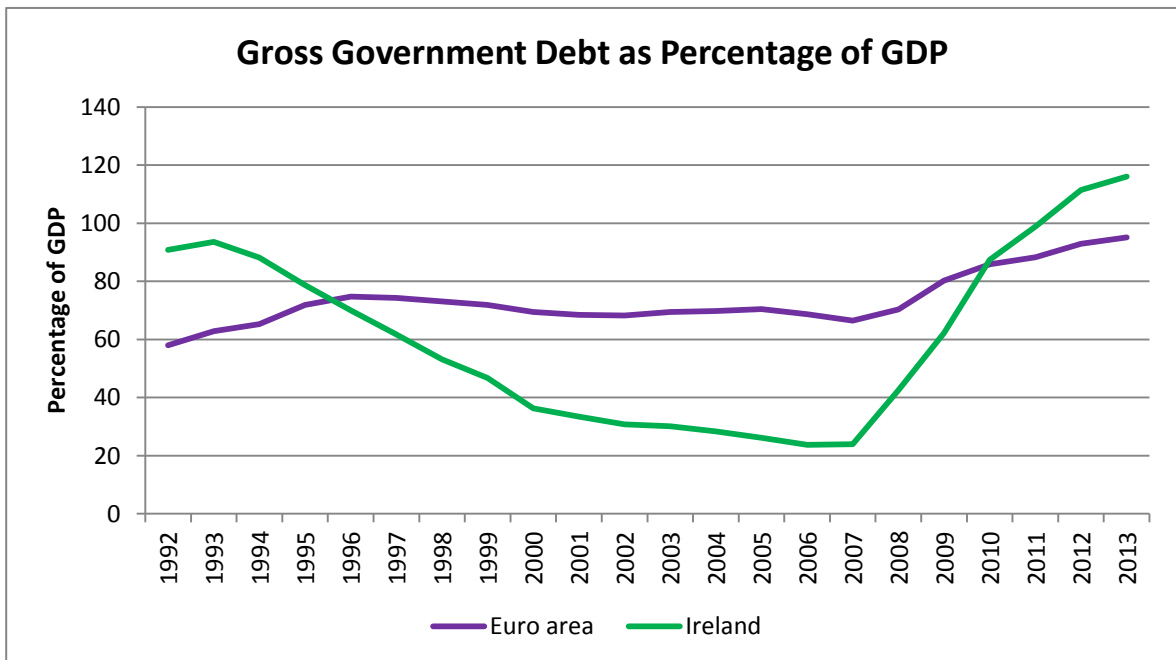
Source: IMF data, Advisory Team analysis.

**Figure 5: Government Net Debt as Percentage of GDP (1992 - 2013)**



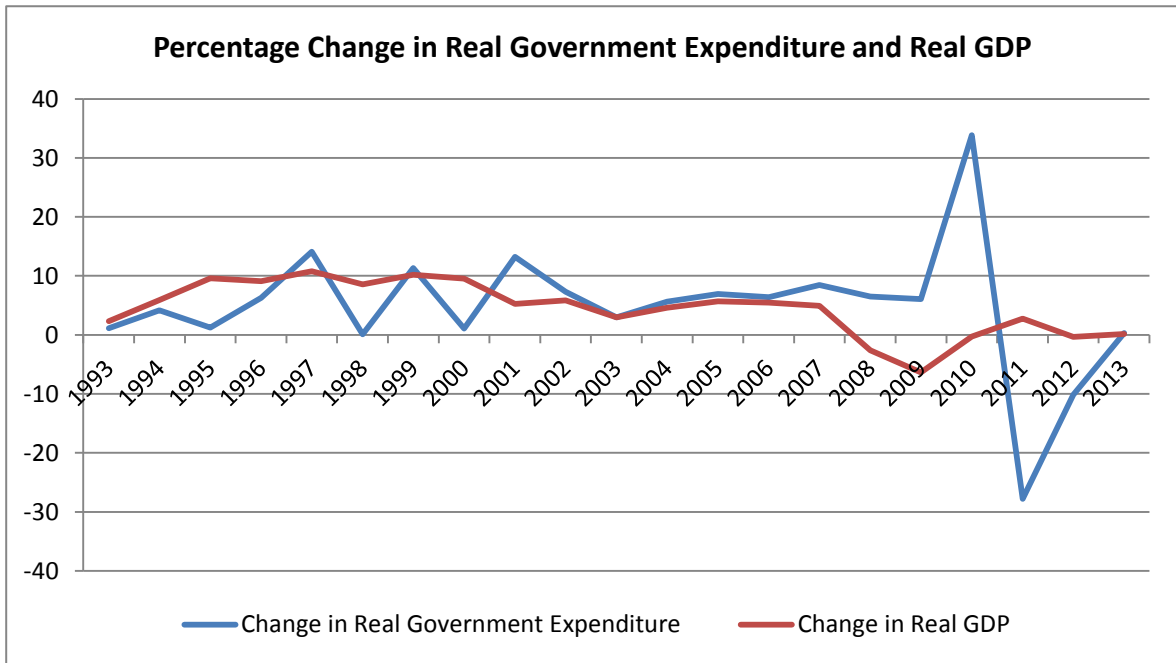
Source: IMF data, Advisory Team analysis.

**Figure 6: Government Gross Debt as Percentage of GDP (1992 - 2010)**



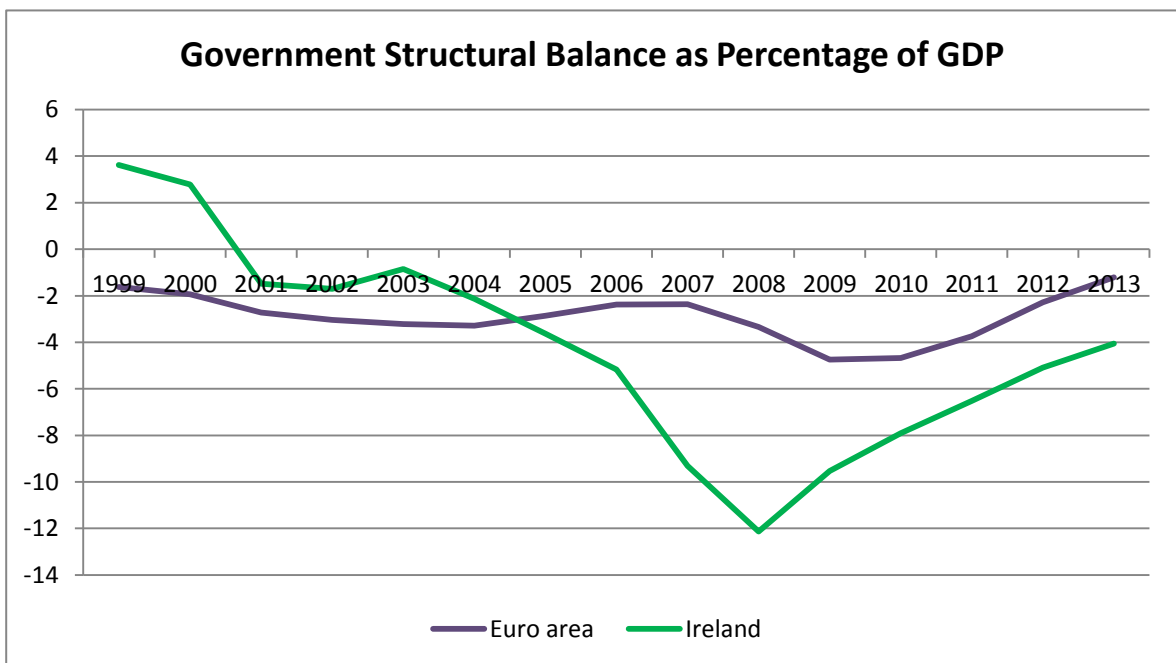
Source: IMF Data, Advisory Team analysis.

**Figure 7: Percentage Change in Real Government Expenditure and Real GDP (1992 - 2013)**



Source: IMF Data, Advisory Team analysis.

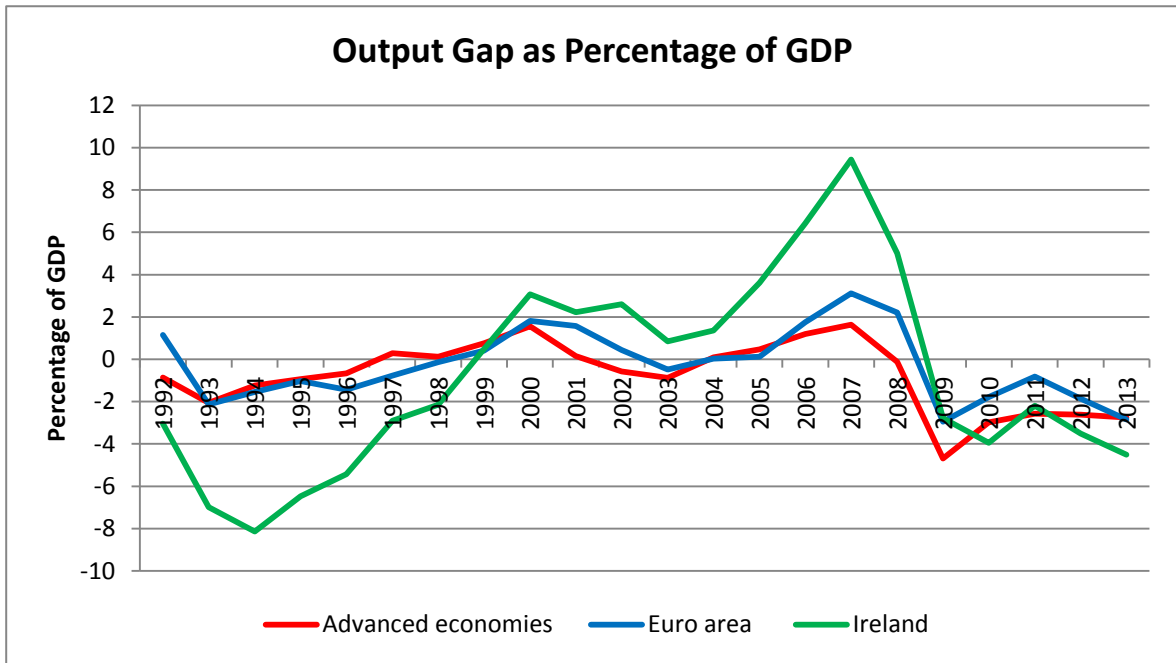
**Figure 8: Government Structural Balance as Percentage of GDP (1999 - 2013)**



Source: IMF Data, Advisory Team analysis.

Note: Data available only from 1999 onwards.

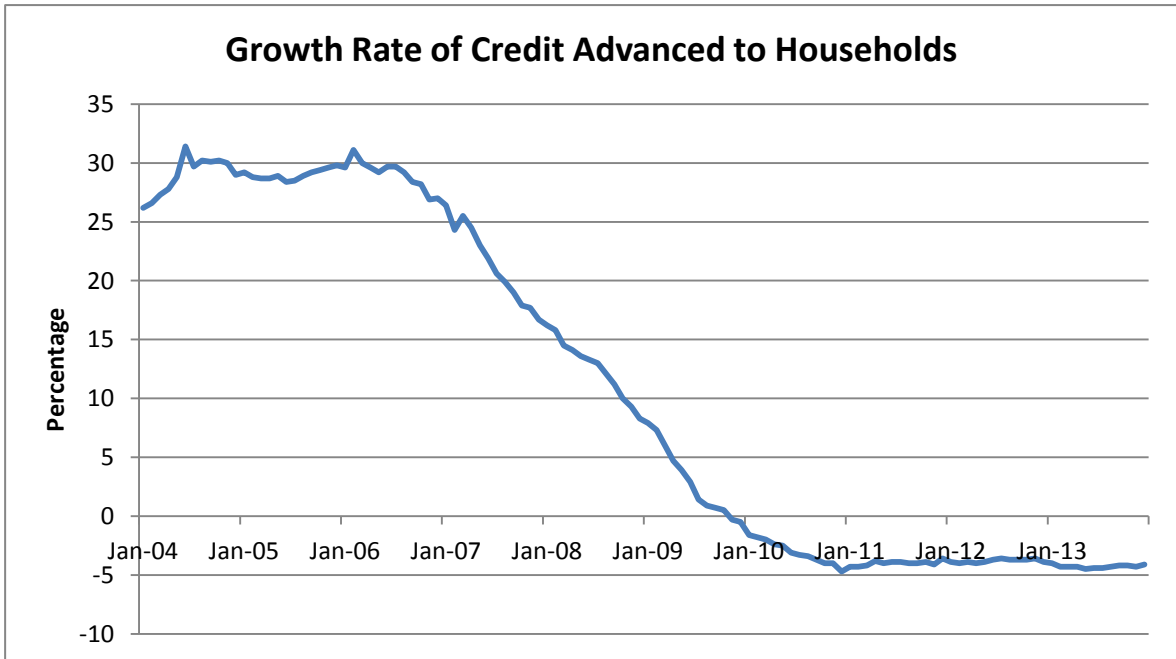
Figure 9: Output Gap as Percentage of GDP (1992 - 2013)



Source: IMF Data, Advisory Team analysis.

## Banking Data

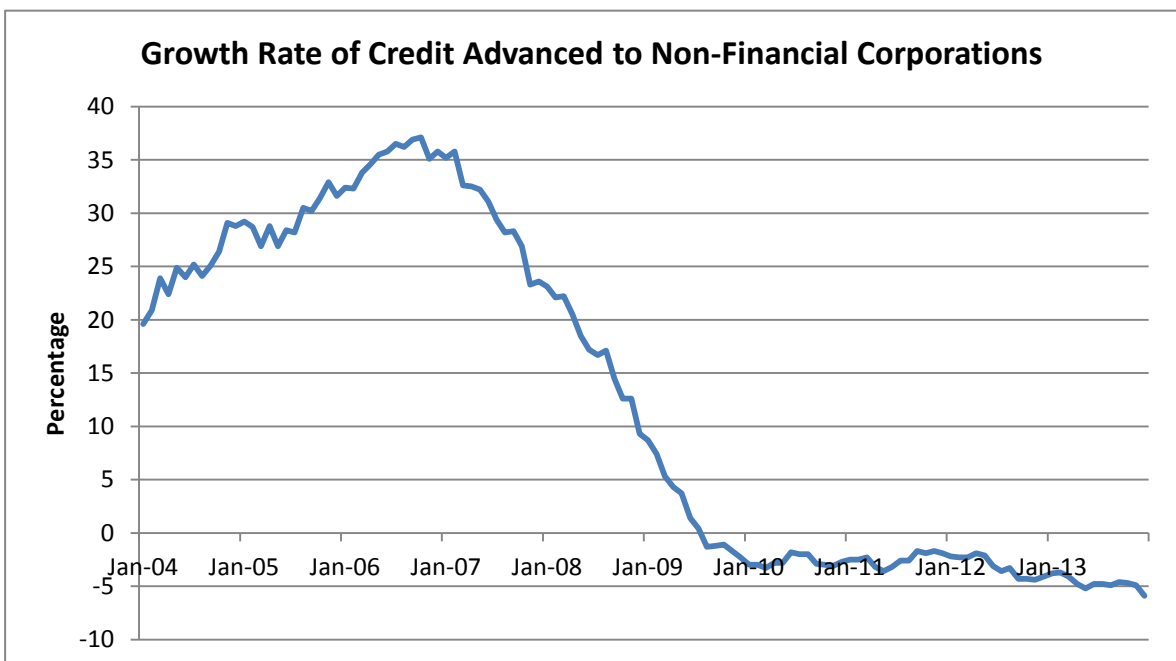
**Figure 10: Growth Rate of Credit Advanced to Households by Covered Banks (2004 – 2013)**



Source: Central Bank Data, Advisory Team analysis.

Note: Data not available prior to 2004.

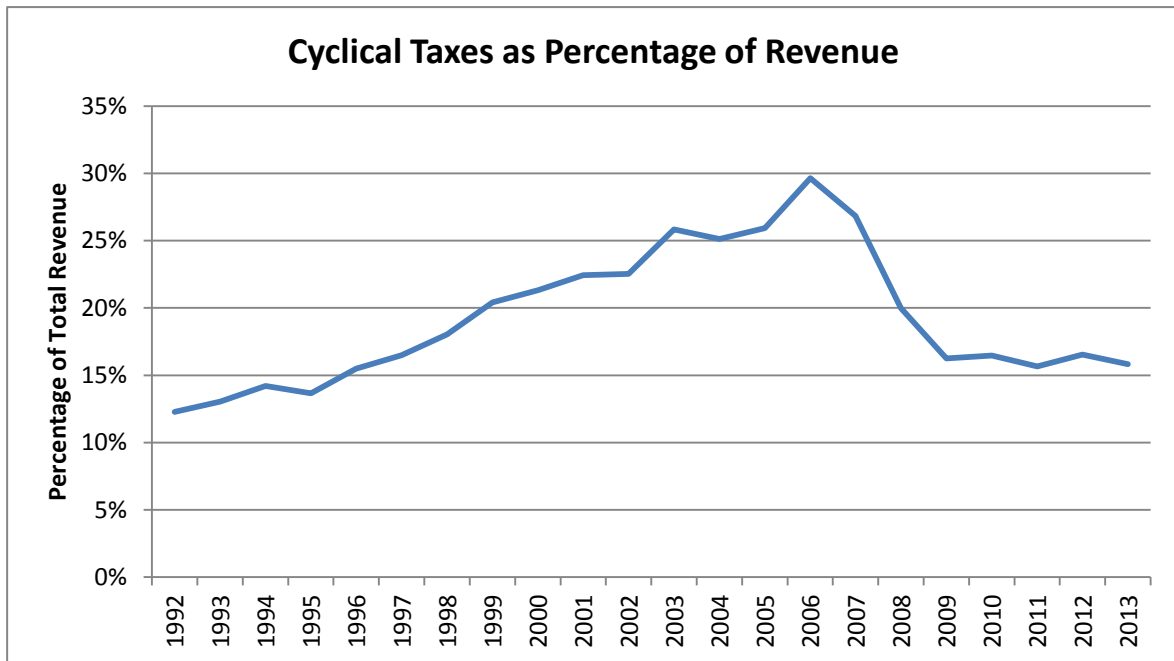
**Figure 11: Growth Rate of Credit Advanced to Non-Financial Corporations by Covered Banks (2004 – 2013)**



Source: Central Bank data, Advisory Team analysis.

## Fiscal/Budgetary Policy

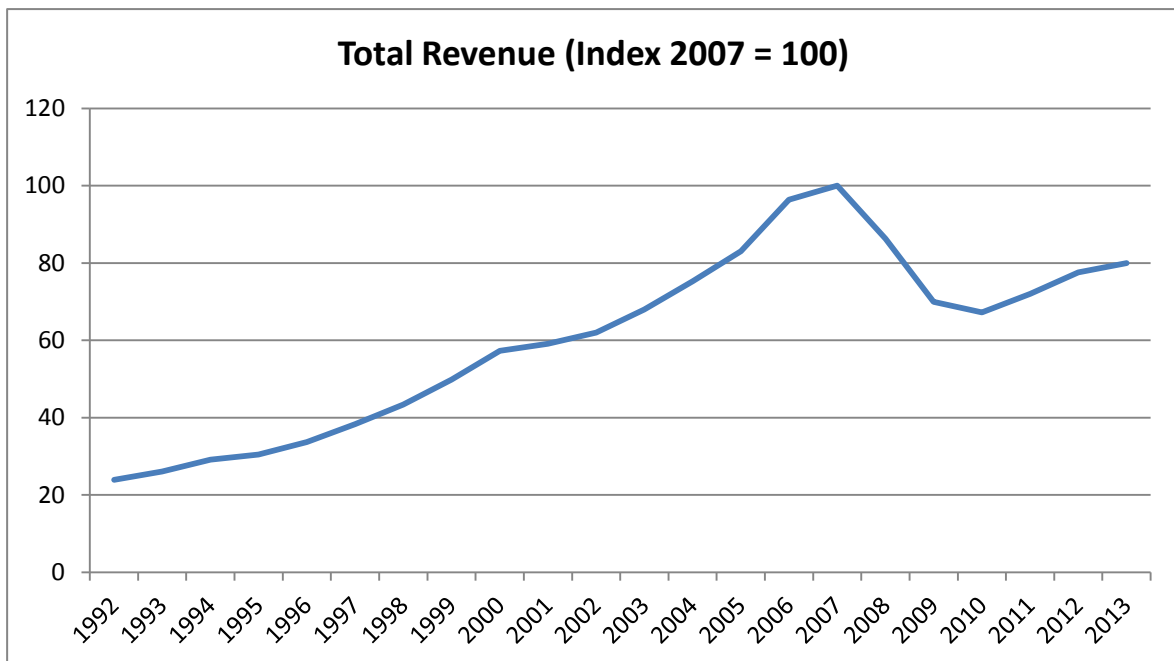
**Figure 16: Cyclical Taxes as Percentage of Total Tax Revenue (1992 - 2013)**



Source: Department of Finance data, Advisory Team analysis.

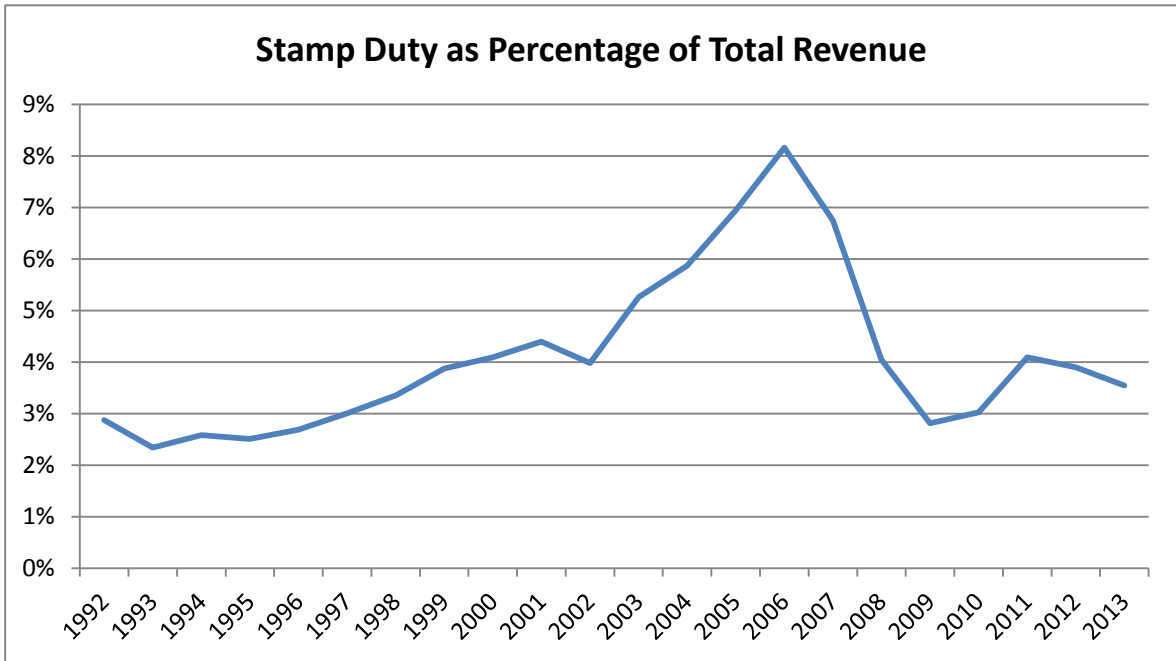
Note: Cyclical taxes are defined as Corporation Tax, Capital Gains Tax and Stamp Duty.

**Figure 17: Nominal Total Tax Revenue (Index 2007 = 100) (1992 - 2013)**



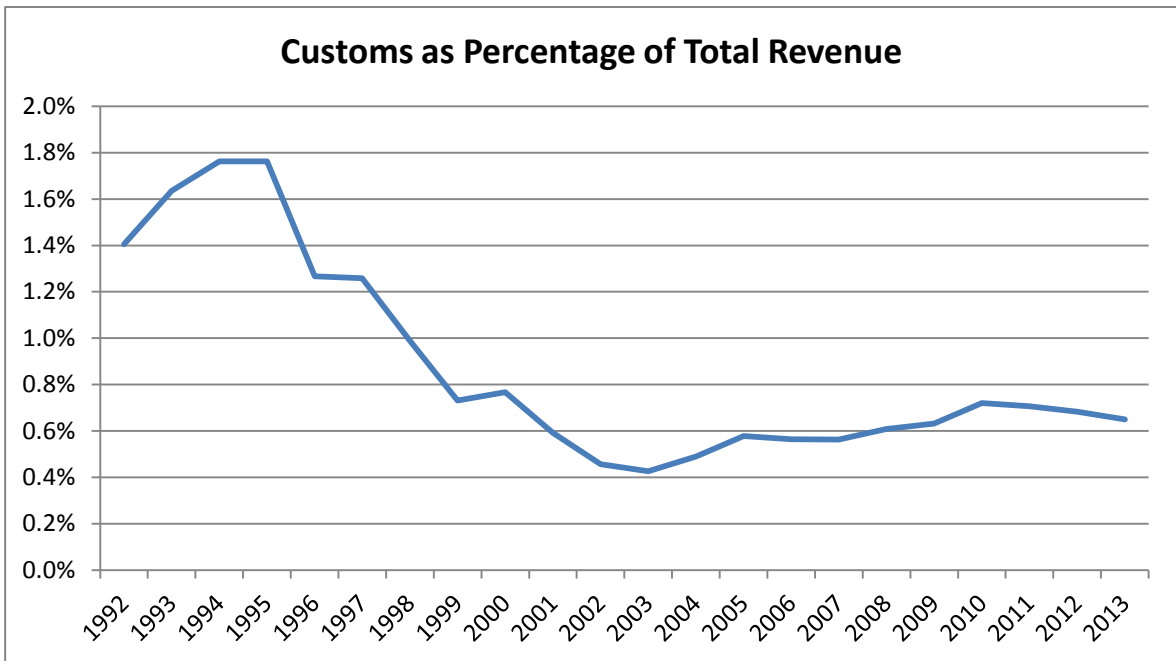
Source: Department of Finance data, Advisory Team analysis.

**Figure 22: Stamp Duty as a Percentage of Total Revenue (1992 – 2013)**



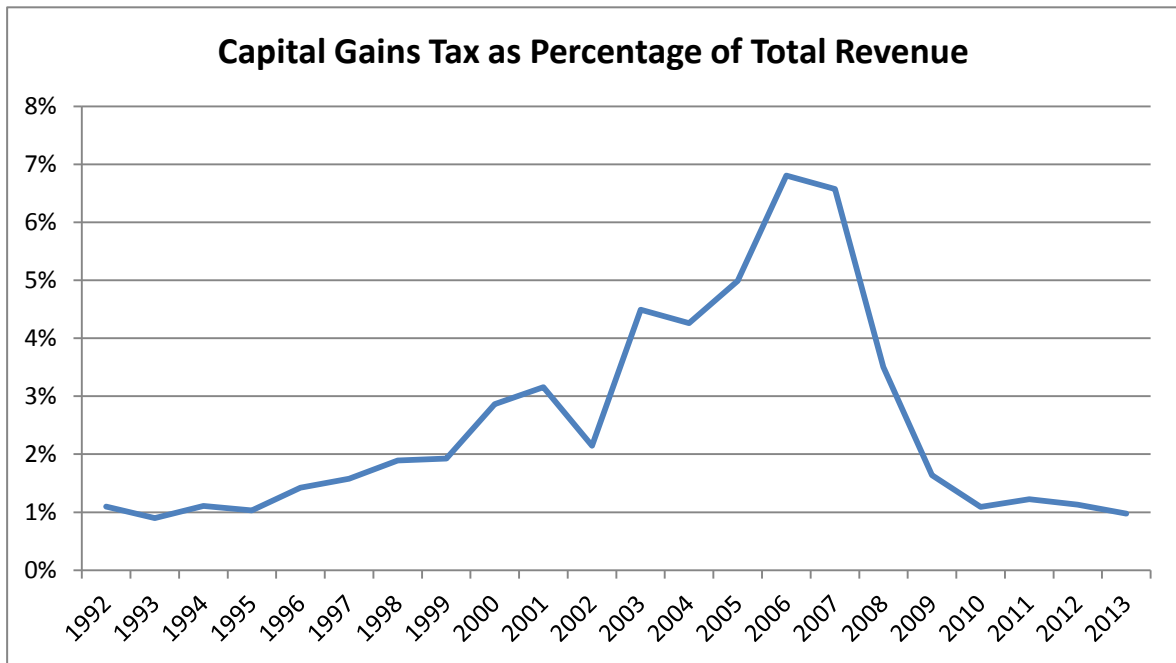
Source: Department of Finance data, Advisory Team analysis.

**Figure 23: Customs Duty as a Percentage of Total Revenue (1992 – 2013)**



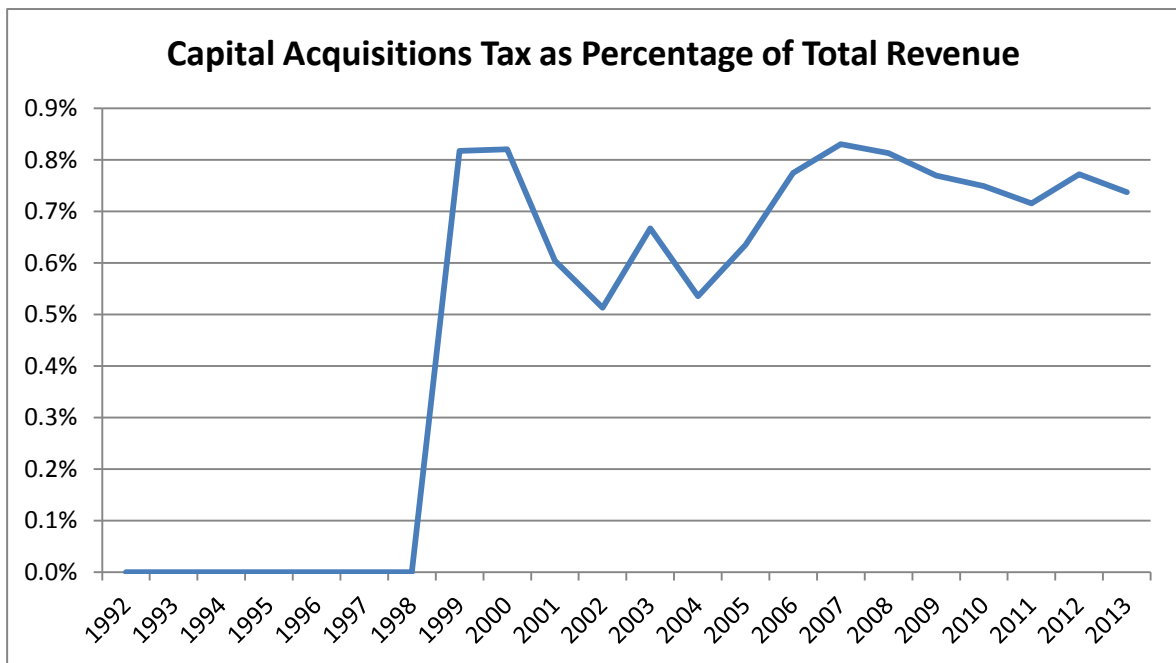
Source: Department of Finance data, Advisory Team analysis.

**Figure 24: Capital Gains Tax as a Percentage of Total Revenue (1992 - 2013)**



Source: Department of Finance data, Advisory Team analysis.

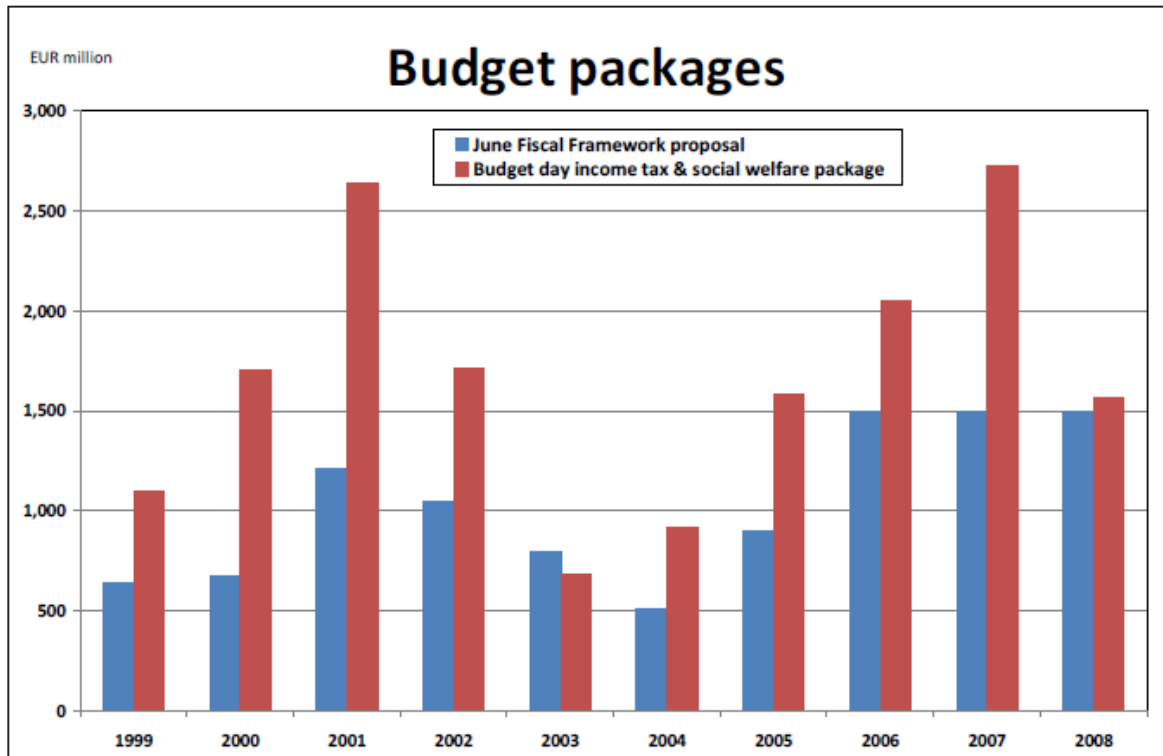
**Figure 25: Capital Acquisitions Tax as a Percentage of Total Revenue (1992 - 2013)**



Source: Department of Finance data, Advisory Team analysis..



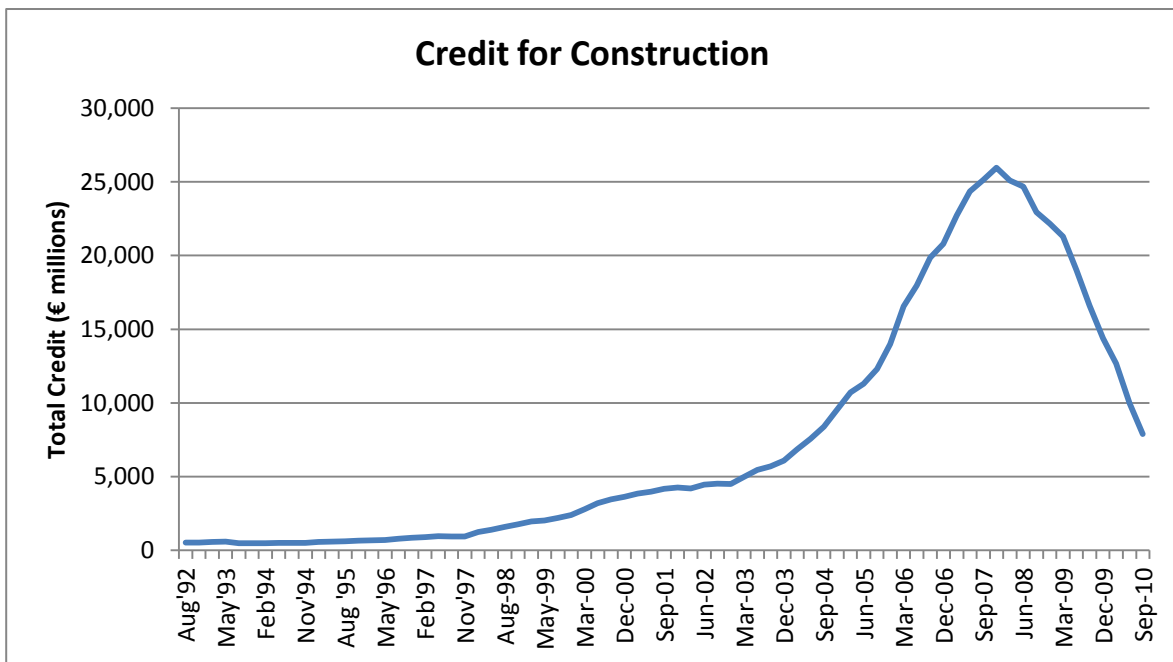
Figure 26: Budget Packages



Source: Wright Report for Department of Finance.

## Construction/Property

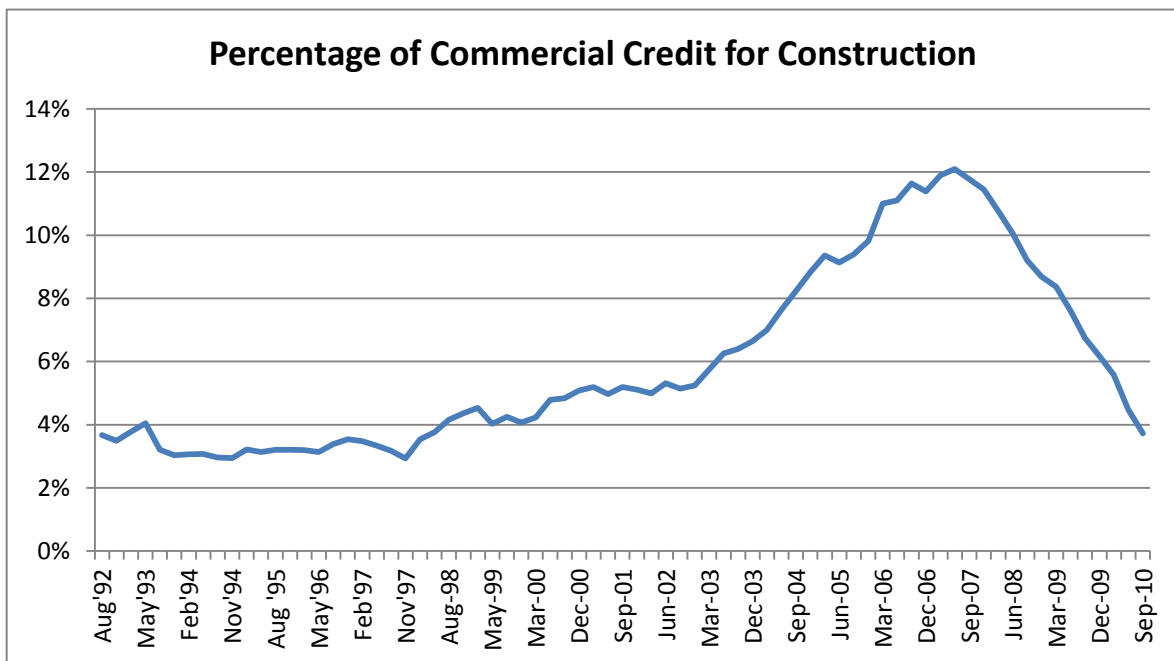
**Figure 27: Total Credit Extended for Construction Projects (1992 – 2010)**



Source: Central Bank data, Advisory Team analysis.

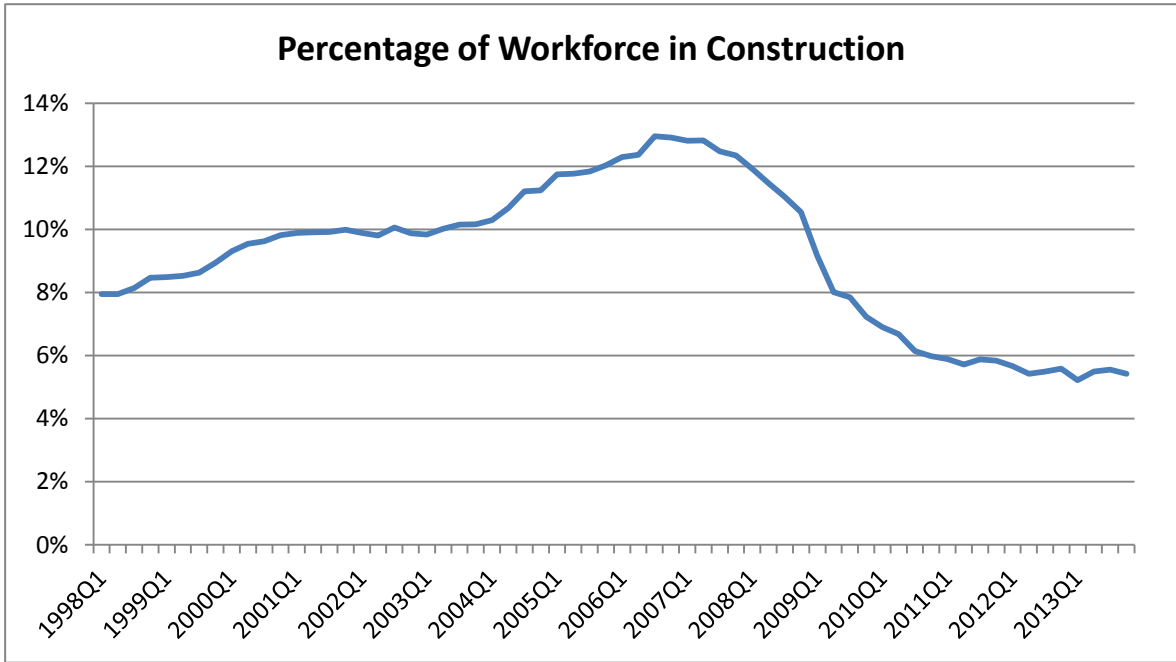
Note: Data series discontinued in 2010.

**Figure 28: Percentage of Commercial Credit Extended for Construction Projects (1992 – 2010)**



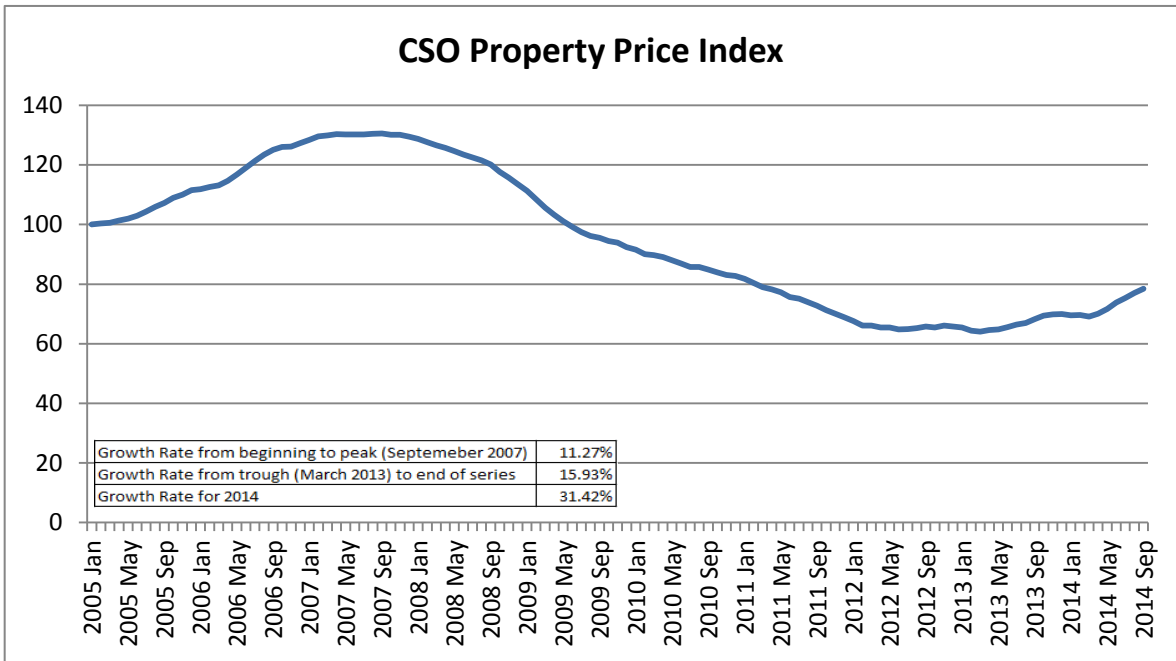
Source: Central Bank data, Advisory Team analysis.

**Figure 29: Percentage of Workforce Employed in Construction (1998 - 2013)**



Source: Central Statistics Office (CSO) data, Advisory Team analysis.

**Figure 30: CSO Property Price Index (2005 - 2014)**



Source: CSO data, Advisory Team analysis.

Note: Data only available from 2005

01 8/0755/24F

10 June 1998

Ms Mary Harney TD  
Tánaiste and Minister for Enterprise,  
Trade and Employment

Dear Mary

Thank you for your letter of 13 May regarding the working group on the provision of financial services in Ireland and the impact of this on consumers. While the issues being addressed are related to the area of credit institutions, many of the principles involved will, of course, be of relevance to the wider financial community.

Obviously, I share your view on the necessity to maintain international confidence in the regulation of the Irish financial sector. Indeed I have stated on several occasions recently that the Irish regulatory system is on a par with any in the world and conforms fully with EU law and best international practice in so far as prudential regulation is concerned. I am not aware of any international misgivings on this score. I am not sure if you also have in mind issues of consumer protection, other than those embodied in the prudential considerations addressed under the Bank's regulatory regime, but I will come back to this issue later.

On the broader question of the prudential regulation of the sector and the issue of a single regulator, I am, of course, aware of the situation in the UK in this regard. Indeed, I personally favour the concept of a single regulator, but I have no reason to believe that this function is not appropriate to the Central Bank in the Irish case. At present the Central Bank regulates a very broad spectrum of financial entities. Indeed, with the proposed transfer to the Bank of responsibility for insurance intermediaries, the only major areas outside its control will be the insurance companies and the credit unions. As regards credit unions they are, of course, excluded from the provisions of EU banking law, at least for the time being.

Accordingly, I suggest that following the transfer of responsibility for Insurance Intermediaries to the Central Bank, the question of the remainder of the insurance sector be addressed. I take it from your letter that you have no objection in principle to this task being transferred from your Department.

At that stage, we can consider whether there is a case for the establishment of a totally new institution to take over the regulation of the financial sector or whether the Central Bank, which would de facto be a single regulator, should be employed for this purpose. A possibility would be to entrust this task to a subsidiary of the Central Bank formed for this purpose. As you know, Section 23 of the Central Bank Act 1997 allows for this.

As regards the question of consumer protection to which I adverted earlier, the Working Group to which you referred in your letter is, as you know, examining, inter alia, the interface between consumer protection and prudential regulation, with a view to the identification of potential areas of conflict. Work on this is proceeding.

However, even were a single regulator to be appointed, as you suggest, it is difficult to see how such a regulator could satisfactorily combine the prudential regulation of the financial sector and the responsibility for elements of consumer protection other than those embodied in the concept of prudential control. Certainly, if you are aware of examples from other jurisdictions in which both functions have been combined, I would be glad to hear of them. In this regard I should add that the Central Bank has responsibility for the Deposit Protection Scheme, and, with the enactment of the Investor Compensation Bill will be the responsible authority for investor compensation.

In any event, as I said above, this matter can be addressed when the question of the transfer of the insurance sector in toto to the regulatory control of the Central Bank has been decided on, and in the light of the circumstances then obtaining.

I have copied this reply to the Taoiseach.

Yours sincerely

**Charlie McCreevy T.D.**

Charlie McCreevy TD

15 February 2001

Ms Mary Harney T.D.  
Tánaiste and Minister for Enterprise,  
Trade & Employment  
Kildare Street  
Dublin 2

Dear Mary

Further to our meeting on Wednesday evening, I attach a revised draft incorporating our agreed version of the substantive paragraph of the proposed Government decision on the establishment of a single regulatory authority for all the main areas of financial services within a new structure.

I suggest that our officials finalise the text of the joint Memorandum and Press Release over the coming days, with a view to presentation to the Government meeting of 20 February.

As we discussed, I have written to the Taoiseach informing him that we will be bringing a joint Memorandum directly to that meeting. A copy of my letter is attached.

It would also be useful if our press officers were to meet to discuss arrangements for the public announcement and to consider what arrangements for a joint press conference might be appropriate.

Yours sincerely

**CHARLIE McCREEVY T.D.**

---

Charlie McCreevy T. D.  
Minister for Finance

990354/MF

~~D. Doyle~~

Our Ref: **991420/TAN**

2 June 1999

R. Shue

Mr Charlie McCreevy TD  
Minister for Finance  
Upper Merrion Street  
Dublin 2



Dear Charlie,

Thank you for your recent letter in relation to the establishment of a Single Regulatory Authority for the Financial Services Sector and how we should proceed with a view to bringing the Report to Government.

I will be in touch with you again in the matter as soon as possible.

Yours sincerely,



MARY HARNEY T.D.  
TANAISTE AND MINISTER FOR  
ENTERPRISE, TRADE AND EMPLOYMENT



Department of  
Enterprise, Trade  
and Employment

Tánaiste and Office of the Minister

Roinn Fiontar  
Trádála agus  
Fostaíochta

Kildare St  
Dublin 2  
Ireland

Tel 353 1 661 4444  
Fax 353 1 676 0431  
Web www.irishgov.ie/entemp

98109551mf

Our Ref: 981668/TAN

16 June 1998



Mr Charlie McCreevy TD  
Minister for Finance  
Upper Merrion Street  
Dublin 2

Dear Charlie,

Thank you for your recent letter in response to mine regarding the working group on the provision of financial services in Ireland and the impact of this on consumers.

I have noted the contents of your response with interest.

Yours sincerely,

MARY HARNEY T.D.  
TANAISTE AND MINISTER FOR  
ENTERPRISE, TRADE AND EMPLOYMENT

*Mr Shree*  
*Mr. T. Considine* 17/6  
For your information  
*a*  
17/6





98p755/mf  
Mr. Considine,  
for attn. pls -

Sráid Chill Dara  
Baile Átha Cliath 2  
Éire

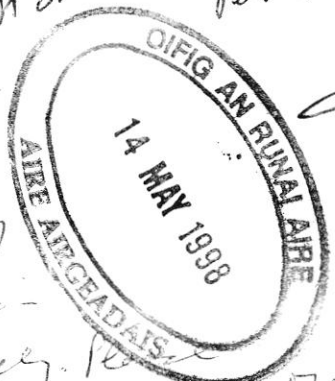
Kildare Street  
Dublin 2  
Ireland

Telephone: 353 1 661 4444  
Facsimile: 353 1 676 0431  
URL: <http://www.irigov.ie>

13 May, 1998

Mr. Charlie McCreevy  
Minister for Finance  
Government Buildings  
Upper Merrion Square  
Dublin 2

*Mr. Shie*  
*re. documents*  
*15/5*  
*Ms. Deavey*  
*for examination*  
*and draft reply. Please*  
*copy to Secretary-General, Mr O'Garra*  
*& myself I 1575798*



Dear Charlie,

I refer to your letter of 30 March regarding the establishment of a working group to investigate the law and practice governing the provision of financial services in Ireland and the impact this has on consumers. We are actively participating in the work of the group. I accept that meeting the rigorous deadlines will entail limiting the brief of the group to issues relating to the regulation of Credit Institutions.

The purpose of this letter is to raise the broader question of the regulation of the financial services sector. I know that this is a concern you share. I am prompted to raise this issue by a number of developments including the expectation that when the existing group reports we will be asked what we are doing about the regulation of financial institutions.

There is the immediate imperative of raising the confidence that the public has in the financial services sector and its regulation.

We have both received the submission from the Consumers Association of Ireland for the establishment of an overall regulator - (the Financial Consumer Authority).


Crossovers between formerly discrete subsectors of the financial services industry are increasing with the development of hybrid financial products and increasing concentration in the ownership of financial institutions. There is a real danger that financial institutions could seek to be regulated by the least rigorous regulator.

In a small country like Ireland, there is a case from both an effectiveness and efficiency perspective for building a critical mass of skills relating to financial regulation in a single location. Existing skills relating to ensuring fit and proper management of financial institutions, adequate solvency ratios, reserves, capital adequacy, etc., are scattered through a number of regulators with different skill development programmes.

The British Government has taken the decision to establish the Financial Services Authority to assume the regulatory functions at present carried out by a number of separate financial regulators. In taking the decision, the British were influenced by the need to maintain the good name of the City of London. For us, maintaining-and being seen to maintain-confidence in the regulation of the Irish financial sector can contribute to our competitive advantage. As you know, the British took the macro-policy decision to establish a single regulator with the details to be worked out later.

The above leads me to suggest that there is a strong case for us to take a decision, in principle, to establish a new financial services authority with the details being worked out by a group of officials-probably at the same time as implementation proceeds. The process would have to be lead by the Department of Finance. My Department would contribute from the view points of insurance undertakings and Credit Unions.

I would be glad to have your reaction to the above. I have sent a copy of this letter to the Taoiseach.

*Yours sincerely*  


---

*Mary Harney T.D.  
Tánaiste and Minister for Enterprise, Trade and Employment*



03/0034/MF

~~Mr Billy Hawkes~~

For attention

5 after 27/5/03

Mr Charlie McCreedy  
Minister for Finance  
Government Buildings  
Upper Merrion Street  
Dublin 2

NOT  
get Mr. Hawkes  
from 10:30 AM  
in the room  
see details in  
or call  
21/5



26 May 2003

Ref: F9/26/01

**Re: Aide Memoire for Government Meeting on 27 May 2003**

Dear Charlie

I refer to your Aide Memoire for consideration by the Government at its meeting tomorrow, 27 May 2003, relating to legislation regarding IFSRA.

I note from the Aide Memoire that the proposal to remove the role of the Minister for Finance in relation to banking mergers involving Irish institutions under the Central Bank Act, 1989 is not to be included in the Bill. This means that mergers involving large banks will continue to be subject to regulatory clearance by both the Competition Authority and the Minister for Finance.

However, while under the Competition Act, 2002 the Competition Authority is confined to pure competition criteria in deciding whether to clear or prohibit a banking merger, the criteria under which a Minister for Finance makes a decision under the Central Bank Act, 1989 is less clear.

Your Aide Memoire refers to "a broader public interest assessment" and I have some reservations about this. If the Minister for Finance is to retain a regulatory role in regard to banking mergers then I believe that this role should be clarified and that the relevant public interest criteria should be listed in the legislation.

In this regard you will be aware that under the Competition Act, 2002 I retained a *public policy* role in relation to media mergers. However, my decisions in regard to such mergers must be made on the basis of the specific criteria listed at Section 23 of the Act. These criteria essentially relate to plurality, diversity of views, cross-media issues etc.

11/14

My concern is that in the case of banking mergers, it would be possible for a future Minister for Finance to prohibit a merger on competition grounds even if it had been cleared by the Authority, or on the basis of other, perhaps inappropriate, criteria. Accordingly, I would ask you to reappraise this matter and if you decide to retain the Minister's regulatory role, then I would suggest that you insure that the appropriate relevant public policy criteria are specified in the legislation.

Best regards,



---

MARY HARNEY TD

Tánaiste and Minister for Enterprise, Trade & Employment



Our Ref: 981668/TAM

1 July 1998

**Mr. Charlie McCreevy**  
**Minister for Finance**  
**Government Buildings**  
**Dublin 2**

**Dear Charlie,**

Thank you for your letter of 10 June 1998 in response to my letter of 13 May 1998.


I take it from your letter and from earlier comments made by you that you are in favour of a single regulator but that you question whether it is necessary to establish a new body to undertake this function.

As we seem to be agreed that a single financial regulator is appropriate but that there are differences as to the precise remit and structure of the regulator, I would like to propose that a working group be established to look into this question. I would suggest that the group be chaired by an independent third party (someone like Prof Dermot McAleese would be appropriate) and would involve participation by your Department, my Department and the Central Bank, with the possible participation or input by other parties such as the Registrar of Friendly Societies and the Director of Consumer Affairs. The issues that would fall to be examined by the group would be-

1. the role of the single regulator (e.g., prudential supervision, conduct of business, the maintenance of orderly markets, the protection of clients)
2. the activities to be covered by the single regulator (e.g., activities currently supervised by the Bank plus other regulated activities such as insurance companies, credit unions, pension industry, mortgage intermediaries, credit intermediaries, friendly societies)
3. whether the role of the single regulator should be undertaken by the Central Bank, a subsidiary of the Bank or by a new body incorporating the existing supervisory functions of the Central Bank.

I do not believe that it is necessary to await the passage of current legislation allocating regulatory responsibility for insurance intermediaries to the Central Bank to undertake some of the preparatory work on the establishment of a single regulator.

*M. Conry* *98/1280/mf*  
*CB 3/7* *L. Beeslin*  
 For your attention  
*a*  
*2/7*



*Mr. Shind*  
*as discussed* *3/7*

*12/20*



An Roinn Airgeadais  
Department of Finance

Office of the Minister

*F9/08/99 Part 2*

Sráid Mhuirfean Uacht, Upper Merrion Street, Telephone: (01) 676 7571  
Baile Átha Cliath 2, Dublin 2, Facsimile: (01) 676 1951  
Éire. Ireland. GTN: 7109  
URL: <http://www.irigov.ie>

February, 2000

Ms Mary Harney TD  
Tánaiste & Minister for Enterprise  
Trade & Employment  
Kildare Street  
Dublin 2

Dear Mary

I have been reflecting on the Report of the Implementation Advisory Group on the establishment of a Single Regulatory Authority (SRA) for the Financial Services Sector.

In my opinion, we can support the general thrust of the Report and the bulk of its recommendations. However, the issue concerning the establishment of an SRA within, or outside the ambit of, the Central Bank is something that requires further consideration. While accepting that the 'greenfield' option recommended in the Report has certain merits, I have to say that I am not convinced that these outweigh the considerable risks associated with it. I am very conscious that the Central Bank is a critical part of the financial architecture of Ireland and I am concerned that the benefits of its high reputation, both domestically and internationally, as prudential regulator might be lost in a green field operation. Transferring such a key function to an untested institution could call into question, especially in an increasingly competitive world, the attraction of Ireland as a location for financial services providers. Furthermore, the role of the Central Bank as 'lender of last resort' cannot be forgotten. I don't think we should be prepared to take the risks associated with the greenfield option.

*gon 12/2*

The views of the Board of the Central Bank itself are important: they feel that the main risks associated with a 'greenfield' operation include loss of regulatory expertise; difficulty in establishing an international reputation because a new authority would lack a proven record; industrial relations problems; loss of synergies between the Central Bank's regulatory and non-regulatory functions; high start-up and ongoing costs.

I have considered the various models for an SRA referred to in the Report. Weighing up the pros and cons of each, I have reached the opinion that the suggestion advanced in page 42 of the Report by the representative of the Taoiseach's Department represents the most constructive way forward. Accordingly, I have had the attached draft of a proposed joint Memorandum to Government prepared. The key point in this is that the Report of the Implementation Advisory Group Report would be generally accepted with the important exception that an SRA would be established as a distinct pillar of a reconstituted Central Bank. While the main Board would have responsibility for approving high-level policy for the SRA and for normal corporate governance, the SRA would have a separate Board with a CEO appointed by that Board. Moreover, legislation would provide that the SRA will have full accountability to the Minister for Finance and the Oireachtas as well as operational autonomy.

It is my intention that the Memorandum should be submitted to Government for consideration at next Tuesday's meeting. Accordingly, I would be obliged for your views on it as a matter of urgency.

I have today issued a similar letter to the Taoiseach.

Yours sincerely,

**Charlie McCreevy TD**  
**Minister for Finance**





An Roinn Airgeadais  
Department of Finance

Office of the Minister

27/08/99  
ma

3

May, 1999

Sráid Mhuirfean Uacht, Upper Merrion Street, Telephone: 353-1-676 7571  
Baile Átha Cliath 2, Dublin 2, Facsimile: 353-1-676 1951  
Éire. Ireland. LoCall: 1890 66 10 10  
GTN: 7109  
<http://www.irlgov.ie/finance>

Ms Mary Harney TD,  
Tánaiste & Minister for Enterprise  
Trade & Employment,  
Kildare Street,  
Dublin 2.

Dear Mary,

Now that we have received the Report of the Implementation Advisory Group on the establishment of a Single Regulatory Authority for the Financial Services Sector, the question arises as to how we should proceed with a view to bringing the Report to Government.

As the Group was commissioned to report to both of us, it would seem appropriate that we should jointly submit it to Government along with a comprehensive Memorandum outlining our agreed perspective on the recommendations and on a proposal for Government decision.

The Report requires careful examination before it could be presented to Government with accompanying proposals as to how best the agreed objective of establishing a Single Regulatory Authority could be achieved.

30K121

In particular, before approaching Government with any such proposals, I am most anxious to obtain the views of the Board of the Central Bank on the Report, given the major role that the Central Bank plays in our financial architecture. I have asked the Board of the Bank for its considered response to the Report and I expect to receive this early next week.

Having considered the views of the Board, I intend to send you a draft of a proposed joint Memorandum for Government setting out an analysis and approach to the issue. If we are able to reach agreement on this, it can then be sent to the Department of the Taoiseach, the Attorney General, and any other relevant Departments for observations within a one week deadline. Pending submission of this Memorandum to Government, my Department has made arrangements for printing of the Report.


We could arrange to discuss the draft Memorandum when you have had an opportunity to reflect on the contents.

I have sent a copy of this letter to the Taoiseach.

Yours sincerely,

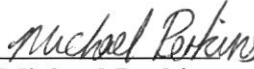
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**Charlie McCreevy TD**  
**Minister for Finance**

  
**Mr. Doyle**  
*Per 28/5*  
**Secretary General**

**Runai Aire**

Draft letter to the Tánaiste for the Minister's signature on the Report of the Implementation Advisory Group on the establishment of a Single Regulatory Authority for the Financial Services Sector.

  
**Michael Perkins**  
**Banking Section**  
**28 May, 1999**

28 May, 1999

Ms Mary Harney TD,  
Tánaiste & Minister for Enterprise  
Trade & Employment,  
Kildare Street,  
Dublin 2.

Dear Mary,

Now that we have received the Report of the Implementation Advisory Group on the establishment of a Single Regulatory Authority for the Financial Services Sector, the question arises as to how we should proceed with a view to bringing the Report to Government.

As the Group was commissioned to report to both of us, it would seem appropriate that we should jointly submit it to Government along with a comprehensive Memorandum outlining our agreed perspective on the recommendations and on a proposal for Government decision.

The Report requires careful examination before it could be presented to Government with accompanying proposals as to how best the agreed objective of establishing a Single Regulatory Authority could be achieved.

In particular, before approaching Government with any such proposals, I am most anxious to obtain the views of the Board of the Central Bank on the Report, given the major role that the Central Bank plays in our financial architecture. I have asked the Board of the Bank for its considered response to the Report and I expect to receive this early next week.

Having considered the views of the Board, I intend to send you a draft of a proposed joint Memorandum for Government setting out an analysis and approach to the issue. If we are able to reach agreement on this, it can then be sent to the Department of the Taoiseach, the Attorney General, and any other relevant Departments for observations within a one week deadline. Pending submission of this Memorandum to Government, my Department has made arrangements for printing of the Report.

We could arrange to discuss the draft Memorandum when you have had an opportunity to reflect on the contents.

I have sent a copy of this letter to the Taoiseach.

Yours sincerely,

CHARLIE McCREEVY

---

**Charlie McCreevy TD**  
**Minister for Finance**

28 May, 1999

Mr. Bertie Ahern TD,  
Taoiseach

Dear Taoiseach,

Please find enclosed a copy of a letter that I have sent today to the Tánaiste & Minister for Enterprise, Trade & Employment regarding the Report of the Implementation Advisory Group on the establishment of a Single Regulatory Authority for the Financial Services Sector.

Yours sincerely,

CHARLIE MCCREEVY TD

---

**Charlie McCreevy TD**  
**Minister for Finance**

28 May, 1999

Ms Mary Harney TD,  
Tánaiste & Minister for Enterprise  
Trade & Employment,  
Kildare Street,  
Dublin 2.

Dear Mary,

Now that we have received the Report of the Implementation Advisory Group on the establishment of a Single Regulatory Authority for the Financial Services Sector, the question arises as to how we should proceed with a view to bringing the Report to Government.

As the Group was commissioned to report to both of us, it would seem appropriate that we should jointly submit it to Government along with a comprehensive Memorandum outlining our agreed perspective on the recommendations and on a proposal for Government decision.

The Report requires careful examination before it could be presented to Government with accompanying proposals as to how best the agreed objective of establishing a Single Regulatory Authority could be achieved.

In particular, before approaching Government with any such proposals, I am most anxious to obtain the views of the Board of the Central Bank on the Report, given the major role that the Central Bank plays in our financial architecture. I have asked the Board of the Bank for its considered response to the Report and I expect to receive this early next week.

Having considered the views of the Board, I intend to send you a draft of a proposed joint Memorandum for Government setting out an analysis and approach to the issue. If we are able to reach agreement on this, it can then be sent to the Department of the Taoiseach, the Attorney General, and any other relevant Departments for observations within a one week deadline. Pending submission of this Memorandum to Government, my Department has made arrangements for printing of the Report.

We could arrange to discuss the draft Memorandum when you have had an opportunity to reflect on the contents.

I have sent a copy of this letter to the Taoiseach.

Yours sincerely,

CHARLIE MCCREEVY

---

**Charlie McCreevy TD**

**Minister for Finance**



**OIFIG AN TÁNAISTE AGUS OIFIG AN AIRE AIRGEADAIS**

Ref: 590/03/01/0002/1

Bealtaine 1999

**Draft Memorandum for the Government**

**Establishment of a Single Regulator for the Financial Services Sector**

***Decision Sought***

1. The Tánaiste and Minister for Enterprise, Trade and Employment, in association with the Minister for Finance, requests the Government to approve:-
  - (a) the publication of the attached Report of the Implementation Advisory Group on a Single Regulatory Authority for Financial Services.
  - (b) in principle, the recommendations contained in that report
  - (c) the drafting of the Heads of a Bill to provide for the establishment of a Single Regulatory Authority for financial services and related matters within a target date of one year of the approval of the Report.
  - (d) the establishment of a Technical Group, chaired by the Department of Finance and representative of the Department of Enterprise, Trade and Employment , the Office of the Attorney General and the Central Bank to facilitate the implementation of the recommendations contained in the Report, including the preparation of the necessary legislation.
  - (e) the attached press release.

***Background***

2. At its meeting of 20 October 1998, the Government agreed in principle to the establishment of a single regulatory authority (SRA) for the financial services sector at the earliest date possible and to the immediate establishment of an Implementation Group to progress the necessary work (Government Decision S180/20/10/0167). The composition and terms of the Group are set out at Annex I to this Memorandum.
3. Originally, the Group was requested to report jointly to the Tánaiste and the Minister for Finance by end-February, 1999. However, this deadline was extended to end-April on foot of a request from the Chairman of the Group in February 1999. The Group had formed the opinion that, arising from its complex and wide-ranging remit as well as the extensive consultations which it had been undertaking with interested parties, it would not be in a position to meet the end-February deadline originally imposed.
4. The Group has now submitted its Report, a copy of which is attached to this Memorandum.

***Principal Recommendations of the Report***

5. The Group has recommended that the SRA should be an entirely new independent organisation with maximum accountability to the Minister for Finance and to the Oireachtas. The Minister for Finance should be responsible for the SRA.
6. Statutory positions of Consumer Protection Director and Registrar of Credit Unions should be established within the SRA.
7. The SRA should have a public interest Board, the non-executive members of which should be selected for their experience of legal, financial, consumer, etc. issues
8. The Board should comprise ten members, six/seven of whom including the Chairman, should be appointed by the Minister for Finance with the consent of the Minister for Enterprise, Trade and Employment. The remaining # members should be the Chief Executive Officer, the Consumer Protection Director, the Secretary General of the Department of Finance (all three ex-officio) and
9. The Chief Executive Officer of the SRA should be appointed by the Board of the SRA, for a fixed term, with the consent of the Minister for Finance, following an open competition conducted by an appropriate independent body. The CEO should be responsible, under the SRA's Board, for the implementation of functions in relation to prudential regulation and consumer protection.
10. The SRA should be funded by industry following its initial development period. The staff required by the Authority should, to the maximum extent possible, be drawn from the amongst the staff currently involved in financial regulation in the Central Bank, the Department of Enterprise, Trade and Employment, the Office of the Director of Consumer Affairs and the Registry of Friendly Societies.
11. A high-level Standing Committee should be established by statute which would be chaired by the Department of Finance and include representation from the Central Bank and the SRA, the purpose of which would be to ensure the maximum degree of co-operation and information disclosure between the SRA and the Central Bank.
12. The SRA should have power, within certain limitations, to impose sanctions on a financial services provider for breach of the relevant regulatory code.
13. Two separate panels, representative of consumer and industry interests, should be established as fora for discussions on the performance of the SRA in carrying out its regulatory functions, as well as providing opportunities for consumer and industry interests to suggest appropriate initiatives.
14. A single statutory ombudsman scheme for all financial services provided by regulated entities, to operate independently of the SRA, should be established.

#### ***Action Required***

15. The Tánaiste and the Minister for Finance have consulted on the appropriate steps necessary to achieve the implementation of the Group's recommendations and are agreed that work on the drafting of Heads of a Bill to realise this objective should commence immediately. They have also recommended the establishment of a Technical Group, comprising representatives of the Departments of Finance and Enterprise, Trade and Employment, the Attorney General's Office and the Central Bank to oversee this process. In view of the proposed overall responsibility of

the Minister for Finance for the SRA, the Tánaiste and the Minister for Finance have agreed that the Technical Group should be chaired by the Department of Finance.

***Impact on Women***

16. The proposals will have no particular impact on women.

***Financial Implications***

17. Additional Exchequer funding for the SRA will be required in its transition stage. Thereafter, the Authority will be funded will be funded from regulatory and supervision fees levied on the industry. It is estimated that exchequer resources of up to £# million per annum will be required in the initial # years of the Authority.

***Consultation with other Departments***

- 19 The Departments of the Taoiseach, Social, Community and Family Affairs, Public Enterprise, Justice, Equality and Law Reform and the Office of the Attorney General have been consulted and .....

20

## **PRESS RELEASE**

**May 1999**

### **GOVERNMENT TAKES STEPS TO ESTABLISH SINGLE REGULATORY AUTHORITY FOR FINANCIAL SERVICES' SECTOR.**

At its meeting today, the Government accepted the report of the Implementation Advisory Group for a Single Regulatory Authority (SRA) for the financial services sector. The Group, which was established in November 1998, was chaired by Mr Michael McDowell, S.C. The report will now be published as soon as possible.

The SRA will be responsible for all prudential supervision, including decisions concerning licensing and authorisation of all financial services. Amongst the principal recommendations contained in the Report and accepted by the Government are:

- The SRA will be an entirely new independent organisation with maximum accountability to the Minister for Finance and to the Oireachtas. The Minister for Finance will be the Minister responsible. Staffing for the new Authority will be drawn, to the maximum extent possible, from the existing financial regulating bodies in the Central Bank, the Department of Enterprise, Trade and Employment, the Office of Consumer Affairs and the Registry of Friendly Societies.
- Statutory positions of Consumer Protection Director and Registrar of Credit Unions will be established within the SRA.
- The SRA will have a public interest Board, the non-executive members of which will be selected for their experience of legal, financial, consumer, etc. issues. The Chief Executive Officer of the SRA will be appointed by the Board.
- The SRA will be funded by industry following its initial period of development. The staff required by the Authority will, to the maximum extent possible, be drawn from the amongst the staff currently involved in financial regulation in the Central Bank, the Department of Enterprise, Trade and Employment, the Office of the Director of Consumer Affairs and the Registry of Friendly Societies.
- The SRA will have power, within certain limitations, to impose sanctions on a financial services provider for breach of any relevant regulatory code.
- Two separate panels, representative of consumer and industry interests, will be established as fora for discussions on the performance of the SRA in carrying out its regulatory functions, as well as providing opportunities for consumer and industry interests to suggest appropriate initiatives.
- A single statutory ombudsman scheme for all financial services provided by regulated entities, to operate independently of the SRA, will be established.

Work will now commence on drafting the legislation necessary for the establishment of the new Authority which is expected to commence operations within 12 months.

Both the Tánaiste, Ms Mary Harney and the Minister for Finance, Mr Charlie McCreevy, expressed their satisfaction with the outcome of the Implementation Advisory Group and thanked Chairman Mr Michael McDowell as well as the other members of the Group, for completing a particularly complex task within a short period of time. Both Ministers noted that the Government's proposal to establish the SRA was welcomed almost unanimously by the bodies and institutions that will be subject to its regulation. The creation of the SRA would, they said, ensure the highest levels of quality assurance and prudential supervision which will copperfasten the success of the financial services industry in Ireland well into the 21st Century.

Ends.

and OFFICE OF THE MINISTER FOR FINANCE

Ref: F9/8/99

20 February 2001

Memorandum for the Government

Establishment of an Irish Financial Services Regulatory Authority

Decision Sought

1. The Tánaiste and Minister for Enterprise, Trade and Employment and the Minister for Finance request the Government to approve:

(i) The establishment of an **Irish Financial Services Regulatory Authority (IFSRA)** responsible for prudential supervision of all financial institutions and related consumer-protection matters and the establishment of an **Irish Monetary Authority (IMA)** responsible for monetary and currency matters and management of reserves within the new structure of the '**Central Bank of Ireland and Financial Services Authority (CBIFSA)**' so as to ensure effective co-ordination of the separate functions of the IFSRA and IMA and carry out and co-ordinate additional functions. [A model of the proposed structure is attached.]

(ii) The assignment of relevant functions of the Central Bank, the Department of Enterprise, Trade & Employment, the Registrar of Friendly Societies and the Director of Consumer Affairs to the **IFSRA** and the Department of Finance as appropriate

(iii). The **IFSRA** to have its own Chief Executive and a separate Board that will be accountable to the Minister for Finance and the Oireachtas and be independent in exercising its regulatory, supervisory and consumer protection functions, subject to co-ordination by the **CBIFSA** in relation to its functions as set out in legislation.

(iv) The **IMA** to have the Governor of the **CBIFSA** as Executive Chairman and a separate Board accountable to the Minister for Finance and the Oireachtas to the extent consistent with its responsibilities to act autonomously on behalf of the ECB/ESCB in relation to monetary functions.

(v) The **CBIFSA** to have a Board drawn from the boards of the **IFSRA** and the **IMA**, chaired by a Governor who will also be Executive Chairman of the **IMA**. The **CBIFSA** will make such arrangements in relation to the regulation of the payments system and financial stability as the Minister for Finance with the agreement of the Government shall determine, consistent with the independence of the **IFSRA** and the **IMA** as set out in this Memorandum. It will also ensure co-ordination and free flow of information between **IFSRA** and **IMA**, promote the general development of the financial services sector, contribute to the smooth conduct of policies relating to the prudential supervision of credit institutions and the stability of the financial system, co-ordinate responses to requests for technical assistance and advice from other countries, facilitate staff mobility and joint provision of services between **IFSRA**, **IMA** and **CBIFSA**.

90x 4/33

(vi) The corporate governance arrangements and other key features set out in Annex 1 to operate between the Minister for Finance, the **IFSRA**, the **IMA** and the **CBIFSA**.

(vii) The establishment of a statutory post within the **IFSRA** of Customer Protection Director to, inter alia, take over the functions of the Director of Consumer Affairs in relation to financial services as recommended in the McDowell Report and promote the financial education of the public.

(viii) The establishment of a statutory post within the **IFSRA** of Registrar of Credit Unions to take over the relevant functions currently exercised by the Registrar of Friendly Societies.

(ix) The drafting of the Heads of a Bill by the Minister for Finance in consultation with the Tánaiste and Minister for Enterprise, Trade and Employment to provide for the structure outlined above and the drafting, in parallel of Heads of a Bill to provide the necessary powers for the **IFSRA** to discharge additional functions arising from the recommendations of the PAC Report on DIRT, the Report of the Review Group on Auditing and to provide for the establishment of consultative panels, a financial services ombudsman and an appeals tribunal system in relation to penalties imposed by the regulator.

(x) The appointment by the Minister for Finance, on a non-statutory basis, following consultation with the Tánaiste and Minister for Enterprise, Trade and Employment of an Interim Board for the **IFSRA** which will, with the consent of the Minister for Finance, appoint a Chief Executive Officer and will also appoint the Customer Protection Director.

(xi) The establishment of a Group, chaired by the Department of Finance, to co-ordinate the arrangements for the implementation of the measures outlined above, membership to be agreed between the Tánaiste and the Minister for Finance.

(xii) the attached draft press release to be issued and the two Ministers to hold a joint press conference at which the announcement of the Government's decision will be made at 5pm today.

### Background

2. In October 1998, the Government decided in principle to establish a single regulatory authority for the financial services sector. An expert group chaired by Mr. Michael McDowell SC subsequently reported in May 1999 setting out the role and functions of the single regulatory authority, the range of financial services providers to be covered by the single regulatory authority and the funding of that authority.

3. There is agreement between the two Ministers that these recommendations are generally appropriate and the Tánaiste and the Minister for Finance intend to proceed to implement the relevant proposals. They will facilitate an improved consumer focus in the regulation of financial services and the effective integration of insurance and banking regulation, reflecting the development of financial conglomerates providing services in both areas. In accordance with the McDowell recommendations, pension providers will continue to be regulated by the Pensions Board.

4. The Minister for Finance has already circulated draft proposals to Departments in relation to the establishment of a Financial Services Ombudsman, an appeals tribunal and consultative panels and for the implementation of the recommendations of the Review Group on Auditing. These proposals will now be revised in the light of this decision with a view to progressing that legislation, in so far as is practical, in parallel with the introduction of the new structure for regulation.

#### Linkage of Financial Services Regulation and Monetary Supervision Functions

5. Having reviewed the proposals contained in the McDowell Report for linking of monetary policy and financial services (prudential & consumer protection) regulation, the Tánaiste and the Minister for Finance are satisfied that the effective coordination of the two functional areas and the efficient use of resources would be best achieved by linking a monetary authority responsible for ESCB-related functions and a single regulatory authority for financial services within a new structure of the 'Central Bank of Ireland and Financial Services Authority'.

#### Consultation with ECB

6. Under the terms of the Statute of the European System of Central Banks, the Government is required to consult with the ECB on the proposed changes. It is the intention of the Minister for Finance to brief the ECB on this decision. The Minister will also, in due course, initiate a formal consultation process with the ECB on the draft legislation once that has been prepared. This is a formal requirement under the euro arrangements.

#### Transfer of Certain Policy Functions from Department of Enterprise, Trade & Employment to Department of Finance

7. Responsibility for the legislative framework for regulation of financial services, except pensions, would reside with the Department of Finance from the date of the establishment of the Irish Financial Services Regulatory Authority. Meanwhile, it is proposed that the Department of Finance will chair a Group, to include representatives of the Department of Enterprise, Trade and Employment, to make arrangements for the transfer, to oversee and co-ordinate the preparation of legislation for the establishment of the IFSRA and to co-ordinate with the non-statutory board of the IFSRA in relation to practical arrangements for the establishment of the IFSRA.

#### Interim Board of the IFSRA

8. Given that it will be a number of months before the legislation to establish the new structure can be put in place, the Tánaiste and the Minister for Finance are agreed that an Interim Board be established to start making advance arrangements. The intention is that the Interim Board would, on passage of the legislation, formally become the Statutory Board.

#### Drafting Legislation

9. The Tánaiste and Minister for Finance are anxious to see the legislation enacted at the earliest possible date. They propose, subject to the agreement of the Attorney General, to appoint legal advisers to prepare the draft heads of the legislation. They hope that this will facilitate the drafting of the legislation in its final form by the Parliamentary Counsel, in due course.



### Staffing

10. It is not intended that there should be a significant impact on employment. Existing Central Bank staff will be deployed within the new structure. The Minister for Finance will consult the Tánaiste to determine a basis on which Department of Enterprise, Trade and Employment staff will be offered appropriate transfer or temporary assignment terms which will be no less favourable than their current employment terms. The CEO and Board of the IFSRA will need to review their staffing requirements, once appointed.

### Industry/Exchequer Costs

11. The initial costs of the restructuring will be met from the Central Bank surplus which would otherwise be transferred to the Exchequer. The ongoing costs will be met from income on the issuance of currency, profits from management of reserves and levies on the industry as appropriate.

New Structure for Monetary Policy and Financial Services Regulation: Corporate Governance

1. The IMA and the IFSRA will each be operationally independent and accountable to the Minister for Finance and the Oireachtas, with the CBIFSA ensuring coordination and facilitating cooperation on staffing and other matters. The IMA and IFSRA will each have the sole right to set policy with regard to their respective distinct functions, while having regard to the requirements for co-ordination through the board of the CBIFSA. Each of the entities may initiate policy papers related to the matters of linkage and co-ordination for consideration by the Board of the CBIFSA.

2. Linkages and coordination between the IMA and the IFSRA will be organised by the CBIFSA so that the Board of the CBIFSA shall be responsible for:

- Ensuring coordination and free flow of information between IFSRA and IMA
- Promoting the general development of the financial services sector
- Contributing to the smooth conduct of policies relating to the prudential supervision of credit institutions and the stability of the financial system
- Co-ordinating responses to requests for technical assistance and advice from other countries
- Facilitating staff mobility and joint provision of services
- The approval and publishing of its annual report and accounts. The respective Boards of the IMA and IFSRA respectively will each approve and publish separate annual reports and accounts
- Such other areas of policy as may be set for it by the Minister for Finance, following Government approval.

Board Structures

3. There will be three boards, one for IFSRA, IMA and CBIFSA

4. All three boards will be appointed by the Minister for Finance. The Minister for Finance will consult the Minister for Enterprise, Trade and Employment prior to appointing the IFSRA board.

5. The boards of the IFSRA and the IMA will have ten members each.

6. The Board of the CBI(FSA). shall be made up of six members from the boards of each of the IFSRA and the IMA, including the Governor of the CBIFSA (as Chairman), the SG of the Department of Finance, the Director General of the IMA, the Chairman and the CEO of the IFSRA.

Internal Corporate Governance

7. With the approval of the Minister for Finance, the Board of the IFSRA will appoint its own CEO following an open and competitive process, including determining the terms and conditions of his/her contract. The IFSRA board will also appoint two other statutory positions of Customer Protection Director and Registrar of Credit Unions.

8. On the basis of advice from its Chairman and Chief Executive, the Boards of the IFSRA, the IMA and the CBIFSA will decide their own administrative requirements, including requirements with regard to numbers, and terms and conditions, of posts within each organisation and their own budgets, subject in the case of the IFSRA to approval by the Minister for Finance after consultation with the board of the CBIFSA. The Board of the CBIFSA will, as part of its functions, facilitate staff mobility between IFSRA, IMA and CBIFSA.

9. The Boards of each of the CBIFSA, the IMA and IFSRA will appoint its own audit subcommittee and will appoint the internal auditor and, notwithstanding No. 11 below, may appoint an external auditor.

**External Corporate Governance**

10. The IFSRA, the IMA and the CBIFSA will be accountable directly to the Minister for Finance and the Oireachtas for the exercise of their functions (in the case of the IMA, to the degree consistent with its responsibilities to act autonomously on behalf of the ECB/ESCB in relation to monetary functions)

11. The Comptroller and Auditor General will be the designated auditor for each of the CBIFSA, the IMA and the IFSRA.

Draft Press Release

New Structure for Financial Sector Regulation

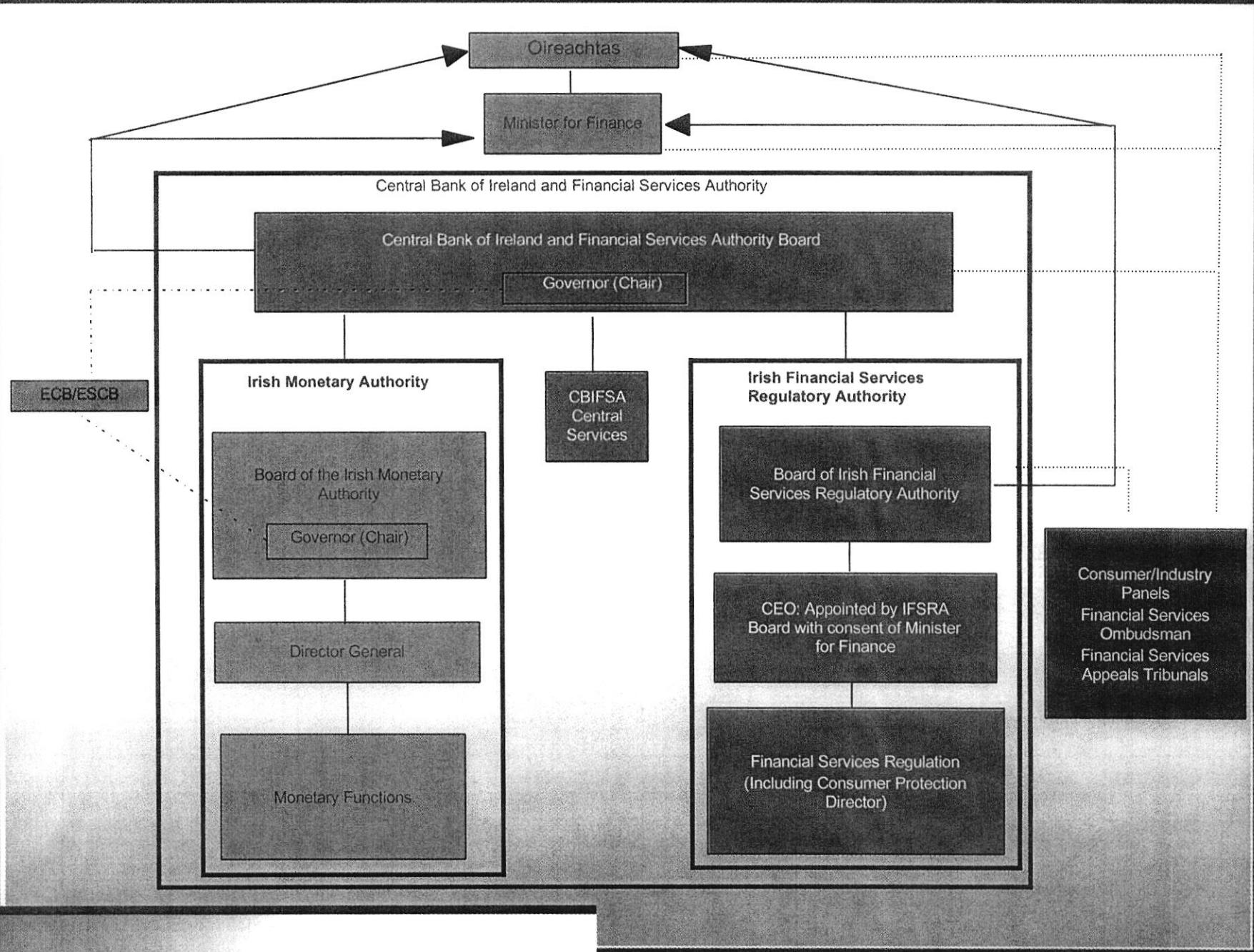
The Tánaiste and the Minister for Finance announced today that the Government has agreed their proposals for a new structure for financial services regulation in Ireland.

Having reviewed the proposals contained in the McDowell Report for linking of monetary policy and financial services (prudential & consumer protection) regulation, the Tánaiste and the Minister for Finance are satisfied that the effective coordination of those two functional areas and the efficient use of resources would be best achieved by linking a monetary authority carrying out for ESCB-related functions and a single regulatory authority for financial services within a new structure, the 'Central Bank of Ireland and Financial Services Authority', which will be chaired by the Governor.

The structure will include a new authority responsible for prudential regulation of both the banking and insurance sectors and for consumer protection. The new authority will be known as the Irish Financial Services Regulatory Authority (IFSRA). It will have its own Board, with an independent Chairperson. The Ministers intend to proceed immediately to establish an Interim Board for this new authority on a non-statutory basis which will appoint a Chief Executive and a Director of Customer Protection. On the establishment of the IFSRA, the Director of Customer Protection will take over the functions of the Director of Consumer Affairs in relation to financial services as recommended by the McDowell Report.

The new structure will include an Irish Monetary Authority (IMA) which will carry out administrative functions required by the role of the Governor within the European System of Central Banks and will manage the reserves. The Irish seat within the European System of Central Banks will continue to be held by the Governor as chair the board of the CBIFSA.

Making the announcement, the Tánaiste and Minister for Enterprise, Trade & Employment, Mary Harney T.D., and the Minister for Finance Charlie McCreevy T.D., said that *“the Government is determined that the detailed arrangements put forward in the McDowell Report for the regulation of the financial services sector will be implemented. The structure approved by Government will ensure that regulation reflects changes in the marketplace and reflects concern that consumers should be assured that they are receiving an internationally competitive, high quality, and fair, service from the industry. The new structure of the CBIFSA will provide the appropriate framework for this renewed focus on consumer issues and effective coordination of prudential and consumer-protection regulation. It will also provide an appropriate framework within the structure of the CBIFSA for the coordination of the monetary and prudential and consumer protection regulatory functions.”*



~~F9/08/99~~ (24)  
main part

**Minister**

**from Secretary General**

**Re: Single Regulatory Authority Implementation Advisory Group Report**

The Group's recommendations can generally be accepted with the single exception of the issue concerning the establishment of an SRA within, or outside the structure of, the Central Bank.

The Central Bank is currently responsible for the prudential supervision of almost all financial service providers. Following the transfer to it later this year of the regulatory functions of the Department of Enterprise, Trade & Employment in relation to insurance intermediaries, the only sectors of industry which the Bank will not be responsible for will be the Credit Unions and the insurance providers.

The Central Bank has developed an excellent reputation, both domestically and internationally, as a regulator of financial services. While there are precedents abroad for separating out this regulatory function, no convincing reasons have been put forward as to why the Bank's existing regulatory functions should be transferred elsewhere or why those functions currently residing with other regulators should not be transferred to the Bank. The Board of the Bank has assured you that it stands ready to discharge whatever other functions or responsibilities are assigned to it; the Bank has recognised the need for an extended consumer role, and it has indicated a willingness to restructure fundamentally. In my view, the case for dismantling the regulatory function of the Central Bank has not been made.

Significant risks are attached to the so-called 'green field' option including potential losses of regulatory expertise; difficulty in establishing an international reputation commensurate with the Bank's; possible industrial relations problems. In addition, the relationship between the regulatory and non-regulatory functions would be complicated resulting in a loss of the current synergies which exist between the Bank's roles as lender of last resort and supervisor of payment systems and as regulator of banks. The only advantage of this approach is in terms of perception of accountability in extreme circumstances.

In the circumstances, I believe that the clear risks associated with such a strategy are not warranted and that a sufficiently high level of accountability can be achieved through well-designed restructuring of the Central Bank.

I have had the attached draft Memorandum for Government prepared, the central point of which is that the SRA should be established along the lines recommended by the Group **but located within the ambit of a restructured Central Bank**; the SRA would have full autonomy in implementing high-level regulatory policy as approved by the main Central Bank Board. This is in line with the reservation in the Report of the representative of the Department of the Taoiseach. A draft letter to the Tanaiste, enclosing the draft Memorandum for her consideration prior to submission to Government, is also attached for your signature.

S&D.  
P.H. Mullarkey  
June, 1999

gor 12/41

Submitted to Min 10/6/99.

June, 1999

Ms Mary Harney TD  
Tánaiste & Minister for Enterprise  
Trade & Employment  
Kildare Street  
Dublin 2

Dear Mary

I have been reflecting on the Report of the Implementation Advisory Group on the establishment of a Single Regulatory Authority (SRA) for the Financial Services Sector.

In my opinion, we can support the general thrust of the Report and the bulk of its recommendations. However, the issue concerning the establishment of an SRA within, or outside the ambit of, the Central Bank is something that requires further consideration. While accepting that the 'greenfield' option recommended in the Report has certain merits, I have to say that I am not convinced that these outweigh the considerable risks associated with it. I am very conscious that the Central Bank is a critical part of the financial architecture of Ireland and I am concerned that the benefits of its high reputation, both domestically and internationally, as regulator might be lost in a green field operation. Transferring such a key function to an untested institution could call into question, especially in an increasingly competitive world, the attraction of Ireland as a location for financial services providers. Furthermore, the role of the Central Bank as 'lender of last resort' cannot be forgotten. I don't think we should be prepared to take the risks associated with the greenfield option.



The views of the Board of the Central Bank itself are important: they feel that the main risks associated with a 'greenfield' operation include loss of regulatory expertise; difficulty in establishing an international reputation because a new authority would lack a proven record; industrial relations problems; loss of synergies between the Central Bank's regulatory and non-regulatory functions; high start-up and ongoing costs.

I have considered the various models for an SRA referred to in the Report. Weighing up the pros and cons of each, I have reached the opinion that the suggestion advanced in page 42 of the Report by the representative of the Taoiseach's Department represents the most constructive way forward. Accordingly, I have had the attached first draft of a proposed joint Memorandum to Government prepared. The key point in this is that the Report of the Implementation Advisory Group Report would be accepted in its entirety with the important exception that an SRA would be established as a distinct pillar of a reconstituted Central Bank. While the main Board would have responsibility for approving high-level policy for the SRA and for normal corporate governance, the SRA would have a separate Board with a CEO appointed by that Board. Moreover, legislation would provide that the SRA will have full accountability to the Minister and the Oireachtas and operational autonomy.

If, having considered the draft Memorandum, you are in agreement I would propose that it should be circulated to the Taoiseach's Department and the Attorney General's Office for urgent consideration with a view to bringing it to Cabinet at the first possible opportunity. We might discuss this matter when you have read the draft Memorandum.

Yours sincerely,

**Charlie McCreevy TD**  
**Minister for Finance**

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**OFFICE OF THE TÁNAISTE AND MINISTER FOR ENTERPRISE, TRADE  
AND EMPLOYMENT  
and OFFICE OF THE MINISTER FOR FINANCE**

**Ref: 590/03/01/0002/1**

**June 1999**

**Draft Memorandum for the Government**

**Establishment of a Single Regulator for the Financial Services Sector**

***Decision Sought***

1. The Tánaiste and Minister for Enterprise, Trade and Employment and the Minister for Finance request the Government to approve:-
  - (a) the publication of the attached Report of the Implementation Advisory Group on a Single Regulatory Authority for Financial Services,
  - (b) the establishment of a Single Regulatory Authority as one of two distinct pillars of a reconstituted Central Bank,
  - (c) the Single Regulatory Authority to have a separate Board within the Central Bank, on a basis that will ensure accountability of that Board and operational autonomy while respecting the overall responsibilities of the Central Bank Board,
  - (d) the drafting of the Heads of a Bill to provide for the establishment of a Single Regulatory Authority for financial services and related matters,
  - (e) the appointment by the Minister for Finance, with the consent of the Tanaiste and Minister for Enterprise, Trade, and Employment, of an Interim Board for the SRA which will appoint a Chief Executive Officer, on the basis outlined in the report, and which will commence the implementation of the recommendations contained in the Report,
  - (f) the establishment of a Group, chaired by the Department of Finance and including representatives from the Department of Enterprise, Trade, and Employment and the Central Bank to oversee the implementation of the Report's recommendations,
  - (g) the issue of the attached press release (with diagrammatic representation of the organisational structure agreed).

## ***Background to the SRA***

2. The current regime of regulation of the financial services sector is hindered by the multiplicity of regulatory bodies with differing regulatory powers and functions. Crossovers between formerly discrete subsectors of the financial services industry are increasing with the diversification of activities by institutions, especially banks, mergers between former specialist entities, and development of hybrid financial products. This constitutes a strong case for a single wide-ranging regulatory regime. Without this, there is an incentive for some financial institutions to seek to be regulated by the least rigorous regulator. Controversies in various sectors have reduced public confidence in the system of regulation of the financial services sector. The adequacy of the protection for individual consumers (beyond the general safeguard from prudential supervision) has been seriously questioned. In a small country like Ireland, there is a case from both an effectiveness and efficiency perspective for building a critical mass of skills relating to financial regulation in a single location.
3. At its meeting of 20 October 1998, the Government agreed in principle to the establishment of a single regulatory authority (SRA) for the financial services sector at the earliest date possible and to the immediate establishment of an Implementation Group to progress the necessary work (Government Decision S180/20/10/0167). The composition and terms of reference of the Group are set out at **Annex II** to this Memorandum. The Group has now submitted its Report, a copy of which is attached to this Memorandum.

## ***Principal Recommendations of the Report***

4. (i) The majority of the Group has recommended that the SRA should be outside the Central Bank and that it should be an entirely new independent organisation with maximum accountability to the Minister for Finance and to the Oireachtas.  
  
(ii) The SRA should have a 'public interest' Board, the non-executive members of which should be selected for their experience of legal, financial, consumer, etc. issues  
  
(iii) The Board should comprise ten members, seven of whom including the Chairman, should be appointed by the Minister for Finance. The remaining three members should be the Chief Executive Officer, the Customer Protection Director, and the Secretary General of the Department of Finance (all three *ex-officio*).  
  
(iv) The Chief Executive Officer (CEO) of the SRA should be appointed by the Board of the SRA, for a fixed term, with the consent of the Minister for Finance, following an open competition conducted by an appropriate independent body. The CEO should be responsible, under the SRA's Board, for the

implementation of functions in relation to prudential regulation and consumer protection.

(v) Statutory positions of Customer Protection Director and Registrar of Credit Unions should be established within the SRA.

(vi) The SRA should be funded by industry following its initial development period. The staff required by the Authority should, to the maximum extent possible, be drawn from amongst the staff currently involved in financial regulation in the Central Bank, the Department of Enterprise, Trade and Employment, the Office of the Director of Consumer Affairs and the Registry of Friendly Societies.

(vii) A high-level Standing Committee should be established by statute which would be chaired by the Department of Finance and include representation from the Central Bank and the SRA, the purpose of which would be to ensure the maximum degree of co-operation and information disclosure between the SRA and the Central Bank.

(viii) The SRA should have power, within certain limitations, to impose sanctions on a financial services provider for breach of relevant regulatory codes.

(ix) Two separate panels, representative of consumer and industry interests, should be established as fora for discussions on the performance of the SRA in carrying out its regulatory functions, as well as providing opportunities for consumer and industry interests to suggest appropriate initiatives.

(x) A single statutory ombudsman scheme for all financial services provided by regulated entities, to operate independently of the SRA, should be established.

### ***SRA Structure and Location***

5. The Group considered various options for the structure and location of the SRA. One major issue was whether the Central Bank would be reconstituted so as to act as the SRA or whether a new regulatory body outside the Central Bank should be created.
6. In the light of various submissions received and, in particular, those from staff representative bodies, the Group closely examined whether and how the SRA might be located within, or closely associated with, the Central Bank. In this context, the Group explored the option of dividing the Central Bank into two autonomous agencies linked by a consultative joint board (i.e. the 'Twin Pillars' model).
7. In view of strong doubts expressed by a number of members of the Group about the authority and cohesion of a Central Bank thus divided, the Group decided instead to concentrate on the choice between a model based on a new organisation and a model based on the assignment of day-to-day regulatory

responsibility to a Commissioner for Regulation within the Central Bank (i.e. the 'In-House Division' model).

## **Group's Views of Models**

### ***The "Greenfield Site" approach favoured by a majority on the Group***

8. In recommending a single purpose and independent regulatory authority, the Group was particularly mindful of the provisions of the Maastricht Treaty that underpin the independence of the Governor of the Central Bank from political or other external control or influence. They felt that the Minister/Government should have the authority to remove the Board of the SRA and/or its Chief Executive for stated reasons (e.g. failure to regulate the financial institutions properly and/or failure to adequately protect consumer interests). The majority felt, therefore, that if the Governor was ultimately responsible for the SRA, full accountability could not apply because of his independence.

### ***9. Advantages of the "Greenfield Site" approach identified in the Report***

In its deliberations, a majority of the Group concluded that there would be significant benefits arising from the "Greenfield Site" approach, including the following:

- Accountability to the Minister for Finance and to the Oireachtas would be at a maximum and independent of any ECB/ESCB-related constraints;
- It would provide for singularity of purpose in relation to regulation and customer protection in financial services;
- The Government can expect the SRA to be a positive support to what is a major commercial industry for Ireland, and to provide their customers with reliance and assurance;
- It would provide a coherent, robust, and transparent approach to financial regulation that would promote public and institutional confidence in the financial services industry and in the regulatory process;
- It would facilitate the exchange of confidential information amongst the various regulatory functions of the SRA consistent with the requirements of EU law;
- The development of a separate corporate identity would help attract and motivate high quality staff and help to develop staff loyalty;
- All staff would enter the new body on a basis of equality of opportunity which would enhance their commitment to the new body.

**10. Disadvantages of the “Greenfield Site” identified by the Minister for Finance**

While acknowledging the advantages of the “Greenfield Site” approach identified by the Implementation Advisory Group, the Minister for Finance considers that it could be argued that this approach has a number of drawbacks not articulated by the Group:-

- The high reputation, both domestically and internationally, of the Central Bank as regulator of the mainstream banking system might be lost;
- The Central Bank is a critical part of the financial architecture of Ireland and should not be lightly dismantled;
- Regulation by an organisation, other than the Central Bank, could diminish the attraction of Ireland as a financial services centre,
- The role of the Central Bank as the lender of last resort to the Irish banking system could be complicated;
- There would be a loss of the value of mobility of expertise and experience between the regulatory and monetary sides.
- There could be significant industrial relations difficulties associated with “breaking up” the Central Bank.

The Minister would also point out that many of the advantages noted would attach equally to a model based on the Central Bank structure.

**11. Alternative SRA Model within the Central Bank favoured by a minority on the Group**

While the Group, after lengthy and careful deliberation, recommended the establishment of a completely new, independent, organisation outside the Central Bank, the preferred approach of a minority of the Group was to locate the SRA within a restructured Central Bank.

12. In expressing a preference for the creation of a regulatory agency within the overall framework of the Central Bank, the Department of Finance and Central Bank members argued that adequate safeguards as to accountability and transparency could be built into this model. Moreover, they felt it represented, to them, the best approach to ensuring that all the positive factors associated with the good record and international standing of the Central Bank in relation to the financial services sector would automatically be associated with the SRA. They support the appointment, within the Central Bank structure, of a Commissioner for Regulation to supervise the whole regulatory function (i.e. ‘In-House Division’ model).

**13. *Advantages of SRA within the Central Bank identified in the Report:***

- It addresses the need for change by providing operational autonomy for the regulatory function, while preserving what is already working well;
- It would extend the statutory remit of the existing regulatory role of the Central Bank to include consumers who are at present provided for separately;
- It provides a high level of accountability;
- The relationship between the monetary authority and the regulator would not be disturbed if the SRA were located within the Central Bank; it is important that co-ordination between the two functions is maximised;
- The track record of the Central Bank in regard to its regulatory functions is extremely good and the confidence of the financial markets, both foreign and domestic, it has earned and retained is high;
- There is very considerable support among the entities currently regulated by the Central Bank for it to become the new regulator; criticism of the Bank in relation to the exercise of its statutory functions, as prudential regulator, has been non-existent in the context of the submissions received;
- It would provide for continuity of expertise;
- It would help to minimise industrial relations difficulties in the Central Bank, which has about 150 staff involved in regulation.

**14. *Disadvantages of having the SRA within the Central Bank identified by the Minister for Finance:***

The Minister for Finance, while noting these advantages, would also acknowledge that it could be argued that this approach has a number of drawbacks:

- In terms of accountability, the Governor, who is, *de facto*, Executive Chairman of the Central Bank, if he were ultimately responsible for the SRA, would not be fully accountable in all circumstances.
- It may not be radical enough in terms of the need to respond to the concerns expressed about the present arrangements for regulation;
- Since the Central Bank is perceived by some as not being consumer friendly, the new structure may not be seen as going far enough to give maximum reassurance to consumers.

56(12)

An Roinn Airgeadais  
Department of Finance

Office of the Minister

December, 1999

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Ms Mary Harney TD  
Tánaiste & Minister for Enterprise  
Trade & Employment  
Kildare Street  
Dublin 2

Dear Mary

I have been reflecting on the Report of the Implementation Advisory Group on the establishment of a Single Regulatory Authority (SRA) for the Financial Services Sector.

In my opinion, we can support the general thrust of the Report and the bulk of its recommendations. However, the issue concerning the establishment of an SRA within, or outside the ambit of, the Central Bank is something that requires further consideration. While accepting that the 'greenfield' option recommended in the Report has certain merits, I have to say that I am not convinced that these outweigh the considerable risks associated with it. I am very conscious that the Central Bank is a critical part of the financial architecture of Ireland and I am concerned that the benefits of its high reputation, both domestically and internationally, as regulator might be lost in a green field operation. Transferring such a key function to an untested institution could call into question, especially in an increasingly competitive world, the attraction of Ireland as a location for financial services providers. Furthermore, the role of the Central Bank as 'lender of last resort' cannot be forgotten. I don't think we should be prepared to take the risks associated with the greenfield option.



The views of the Board of the Central Bank itself are important: they feel that the main risks associated with a 'greenfield' operation include loss of regulatory expertise; difficulty in establishing an international reputation because a new authority would lack a proven record; industrial relations problems; loss of synergies between the Central Bank's regulatory and non-regulatory functions; high start-up and ongoing costs.

I have considered the various models for an SRA referred to in the Report. Weighing up the pros and cons of each, I have reached the opinion that the suggestion advanced in page 42 of the Report by the representative of the Taoiseach's Department represents the most constructive way forward. Accordingly, I have had the attached draft of a proposed joint Memorandum to Government prepared. The key point in this is that the Report of the Implementation Advisory Group Report would be accepted in its entirety with the important exception that an SRA would be established as a distinct pillar of a reconstituted Central Bank. While the main Board would have responsibility for approving high-level policy for the SRA and for normal corporate governance, the SRA would have a separate Board with a CEO appointed by that Board. Moreover, legislation would provide that the SRA will have full accountability to the Minister for Finance and the Oireachtas as well as operational autonomy.

It is my intention that the Memorandum should be submitted to Cabinet at the meeting of Wednesday, 22 December, 1999. Accordingly, I would be obliged for your views on it as a matter of urgency.

I have today issued similar letters to the Taoiseach and the Attorney General.

Yours sincerely,

**Charlie McCreevy TD**  
**Minister for Finance**