

Joint Committee of Inquiry into the Banking Crisis

Ad hoc Advisory Group

Progress report to the Joint Committee

22 July 2014

- 1. Summary of the group's work to date and next steps** *(pages 2-4)*
- 2. Design of the inquiry:**
 - **a possible conceptual framework for the inquiry** *(page 5)*
 - **main issues to be addressed in each module** *(pages 6-7)*
- 3. Delivery of the inquiry:**
 - **time schedule and phases for delivery** *(page 8)*
 - **indicative plan for public hearings** *(page 9)*

Appendices

- A. Members of the group** *(page 10)*
- B. Headings in the "relevant proposal" to be submitted to CPP** *(page 11)*

1. Summary of the group's work to date and next steps

Role of the group

The group was formed in order to provide expert knowledge and input to assist the Committee in developing a relevant proposal for the inquiry for submission to the Committee on Procedure and Privileges. The group was provided with a high-level scoping document agreed by the Committee, which included the broad purpose of the inquiry along with a consolidated document of Committee members' inputs. The group was tasked with developing a draft inquiry framework and an inquiry plan based on the Committee's high-level scoping document.

Meetings and working method

The group has met on four occasions totalling approx. 12 hours to date. The Joint Committee Chairman attended the first meeting on 8 July and the fourth meeting on 22 July. The meetings on 11 and 18 July were facilitated by the secretariat.

Meetings to date have consisted of round-table discussions, with all members of the group providing input, on the basis of which this progress report was compiled by the secretariat and agreed by the group at its fourth meeting on 22 July.

Contents of this report

A possible **conceptual framework for the inquiry** is outlined at page 5. This framework draws on questions raised by members of the Committee and by members of the group. These suggest **three broad inquiry modules on**

- **banking systems,**
- **regulatory and supervisory systems and**
- **crisis management systems & policy responses,**

as well as a **context module**.

Within each module, a number of **sub-modules** are suggested and these are outlined at pages 6-7. Further work is required to distil the main questions underlying the main issues identified on these pages.

Page 8 contains an **outline inquiry plan** which sets out the three distinct phases to be covered in the time available: (1) initial investigation (2) public hearings and (3) reporting.

The plan also provides for the completion of a context module which can run in parallel with the investigation phase. Page 9 sets out some **assumptions for the public hearings phase**.

Scope of the inquiry and time available

The group has discussed a broad scope for the inquiry, for example reflecting the fact that a number of issues arising in the banking system go back to before the early 2000s and in fact it may be necessary to look back to the mid-1990s to uncover answers to some of the questions within this particular module. While it is necessary to frame a wide scope in the terms of reference, it will then need to be narrowed down by selecting key areas of focus for the purposes of written and oral evidence.

It is clear therefore that choices will have to be made in terms of where the Committee wishes to focus its work. The Committee should make use of the work that has already been carried out (which can be done through the proposed context module).

While more detailed work remains to be done over the next phase of the group's work, the wide scope envisaged makes it clear that the inquiry will have to adopt a **targeted and strategic approach to written and oral evidence** in order to fit an ambitious conceptual framework to the very limited time available for the inquiry. For example, the inquiry will have to focus on key documents at certain key points in the timeline, on case study or sample approaches, and on explanatory evidence from witnesses rather than seeking to discover large volumes of original source material (which will be extremely difficult to process and analyse in the time available). The inquiry will have to identify witnesses for oral evidence based on written evidence already discovered (for example through written statements from witnesses).

A guiding principle will be the need to identify gaps in existing knowledge (including public knowledge) and to prioritise issues which have not been covered by previous reports, so that the inquiry process adds value additional to the existing state of knowledge.

The ambitious scope and limited time available for the inquiry also has implications for the procurement of the necessary expertise to conduct the initial investigation and prepare for the public hearings.

Next steps

Subject to the Committee's direction on the contents of this report, the group will work on the more detailed design of the inquiry concept with a view to presenting a **draft of the relevant proposal** (see Appendix B, page 11 for headings) to the Committee at its meeting on 17 September. This will include distilling the main questions underpinning the key issues

on pages 6-7. Work on developing the relevant proposal will continue in the lead in to the group's next meeting on 9 September. The group will also develop the **inquiry plan** in more detail, including the elaboration of a more detailed strategy for managing oral and written evidence having regard to the limited time available and other constraints.

A possible conceptual framework for the inquiry

Overarching focus of the inquiry:

To inquire into the reasons Ireland experienced a systemic banking crisis, including the cultural and behavioural factors which contributed to the crisis, and to assess the effectiveness of the policy responses and preventative reforms implemented in the wake of the crisis

**CONTEXT
MODULE**

Policy, cultural, social, property, economic and financial factors

Findings and recommendations and implementation of previous reports

**INQUIRY
MODULES**

*See page 5
for detailed
issues within
each module*

Banking System

Regulatory,
supervisory
systems

Banking-Property-
State Nexus

Crisis management
systems, policy
responses

**FINAL
REPORT**

Assessment of reforms, lessons learned

What better practices, systems, procedures and changes are required?

Issues to be Addressed in each Module – INDICATIVE LIST

The Context Module

Examination of the cultural, social, property, economic and financial factors and policy decisions which impacted on/or contributed to the crisis. (To be further scoped)

A study of the findings and recommendations of previous reports. Were the recommendations implemented? If so, have the changes been effective? What long-term impact will they have?

The Banking System

1. Corporate Governance

Issues relating to the strategic direction, governance culture, the effectiveness of internal 'checks and balances', procedures of the board and compliance and relationship with the Regulator.

2. Lending Policy and Credit Control

Issues relating to the changes in bank lending policies of the commercial banks in particular the focus on property-related lending

Issues relating to the credit control systems in banks in particular the relaxation of key elements of lending criteria

3. Risk Management (including Internal Audit , Audit Cttees)

Issues relating to the risk management including failure to appreciate key risks to which banks were exposed.

4. Funding & Liquidity Management

Issues relating to the changes in funding structure over the period including influence of Basel, use of appropriate models and management of liquidity.

5. External Audit Reports and Communications

Issues relating to the role of External Auditors in communicating risks to management and to the Financial Regulator.

6. Remuneration

Issues relating to the remuneration policy including any relationship with a change in lending policy.

The Regulatory and Supervisory Systems

1. Structure of the CBFSAI

Issues relating to the structure of the CBFSAI, regulatory philosophy, organisational priorities and regulatory capture.

2. Monitoring and Supervision of the Financial Industry

Issues relating to the mandate, performance and operations of the Central Bank and subsequently the Regulator.

3. Role of the Central Bank in ensuring Financial Stability

Issues relating to the manner in which the Central Bank (initially with the Financial Regulator) carried out its functions on financial stability matters through the Financial Stability Reports including the assessment of a soft landing in the property market.

4. Role of the Dept of Finance

Issues relating to the role of Dept of Finance in relation to regulation and supervision including management reports and monitoring by International Organisations and the preparation of advice to Government.

5. Property- State Nexus

Issues relating to the role of the State in tax and legislative changes, including government policy, and the subsequent effect on the property market.

6. Reaction to warnings and contrarian views

Issues relating to reaction warnings triggered by international and domestic developments and contrarian views.

7. Role of the Oireachtas

Issues surrounding the role of the Oireachtas during the 'boom' years, the issuing of the bank guarantee and further responses.

Crisis Management Systems and Policy Responses

1. Crisis Management Arrangements

Issues relating to what crisis management arrangements were in place. What factors affected these arrangements.

2. The Bank Guarantee

Issues relating to the build-up and night of the bank guarantee, including assessment of liquidity vs solvency, level of available information, role and influence of international organisations.

3. Short Term Policy Responses

Issues surrounding the policy responses post Bank Guarantee including NAMA, nationalisation and the use of the ELA.

4. Long Term Policy Responses

Issues surrounding policy responses to help prevent a further crisis including implementation of recommendations from Commission of Investigation (Nyberg) and preliminary and other relevant reports (Honohan, and Regling and Watson, Wright).

5. Role of International Agencies (ECB, Troika etc)

Issues surrounding the role of International Agencies, including payments to Bondholders.

3. Delivery of the inquiry: time schedule and phases for delivery

Overall time schedule: October 2014 to November 2015 (14 months)

Possible background context module – can run in parallel to investigation phase

- *Sets out economic, social, cultural and political context, explains how banks operated and evolved*
- *Deliver technical briefings for members on key aspects*
- *Commission research work, including findings of key reports*
- *Decide on public hearings to be held as part of this module*
- *Outcome can be published as a pre-hearings report, and/or form introduction to the final report*

Investigation phase (from October – estimate 5-6 months)

- Identify written evidence required, and issue directions
- Receive and categorise key evidence on document management system
- Review and analyse all written evidence, identify and document key issues, prepare scoping report for oral hearings

Public hearings phase (estimate - 4 months)

- Finalise witness list for oral hearings and schedule dates for hearings
- Issue directions for witnesses to attend
- Agree lead questioners per module / per hearing and prepare questions and briefs for members
- Hold hearings – *see next page for indicative hearings plan*

Report writing phase to end November 2015 (estimate - 4 months)

- Prepare draft report, consult with persons potentially affected and refine drafts
- Agree / publish final report

NOTE: Phases will overlap, for example report-writing will be iterative and will occur throughout the process. It may be possible for some parts of the investigation to continue alongside public hearings, where the focus of each is different. More precise planning and scheduling of dates can be conducted once expert team is on board in October (including decisions on types of evidence to be sought and witnesses to be called for public hearings). Broad level of detail as above will suffice for the relevant proposal.

INDICATIVE PLAN FOR PUBLIC HEARINGS: 2015

NB The modular sequence below is indicative only – decisions on sequencing are a matter for the Committee	Dates	No. of weeks	No. of days	Total hours
Context module: To be decided	February			
<i>Preparation for hearings</i>	<i>6 – 10 April</i>	<i>1</i>		
Module: Crisis management / policy responses	13 April to 8 May	4	20	120
<i>Preparation for hearings</i>	<i>11 – 15 May</i>	<i>1</i>		
Module: Banking	18 May to 26 June	6	30	180
<i>Preparation for hearings</i>	<i>29 June – 3 July</i>	<i>1</i>		
Module: Regulation and supervision	6 to 17 July	2	10	60
Totals		15	60	360

ASSUMPTIONS UNDERPINNING THE ABOVE:

1. Hearings **5 days per week**, Monday to Friday. Impact of adjustments in days per week:
 - 4 days per week allows **48 days** of hearings (288 hours)
 - 3 days per week allows **36 days** of hearings (216 hours)

2. **6 hours** per day: 9.30 – 12.30 and 15.00 – 18.00. This is considered the max amount per day.

3. It may be necessary to extend hearings beyond 17 July 2015, depending on the numbers of witnesses and/or to allow for follow up meetings from earlier hearings.

4. It will be necessary to consider agreeing lead questioners for each hearing, in order to make most effective use of the limited time available.

APPENDIX A

Members of the group

1. Pat Casey, Principal, Department of Finance
2. Paul Gorecki, Adjunct Professor of Economics, Trinity College Dublin (Research Affiliate ESRI)
3. Megan Greene, Chief Economist, Maverick Intelligence
4. Cathal Guiomard, Economist, former Aviation Commissioner for Ireland
5. Conor McCabe, Research fellow, UCD School of Social Justice
6. Colm McCarthy, Economist
7. Seamus McCarthy, Comptroller and Auditor General
8. Rafique Mottiar, Consultant Economist, Central Bank
9. John Shaw, Assistant Secretary, Department of the Taoiseach

Secretariat

Elaine Gunn, Head of Inquiry Support team, John Hamilton, Clerk to the Joint Committee, Carmel Considine, Committee Secretariat.

APPENDIX B

Headings in the “relevant proposal” to be submitted to CPP (as set out in Standing Order 107C).

1. Type of inquiry
2. **The subject matter of the inquiry, specifying in so far as is practicable conduct, events, activities, circumstances, systems, procedures or practices to be inquired into, including**
 - (i) **dates or time periods,**
 - (ii) **location,**
 - (iii) **persons to whom they relate.**
3. Whether function of Dáil is involved
4. Reason Part 2 inquiry is needed rather than another form of parliamentary investigation
5. Reason the Committee considers that it ought to conduct the inquiry, and changes required to existing terms of reference
6. **Anticipated time schedule for the inquiry including phases**
7. Changes required to statute law necessary to conduct the inquiry
8. Draft terms of Reference Resolution which is to state, *inter alia*, whether Committee-
 - (i) proposes to make findings of fact, including findings that may impugn the good name of a person or in relation to stated misbehaviour
 - (ii) proposes to make recommendations arising from its findings of fact
 - (iii) proposes that its findings of fact may be used by another Part 2 inquiry Committee
 - (iv) has, or is to have, power to send for persons, papers and records.

What has the Joint Committee been asked to do? (per the decision of the Houses appointing the Committee)

The Committee has been asked to develop a “relevant proposal” for a Part 2 Inquiry into “certain aspects of the banking crisis” for submission to - and evaluation by - the CPPs of both Houses. In developing the relevant proposal, the Committee has been asked to consider –

- (1) the appropriate scope and terms of reference for the inquiry, including the method of initial investigation of the inquiry subject matter;

- (2) the functions and powers required to be delegated to the Committee to allow it to conduct the inquiry;
- (3) any other related matters which the Committee considers necessary.

