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AN COMHCHOISTE FIOSRÚCHÁIN I DTAOBH NA GÉARCHÉIME BAINCÉI- REACHTA

JOINT COMMITTEE OF INQUIRY INTO THE BANKING CRISIS

Dé Céadaoin, 10 Meitheamh 2015

Wednesday, 10 June 2015

The Committee met at 9.30 a.m.

MEMBERS PRESENT:

Deputy Pearse Doherty,	Senator Sean D. Barrett,
Deputy Joe Higgins,	Senator Michael D'Arcy,
Deputy Michael McGrath,	Senator Marc MacSharry,
Deputy Eoghan Murphy,	Senator Susan O'Keeffe.
Deputy Kieran O'Donnell,	
Deputy John Paul Phelan,	

DEPUTY CIARÁN LYNCH IN THE CHAIR.

Nexus Phase

Central Bank-Financial Regulator - Ms Mary O’Dea

Chairman: As we have a quorum, the Committee of Inquiry into the Banking Crisis is now in public session and can I ask members and those in the public Gallery to ensure that their mobile devices are switched off. We begin today with session 1 public hearing and discussion with Mary O’Dea, Central Bank-Financial Regulator. In doing so, I would like to welcome everyone to the 31st public hearing of the Joint Committee of Inquiry into the Banking Crisis. Today we continue our hearings with senior officials from the Central Bank of Ireland and the Financial Regulator, who had key roles in the crisis period.

At this morning’s session, we will hear from Ms Mary O’Dea. Mary O’Dea joined the Central Bank in 1987. She was the Financial Regulator’s consumer director from 2003 through to July 2011 and sat on the board during this period. In February 2009 to January 2010, she was acting chief executive of the Financial Regulator, having stepped in when Patrick Neary retired. She is currently senior adviser to the executive director of Ireland at the World Bank. Ms O’Dea, you are very welcome before the inquiry this morning.

Before hearing from the witness, I wish to advise the witness that by virtue of section 17(2) (l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to this committee. If you are directed by the Chairman to cease giving evidence in relation to a particular matter and you continue to do so, you are entitled thereafter only to a qualified privilege in respect of your evidence. You are directed that only evidence connected with the subject matter of these proceedings is to be given. I would remind members and those present that there are currently criminal proceedings ongoing and further criminal proceedings are scheduled during the lifetime of the inquiry, which overlap with the subject matter of the inquiry. Therefore, the utmost caution should be taken not to prejudice those proceedings.

In addition, there are particular obligations of professional secrecy on officers of the Central Bank in respect of confidential information they have come across in the course of their duties. This stems from European and Irish law, including section 33AK of the Central Bank Act 1942. The bank inquiry also has obligations of professional secrecy in terms of some of the information which has been provided to it by the Central Bank. These obligations have been taken into account by the committee and will affect the questions asked and the answers that can be lawfully given in today’s proceedings. In particular, it will mean that some information can be dealt with on a summary or aggregate basis only, such that individual institutions will not be identified.

Members of the public are reminded that photography is prohibited in the committee room. To assist the smooth running of the inquiry, we will display certain documents on the screens here in the committee room. For those sitting in the Gallery, these documents will be displayed on the screens to your left and right. Members of the public and journalists are reminded that these documents are confidential and they should not publish any of the documents so displayed.

The witness has been directed to attend this meeting of the Joint Committee of Inquiry into the Banking Crisis. You have been furnished with booklets of core documents. These are now before the committee and will be relied upon in questioning and form part of the evidence to the

inquiry. So with that said, if I can now ask the clerk to administer the oath.

The following witness was sworn in by the Clerk to the Committee:

Ms Mary O’Dea, former acting Chief Executive, Central Bank-Financial Regulator.

Chairman: Thank you very much, Ms O’Dea. If I can invite you to make your opening remarks to the committee, please.

Ms Mary O’Dea: Thank you, Chair. Thank you, members of the committee. The committee has asked me attend today to give evidence covering the period when I was acting chief executive of the Financial Regulator. I was appointed acting chief executive in January of 2009 for a period of about three months initially. This appointment was extended a number of times until the newly-appointed chief executive took up his position in January 2010. At the time of my appointment, I held a statutory office of consumer director, a role I continued to hold throughout my year as acting CEO. As consumer director, I was responsible in law for consumer information and consumer protection codes.

My period as acting chief executive of the Financial Regulator started on 12 January 2009 and ended on 4 January 2010. It was a crisis period on a number of fronts, including bank funding and liquidity, bank governance, investigation of legacy issues and putting a system in place to manage the bank guarantee scheme. At the time, the organisation itself was also in crisis with uncertainty around the restructuring of the Central Bank and the regulator and its governance. The financial crisis continued throughout 2009, internationally as well as domestically. Anglo Irish Bank was nationalised in January and the Government announced capital injections for AIB and Bank of Ireland. In April, the Government decided to set up the asset management company, NAMA, which would take larger non-performing loans from the balance sheets of the banks. Confidence in the regulatory system was at an all-time low. The system of supervision and regulation that had been in place internationally and in Ireland had proved to be inadequate. At the same time, significant new responsibilities had been assigned to the regulator associated with the bank guarantee. In addition, our investigations were producing new information on serious governance matters at certain banks. As acting chief executive, I, along with my supervisory team, took the following actions with the full support of my board. From the end of January, we significantly increased the volume and frequency of periodic reporting by each bank in the areas of profitability, impairment provisioning, regulatory capital, liquidity, lending and governance. This information formed the basis of a comprehensive quarterly report to the Minister. We introduced a more intrusive level of supervision requiring active and frequent engagement with domestic banks. Officers of the regulator attended meetings of the boards and relevant committees, such as the credit committee, of these banks to assess at first hand if governance practices were working and to send a strong signal to the banks that the regulatory regime was different and that our expectations were different. We monitored the strength and weaknesses of banks’ governance systems and challenged banks where we felt that their processes were weak. A report on governance issues was also included in the quarterly report to the Minister.

I set up an interim management structure to help address the fundamental issues we faced in banking supervision. In January ‘09, I also advised the board that these arrangements were appropriate on an interim basis but that they were not a lasting solution. A more permanent organisation structure, of course, could only be adopted when there was certainty as to the new regulatory structure, including its governance. It was clear that the level of intensification required for banking supervision could only be achieved with the addition of significant extra

resources. We increased resources in the interim to manage the crisis more effectively, recruiting an additional 20 staff, including specialist staff where there was a deficiency, such as credit and liquidity analysts. By the end of 2009 there was over 75 staff in banking supervision, 35 of whom were dealing with domestic banks. We also set up a special investigations unit with around 25 to 30 seconded staff at various times and initiated a number of investigations into some specific events which had unfolded in 2008. Part of these investigations were reported to the Garda at an early stage, while others continued throughout 2009 with a view to exercising the regulator's own administrative sanctions powers in respect of any regulatory breaches involved. We took care to ensure that the use of the regulator's enforcement powers did not jeopardise any action on the part of the gardaí. As some of these matters are now subject to legal proceedings, I cannot, therefore, comment further.

To summarise for the committee, during my period as acting chief executive the new approach to regulating the guaranteed banks included a significant increase in information reporting requirements, more regular on-site presence at each bank, periodic attendance at board and committee meetings, greater review and scrutiny of management information, more frequent meetings with key officers, requirements for and reviews of business plans and challenging and monitoring of key variables affecting these plans, heightened focus on governance structures and processes and the introduction of a code of conduct on mortgage arrears and a statutory code of conduct for business lending. We engaged with and challenged the banks regarding various revisions of their business models throughout 2009, as we considered how best to maintain a viable banking system. In addition, the sensitivities of their profits, capital and funding to various assumptions were challenged to ensure that the plan was robust. In meetings with senior credit executives, we consistently challenged the banks to make more realistic assumptions of the position of their loan portfolios.

During 2009, our focus was on crisis management, as we assessed the scale of potential problems. Early in the year, our governance concerns were directed at the institutions in most difficulty. We set out these concerns in our quarterly reports to the Minister. For example, in June 2009 there were three banks who were seeking a new CEO, two who were seeking new chair, two seeking heads of finance and two without risk officers. For new appointments we applied a fit and proper test. This involved gathering information about a proposed person's qualifications, experience and personal history. Aside from the boards of the banks, in 2009 it was clear that the expertise of staff in the lending areas was focused on sales and not on arrears management where there was a pressing need for expertise. Furthermore, preparations for the transfer of loans to NAMA tied up the credit resources as this process was lengthy and complex. During 2009 we used our supervisory powers extensively. Seconded inspectors were appointed to carry out special investigations into possible breaches of law or regulatory provisions. Over 70 separate engagements were held with banks at the level of acting CEO, ten administrative sanctions enforcement actions were concluded in that year, and fines which were ... ranged from €7,500 to €2.7 million were imposed with one disqualification direction.

During 2009 the integrity of financial reporting gained heightened significance and in that year we fined one bank €600,000 for breaches of regulatory reporting. I believe it's fair to say that the supervisory teams were in constant dialogue with the banks during this time, probing the extent of their liquidity and solvency problems and addressing the emerging issues appropriately. In March of '09 to ensure that our staff would feel comfortable heightening their concerns where there might be areas of disagreement, I circulated a written procedure to staff relating to the escalation of significant issues. In June of that year, the Government announced the new regulatory structure and asked the chairman of the regulator and the Governor of the

Central Bank to work together as much as possible in advance of implementing this new legislation. In any event, this was necessary since almost all issues relating to banking at this stage had some sort of financial stability angle. During 2009 there was one IMF Article IV mission to Dublin, which reported in June, and referred briefly to regulatory and supervisory initiatives that were already in train. The main focus of the report was of managing the fiscal situation and the establishment of NAMA and a special resolution mechanism. It also noted that Ireland needed to be guided by evolving European Union guidelines.

During my year as acting CEO in '09, the quality and effectiveness of policies and regulations both from a European and an international perspective had already been declared insufficient and reforms were well under way. For example, in February of that year, the de Larosi re Group published its report. The EU Commission had sought the report in '08 to advise on the future of European regulation and banking. It formed the basis for many of the subsequent changes to European regulation and supervision. Certain specific findings of the report are worth recalling, and I'll mention two quotes from the report, the first of which I misquoted slightly in my written statement. It says that both by banks and supervisors there was "a misunderstanding of the interaction between credit and liquidity", and this led to "an overestimation of the ability of financial firms as a whole to manage their risks and a corresponding underestimation of the capital they should hold". Having learned from the international crisis, the regulatory model in Europe is now much more intrusive and challenging with the associated significant additional staffing in place. The Single Supervisory Mechanism has now changed the nature of banking regulation much more fundamentally in Ireland and elsewhere. Ireland, as part of Europe, will benefit from the changes in the European structure such as the single resolution mechanism, which allows for banks participating in the banking union to be resolved appropriately if the needs arises in an efficient and centralised way. And, most importantly, there is now a clearly defined mechanism for dealing with these issues, which will be very much recognised by the financial markets.

The banking crisis resulted in an enormous cost for Ireland and for Irish people. The Financial Regulator and the Central Bank did not take sufficiently strong action at an early stage in the build-up of the property bubble, which might have mitigated the worst effects. In the environment of the time, I have no doubt that had the regulator taken stronger action to restrict lending, this would likely have been unpopular, could have been questioned and criticised, and pressure could have been brought to bear to reverse such action. So, one lesson from the crisis is that the regulator, now the Central Bank, needs to be supported in making difficult decisions because for a regulatory system to be effective it will include taking preventative action at a time when this action is likely to be unpopular.

Ireland has now moved from a principles-based approach to an intrusive and challenging approach to regulation, and this is appropriate given the lessons we've learned from the crisis. But we must be realistic in our assessment of what changes the regulatory and supervisory system can achieve. For example, in the US, which has a much more rules based approach, there was also spectacular failures of banks and insurance companies. There, many changes have now been adopted through new legislation and the conversation is not so much about more intrusive regulation but about stronger enforcement action, stronger consumer protection and changes to the culture of banks. There is no perfect formula for a regulatory system that would prevent financial crises and, indeed, no regulator can operate a zero failure regime. However, in working towards a better system, transparency and recognition of risk is, in my view, one of the most fundamental pillars of appropriate supervision. The relationship between risk and return rarely changes, so that a careful examination of the relevant profit centres of any financial insti-

tution is a key part of identifying where the risk is. It could be derivatives trading, commercial lending, credit card insurance but if the relative profit seems high, the likelihood is that there's an unknown or unrecognised risk for which the bank is being rewarded. The bank's board, first and foremost, and then the regulator should follow the money, especially seemingly easy money, to probe these risks, both at an individual bank level and at a system level, paying particular attention to the most extreme scenarios. Today, we are unlikely to know the genesis of the next crisis, so we need to have a system which can react quickly to changing circumstances, including domestic, European and international circumstances. And finally, we also need to be confident to bring issues to the international arena where we see fractures in the system that are best addressed by regulators collectively.

Thank you, Chairman and committee. I'm happy to answer any questions now.

Chairman: Thank you very much, Ms O'Dea, for your opening statement and welcome again. If I can commence this morning's questions by inviting Deputy John Paul Phelan. Deputy, you have 15 minutes.

Deputy John Paul Phelan: Ms O'Dea, and welcome. I have a couple of questions for you. Firstly, in relation to your predecessor, Mr. Neary ... he left the role in January ... 31 January 2009. Do you believe that he was forced out of the position at the time?

Ms Mary O'Dea: Mr. Neary resigned at that time.

Deputy John Paul Phelan: What was the nature of his resignation?

Ms Mary O'Dea: Well, I think, Mr. Neary told you that in his evidence here. I've no further information in relation to that.

Deputy John Paul Phelan: Okay. How would you characterise his period as chief executive of the Financial Regulator?

Ms Mary O'Dea: Mr. Neary was there in a period of principles-based regulation, so I think he followed the model of principles-based regulation that everybody bought into at that time. Clearly, that was inadequate.

Deputy John Paul Phelan: Did you buy into yourself, personally, or was it just part of the ... I suppose it was the system that was in place at the time, admittedly, but did you ever express any reservation as somebody who was a part of that system?

Ms Mary O'Dea: I did buy into the system of principles-based regulation. It was the internationally ... seen as the best model at the time. At the time, when that system was in place, I had the role ... the statutory role of consumer director and actually I think principles-based regulation worked very well in relation to consumer issues because we were in a very new regime. We'd had no best practice to follow in relation to the super ... the supervision of the consumer issues. If you recall, it was issues of consumer failing around National Irish Bank and around DIRT issues that led to the set up of the consumer area. And if I may tell you how I think it worked better on the consumer area, we were able to build into the consumer protection code specific principles, such as you must act in the best interest of your consumer and we were able to codify that. So when we wanted to take an enforcement action in relation to a consumer protection issue, we could look at not just the particular rule that may have been breached but also the principle, for example, acting in the best interest of the consumer - that was also breached. So I think codifying those principles on a principles-based regulation on the consumer side ac-

tually worked extremely well. On the prudential side, of course, much more depended on very complex supervisory models and it was a completely different system.

Deputy John Paul Phelan: A few notes just as you were coming to the end of your opening comments there where you stated that the bank's board should follow the money and large profits would signify greater risk. When did you come to that position in light of the fact that large profits existed in financial institutions, particularly in some forms of the financial institutions, in the period in which you were working in the regulator? Did you change your view to that being a new position for you or is that ... was that always a position that you held?

Ms Mary O'Dea: Well, let me say in relation to my period in the ... of the regulator from 2003 right up to 2008 before I took on the position of acting chief executive, my role in law was as consumer director and that was my statutory function. And at that stage, precisely what we did do was look very closely at credit risk. So we looked at areas where we thought that there was problems; the build-up of credit was one. And seeing that, we built into our consumer protection code the concept of suitability in lending which didn't exist anywhere at the time. And that included affordability, so we introduced the concept of affordability. We also banned pre-approved credit cards. Prior to that, 42,000 customers a month were getting some ... a letter in their door saying you have been pre-approved for extra credit. We banned those completely. We also introduced requirements in respect of consumer protection loans so that if you consolidated, you know, your car loan and holiday loan and all of that into one, the provider was then obliged to tell you precisely how much extra this cost. So we introduced that requirement and we issued a number of warnings in relation to credit. You recall in 2006 when the SSIA's matured, a lot of people were getting large sums of money then. We were the only people who said, "Please use your money to pay down debt", and pointed out to consumers that this might be a good idea rather than use it for a different type of investment product.

So in my role as consumer director, I believe that's a principle that I followed a lot. Having said that, I would also say that reflecting back now and listening to all of the various groups internationally saying what went wrong in the crisis, I do think that sometimes we make matters much more complex than they need to be. And that's why I was thinking to myself that we can boil it down to be a lot more simple. And I think that a lot of what we were doing on the ... in the prudential area was looking at extremely complex models rather than focusing on these more simple issues.

Deputy John Paul Phelan: I want to briefly return again to the time of Mr. Neary's departure. I asked him a question about it when he was a witness before the inquiry. I want to reference him correctly. He stated, "An issue in relation to a corporate governance matter in a particular bank which I think reflected poorly on the authority", was the reason for his departure. Do you have anything to ... anything more to add to that or anything maybe with regard to wider corporate governance issues in relation to the Financial Regulator and their role with banks at the time?

Ms Mary O'Dea: No, I have absolutely no insight into that. I wasn't involved in any of those discussions or, you know, in any discussions Mr. Neary may've had about that.

Deputy John Paul Phelan: When you were appointed as the chief executive, what were the key issues you felt needed addressing to enhance the quality of the Financial Regulator?

Ms Mary O'Dea: It was an extremely difficult time. I remember moving from the consumer building was separate. I remember physically going into the 7th floor building in the

Central Bank and reflecting on all of the issues that needed to be addressed. Obviously, the key thing was the banks' liquidity and the capital position of the banks. That was the key issue that we were focused on. But as well as that, the organisation itself was in extreme crisis and the people that I was then asked to lead as the chief executive were in an extremely difficult situation. Many of them had worked in the regulator, which was a great of ... great sense of pride and public interest working there and now they were filled with doubt and questioning so ... and at the same time working all of the hours day and night to make sure that they stabilised the situation. So actually I think giving leadership to the organisation to carry out its extremely important role during the crisis period was a key priority of mine. Also, bearing in mind that at that stage I thought I would be in the seat for three months so I was trying to look at it from that point of view ... what could we best do at that stage? And then most particularly there were a number of very specific investigations, the details of which I won't go into for legal reasons, that had to be started and that we had to make sure that we did appropriately and very thoroughly. So there were a number of issues and that's really focusing on the banking side. Remember the organisation is vast and I was also holding the position of consumer director and mortgage arrears were a serious issue for people at that time.

Deputy John Paul Phelan: Did you advocate a more rapid clear-out of management, senior management and directors from the commercial banks in your time as acting chief executive?

Ms Mary O'Dea: Well, as you can see, it was a very difficult time in terms of governance. There was a major turnover going on in relation to governance, which meant that institutions were left with not an appropriate governance. They were missing a CEO, they were missing a chair, they were missing a chief risk officer for quite a period of time at precisely the time where you needed these institutions to be operating at their most effective in order to be able to bottom out the position of loan arrears and deal with liquidity issues and sell off assets and take serious decisions there so-----

Deputy John Paul Phelan: That's fair enough but I'm asking did you advocate that there should be a change of senior management at board level? That's the question I'm asking you. I'm not asking were the positions vacant or not. What was your position?

Ms Mary O'Dea: Well, I think my position was that anybody who was holding the positions at that time, or probably more relevant, who was proposed to hold the positions, the new positions at that time, needed to be looked at thoroughly from the point of view of their fitness and probity to do that job.

Deputy John Paul Phelan: Did you have a stated position with regard to whether there should be management clear-out at the highest level in some of the worst affected financial institutions?

Ms Mary O'Dea: I certainly wouldn't put it that way. I would say that it was a question of making sure that those who held the position were appropriately fit and proper. And, of course, there is a legal process that one would need to do to achieve that and ... as opposed to approaching it with any prejudice.

Deputy John Paul Phelan: Did the staff at the regulator believe that the Central Bank should have taken a more active role in banking supervision at that time?

Ms Mary O'Dea: In 2009? Did my staff feel that we too should be taking more-----

Deputy John Paul Phelan: Did they believe that the Central Bank should have taken a

more active role? Because we, I suppose, heard evidence from previous witnesses here that the Central Bank, potentially at least, had a function that it didn't choose to take up. Was there a view within the regulator that that role should have been taken up or was it ever discussed?

Ms Mary O'Dea: Yes, absolutely it was. As I said to you, I think the organisation itself was in crisis. There was certainly a feeling of blame and there was definitely a feeling within the regulator that the Central Bank should have seen the broader systemic issue, and I'm sure a feeling within the Central Bank that the regulator should have seen the more micro-prudential-type issues. So yes, there was that feeling.

Deputy John Paul Phelan: I want to turn to a quote that's been given by several members of the committee to different witnesses from Shane Ross's book, *The Bankers*, the prologue, 26 November 2008, page 1. It's about a gathering that took place some place around St. Stephen's Green and the banking crisis:

The banking crisis was at fever pitch. The nation's finances were in peril but Ireland's banking elite were celebrating in a private room in a discreet hostelry near Dublin's Stephen's Green.

You were reported as being one of those who was in attendance at that particular event. Is that correct?

Ms Mary O'Dea: I was.

Deputy John Paul Phelan: Do you think your attendance, now, was ill-judged?

Ms Mary O'Dea: Well, to be honest, I was there in my official capacity as consumer director. I had been at many functions from tea in citizens information centre to the ploughing championships to a banking function or an insurance function, all in my official capacity. None of those ever affected my ability to do my job.

Deputy John Paul Phelan: Do you think it was appropriate, six weeks after a bank guarantee where the taxpayer effectively, almost giving a blank cheque to financial institutions, that you in your role in the Financial Regulator should have been wining and dining with bankers from those same institutions in a hostelry not far from where we are sitting now?

Ms Mary O'Dea: Well, as I say, at the time it didn't strike-----

Deputy John Paul Phelan: It is not a senior citizens-----

Chairman: Allow time to answer as well now.

Deputy John Paul Phelan: I just want to say it's not a senior citizens gathering or whatever ... a citizens information-----

Chairman: The point has been made, Deputy Phelan. I need time to respond, and you've got questions to cover as well. Ms O'Dea.

Ms Mary O'Dea: The point I was making to you was that I was at many functions in an official capacity. None of them affected the ability of me to my job, in any way, nor did they compromise my integrity in any way.

Deputy John Paul Phelan: You think it was absolutely appropriate that you and all of the leading bankers should have been gathered at that particular event on that evening? You don't

see any conflict in that position?

Ms Mary O'Dea: I think the timing was very difficult as ... as you now say it. But I would be very, very clear to say that no function I was at, and I was at many, as Deputies and Senators are at many ... none of those was any endorsement of any organisation that would be holding it as it wouldn't be in anybody else's case, and it certainly didn't affect my integrity or my ability to do my job.

Deputy John Paul Phelan: I suppose there would be a hope, maybe, amongst the general public that regulators would do their role and bankers might have a separate role from regulators. And I want to ask you, did you have many social gatherings with leading bankers in your time working in the Financial Regulator? I'm not talking about the ploughing championships now, or other events like that. Were there other occasions when such gatherings, or similar gatherings, took place during your time with the regulator?

Ms Mary O'Dea: No, I can't recall any. I mean, there was, for ... annual events, the insurance industry or the banking industry would have annual events that everybody would be at, the ... including the Minister, the Ombudsman, various other people like that. But as I said, all of those were official functions and I was there in my official capacity.

Deputy John Paul Phelan: I want to be-----

Chairman: A question, now, Deputy.

Deputy John Paul Phelan: I want to be clear. I'm not trying to cast any aspersion but what I am, I suppose, saying is that there would be some reservation among the general public that six weeks after the guarantee that particular gathering took place in the centre of Dublin, and such-----

Chairman: Ask your question now, not a statement.

Deputy John Paul Phelan: I'm getting to the question, Chairman.

Chairman: You are going to run out of time.

Deputy John Paul Phelan: Such a gathering of leading bankers and regulators and others took place. Do you have ... just in my remaining few seconds, do you now, with hindsight, believe that you should have been at, or the others from the regulator, not just yourself, should have been there in the room at that particular social gathering?

Ms Mary O'Dea: The issue was that the chairman was resigning, he had been very ill. So the function should have been way before that. It was to mark that particular capacity. I went there in my official capacity as consumer director, as he had been my chairman. And it certainly didn't affect my ability to do my job in any way.

Deputy John Paul Phelan: Okay, thank you.

Chairman: Just to clarify one matter before I bring in Deputy Higgins, Ms O'Dea. You were on the IFSRA board authority from 2002, yes?

Ms Mary O'Dea: As consumer director, I was an executive member of the board, that's right.

Chairman: And were you on the CBFSAI before 2009?

Ms Mary O’Dea: No.

Chairman: You came after-----?

Ms Mary O’Dea: No, the consumer director post was only on the regulator board.

Chairman: Okay, thank you. Deputy Higgins.

Deputy Joe Higgins: Yes. Ms O’Dea, can I ask you, when you were consumer director, and in the period of the development of the bubble, do you think there was a shortage of people and skills in the banking supervision department at that time and, then as you went on to chief executive in February 2009, what was the situation then? We had in evidence from Mary Burke, for example, that three staff were supervising AIB and IL and P together, and a further three, Bank of Ireland and Anglo. What was your view of that situation?

Ms Mary O’Dea: Well, I wasn’t directly involved in proposing the resources on the prudential side. The way the process worked was that I consulted with my team in the consumer area and we figured out what was the appropriate resources that we needed, pay and non-pay, to do the job. There was a similar exercise done in the prudential area. And then we proposed those resources to the budget committee at the time. Now, my interactions, if you like, with the budget committee in terms of resources, I do recall that the prudential area were looking for more staff. I do recall that, at some stage, it could have been around 2007-2008, it was a significant amount of staff, and I remember when we went to the budget committee to discuss that large increase in staff. And I think there was a couple of issues, as I recall it, going on with the budget committee. That, while they had no objection *per se* to additional staff in the supervision area, that they wanted to be convinced that there couldn’t be efficiencies gained from the organisations. For example, in relation to IT or shared services-----

Deputy Joe Higgins: Who is this now?

Ms Mary O’Dea: This would have been a theme. This would have been, certainly in the later years ... but I think there would have been a bit of a theme maybe for the last four or five years where the committee would ... wanted to be assured that we were taking all efficiencies in terms of IT and shared services. We shared some services with the Central Bank and the committee wanted to make sure that there wasn’t any duplication. That was one issue. And, in fact, I think the reason that the committee thought it was a good idea to commission Mazars was precisely to get to the bottom of that and see were there efficiencies that could be gained.

Deputy Joe Higgins: If I may ask you ... a bit earlier than that, in the course of the bubble being blown up, which was quite a feature publicly in the newspapers and certainly you would have been in a central role in the regulator - I mean, you were on the board all that time - was there no alarm bells going off in relation to the amount of lending, the price of homes, the type of speculation, profit maximisation that was going on that rang a bell, that there should be more supervision?

Ms Mary O’Dea: The discussion at the board - after the budget committee - was generally to report on what resources were being allocated and what that would mean for the increase in budget at the time. That was really the discussion that took place at the board but also it is important to recall, I think, that if this was a model of principles-based regulation ... this was not a model of intrusive regulation and I think you’ll see that later the Mazars report had said that resources were just about right in terms of that particular model which, of course, by the time Mazars came along, we were not implementing any more. So it was in a completely dif-

ferent context, I believe. If I may just though say that the second thing, I think ... affected the thinking within the budget committee was the inability to actually fill the vacancies that was there, so that there was really no point in approving additional vacancies when the ones that were there weren't actually filled. So I think that was the second part of the issue. And that's why ultimately, I think, they commissioned the Mazars report and they asked the deputy director general of the Central Bank, who was responsible for filling the various positions within his line of reporting, to attend the board meetings.

Deputy Joe Higgins: Can I refer to the evidence ... core document page 54-----

Ms Mary O'Dea: Is it in the first booklet or the second one?

Deputy Joe Higgins: Vol. 1.

Ms Mary O'Dea: Vol. 1.

Deputy Joe Higgins: And it'll come up on your screen there. The bottom half of that page ... this relates to discussions on various committees about staffing and it is 2008 when alarm bells were going off in relation ... and yet there seemed to be a discussion here on staff saving, cutbacks. Can you tell us what's that about?

Ms Mary O'Dea: The context actually there is that in 2008 you'll recall that there were many measures being introduced by Government in terms of cutting back public sector pay generally. Now the Central Bank and the regulator are independent of Government but nevertheless, the tradition has always been if there was a public sector change in pay that the regulator and Central Bank would follow that change in pay and they had committed to delivering the savings of ... I can't remember, was it 10% or something like that of the pay bill ... I can't remember what the specific amount was. But they had committed to delivering the same savings that the Government Departments were being asked to deliver within their own budgets. So that was, if you like, in the context of the various austerity measures being introduced in 2008.

Deputy Joe Higgins: Ms O'Dea, at a time when it was clear that far more supervision and staff essentially was needed, was the pressure for the opposite to happen?

Ms Mary O'Dea: Well, I think that's a very good point because what actually was happening there was we didn't know at that point whether or not there would be a single unified Central Bank, whether there would be a separate regulator or new regulator; the board of the regulator did not know whether it would still be there. So that was a time of great uncertainty. You'll see on the next document just across the page, when I was appointed in 2009, I did bring it to the attention of the audit committee that this was a significant operational risk operating with such stretched resources and actually it wasn't until 2010 that those resources, in fact, were approved and came in.

Deputy Joe Higgins: And if you just go to the next page then, Ms O'Dea ... 56 of the same document.

Ms Mary O'Dea: Yes.

Deputy Joe Higgins: Remuneration and budget committee and all subcommittees, it relates to the period around 2010, or projections for 2010, 2012: "The complement [of staff] should be augmented by 275-300 staff to ensure appropriate supervision of regulated entities". Quite a significant increase. Did you have any feeling at that time of, you know, the horses were

away over the horizon, that it was a pity that these extra staff weren't put in during the bubble, for example?

Ms Mary O'Dea: Well, during 2010, I had finished my period as acting chief executive, so I actually wasn't in that role at the time, it was my successor, but absolutely, I think throughout 2009 one of the very frustrating things of being in an acting role, when it was renewed every month, the position was that I wasn't in a position or didn't have the freedom to take in more resources, starting from a higher level and then setting the shape of the organisation. It was quite clear - though, as you say, although it was too late to prevent what had happened already in Ireland - it was still absolutely necessary and is absolutely necessary that we have this more intrusive model for the future. I think we've learned that.

Deputy Joe Higgins: Can I ask you in relation then to the period around the bank guarantee, did the Financial Regulator carry out any additional investigation or analysis after the loan book analysis that was conducted by PricewaterhouseCoopers into a number of the key banks?

Ms Mary O'Dea: I wasn't involved. At that stage, I would have been the consumer director and my role around the guarantee was very specifically in relation to consumer information. A lot of people were very worried about their savings and we would get phone calls at about five times our normal phone calls of 100 calls a day, so it was up to about 500, people worried about their savings, and so myself and my team were trying to provide appropriate and correct information because the situation was constantly moving and also preparing contingency plans with the retail banks at line level to make sure that there wouldn't be a large retail run on a bank. So, my role was very much around the consumer issues at that time.

Deputy Joe Higgins: Yes. Now, you say, when you became acting chief executive officer that a more intrusive approach was being adopted by the Financial Regulator with regard to getting into the banks, getting the information. What was the attitude of the banks to this new approach?

Ms Mary O'Dea: Well, I think the banks themselves were actually in crisis at the time and there was a bit of friction, certainly, in terms of the approach that we would take because not only were we carrying out what you might call normal supervision but most of what was going on in that year was crisis management, stabilising the issues and, in particular, really examining the capital position of the banks. The more we drilled into the loan books, the more we could see difficulties in terms of provisions.

Deputy Joe Higgins: Yes.

Ms Mary O'Dea: So there was a lot of ... I would call challenge with the banks during that period.

Deputy Joe Higgins: In page 5 of the written statement that you submitted in advance, the top of the page, you say:

My recollection is that the relationship with some banks was somewhat strained ... Sending a full investigative team into Anglo elicited what I believed was a defensive response, and early in the investigation I required the full Anglo board to meet with me.

Can you tell us about that?

Ms Mary O'Dea: Well, one of the priorities when I became acting chief executive was

to investigate very thoroughly the issues which had arisen, some of which were in the public domain at that time and others of which we were aware of. So, I sent a team into Anglo to do that. We seconded officers because we needed people with special forensic skills and we seconded them in and sent them in immediately. I was surprised at the attitude that Anglo took in relation to those inspections. For example, at all of the inspectors' meetings, initially, there were stenographers and I'd been a long time around supervision and I'd never come across somebody having a stenographer at an inspection meeting and it slowed the process quite a bit for us. There was also a lot of claims of legal privilege, which of course people are entitled to do, over documents. But it seemed to us that they were, they were very frequent and they were very much slowing the process. And we believed that it was in the best interests of the country to have these issues investigated thoroughly in a speedy fashion. And-----

Deputy Joe Higgins: How did you respond to that situation? Did you go to the board?

Ms Mary O'Dea: I asked the entire board to come in to a meeting in the regulator to address it with them.

Deputy Joe Higgins: Did the situation change? Was there more co-operation then?

Ms Mary O'Dea: The situation improved after that.

Deputy Joe Higgins: Okay. Ms O'Dea, on page 7 of your opening statement, second paragraph ... last few sentences, you said: "In the [United States], many changes have been adopted through new legislation and the conversation there is not so much about more intrusive regulation but stronger enforcement action, stronger consumer protection and changes [in] the culture of [the] banks." In relation to all that has happened here and by common consent, the disastrous consequences of reckless lending that has been alleged, do you believe that legislation should be changed in this country to provide for jail sentences, for example, for serious breaches of financial rules and regulations that should be upheld?

Ms Mary O'Dea: I think its very clear that specifically in relation to banks, the consequences of what can go wrong are so deep and significant that the stronger the enforcement action that you can take and the more that the law backs you up in terms of taking that, the better. Yes.

Deputy Joe Higgins: Yes. Do you think that there should be legislative changes to provide quite strict sanctions on financial institutions or those who run them, including jail sentences, when society's well-being, the well-being of the majority, can be put at risk by their actions?

Ms Mary O'Dea: Yes, and I think if we look at other areas, you know, whether it's the medical provision in the drugs area or anything like that, I think there are very, very significant consequences when somebody behaves inappropriately or in a particular way as set out in the legislation. I think that has to be very carefully set out and I think, as you said yourself, the consequences are so significant that there should be a greater consequence for doing it incorrectly.

Deputy Joe Higgins: Lastly, Ms O'Dea, you were consumer director, that means that you, your role would have been to stand up for the ordinary person, so to speak, in the whole period of the bubble. Now looking back on it, whose interest do you think was served mainly by the financial institutions over that period of time? Was it the interest of profit-seeking private institutions? Did that predominate over the interests of ordinary people? That's question one. And question two is-----

Chairman: That can be a supplementary. I'll be bringing you back in again so, if we maybe

stop at question one and we can take question two as supplementary.

Deputy Joe Higgins: Do you think it's appropriate that profit seeking to that level should prejudice society and people's interests so much that that should be allowed?

Ms Mary O'Dea: Well I think, as you said, I was consumer director and my role was set out in law, broadly speaking, to provide informations to consumers. I believe I acted as a strong advocate for consumers during that time and provided appropriate information to them, specifically in relation to credit issues as well, and also to set out codes and enforce those codes and again, I believe that I did that. I think you'll see in the Mazars report it suggested that the consumer information could be seen as best in class. However, I do believe that the actions of the regulator and Central Bank were not adequate to prevent what ultimately happened and I regret that.

Chairman: Ms O'Dea, the regulator's office has responsibility for regulating financial institutions with a principle-based approach and it had a consumer protection aspect to it as well. Were you the senior consumer protection person in that structure?

Ms Mary O'Dea: My role was as consumer director, as set out in law. So it was a specific function set out in the legislation for me, and I don't believe there was anybody else who had that specific legal function.

Chairman: During your time, we saw 20-year mortgage schedules, which were the standard mortgage schedule at the time, going out to 30 to 35 years. We saw loan-to-values rules changing quite significantly and we saw 100% mortgage products being actually introduced. Did you issue any guidelines on affordability of mortgages or at any time did you express an opinion with regard to 100% mortgages?

Ms Mary O'Dea: Absolutely. When 100% mortgages were introduced, we issued new information in relation to that. We warned consumers about negative equity and how you could build up negative equity in relation to that, and we talked about affordability. But I will also say, Chair, that at the time of the 100% mortgages, when they were introduced and the discussion, I actually felt it was the wrong discussion, because there were 80% mortgages that people couldn't afford, and that the issue was really about affordability. And there may be some people who had, you know, many means that could afford 100% but the issue to me, from a consumer perspective, was much more about affordability.

Chairman: Yes. And that was your communication to consumers. You were also a member of the IFSRA at that time. What was your communication with them?

Ms Mary O'Dea: Well, my capacity on the board of IFSRA was as consumer director and my functions, as I said, were set out in law and that was how I carried out my functions at that stage.

Chairman: But at any time during that period, did you say at that board that: "There are concerns with regard to the duration of mortgage schedules, there are concerns with regard to loan-to-value ratios, there are concerns with 100% mortgages, and so forth, and we need to act upon them in a structural capacity, not just advise customers or banks to be mindful of these products"?

Ms Mary O'Dea: The board would have been well aware of both the codes and the information that we produced for consumers at that stage.

Chairman: That's not what I'm asking you, Ms O'Dea.

Ms Mary O'Dea: I'm sorry, Chair. Can you ask me again?

Chairman: I'm very, very clear about ... you're very clear here as to what you communicated to potential customers-----

Ms Mary O'Dea: Yes.

Chairman: -----of bank products. What I'm asking you is that you stated that you had an awareness of those, you were advising customers in the market as to your concerns about them, but you were also a member of the Irish Financial Services Regulatory Authority - you were on the board. What action were you advising the board to actually take, that it could go into banks or put measures in place or issue guidelines or put structures in place to deal with these concerns?

Ms Mary O'Dea: The action that I advised the board was the action that we actually took. So the action that I advised the board was in relation to we need to set out codes and rules and we need to provide information in my capacity as consumer director. So that's what I advised the board. I didn't advise in relation to prudential issues at all.

Chairman: But what were the guidelines and the rules because the 100% mortgages continued? It wasn't until 2009 that we saw significant changes by the Central Bank with regard to how mortgage values were done, how income ratios were looked at, how we saw recommendations with the reduction schedules and all the rest of it. So before 2009, what was actually happening?

Ms Mary O'Dea: We had a number of issues actually in the consumer protection code. The most important of which was suitability. Suitability used to apply just to investment products but we applied suitability in the consumer protection codes to lending and we wrote to firms within that to explain that that meant affordability and that when they were lending, when they were giving loans, they had to check affordability. And we also, for example, in relation to mortgage brokers we carried out a specific investigation in relation to the falsification of P60s-----

Chairman: Yes.

Ms Mary O'Dea: -----where there was mortgage brokers giving out loans on the basis of those P60s. So we had specific rules ... and the other one was in relation to consolidation of loans ... sorry, Chair, I think you wanted to ask me again.

Chairman: Ms ... did the construction of a P60 ... or, putting inaccurate information into a P60, that's a criminal act. We knew that. That existed on the statute books ever before you came to work in this job. What I'm asking you is: what actions did you take with regard to the non-criminal aspects of banking lending practice? The adjusting of a P60 is a criminal act.

Ms Mary O'Dea: Sure.

Chairman: The non-criminal aspect, the day-to-day banking behaviour, what were you doing? Were you saying that we need to go in and take a robust issue with these 100% mortgages, we need to take a robust position on these loan-to-values, we need to take a robust situation where people are now moving from 20 years nearly out to their entire working lives to pay for their mortgages?

Ms Mary O’Dea: Yes. We did a lot on that, I believe, Chairman, in the rules ... specifically in the rules that did not exist before we came in and introduced them, and the first of the rules was the rule in relation to suitability of lending. And lest there be any doubt as to how institutions would interpret that rule, we wrote to them specifically to say that ... what suitability would mean, and when 100% mortgages were introduced, we also wrote to institutions saying, ‘‘Please look very carefully at the suitability rule, if you are selling somebody a 100% mortgage that they ... you have to; with the rule that was enforceable, that you have to make sure that that rule is suitable.’’

And when you talked about the lengthening of mortgages moving out to 20 or 30, we did act specifically on that and we codified and put into the code that if people were wrapping up loans making them longer, therefore, adding to the cost of the loan, that that had to be pointed out to the consumer ... within it-----

Chairman: I’m not talking about the consolidating loans; young people going in to get a mortgage from the get go were moving into 35 years. It wasn’t a case that they had a mortgage and a holiday home, and a car, and maybe a credit union loan, and it was all being bundled into one. New home owners coming into the market were buying homes at eight and nine times their average incomes, which was an increase. They were moving ... buying mortgages that were moved from 20 years out to 35 years. They were being presented with 100% mortgage products and there were a whole host of other measures. I’m trying to get a clear picture from you. Did you direct banks or did you advise them, or did you say: ‘‘We’re going to bring in a law to stop you from doing this’’?

Ms Mary O’Dea: We produced a law, code, whatever you want to call it enforceable-----

Chairman: Well, there’s a difference between a code and a law, Ms O’Dea. A law is something that is enshrined in statute and is a criminal act if it’s violated. A guideline is something that, we, we would like you to do this and we’ll talk to you more about it if you don’t.

Ms Mary O’Dea: This was not a guideline. Under the law as set out, we were allowed to set out what was called a code, but actually it was enforceable by a fine up to €5 million. So, it was an enforceable code. And that enforceable code was in relation to suitable lending. So, if somebody was getting a mortgage for example, of 35 years that they clearly couldn’t afford, then the institution would be in breach of the suitable lending requirement.

Chairman: Final question on this. Did it work? And then I’ll bring in Deputy McGrath. Did those measures actually work? Did it stop mortgages going up to 35 years? Did it stop income ratios increasing where people buying a home for the first time would have been traditionally buying a home in three to four times their household income were now buying it on ten times plus? Did your intervention into the banks in that regard work?

Ms Mary O’Dea: Well, I think clearly consumers have suffered, but I do believe that that rule worked to the extent that it came in in 2007. Unfortunately, it was too late. I believe it should have been brought in earlier. We had to carry out regulatory impact analysis in relation to those rules and that delayed it. And I think if it had have been brought in earlier, that would have been better.

Chairman: Deputy McGrath.

Deputy Michael McGrath: Thank you, Chair. You’re very welcome, Ms O’Dea. Can I start by asking, prior to 2008 the regulator had proposed a number of initiatives to impose more

explicit requirements on banks such as directors' compliance statements, corporate governance guidelines and fit and proper requirements. What was your view of these initiatives, and can you describe the circumstances in which the board chose not to implement the original proposals for these initiatives?

Ms Mary O'Dea: Yes, thank you. I have looked back over those - the various initiatives that came in. To be honest, most of the issues that came to the board ... as I said, I was there at my statutory capacity as consumer director and I would have looked at them from ... through that lens. With the benefit of hindsight, they should have been brought in earlier. I think probably in a couple of cases the issue was over-complicated, so for example if I take the case of directors compliance statement, there was a similar provision being brought in in company law, and there was a lot of toing and froing as to whether or not the provision that the regulator was bringing in was cutting across that, or was not in line with that. And I think the issue was actually, now that I look back at it, made much more complicated than it needed to be. I think it was also impacted by the, the statutory role ... that had been built in in relation to the growth of financial services where the regulator didn't want to introduce something that was uncompetitive. So I think that also affected things, but as I look back at those, they should have been brought in earlier. And actually, I contrasted with later in 2009, when we took a different approach in relation to directors' loans and related party loans, were we knew their was a provision coming in under company law and, nevertheless, we moved ahead quickly and brought in the provision as the regulator. And that was more onerous than the one in company law, but we still felt that was appropriate.

Deputy Michael McGrath: Ms O'Dea, did principles-led regulation die on the night of the bank guarantee?

Ms Mary O'Dea: I think principles-led, or principles-based regulation was clearly inadequate. Certainly from 2009, there was no question of principles-based regulation. We were carrying out much more intrusive regulation, as was, I think, every regulator across Europe and the world changing the way they did things

Deputy Michael McGrath: Was there a formal decision to move away from principles-led regulation and to move into more intrusive regulation which you have described?

Ms Mary O'Dea: Actually no, there wasn't a formal decision ... no there wasn't a formal decision to do that. In fact, in 2009, and it's very hard to recreate this, it was extremely ... crisis management and trying to stabilise the situation so there wasn't a pause to set out a strategy and ... the practice changed. And, indeed, it would have been inappropriate to set out a strategy at that stage because I was effectively there for three months until a new chief executive came in, so there was a sequence of events to decide the strategy for the future, but practices had changed-----

Deputy Michael McGrath: And was it your decision and the decision of the board to change the nature and the practice of the regulation early in 2009?

Ms Mary O'Dea: Well, certainly I had changed it, certainly I don't think anyone on the board was buying into a principles-based regulation at that stage. So, I don't recall a specific decision being made, but there would have been no question of operating any other way than in a very intrusive way. And if you recall, what we were doing at the time in relation to the banks required daily and frequent contact ... contact at that stage, it was extremely intrusive.

Deputy Michael McGrath: So, principles-led regulation was no more in early 2009. Is that your testimony?

Ms Mary O’Dea: That would be my, my feeling, yes, during the year of 2009. Now I should add, though, that it was very difficult to do the more intrusive regulation without having the resources at that stage, and there was a sequence there in terms of, first of all, getting the governance of the regulator correct ... we didn’t know whether there was going to be one board, two boards, how that was going to be set up. Then we got a new Governor. Patrick Honohan came in, then the chief executive was appointed, and then the strategy and resources flowed. So there was a natural sequence there.

Deputy Michael McGrath: In April 2009, the Government announced the initiative to establish NAMA. Were you, as regulator, involved in that decision, or advising the Government as to what the consequences might be for the banks of setting up an asset management-type agency?

Ms Mary O’Dea: That was very much a Government decision, but I was at meetings in the lead-up to that when it was discussed, how it would work, if it would work ... and, you know, what best practice might be elsewhere.

Deputy Michael McGrath: And did you believe that it was an appropriate decision? Did you believe that the idea of cleansing the balance sheets of the banks of bad loans, dealing with the uncertainty about bad debts in theory improving liquidity and credit flow, did you think it was the right idea? Or did you believe that those loans should have been left on the balance sheets of the banks?

Ms Mary O’Dea: I, I believed it was absolutely the right decision at the time. Again, at the time, we were very much fighting to keep the banking system alive. Liquidity was extremely stressed at that time ... and dependence on the ECB was, was increasing. It doubled over the course of 2009, so some radical solution was necessary, and yes, I thought NAMA was the appropriate one.

Deputy Michael McGrath: And did you ever envisage that the NAMA initiative would ultimately expose a €42 billion hole in the balance sheet of the banks?

Ms Mary O’Dea: Well, I don’t think it was the NAMA initiative that exposed that hole-----

Deputy Michael McGrath: It didn’t create it but-----

Ms Mary O’Dea: Exactly.

Deputy Michael McGrath: But NAMA, ultimately NAMA paid €31.8 billion for loans with a face value of €74 billion. So there was a shortfall of €42 billion which the taxpayers had to plug then through recapitalisation. So, did you ever believe in early 2009 that the NAMA initiative would result in, in that type of a shortfall?

Ms Mary O’Dea: No.

Deputy Michael McGrath: NAMA didn’t create it, but-----

Ms Mary O’Dea: That’s right.

Deputy Michael McGrath: ... it exposed it, it allowed the full extent of it to be seen of the

losses.

Ms Mary O'Dea: I certainly did not believe that the losses would be of that extent, no.

Deputy Michael McGrath: Thank you.

Chairman: Senator O'Keefe.

Senator Susan O'Keefe: Thanks Chair. Ms O'Dea, can you comment on the initial State investment of €4 billion in June 2009 into Anglo, compared with the eventual total injection of €29 billion?

Ms Mary O'Dea: Comment in ... in what way Senator?

Senator Susan O'Keefe: Well, I mean, do you have a view as to how it got from €4 billion, which seemed to be the figure that was recommended, and then, ultimately, we stepped up to €29 billion? Do you have a view or an opinion?

Ms Mary O'Dea: Well, I think throughout 2009 one of the issues that we were most focused on was the quality of the loan books and the portfolio analysis, and as we drilled further and further we could see that there was more and more difficulty. And I think that's really how that evolved. And I think the situation in relation to Anglo had been complicated by all the other issues that were going on at the time. But I think it was the size and scale of the loss escalated over the period of time. It was necessary, of course, to have ... because despite the fact that Anglo was nationalised, our regulatory relationship with Anglo didn't change in any way. So we still had regulator-to-regulated relationship and the solvency of Anglo was extremely important in terms of providing liquidity because we couldn't allow it to trade or provide services at all unless it was actually solvent.

Senator Susan O'Keefe: Did that kind of drilling occur with your own efforts from ... from the Financial Regulator's office or did you need to bring in additional assistance or specialists?

Ms Mary O'Dea: We did bring in specialists. We brought in two types of specialists. We brought in auditing specialists and we also brought in valuation specialists. And I think it was really with the two of those working together, particularly the valuation specialists, that allowed us to get a much, much better understanding. And actually, one of the things that I noticed clearly in 2009, when we did actually bring in particular types of very specialist staff into the regulator, the value of those staff in terms of being able to even have that conversation with the banks of the type of land, the value of land, what type ... of whether it was land bank or whether it was close to development or anything like that ... those conversations, to me, became much richer and much more meaningful when we had our own specialist staff in those areas.

Senator Susan O'Keefe: And so it's fair to say that the lack of that kind of specialist staff prior to 2008 was then much more obvious that there hadn't been that kind of staff available or perhaps we might have had of information at the time when things went south?

Ms Mary O'Dea: I'd say both. I'd say the lack of staff but also the model, because there would've been no question of drilling down to those kind of conversations in a principles-led environment.

Senator Susan O'Keefe: You mention that when you became chief executive ... acting chief executive, you had to also, along with all the other things you did, authorise key inves-

tigations. Now, I know you can't discuss the detail of the investigations but you can, I think, tell us, who was investigated and broadly, what was the ... I mean, you could be investigating any aspect, so could you give us some broad idea of who and what that ... those investigations entailed?

Ms Mary O'Dea: Well, I will be very careful-----

Senator Susan O'Keefe: You have to be.

Ms Mary O'Dea: Yes. So, one of the issues would've been in relation to directors' loans in a specific institution. The other would've been in relation to back-to-back loans. Again, relating to two specific institutions. And the other would've been in relation to the insurance company involvement with a particular bank.

Senator Susan O'Keefe: How would you describe, given that you were there ... how would you describe the days and weeks that led up to 2008, just in terms of being in the Financial Regulator's office? Just paint a picture for 30 seconds of what it was like.

Ms Mary O'Dea: It was ... it was absolutely crisis mode ... very much crisis management. My particular role was in relation to the consumer area and we were on the phone constantly to each other updating the information, because we had to very careful that the information we gave to consumers was exactly right. We couldn't simply say, in a trivial way, "Your money is safe". We had to actually say precisely what that means, precisely what was guaranteed. You'll recall the deposit protection scheme increased over that period of time, so we had to make sure we gave them that information very, very quickly.

And the other issue was, having seen Northern Rock, our focus on the consumer side was not on the wholesale run that others might've been looking at but very much on the possibility of a retail run, queues forming outside of a bank and what that might do in terms of a visual. So we were extremely worried about it and we were constantly ... we ... you know, we got a phone call to say, there was a photograph of a bank, you know, with two people standing outside, we'd immediately be on to say, "Please rectify the situation". And then, on the consumer information line, we had to pull staff to make sure that we could answer ... because a phone ringing out would send a really signal. So we had outsourced that service but we had to make sure we increased our capacity in relation to doing that.

And then, the other issue I remember is, on the day after the guarantee, we had about 15,000 visits to the website. So nowadays, of course, a lot of people get their information from the website ... 15,000 people ... we'd 1,000 calls ... and again, we were ourselves trying to understand precisely what the guarantee meant for consumers and we had to portray that information in an accurate way. So it was continuous, really, all through 2008 and into 2009.

Senator Susan O'Keefe: Yes, and then finally, at what point do you believe that the damage, if you like, was already done. We've had witnesses who said that by 2005, if you like, the damage was already done in terms of what could be fixed. Is that ... do you share that view?

Ms Mary O'Dea: Well, looking back on it, and with the benefit of hindsight, it probably was around 2005, 2006, at that stage, I would say. But that build up ... that failure to spot the build up of the credit bubble, to me, was one of the most significant issues.

Senator Susan O'Keefe: Thank you.

Chairman: Senator D'Arcy.

Senator Michael D'Arcy: Ms O'Dea, you're very welcome. You were party to the implementation group of regulatory structures during 2009. What were your views on the changes that were subsequently implemented in Central Bank Reform Act 2010?

Ms Mary O'Dea: Yes. I wasn't actually part of the group but I introduced some of the background. Do you mean the document that's in the pack?

Senator Michael D'Arcy: Yes.

Ms Mary O'Dea: Oh, sorry. Okay. So the ..., I think the legislation was very good. I think bringing everything back within one organisation had to be done because something had to be shown to revive confidence in the system. Something different had to happen. But I would also say that I don't think the structure, of itself, was actually a major causal issue because, I think, even in a new organisation, in a single organisation, you're still going to have two specialist areas - one looking at financial stability issues, one looking at micro-prudential issues. And if those two areas don't have absolute clarity of role and don't work together very well, then, I think, you can the same problem. So while I think changing the structure is a good idea, I think that that wasn't, of itself, the same problem. And if I may add one thing, because I wouldn't be true to my previous role as consumer director, if I didn't say that I thought it was also very important that the new structure retained the two pillars: one of setting out the enforceable codes, which I've talked about for consumers; and the other one of providing consumer information. And while consumer information has moved out of the Central Bank, that pillar stayed within the new consumer agency.

Senator Michael D'Arcy: You were the person in charge of the consumer protection side?

Ms Mary O'Dea: Yes.

Senator Michael D'Arcy: How many staff were beneath you?

Ms Mary O'Dea: In the consumer area, by and large, there was about 90 people.

Senator Michael D'Arcy: And how many were in the banking regulatory structure on the other side, where you were?

Ms Mary O'Dea: Most of the rest of the staff were in prudential, generally. And in banking, it would've been about, I think, around 30, 35, including the international banks.

Senator Michael D'Arcy: We've had evidence that three staff members were overseeing two banks. Was that ... were those numbers sufficient?

Ms Mary O'Dea: Well, I think, for prudential legislation of an intrusive level, absolutely not. And I think-----

Senator Michael D'Arcy: Even with principles-based?

Ms Mary O'Dea: I think, no. I think as we look at it now, even with principles-based regulation, that wasn't enough.

Senator Michael D'Arcy: In previous evidence from your former workplace, we were told that people were being undermined within the structure. Did you ever see evidence of that?

Ms Mary O’Dea: No-----

Senator Michael D’Arcy: Did you hear that evidence previously given?

Ms Mary O’Dea: I heard the evidence given. I ... I wasn’t involved in that. I didn’t see any of that at all.

Chairman: Just to give a reference to that, it was when Ms Mary Burke was in before the inquiry.

Senator Michael D’Arcy: Yes, sorry. Mary Burke made the point that ... in her written statement ... in her opening statement, that there would be senior banking officials ... would be seen in the building and that matters would be discussed at higher level. I think the term “on the 7th floor” was used. You didn’t see any of that evidence?

Ms Mary O’Dea: We were actually in a separate building. The consumer building was in an entirely separate building and I never had meetings with anybody without having a member of my team with me.

Senator Michael D’Arcy: Okay. You ... in your opening statement, you said ... sorry ... was it fair that confidence was so low within the organisation that you were working? Was it fair and reasonable that it was so low?

Ms Mary O’Dea: Well, I don’t know if it was fair or reasonable but it was a fact. That was one of the issues that I had to deal with. I think the issue was probably around the fact that people felt a huge sense of doubt and questioning. At the time you’ll recall that there was quite a bit of opprobrium, very understandably, against the regulator and the Central Bank, and at a human level that affects people, and when you have to lead the team to stabilise the situation you have to be aware of that.

Senator Michael D’Arcy: Did your ... did the office of the regulator fail the people of Ireland?

Ms Mary O’Dea: I think the model of regulation here and internationally did fail. I think both at-----

Senator Michael D’Arcy: No, sorry-----

Ms Mary O’Dea: -----the systemic level-----

Senator Michael D’Arcy: Not the model. Did the office fail?

Ms Mary O’Dea: I think ... well, personally, I think that the failures were around the model that was chosen, and that was chosen by the office.

Senator Michael D’Arcy: Could I just ... if you could allow me, Chairman, please, because it was something that we discussed with Mr. Patrick Neary. We keep talking about “principles-based”, but people make determinations based upon those principles, and the point was put to Mr. Neary also that the decision of people ... or the decisions that people make in relation to those principles-based model, was that the failure or was it the model? Was it the failure of people’s decisions within the model, or was the model wrong?

Ms Mary O’Dea: Well I-----

Chairman: Re the interpretation or the application?

Ms Mary O'Dea: Yes. I actually think it was both. I think the model itself was clearly inadequate. I think we've seen that. I also agree with the comment in Patrick Honohan's report that there should have been more follow-through, things shouldn't have gone on back and forth for so long, that there should have been ... and more significant consequences to particular actions, so I think it was both.

Senator Michael D'Arcy: And if you were to apportion the split of the both, which ... is it 50:50, 60:40, 70:30, please?

Ms Mary O'Dea: Well I think ... I certainly couldn't do it in that forensic level of detail, but I think one issue that you haven't mentioned that's also extremely important, possibly the most important thing, was the failure to identify the credit bubble as it emerged, and the failure to spot that it wasn't a soft landing. And there I think you have the IMF, the OECD, the ECB, many others in that particular category. And I would add that as something that was extremely important in what happened in Ireland.

Senator Michael D'Arcy: Thank you.

Chairman: Deputy O'Donnell. Deputy, I'll bring you back in but I'll go to the next questioner, if you wish?

Deputy Kieran O'Donnell: No, no.

Chairman: I'll move on.

Deputy Kieran O'Donnell: No, no, it's fine, Chairman.

Chairman: Okay, well get to the point so, please, yes?

Deputy Kieran O'Donnell: What changes did you implement in 2009 to ensure appropriate action was taken against the banks for breaching regulations?

Ms Mary O'Dea: Well, I think 2009, as I said, was a year of very much stabilising the situation. We were ... carried out the much more intrusive level of supervision, we challenged every day, and I think probably the biggest issue in terms of the question that you've put to me was around the banks' business plans, so at that stage the banks were providing their business plans for what the future of their business would be. And we saw a lot of ... because we could see all the business plans we saw a lot of overlap around what they were doing and therefore questioned the profitability that would be there. We also then sought to identify, well, what were the major issues that would lead to that profitability and really challenge those in a much more robust way. So that was probably most of 2009.

Deputy Kieran O'Donnell: And I ... just for a point of clarification, what administrative sanctions were at the disposal of the regulator against the banks for breach of guidelines, for breach of regulations? Because there's an area of confusion around this. So can you just, on the record, what administrative sanctions were available to the regulator?

Ms Mary O'Dea: Well, in my view at that ... when we got the power to introduce administrative sanctions, it was around about 2005 or 2006, but I may be wrong on the exact date. I know it was in time to introduce the consumer protection code and enforce it, and we had actually been very vocal with Government to say that we wanted the fine increased to a level of €5

million at that time.

Deputy Kieran O'Donnell: And were those administrative, we'll say, sanctions, were they just around consumer protection? What about, we'll say, prudential lending? About, we'll say, breach of guidelines, where effectively that they could only, we'll say, up to 200%, 250% in terms of ... within any category of loans?

Ms Mary O'Dea: My understanding is that the law gave you the power to codify regulations that would then be enforceable by these administrative sanctions. And that's what we did with the consumer protection code. The model in relation to prudential regulation is that they were not codified, that they were set out as guidelines, but they could have been codified, if that's the question you're asking me?

Deputy Kieran O'Donnell: And how would they have been codified?

Ms Mary O'Dea: They would have had to be set out as an enforceable code, and set out-----

Deputy Kieran O'Donnell: By whom?

Ms Mary O'Dea: -----in that particular way.

Deputy Kieran O'Donnell: By whom?

Ms Mary O'Dea: By the regulator.

Deputy Kieran O'Donnell: So it was open to the regulator from 2005 on to basically bring in sanctions against banks that were breaching growth in property lending, if they wished?

Ms Mary O'Dea: I think, yes, I think that would have been open. It certain-----

Deputy Kieran O'Donnell: But it wasn't taken?

Ms Mary O'Dea: It wasn't taken, and it wasn't the model that was operated by the regulator at the time, because it was the principles-based model, and the focus was much more on requiring banks to look particularly at their own models. As I said, and here-----

Deputy Kieran O'Donnell: And was this-----

Ms Mary O'Dea: -----Deputy, I have to just say that my knowledge, my better knowledge of this is in relation to my statutory role as consumer director.

Deputy Kieran O'Donnell: Why did you decide then, on the consumer director side, to effectively codify these guidelines so that you could actually bring in ... impose sanctions?

Ms Mary O'Dea: We had seen what had happened in the past. Part of the reason the regulator was set up with a consumer mandate was that we had seen serious consumer issues where there were no powers to act against it. So we were determined to bring in something that there would be powers to act against it. And in fact, the consumer ... the regulator had only just been set up in 2003-----

Deputy Kieran O'Donnell: In the limited time I have-----

Ms Mary O'Dea: Yes?

Deputy Kieran O'Donnell: -----is it fair to ... from 2005 on, the two sides of the house of

the Financial Regulator, one does consumer protection, and one's prudential lending. The consumer protection had sanctions, had codified the guidelines into enforceable sanctions, whereas on the prudential side that had not happened, yet the option was open to do it?

Ms Mary O'Dea: Well, everything you're saying, I think, up to the option being open I would absolutely agree with you. I think the model was completely different in relation to a prudential supervisor.

Deputy Kieran O'Donnell: When you went in as regulator in '09, did you do it? Did you codify ... did you codify on the prudential side, did you bring in sanctions on the prudential side?

Ms Mary O'Dea: To be honest with you, I went in for three months into that job and we spent all our time, 24/7, examining capital and liquidity. We certainly didn't have time to pause and codify anything at that stage.

Deputy Kieran O'Donnell: One final question, Chairman. You made reference in one of your earlier contributions where you spoke about that you ... the 100% mortgage and how we react to the 100% mortgage, and you said that ... it was about the capacity to repay. So the question I suppose I'd ask is: would you not take into your thinking that, with 100% mortgage, that you were leaving the borrower far more exposed in terms of negative equity in the fall in the value of their property, and that there was a certain, we'll say, element of enormous amount of risk in allowing the 100% mortgages to continue?

Ms Mary O'Dea: Yes, I would, and we issued a public consumer warning at the time in relation to the build-up of negative equity. It was in our consumer information that we put on the website to warn consumers that if you took out 100% mortgages this is what could happen. But I don't have the figures on this, but I do suspect that the majority of people who are in terrible situations with their mortgages now are not actually the 100% mortgages, that actually it was even lower levels of that that were the issue in terms of affordability.

Deputy Kieran O'Donnell: But can I just make a comment?

Chairman: You can be allowed comment with a question; I can, but a comment, no.

Deputy Kieran O'Donnell: The figures wouldn't bear that out, Ms O'Dea, in that Bank of Ireland were a huge motor of the 100% mortgage, and people on 100% mortgages are in far greater arrears than people on normal mortgages.

Ms Mary O'Dea: Absolutely.

Deputy Kieran O'Donnell: So would you just comment on that?

Ms Mary O'Dea: Yes, no, I think you're absolutely right, 100% right in relation to that, because I think that the issue was around negative equity, and that is the issue we pointed out to consumers.

Chairman: Sorry, I just want to get my head around this just once more, and ... we have to write a report at the end of this process-----

Ms Mary O'Dea: Of course, yes.

Chairman: -----Ms O'Dea, and the last thing I'd want to be doing is asking this committee

to write back to get further information or clarification, and to provide people with the greatest opportunity for them to decide here. I just want to get your position on this 100% mortgage. To use an analogy, it's like the Road Safety Authority telling people to put on their seat belts and people should be listening to them and putting on their seat belts. But if a car manufacturer's making cars without seat belts, then somebody else has to do something with the car manufacturer. It's one thing to tell people to be mindful of availing of 100% mortgages, it's another thing to say, "Stop providing them". Do you have a view as to whether 100% mortgages were a suitable product and that they should be taken off the market?

Ms Mary O'Dea: With hindsight, I think 100% mortgages were not a good product and the reason I think that is because I think they gave the wrong signal to the market in relation to what was acceptable and what was not acceptable. And I fully support the actions now taken by Governor Honohan in relation to this. At the time, 100% mortgages were introduced, what we did at that stage was say, "You can only sell them to customers where they can afford them and where they are suitable", and that warnings had to be given in relation to negative equity. So that's what we did, if I can distinguish, at the time, for hindsight.

Chairman: Deputy Murphy.

Deputy Eoghan Murphy: Thank you, Chairman, and thank you, Ms O'Dea. You're very welcome. I just wanted to talk about the IMF country mission to Dublin in 2009. Were you involved in working with the IMF when they came? I think it was May of 2009.

Ms Mary O'Dea: At that stage I was on the regulatory side, so I was the acting chief executive of the regulator at that time.

Deputy Eoghan Murphy: So you were involved in the IMF when they came to do that country report?

Ms Mary O'Dea: Yes.

Deputy Eoghan Murphy: And that involved then being involved in terms of their work in relation to NAMA that they were doing at the time?

Ms Mary O'Dea: Yes. And they comment on NAMA in their report, yes.

Deputy Eoghan Murphy: Okay. I just want to ask a question on that, if I may. In paragraph 20 of their report, they say:

The authorities did not formally produce any estimate for aggregate bank losses. They have focused on the needed restructuring of property-development loans, which they rightly view as at the heart of stress faced by banks.

Why didn't you have any estimates for aggregate bank losses at the time?

Ms Mary O'Dea: Well, actually, what we spent a lot of that year doing was trying to get a good estimate of aggregate bank losses and that took a significant amount of time. And, in fact, even after that, even after NAMA was set up - and NAMA had specialist valuers - it still took a significant length of time after that because, basically, land banks had to be looked at, individual loans had to be looked at, connections had to be looked at, what collateral was there. So it took a longer time to do it than you might have expected.

Deputy Eoghan Murphy: You couldn't produce them to the IMF but you were working

on them?

Ms Mary O'Dea: Well, we obviously shared with the IMF whatever we had.

Deputy Eoghan Murphy: Because they just noted that you did not formally produce any estimate for aggregate bank losses.

Ms Mary O'Dea: No. And I think that ... that comment may also have been in relation to the other authorities. Normally speaking, in IMF reports, when they refer to the authorities, it could be the regulator, it could be the relevant Government Department.

Deputy Eoghan Murphy: Was it a mistake to focus on the restructuring of property loans in banks rather than to spend more time focusing on the aggregate losses that they were facing?

Ms Mary O'Dea: Well, I think the property losses were a huge part of the aggregate losses, so ... and there was, again, a sequence. So in terms of trying to cleanse the balance sheets of the banks so that they would be able to engage in lending and try and get the real economy working again, I think the focus had to be on the larger ones first.

Deputy Eoghan Murphy: In the second part of that paragraph it says that, "Staff noted that losses are likely to extend beyond the property-development sector as the economy weakens and the design of NAMA should incorporate that possibility." Were the IMF saying that NAMA should deal with more than just property-related loans?

Ms Mary O'Dea: Yes. I think at that stage they were looking at what might have been done in other countries and in other countries it wasn't just the larger loans but it was also some smaller loans. I think here the Department were of the view that it would be the larger loans. And again, there was a sequence in there.

Deputy Eoghan Murphy: Okay, because in paragraph 24 of the same report it says that the authority saw merit in the IMF's staff suggestion "that NAMA-implementing legislation should encompass a broader ranger of loan types". So, you're in agreement with NAMA's view?

Ms Mary O'Dea: Well, I think the view at the time was that the legislation, because we were in an area where we ... none of us had particular experience of, that the legislation should be broad and allow for different decisions to be taken within that legislation. So, in other words, that it would be enabling without requiring it to be that way.

Deputy Eoghan Murphy: But was the thinking at the time that NAMA might have a broader scope than just property-related loans going onto its books?

Ms Mary O'Dea: I don't recall particularly. I don't recall that it was ruled out but I do recall that the priority at that time was in relation to the larger property loans.

Deputy Eoghan Murphy: Okay, and then do you recall why the IMF staff queried why NAMA was acquiring good loans as well as bad ones?

Ms Mary O'Dea: Yes. And, again, I think at that stage NAMA took the approach - and NAMA will explain to you how this worked much better than I - that they would take all the connected loans. And, in fact, that actually sped up what you rightly said was a very long process. That actually sped it up by taking all the connected loans and, again, some countries had done this differently. So the IMF would be looking at what other countries had done and in some other countries they had done it differently.

Deputy Eoghan Murphy: Okay. In paragraph 25 of that same report it states that, “Staff noted that nationalization could become necessary, which would be seen as complementary to NAMA.” So, at that point, when this was published in June 2009, were your offices preparing for the nationalisation of any further banks in the Irish banking system?

Ms Mary O’Dea: I think we ruled nothing out at that stage and, I think, all the authorities were being ... were ready for whatever might ... happened. We weren’t anticipating it but, I think, at that point in the crisis you’d be very foolish if you didn’t leave every possibility open to cater for it.

Deputy Eoghan Murphy: Is this not the IMF anticipating it in their country report?

Ms Mary O’Dea: No, but what the IMF are saying is that ... just read the sentence to me again there.

Deputy Eoghan Murphy: “Staff noted that nationalization could become necessary but should be seen as complementary to NAMA.”

Ms Mary O’Dea: Yes, and the staff are simply noting that.

Deputy Eoghan Murphy: Okay, but that wasn’t-----

Ms Mary O’Dea: So, I don’t think you’re saying that there was any resistance by anybody to that.

Deputy Eoghan Murphy: No, of course. But what I’m wondering is, given that the IMF took time to note this in their country report, did you in your office then say, “Well, look, we need to look at the banks very carefully and we have to see about which ones have to be nationalised”, and then, given what happened in 2010 at the end with AIB, I mean, did that not set in train, you know, work in your office to prepare for that eventuality?

Ms Mary O’Dea: You see, I think the sequence of that would’ve been ... after the loans were moved off the books and we were at a stage where we could anticipate what would be left behind, I think, that’s precisely what we would be looking at in that stage. So once we knew what the level of the loan losses were going to be, those type of decisions would then be much easier, of course.

Deputy Eoghan Murphy: Okay, thank you.

Chairman: Thank you very much. Senator MacSharry.

Senator Marc MacSharry: Thanks very much. Thanks, Ms O’Dea, for being here. Is there collective responsibility on the board of the regulator?

Ms Mary O’Dea: In what sense? I don’t know what your ... what your question is.

Senator Marc MacSharry: Is the board accountable for all of the actions of the authority? Or let’s say, for example, in your area there was a problem, would that be ... in the eyes of the public or the eyes of the State or the Oireachtas, would that be your fault or would it be the fault of the board of the regulatory authority? Would there be collective responsibility?

Ms Mary O’Dea: Okay. Thank you for clarifying that. I think in my case it would have been very much my fault because I was a statutory officer. So, I think, when I was consumer director, my ... my role and responsibilities weren’t those in normal governance terms but they

were actually specified particularly in the law. So, I think, I then took the responsibility and accountability for the very particular issues that were set out in the law, the detail of what I had to ... to do at that time.

Senator Marc MacSharry: So were your duties exclusive to those specific ones or did you not have the normal fiduciary duties as all the other directors would to the broader mission of the regulator?

Ms Mary O'Dea: Yes, I would have in a general sense, yes.

Senator Marc MacSharry: So there was collective responsibility.

Ms Mary O'Dea: Yes, but ... but to be honest, I was only on the board-----

Senator Marc MacSharry: No, I know you may have only-----

Ms Mary O'Dea: -----because of my statutory function.

Senator Marc MacSharry: I have-----

Chairman: Give her time to respond. Ms O'Dea.

Ms Mary O'Dea: Sorry, I was only on the board because of my statutory function, I wasn't a non-executive. So that's where I clearly saw my role as-----

Senator Marc MacSharry: You were an executive?

Ms Mary O'Dea: An executive board member because I was the consumer director.

Senator Marc MacSharry: But all directors would have a fiduciary duty to the mission of the organisation, would that be correct?

Ms Mary O'Dea: Yes, yes.

Senator Marc MacSharry: So, to my understanding, and correct me if I'm wrong, that would mean collective responsibility?

Ms Mary O'Dea: Yes.

Senator Marc MacSharry: Okay. So in the period that you were on the board, and particularly given your background in banking supervision, notwithstanding that you were there in the specific function that you mentioned, did it occur to you, did it bother you in any way that there was never an enforcement action for a regulatory breach? We know from previous evidence there was none, so I'm asking was it of any concern to you that there was never-----

Chairman: Senator-----

Senator Marc MacSharry: Sorry, what's wrong, what's wrong? I mean, we're ... we're talking about previous evidence here now.

Chairman: If you can ask the witness, was there ever ... or care to confirm it and then ask her why?

Senator Marc MacSharry: The Honohan report clearly states that there was no ... up to the period, I think, 2009, there was no regulatory ... there was no enforcement actions taken

against a regulatory ... prudential regulatory breach. Did that bother you in any way? Did you have anything to say at the board about that?

Ms Mary O'Dea: Well, I think the model that the board adopted was that the enforcement focus would be on the consumer area and that was an early decision. So it didn't surprise me that there wasn't any enforcement action. And I think in the case of one particular issue that came to the board, as I recall it, rather than dealing with it as an enforcement action with the fining type powers, it was dealt with by way of an additional capital requirement for a particular firm. So that would have been dealt with in that way but the model that was adopted was that the enforcement actions would be predominantly on the consumer area.

Senator Marc MacSharry: I put it to you that it wasn't predominantly, it was in every sense ... there was no enforcement action taken and ... you know ... given the fact that ... I mean ... what was banking supervision about ... you know ... up to 2009, if it weren't about finding out where there are breaches and taking enforcement action?

Ms Mary O'Dea: Well, the model that was used wasn't about finding out where there were breaches because principles-based regulation was a completely different model and what that meant was that you went into the firm, you checked their governance, you checked their risk models, you checked their audit function, so it wasn't a case of going in looking for breaches.

Senator Marc MacSharry: I'm limited on time here ... I know the point you're making. What I'm asking is, post-2005, when we knew we did have administrative sanctions, to 2009, no enforcement action was taken for prudential regulatory breach and that was permitted under principles-based. Did that ever occur to you as, "This is wrong, this should not have happened, we ought to be doing something"? Did that occur to you at all at that time?

Ms Mary O'Dea: No, because of the model that I've just described to you-----

Senator Marc MacSharry: The model did allow for enforcement action but we just didn't take-----

Chairman: Let the witness respond as well, now.

Senator Marc MacSharry: No, I appreciate that but if it's going to be repetitive and no disrespect, but I've a very limited amount of time. I get the point that the model was there, you followed the model but the model did allow for actions which were introduced in 2005 and as a matter of-----

Chairman: You made it very, very clear, Senator, I need to get a response.

Senator Marc MacSharry: -----as a matter of form, they were never taken and I'm asking why?

Ms Mary O'Dea: There's one further thing I will add and I won't repeat what I've already said which is that enforcement in relation to banks ... previously the thinking on that was that if you took enforcement action in the public domain, that that would have such serious and negative implications for the bank, that that enforcement action would outweigh whatever it was you were trying to enforce. So that was a separate issue but the predominant issue was in relation to the model.

Senator Marc MacSharry: So the actions of the regulator, in terms of its board, because of the model, was or was it not one where we considered the outcome for the bank more than

the State? Is that what you're saying?

Ms Mary O'Dea: Absolutely not. I don't think anybody-----

Senator Marc MacSharry: Okay-----

Ms Mary O'Dea: -----sitting on the board said: "We consider the outcome-----

Chairman: Senator, wrap up there because I've a question to ask as well.

Ms Mary O'Dea: -----"We consider the outcome for the bank or not the State"-----

Senator Marc MacSharry: You did say you'd give me a bit of extra time.

Chairman: No ... and I would expect you to ask an assigned question in that time as well, so I'm going to take it now. Can I ask you, Ms O'Dea, the IMF mission in 2009 referred to the lack of a resolution regime. Can you explain the Financial Regulator's views on the need for a resolution regime in 2009?

Ms Mary O'Dea: Well, now we have a special resolution regime actually across Europe and individually. At the time and actually, to me, it's a clear sign that nobody envisaged what was going to happen across Europe because there was no special resolution regime for banks. Banks have to be treated differently, as we now know, in terms of how they're resolved. It has to be done in a particular way and the IMF were simply pointing out that this should be a standard part of the toolkit for any regulatory crisis.

Chairman: Okay, thank you. Next up is Senator Barrett. Senator Barrett, you have six minutes.

Senator Sean D. Barrett: Thank you, Chairman. Just taking up the Chairman's question to you there, if I may, and you're welcome, Ms O'Dea. What was your experience of the interaction with the international authorities during 2009?

Ms Mary O'Dea: During 2009 we had that IMF mission and that's ... to be honest with you, most of it was actually domestic interaction. I had very little interaction with the other authorities.

Senator Sean D. Barrett: And with the European authorities?

Ms Mary O'Dea: Very little interaction with them.

Senator Sean D. Barrett: And ... you know, given that we've been building the single currency for ten years and it was obviously getting into trouble and we knew that so much was going wrong in Ireland, was it not strange that we didn't interact with the Europeans through that period?

Ms Mary O'Dea: Well, I believe my colleagues in the Central Bank would have had a lot of interaction with the ECB at that time but they took the lead role in all of those and the Governor would have attended governing council meetings and all the various sub-committee meetings. There was no supervisory committee or supervisory involvement with the ECB at that time.

Senator Sean D. Barrett: On your document No. 1, if I may, Vol.1, on page 9, it says in section vi), "In addition to the above mainly domestic responsibilities, they *contribute to promoting improvements in the international financial system*, mainly through involvement in

international fora.” And that was a 2003 document. Were we doing that in the lead-in to the crisis?

Ms Mary O’Dea: This is the Governor now you’re talking about?

Senator Sean D. Barrett: The duties of the Governor and the board.

Ms Mary O’Dea: Yes ... well, at that stage, I think that would have been within the Central Bank’s mandate, I wasn’t within the Central Bank at that time, Senator.

Senator Sean D. Barrett: The World Economic Forum in 2009 rated the soundness of Irish banks at 121 out of 122 countries that reported. Were there no alarm bells going on through this period?

Ms Mary O’Dea: Unfortunately, no. There were no alarm bells going on through the period. Obviously, there was concern about credit but everybody, including myself, bought into the soft landing theory and I think, you know, various people in other international fora like the IMF, the OECD and others, also bought into that.

Senator Sean D. Barrett: And just over the page on 11 of that document at No. 9, there’s “Financial Stability and Membership of Committees”. It states:

The parties ... [now this involved both the regulator and the Central Bank] will cooperate fully in their relations with and participation in international fora on financial stability issues. In some cases, this will involve dual representation in certain fora. In cases where only one party is represented, the other undertakes to contribute information and advice in advance of any meeting. The party attending will fully brief the other after the meeting.

Did that mechanism actually operate in the period between 2003, when it was drawn up, and 2009?

Ms Mary O’Dea: Well, at that time I was consumer director and in that capacity, for most of that period, I wasn’t a member of the financial stability committee, so I didn’t actually see that operating. I can’t tell you one way or the other because I didn’t actually see that operating.

Senator Sean D. Barrett: I mean ... in all of this the €64 billion and the other damage ... outweighed, I think, what might be the price of a cheque book or consumer interest. Were there concerns about the instability generated by international capital flows, for example?

Ms Mary O’Dea: Yes, I think these are issues that would have been on the radar of the Central Bank and perhaps discussed at the financial stability committee. But during all of that period, as consumer director I wasn’t involved or privy to those discussions.

Senator Sean D. Barrett: The dangers of foreign denominated debt, did that enter into the discussions?

Ms Mary O’Dea: Again, you know, the same issue ... I wasn’t involved in those discussions.

Senator Sean D. Barrett: Bank credit growing on average at 30% per annum in some of the years and some banks way in excess of that. Were those kinds of issues discussed?

Ms Mary O’Dea: The issue of credit growth definitely was discussed. The issue of credit growth was discussed several times. Eventually, there was the additional capital requirements,

as you know, in relation to the CRD, that were brought in which were unfortunately too late and not sufficient enough and, of course, the issue of credit growth as I have already explained to you in my consumer role, led to the particular actions we took there.

Senator Sean D. Barrett: Did you make any contribution to bringing our problems to Europe, you know, as the country that had the worst bank crisis as a percentage of GDP?

Ms Mary O'Dea: Do you ... in what period are you talking about?

Senator Sean D. Barrett: In the lead up to ... to the crisis. We have the impression that some of this came as a surprise in Frankfurt and Brussels but were we alerting people that the situation had deteriorated so much more than in the other member countries of the eurozone?

Ms Mary O'Dea: I'm afraid I can't help you on that because I wouldn't have been involved in any of those discussions with Europe in my capacity.

Senator Sean D. Barrett: Were there contrarians in the Central Bank?

Chairman: Time to wrap up there now, Senator.

Senator Sean D. Barrett: Thank you. This is the last one, Chairman. Thank you very much.

Chairman: Okay, this is the last question with regard to contrarians.

Ms Mary O'Dea: Well, certainly I think by, you know, talking about 2009 when I was the acting chief executive there were all sorts of things, possibilities and all sorts of things discussed and nothing was ruled out at that stage. I think we had seen so many very unusual things happen and such tragic disaster for us that we ruled nothing out at that stage.

Senator Sean D. Barrett: Thank you very much. And thanks, Chairman.

Deputy Pearse Doherty: Go raibh maith agat, a Chathaoirligh. Fáilte romhat, Ms O'Dea. Can I first ask you during your period as acting CEO of the Financial Regulator you'd initiated a number of changes to increase the intensity of banking supervision. Can you describe to the committee some of the key changes you made during that period?

Ms Mary O'Dea: Yes, if you just bear with me for a moment, I just made a reminder of them here. So one of the things we did was we increased the reporting. We had reports on things but they were, unfortunately, not frequent enough for us, so we increased the periodic reporting in profitability, impairment provisioning, regulatory capital liquidity, lending and governance, and then we had a monthly report where we could analyse these. We also sat on ... some of the inspectors would sit in at board meetings or credit committee meetings so that we could see them operating in practice. One of the things, I think, that we had learned at that stage was that we had been overly focused on the process and not so much on the outcome. And that by actually sitting in at the board meetings you could see the outcome and we were very, very focused on credit and credit decisions at that particular time.

Deputy Pearse Doherty: Okay. You mentioned, and correct me if I'm wrong, to Deputy McGrath that during your period, principles regulation was not active, that you weren't practising. Is that correct?

Ms Mary O'Dea: Yes.

Deputy Pearse Doherty: So what, what type of regulation were you practising?

Ms Mary O'Dea: Well, I would call it intrusive regulation. More challenging regulation is what I would call it. And again, rather than check the model, we were checking the outcome. We were engaging with the banks, we were much more challenging with the banks.

Deputy Pearse Doherty: So my understanding, and obviously I am a lay person in this here, there's principles-based regulation or there's rules-based regulation. I didn't know that there was a middle one called intrusive regulation. Is that an international standard-type of regulation?

Ms Mary O'Dea: No, I think what the ... the strategy of the current regulator is an intrusive model of regulation. But, actually, principles-based regulation has a lot of rules. There was an awful lot of rules that were set out. And this is a really important point actually, because when we came to do some of our investigations, some of our particular investigations, one of the things that we looked at were what rules were there that could have been breached whether or not they were set out by Europe or whether or not they were in law. And we were then able to either report those if they were into the legal territory or liaise with the guards and this was something I did in my time to say, "Can we go ahead and pursue some of these breaches of the requirements without infecting any process that you have?" So we liaised with the guards in relation to that.

Deputy Pearse Doherty: The principles of the Financial Regulator appeared in the annual report of 2006 for the first time in public which outlined the nine principles in ... principle No. 8 talks about the that the financial institutions have to comply with any rules that are laid down by the Financial Regulator. Did you scrap those principles when you took ... when you abandoned principles-based regulation or were they still in place?

Ms Mary O'Dea: No, to be honest with you, Deputy, when I took on the role, I took on the role for three months. We were in absolute crisis mode. We certainly weren't revising rules at that stage. We were at that stage making sure that we could stabilise the situation and stabilise the situation in a way that we could understand what the problems were and feed into the system. So ... so I wouldn't like you to think that we were sitting back and inventing a new-----

Deputy Pearse Doherty: No-----

Ms Mary O'Dea: -----a whole new type. We were viewing regulation differently.

Deputy Pearse Doherty: Yes, but that ... that ... that's what I want you to explain to me because I get a sense that you applied the same principles-based regulation, but you just applied them more intrusively. There was ... you didn't ... you didn't have to change any rules, you didn't have to have a change of documents, you just actually decided to send investigators into the banks, which were always the power within principles-based regulation and asked for more reports and asked for more documents. Is that not the case that there was no real change to the type of the regulation, it's just how you applied the type of regulation?

Ms Mary O'Dea: Well, there was a huge change in the practice. So I think that's what you are asking me, is it?

Deputy Pearse Doherty: Everything that was done-----

Ms Mary O'Dea: Was it the practice of regulation-----

Deputy Pearse Doherty: -----under your term, could it have been done without any change to the principles in the previous term of the Financial Regulator?

Ms Mary O'Dea: Well, the big ... the significant change in the law that we had was the guarantee scheme.

Deputy Pearse Doherty: Yes.

Ms Mary O'Dea: So the guarantee scheme had been introduced which put certain provisions on the banks, certain things that the banks had to do. But you are right to say that the law elsewhere hadn't changed. The practice of doing regulation had changed not just in Ireland, actually, but it had changed everywhere.

Deputy Pearse Doherty: Can I ask you in relation to ... it's in Vol. 1, page 4 ... it's a document ... it's the first meeting of the implementation group on further reform of regulatory structures held on 24 June 2009. There was discussion about the press release, I think, from the Government sent out on June 18 2009 and I'll quote from the document. It says: "The reference to a specific differential regulatory focus for international financial services located in Ireland. The Central Bank's-----

Chairman: I'll have to push you for time.

Deputy Pearse Doherty: Yes, I'll finish at this: "The Central Bank's concerned that this might be perceived in the market as us suggesting lighter tough regulatory approach for IFSC entities than to domestic entities which could have negative reputational consequences for new structures". So the question I am asking you is: what were the concerns of the ... at the time in relation to this idea of light-touch regulation for IFSC? And during your period of acting regulator of ... of the Financial Regulator ... did you have to deal with legacy issues of IFSC banks, for example, like Depfa Bank-----

Ms Mary O'Dea: Well, we were very concerned and the reference that you point out there is an accurate reflection of what happened at the meeting that we were very concerned that there would be any suggestion that we would not take the same level of intrusive regulation with the IFSC entities as we would with the domestic banks. And we thought that this would be very negative both as a matter of substance and also as a matter of reputation. So we did actually say that we don't want any perceptions whatsoever and drew the attention of the parties, the Government parties to that to say that they should be very careful how this was phrased because we didn't want to have that differentiation. And then in terms of the day-to-day dealings, the main focus of 2009 was very much on the domestic banks. The main focus was on the domestic banks. There were also discussions with other international regulators about banks who had a presence here. So there were discussions around that but the principal focus was on the domestic banks.

Chairman: Deputy, I will move towards a wrap-up. Just to come back to some earlier issues, just to tidy it up. Just because or as you've said yourself, Ms O'Dea, no enforcement sanctions were taken. Does that mean that no other action was taken and if other action was taken, could you tell the committee what that action actually was or were?

Ms Mary O'Dea: Can I just check with you, Chairman, what period you are referring to?

Chairman: It would have been 2002 to 2009, right through the whole period.

Ms Mary O'Dea: Well, if I ... if I can explain to you, first of all, in 2009 the type of action that we take. We did take specific enforcement action at that time and if you could just bear with me for one quick moment, I will be able to give you the detail of that. As I recall, it was about ten sanctions that we took in 2009 ranging up to-----

Chairman: Is that consumer or prudential?

Ms Mary O'Dea: These were prudential. So 2009 in my period as acting chief executive. One of them was for €2.75 million; one of them was in relation to a reporting requirement - that was a bank; the other was in relation to a reporting requirement from a bank, that was €600,000; and the smallest of them, I think, from memory is ... was about €7,500.

Chairman: And the 2005 to 2009 period?

Ms Mary O'Dea: And in the 2005 to 2009 period on the prudential side only are you talking about? In relation to the prudential side, I don't know of specific enforcement actions that were taken there.

Chairman: And on the consumer regulatory side?

Ms Mary O'Dea: On the consumer, I don't have them all to hand but we took many enforcement actions. We published them all in the annual report over that number of years and we focused on particular themes every year.

Chairman: And in your opening statement you mentioned, on page 3 and 4, the supervisory powers were extended and over 70 engagements were held in 2009 and fines resulted from these. From what sort of breaches did these fines result and was there a particular issue that was uncovered repeatedly?

Ms Mary O'Dea: What page is it on, Chairman?

Chairman: It's from your own opening statement, pages 3 and 4. You can refer to it.

Ms Mary O'Dea: So that is 2009. Again, it depended on the issue. One of the things at the time that we were very intolerant of was regulatory reporting issues. The information was absolutely crucial to the decisions that we made, so if banks were not reporting information accurately, we took a very serious view of that and immediately moved towards a sanction regime.

Chairman: We'll move to wrap up. Deputy Phelan.

Deputy John Paul Phelan: Thank you, Chair. Briefly, Ms O'Dea, I just want to ask was the excessive credit growth that took place in the economy a matter that should have been covered or looked into or examined by the regulator or the Central Bank in the period which we are discussing?

Ms Mary O'Dea: I think both. I think both organisations, and I answered another question in relation to the structure, about having a clear level of role and responsibilities. My understanding all through that time was that the Central Bank clearly had the role for systemic financial stability and I think the build-up of a credit bubble within the economy falls within that jurisdiction. Also my understanding was that the regulator had responsibility for looking at the micro-prudential areas, so I think the build-up of credit within particular institutions would fall within that.

Deputy John Paul Phelan: I only have two minutes left. I want to ask you, in relation to your time in the IMF, were you involved in reviewing the implementation of the bailout programme in relation to Ireland in that time?

Ms Mary O'Dea: Are you talking about my time after the acting chief executive, when I moved?

Deputy John Paul Phelan: Yes, were you involved in-----

Ms Mary O'Dea: And I'm okay to answer that, Chairman?

Chairman: You can.

Ms Mary O'Dea: Yes, so at that time I was Ireland's representative on the board of the IMF and part of your function is to liaise with the staff and the authorities here in terms of the review missions for the bailout programme.

Deputy John Paul Phelan: I don't want to get involved in, in details of discussions that took place but I do want to reference page 56 of the 9th IMF review, dated April 2013 states that: "Teams from the EC and ECB as well as Mary O'Dea and Michael Hough from the Executive Director's office participated in ... discussions".

Chairman: Be careful now, a new line of questioning.

Deputy John Paul Phelan: Yes, that's fair enough. Did you find it strange to be acting for the IMF in its bailout review, in light of the fact that the bailout was necessitated by a banking collapse that took place following on from your time as a senior executive and board member of the Financial Regulator in Ireland?

Chairman: That could be leading.

Deputy John Paul Phelan: Strange or not-----

Chairman: Incongruous.

Deputy John Paul Phelan: What were your views when that was happening?

Ms Mary O'Dea: My role in the IMF, did you say April 2013?

Deputy John Paul Phelan: Yes.

Ms Mary O'Dea: Yes, my role in the IMF in April 2013 was as alternate executive director, as Ireland's representative. And as Ireland's representative, I made sure that the negotiations between the staff - and the staff form an independent opinion, independent of the country representative in relation to their view - so that the relations between the staff and the Government authorities got the best outcome for Ireland, and indeed for the IMF.

Deputy John Paul Phelan: I understand, but my time is just elapsing. What were your own personal views? You had been a senior executive, as well as a board member at the Financial Regulator in Ireland, during the financial collapse. You were, I think, second in command in commercial banking in the Central Bank prior to your appointment to the consumer affairs division. What were your emotions when you were involved in those reviews?

Chairman: The question has been made. Ms O'Dea.

Ms Mary O'Dea: Well, I think, you know, as someone who had been proposed by Governor Honohan and nominated by the Minister, I felt I had, certainly had the ability and experience to act in the role representing Ireland and I did that to the best of my ability.

Chairman: Deputy Higgins.

Deputy Joe Higgins: Ms O'Dea, you were supposed to be there to protect the consumer, the ordinary person. Between 1996 and 2006, the price of a home for an ordinary person increased by the equivalent of the average industrial wage each year for ten years. Now, the profiteering and the speculation that was responsible for that situation was driven by massive lending by the banks, including the banks taking wholesale funds from international institutions and laying them out, and then changing rules like mortgages increased from their parents 20 years to 35 or 40 years, etc., etc., so that young people who were desperate to start a home, you know, were forced to go under this system. Did your office and the Financial Regulator board fail miserably to protect young people caught in this bind or not?

Ms Mary O'Dea: Well, I think it's absolutely true to say that the regulatory system that was used - you talk about a period from 1996 to 2006 - actually there was many changes I think in the system over that time, and it did fail here, it failed internationally, it failed in Europe. And I think that is absolutely true and as consumer director, as somebody who held the position of consumer director, I think it absolutely true to say that consumers are in a very difficult position and I regret that the regulator was unable to prevent that situation.

Deputy Joe Higgins: But Ms O'Dea what puzzles me is this: I mean, this was the subject of massive publicity, conversation and controversy, just the simple price of a home for an ordinary person, we are not talking about people buying to let or landlords or speculators or whatsoever. And the fact that the regulatory system didn't go into a mode of alarm and opposition to this and try and stop it, why did that happen when it was so obvious how the ... this generation was just being screwed to the wall by what was going on by banks and developers?

Ms Mary O'Dea: Well, I think that in terms of the inflation of house prices that was caused by the property bubble, we bought in, as did the IMF, the OECD and others, bought into the soft landing approach. What we did do, and I think it's important to say what we did do in relation to the consumer protection area was, we did many, many information campaigns warning consumers about the size of their mortgage, what their mortgage cost, and in fact one of the things that sticks-----

Deputy Joe Higgins: Ms O'Dea, with respect-----

Chairman: Put the question, Deputy, and then-----

Deputy Joe Higgins: -----young people needed homes, starting families etc. They were put into a position of blackmail by common consent, that's not a leading question-----

Chairman: Sorry, that's a leading question now, Deputy, please, so-----

Deputy Joe Higgins: It isn't a leading question. If you wanted a home, the people who had the homes sold them to you at this ... at these incredible conditions and prices, etc.

Chairman: That's a ... Ms O'Dea.

Deputy Joe Higgins: Leave the soft landing out of it, just what was happening and what was going to happen to young people, did that not set alarm bells ringing?

Chairman: Deputy, we are running way over time, I have to push you out. Ms O'Dea, the response please.

Ms Mary O'Dea: Yes, and I think what we did in that regard ... one of the things that sticks in my mind was warning consumers that the price of their mortgage was often more than the price of their house and pointing out to them - especially the longer the term of the mortgage - and pointing out to them that apart from whatever they were paying for their house, be it €280,000, that their mortgage might even be costing them more than that. And we tried to point this out to people at the time. We had no control over the price of the actual house at the time.

Chairman: And this brings me right back to where we are going, and I'm going to sum up with this. At the end of this process, Ms O'Dea, this committee is going to make findings, findings with statements of fact and recommendations and this will be one of the areas that we will be specifically referring to in our report. You spoke all morning about the advice that you were giving customers outside there and potential customers. I want to get down to the detail of what you were doing with the banks during that time. So can I ask you, you mentioned that the banks have to do affordability checks on high loan-to-value mortgages. When you continued to see that the high-value mortgages were being handed out by banks, despite your guidelines, which you just spoke about the moment, were any investigations ever done into the affordability checks that were done by the banks?

Ms Mary O'Dea: Yes, we did do inspections in relation to affordability and, of course, part of the issue around the time was that people's earnings capacity at that stage were much higher, so we did actually check those on the ground. Now the code came in in 2007-----

Chairman: Who ... who was doing it? The banking supervision team or the consumer protection staff? Who were doing the inspections-----

Ms Mary O'Dea: The consumer protection staff.

Chairman: Okay.

Ms Mary O'Dea: And the code came in in 2007 and I think it would have been, you know, later 2009, 2010, my successors who would have looked at enforcements in relation to that for mortgages that may have been proved to be unsuitable later on.

Chairman: Okay. And just to complete the matters ... a conclusion, they ... it's just on ... on your opening statement of page 8, you say ... this is the top of the page, "Today we're unlikely to know the genesis of the next crisis so we need to have a system which can react quickly to changing circumstances including domestic, European, and international circumstances." An ... An implied statement there, I would think, is that every crisis begins with the assumption that it's different now. My-----

Ms Mary O'Dea: Exactly.

Chairman: Is there anything by means of closure that you would like to add to this committee's work, because part of our job, or a significant part of it, is to look to the future to ensure that we don't have crisis like this revisited upon us again.

Ms Mary O'Dea: The only thing I would say, I think, is that we need to be very careful about the practice. There's a lot of discussion internationally, not just in Ireland, about the structures, about the rules, about how things are set up. To me, I think the practice is just as

important, if not more important, and I think that would be something to watch carefully for the future.

Chairman: Okay. Thank you very much, Ms O’Dea. With that said I’m going to bring matters to a ... a conclusion with your own engagement this morning, and thank you for your participation and for your engagement with the inquiry. And now to excuse you, and propose that the meeting be suspended until 11.50 a.m., that’s ten minutes time, when we will hear from Mr. Cyril Roux, deputy governor of the Central Bank of Ireland. Okay, well I ... what’s happening ... I’m going to private session there. I’m saying ten minutes and people are coming back in 15. If I say 15 they’ll be back in 20. Okay? So if I say ten for 15 minutes, we’ll be back in 15. Okay? Thank you.

Sitting suspended at 11.42 a.m. and resumed at 12.04 p.m.

Central Bank-Financial Regulator - Mr. Cyril Roux

Chairman: With members’ permission, I now call the committee back into public session. Is that agreed? Agreed. And the Committee of Inquiry into the Banking Crisis now resuming in public session, I can remind members and those in the public Gallery to ensure that their mobile devices are switched off. Today we are now continuing our hearings with senior officials in the Central Bank of Ireland and Financial Regulator and, our next session, we will now hear from Mr. Cyril Roux, deputy governor of the financial regulation, Central Bank.

Mr. Cyril Roux was appointed to the position of deputy governor of the Central Bank on 1 October 2013 with responsibility for financial regulation. Prior to taking up the role, he served as first deputy secretary general at the French insurance supervisory authority. He also served as a board member of the ANC, the French accounting standard-setting authority. Mr. Roux, you’re very welcome to the committee today.

Before hearing from the witness, I wish to advise the witness that by virtue of section 17(2) (l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to this committee. If you are directed by the Chair to cease giving evidence in relation to a particular matter and you continue to do so, you are entitled thereafter only to a qualified privilege in respect of your evidence. You’re directed that only evidence connected with the subject matter of these proceedings is to be given and I would remind members and those present that there are currently criminal proceedings ongoing and further criminal proceedings are scheduled during the lifetime of the inquiry, which overlap with the subject matter of the inquiry. Therefore, the utmost caution should be taken not to prejudice those proceedings.

In addition, there are particular obligations of professional secrecy on officers of the Central Bank in respect of confidential information that they have come across in the course of their duties. This stems from European and Irish law, including section 33AK of the Central Bank Act 1942. The banking inquiry also has obligations of professional secrecy in terms of some of the information which has been provided to it by the Central Bank. These obligations have been taken into account by the committee and will affect the questions asked and the answers which can be lawfully given in today’s proceedings. In addition, it will mean that some information can be dealt with on a summary or aggregate basis only, such that individual institutions will not be identifiable.

Members of the public are reminded that photography is prohibited in the committee room.