Tithe an Oireachtais
Houses of the Oireachtas

Joint Committee of Inquiry into the Banking Crisis

Witness Statement of

Adrian Byrne

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[1] *See s.37 of the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act 2013*

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Statement of Adrian Byrne

28 July 2015

Background

By way of background, I joined the Central Bank on 1 December 1972 and worked in the Banking Supervision Department from that date to 3 April 2003. I was Head of the Department in the Central Bank from 1 April 1995 to 3 April 2003. I was never Head of Banking Supervision in IFSRA.

I served as a full time Personal Advisor to the Assistant Director General (Liam O'Reilly, who was appointed CEO of Irish Financial Services Regulatory Authority ("IFSRA") on 1 May 2003) from 4 April 2003 to the date of my retirement from the Bank on 28 August 2003.

Following my retirement I continued to work as an Advisor to Liam O'Reilly, on a contract/ part time basis, for a further 2 years ending on 28 August 2005.

My work as an Advisor related, almost exclusively, to the establishment and implementation of a new supervisory system for Credit Unions. I should stress that as Personal Advisor to Liam O'Reilly, I had no involvement whatsoever with matters relating to prudential supervision of banks (i.e. from 4 April 2003 to 31 August 2005). My involvement with banking supervision ceased totally on 3 April 2003.

Request for Written Statement

The Joint Committee has asked me to make a Statement in writing on a list of questions relative to my role as Head of Banking Supervision in IFSRA, Personal Advisor to Liam O'Reilly of IFSRA and any other roles in the Central Bank of Ireland.

As a preliminary point I should say that while I am very pleased to assist the Joint Committee in any way I can, I am not in a position to provide substantive responses to the questions posed by the Joint Committee because they relate to a period during which I had no involvement whatsoever in banking supervision.

Whilst I was formerly Head of Banking Supervision with the Central Bank, I was never Head of Banking Supervision in IFSRA. In addition, my role as Personal Advisor to Liam O'Reilly did not involve prudential banking supervision. Finally, I confirm that I had no role in the Central Bank other than those mentioned above. It is therefore difficult for me to answer the questions posed by the Committee as they refer to IFSRA, as my role, pre-retirement on 3 April 2003, was in the Central Bank and thereafter related to matters concerning the new supervisory system for Credit Unions.

Against the above background, I set out my responses to the questions posed by the Joint Committee below.

R1a - Appropriateness of regulatory regime

Question 1

The Memorandum of Understanding between the CB and the FR dealt with the responsibilities of both the CBFSAI and IFSRA. Was there clarity on what should have been dealt with by the Financial Regulator Board or by the Central Bank Board?

I was unaware of the existence of this MOU prior to receiving a copy from the Inquiry. The MOU appears to have been drafted and then finalised at a time when I was winding down my work in the Central Bank in preparation for retirement. During this period I was not involved in matters relating to new regulations or legislation coming down the tracks as it was considered more appropriate for such matters to be dealt with by individuals in the Central Bank who would be continuing on in their roles and taking the work of the Department forward. I have since read the document and it does appear to provide clarity, in general terms, on what should be dealt with by the Financial Regulator and the Central Bank. It would also appear that the Central Bank and Financial Services Authority of Ireland Act, 2003 (the "2003 Act") provided further detail in this regard and that the MOU would have (or should have) been read in the context of the 2003 Act.

Question 2

Do you believe that the FR and the IFSRA Boards had sufficient powers to take direct action against banks - if it became necessary to avoid a financial stability crisis? Can you assess how these powers were used and whether in your belief, their use was effective?

The IFSRA Board, to the best of my knowledge, had sufficient powers to take direct action against banks in order to avoid a financial stability crisis. I would not be as familiar with the specific provisions of the 2003 Act, however, I am aware that the 2003 Act is in part, a consolidation of previous legislation relating to the Central Bank. I would have been extremely familiar with the legislative regime in place prior to the coming into force of the 2003 Act and I am aware that the provisions of the previous legislation conferred various powers on the Central Bank such as the power to issue sanctions, to revoke or attach conditions to a banking licence, to remove of director, and to issue a direction to increase capital or to cease taking deposits or to stop advertising.

I do not know to what extent such powers were used by IFSRA, however they were clearly not successful.

R1b - Effectiveness and appropriateness of the supervision policy and powers

Question 3

One of the statutory objectives of the CB was 'the promotion of the financial services industry in Ireland'. In your view was there a conflict between this objective and the Financial Regulator's responsibility for prudential supervision?

A conflict of interest could arise between IFSRA's obligation to promote financial services and to carry out its prudential supervision function. While I am not aware of any such conflict arising, section 6A(2)(a) of the Central Bank Act, 1942 (as inserted by section 7 of the 2003 Act) provides that one of the Central Bank's key objectives is to contribute to the stability of the financial system. In addition, the former section 5A(1)(b) (now replaced) of the Central Bank Act, 1942 (as inserted by Section 5 of the 2003 Act), appears to say that in the event of such conflict arising, prudential considerations should prevail.

Question 4

The Financial Regulator proposed a number of initiatives to impose more explicit requirements on banks (e.g. the Director's compliance Statements, Corporate Governance Guidelines and the Fit and Proper Requirements). These proposals were not or not fully successful. What was your view of these initiatives and can you describe the circumstances in which the Financial Regulator chose not to implement the original proposals these initiatives?

I am not aware of all of the initiatives taken by the Financial Regulator to impose more explicit requirements on banks but I have knowledge of those relating to Director's Compliance Statements, Corporate Governance Guidelines, and Fit and Proper Requirements. In my view these requirements were necessary and appropriate.

I do not know whether the initiatives taken were fully implemented or successful.

<u>R1d - Composition, skills, experience and number of resources at the Central Bank, Regulator and Department of Finance</u>

Question 6

In your view did the Financial Regulator have sufficient staff to carry out its tasks in relation to Prudential Regulation, Consumer Protection, the introduction of the IFRS/Capital directive and its other statutory roles? If the Financial Regulator lacked sufficient staff and resources to carry out all of these roles can you explain why additional staff were not hired?

Based on what I know from published reports on the banking crisis and from media coverage, it would seem to me that the Financial Regulator was under staffed and under resourced to carry out its statutory function. I do not know why the Financial Regulator did not hire additional staff to carry out these roles.

<u>R3b- Nature and appropriateness of the relationship between the Central Bank (including the Financial Regulator), Department of Finance and the Banking Institutions.</u>

Question 9

Looking back to the period leading to the crisis, what is your view on what is called "Constructive Ambiguity"? Was it effective or did it possibly obscure the hard realities of the liquidity and solvency issues of the banks?

I do not know how "Constructive Ambiguity" was used (or not used) by the CBFSAI in carrying out its functions. Therefore, I am unable to give a view on this matter due to insufficient knowledge on the matter.

<u>R6a- Adequacy and impact of international organisation's oversight on banking regulation and supervision activity.</u>

Question 10

Do you judge the IMF country reports and OECD reports as an important information instrument to aid in banking regulation, banking supervision and financial stability issues? If yes, why, if not, why not?

I do not have any direct experience in dealing with the OECD reports referred to in the question.

As I recall, the IMF prepared 2 types of reports in relation to the work of the Central Bank, namely country reports (which were prepared on a regular basis) and also from time to time, special reports on banking supervision. I was not involved with the country reports, however I did have contact with the IMF in relation to its special reports, which involved on-site reviews of the Central Bank's prudential supervisory powers and system. The IMF measured its findings against best international practice and I do not recall any serious weakness arising from those reviews.

Adrian Byrne

28 July 2015