



TITHE AN OIREACHTAIS

**AN COMHCHOISTE UM AIRGEADAS, CAITEACHAS
POIBLÍ AGUS ATHCHÓIRIÚ**

**Tuarascáil ar Dhréacht-Scéim
Ghinearálta Bhille an Bhainc
Ceannais, 2014**

Aibreán 2014

HOUSES OF THE OIREACHTAS

**JOINT COMMITTEE ON FINANCE, PUBLIC
EXPENDITURE AND REFORM**

**Report on the
Draft General Scheme of the
Central Bank Bill 2014**

April 2014

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Meeting 26 March 2014

Introduction

The draft heads of the Central Bank Bill 2014 ("the Bill") were furnished to the Joint Committee on Finance, Public Expenditure and Reform on 19 March, 2014. As the Department of Finance had indicated that the Minister would be seeking approval to publish the Bill shortly thereafter with a view to its enactment by the end of April, 2014, the Joint Committee decided to undertake pre-legislative scrutiny at an early date. For this purpose, the Joint Committee met officials of the Department of Finance on 26 March, 2014. The Joint Committee wishes to thank the officials for their participation.

Late notification to it of the draft heads of the Bill militated against more thorough scrutiny by the Committee. In particular, the very limited time available did not permit the Committee to consider inviting submissions from stakeholders.

Procedural basis for pre-legislative scrutiny

Standing Order 123A [Dáil] provides that "[p]rior to its presentation or introduction to the Dáil, the general scheme or draft heads of a Bill shall, save in exceptional circumstances....., be given by a member of the Government or a Minister of State to the Committee empowered under Standing Order 82A to consider Bills published by the member of the Government.".

Standing Order 82A [Dáil] and 70A [Seanad] provide that a Joint Committee "may consider.....in respect of the relevant Department or Departments.....", "the general scheme or draft heads of any Bill published by the Minister." The Joint Committee is required by these Standing Orders to report on its consideration to both Houses of the Oireachtas.

Proceedings of the Joint Committee on 26 March, 2014

Following receipt by it of the draft heads of the Bill, the Joint Committee invited the Minister for Finance to meet it to assist the Committee with its consideration. As the Minister was unavailable, the Joint Committee met instead with the following officials of the Department of Finance:

- Mr. Fergal Ó Brolcháin, Principal Officer, EU and International Division,
- Mr. Antoine Mac Donncha, Head of the Legal Unit,
- Mr. Enda Newton, Senior Lawyer, Financial Services Division, and
- Mr. Paul Keogh, Assistant Principal Officer, Financial Services Division.

The unrevised official report of the meeting is appended (*Appendix 3*). The main issues raised by members of the Joint Committee are set out below. These issues should not be taken as the views of the Committee which has not drawn any conclusions or made any recommendations on the content of the draft heads:

1. Members asked whether or not consideration had been given by the Government to seeking for Ireland a financial assistance arrangement of the kind established for Greece under the European Stability Mechanism and compared the measures put in place for Greece with those put in place for Ireland.
2. Although supportive of the principle of providing assistance to Greece, members questioned the officials on the possibility that a failure by Greece to redeem its bonds could result in Ireland not recovering the financial assistance to be provided under the Bill.
3. The potential for loans transferred under the terms of the Bill from ICS Building Society to Bank of Ireland to be purchased ultimately by an unregulated third party was discussed. Members expressed concern that, in such circumstances, protections currently available to mortgage-holders in the form of the Financial Services Ombudsman and the Code of Conduct for Mortgage Arrears could be removed. It was suggested that it be provided in the Bill that assets could only be sold on to regulated purchasers.
4. Members asked whether the nature of the mortgage arrears solutions available to holders of ICS Building Society mortgages

would change as a result of the transfer of their loans to Bank of Ireland.

5. Concern was expressed that mortgage-holders and depositors with ICS Building Society should be informed that legislation that could substantially affect their loans or deposits was imminent.
6. Members suggested that it would be appropriate that customers of ICS Building Society be consulted as part of the pre-legislative scrutiny process. The roles of the Department of Finance and the Committee in relation to consultation of stakeholders were discussed.

Recommendation

The Joint Committee understands that the draft heads of the Bill were agreed by the Government in December, 2013. However, these were not sent to the Committee until 19 March, 2014. The short time available between transmission to the Joint Committee of the draft heads and the publication of the Bill by the Minister limited the opportunity for the Committee (i) to consider the draft heads fully and (ii) to communicate adequately its views to the Houses and to the Minister before publication. The Joint Committee understands that a Protocol is in course of preparation which will provide for the way in which pre-legislative scrutiny will operate as between the Houses and the Government.

The Committee ***recommends*** that the Protocol provide that the draft heads of a Bill be given by the relevant Minister to the Joint Committee as soon as practicable following the approval of them by the Government.



Ciarán Lynch TD,
Chairman
15 April, 2014

APPENDIX 1

MEMBERS OF THE JOINT COMMITTEE

JOINT COMMITTEE ON FINANCE, PUBLIC EXPENDITURE AND REFORM

List of Members¹

Chairman:	Ciarán Lynch (LAB) ²
Deputies:	Richard Boyd Barrett (PBP) Michael Creed (FG) Pearse Doherty (SF) Regina Doherty (FG) ³ Stephen S. Donnelly (IND) Timmy Dooley (FF) ⁴ Alan Farrell (FG) ⁵ Seán Fleming (FF) Simon Harris (FG) ⁶ Joe Higgins (SP) Heather Humphreys (FG) Kevin Humphreys (LAB) Mary Lou McDonald (SF) Michael McGrath (FF) Dara Murphy (FG) ⁷ Kieran O'Donnell (FG) Aodhán Ó Ríordáin (LAB) ⁸ Arthur Spring (LAB) Brian Stanley (SF) ⁹ Liam Twomey (FG) (Vice-Chair)
Senators:	Seán D. Barrett (IND) Thomas Byrne (FF) Paul Coghlan (FG) ¹⁰ Michael D'Arcy (FG) Aideen Hayden (LAB) Tom Sheahan (FG)

¹ Deputies appointed to the Committee by order of the Dáil on 9 June 2011; Senators appointed to the Committee by order of the Seanad on 16 June 2011. Deputy Alex White elected as Chairman on 23 June 2011; Deputy Liam Twomey elected as Vice-Chairman on 23 June 2011.

² Deputy Alex White promoted Minister of State 2 October 2012; Deputy Ciarán Lynch replaced Deputy White by order of the Dáil on 10 October 2012 and was elected Chairman 10 October 2012.

³ Deputy Regina Doherty appointed on 3 July 2013 in place of Deputy Peter Mathews.

⁴ Deputy Timmy Dooley appointed on 21 June 2011 in place of Deputy Seán Ó Fearghail.

⁵ Deputy Paschal Donohoe appointed on 3 July 2013 in place of Deputy Billy Timmins and discharged on his appointment as Minister of State 12 July 2013 being replaced by Deputy Alan Farrell by order of the Dáil on 18 July 2013.

⁶ Deputy Simon Harris appointed on 28 November 2012 in place of Deputy Jim Daly.

⁷ Deputy Dara Murphy appointed on 19 July 2012 in place of Deputy Olivia Mitchell.

⁸ Deputy Aodhán Ó Ríordáin appointed on 28 November 2012 in place of Deputy Michael McNamara who was appointed on 8 December 2011 in place of Deputy Thomas P. Broughan.

⁹ Deputy Brian Stanley appointed on 25 September 2012 in place of Deputy Pádraig Mac Lochlainn who was appointed on 14 December 2011 in place of Deputy Jonathan O'Brien.

¹⁰ Senator Paul Coghlan appointed on 14 June 2012 in place of Senator Denis O'Donovan who was appointed on 10 May 2012 in place of Senator Katherine Zappone.

APPENDIX 2

DRAFT HEADS OF THE CENTRAL BANK BILL 2014

Head 1: There may be paid out of the Central Fund or the growing produce of that Fund sums, not exceeding €160,000,000 in aggregate, to enable the State to make payments in the years from 2014 to 2026 to the account established by the ESM (within the meaning of the European Stability Mechanism Act 2012), as agent on behalf of the euro area Member States, to receive payments for the purpose of providing financial assistance to the Hellenic Republic.

Explanatory note:

This amendment enables the State to make contributions as set out in the body of this memorandum.

Head 2: Amend the Central Bank Act 1971 as follows:

Amend the Central Bank Act 1971 as follows:

In Section 33 subsection (1) line 1 insert the words “or ICS Building Society” after the words “whenever the holder of a licence.”

In Section 33A subsection (2) line 7 insert the words “or in the case of ICS Building Society being a transferor the Governor and Company of the Bank of Ireland or any subsidiary of the Governor and Company of the Bank of Ireland” after the words “holding companies”

Explanatory note:

The first amendment is intended to enable ICS to act as a transferor for the purposes of this part notwithstanding that ICS does not hold a banking licence.

The second amendment is necessary because the ICS building society is not a subsidiary of Bank of Ireland within the meaning of the companies acts, although Bank of Ireland do have economic ownership of the ICS building society.

APPENDIX 3

UNREVISED OFFICIAL REPORT OF THE JOINT COMMITTEE MEETING 26 MARCH 2014

DÁIL ÉIREANN

AN COMHCHOISTE UM AIRGEADAS, CAITEACHAS POIBLÍ AND ATHCHÓIRIÚ

JOINT COMMITTEE ON FINANCE, PUBLIC EXPENDITURE AND REFORM

Dé Céadaoin, 26 Márta 2014

Wednesday, 26 March 2014

The Joint Committee met at 3.30 p.m.

MEMBERS PRESENT:

Deputy Richard Boyd Barrett,	Senator Thomas Byrne,
Deputy Pearse Doherty,	Senator Aideen Hayden,
Deputy Stephen S. Donnelly,	Senator John Kelly.*
Deputy Anne Ferris,*	
Deputy Joe Higgins,	
Deputy Kevin Humphreys,	
Deputy Michael McGrath,	
Deputy Dara Murphy,	
Deputy Brendan Ryan,*	
Deputy Arthur Spring,	

* In the absence of Deputies Simon Harris and Liam Twomey, and Senator Tom Sheahan, respectively.

DEPUTY CIARÁN LYNCH IN THE CHAIR.

The joint committee met in private session until 4.16 p.m.

Draft Heads of Central Bank Bill 2014: Department of Finance

Chairman: Before we commence business, I remind members, witnesses and those in the Visitors Gallery that all mobile telephones should be switched off to avoid interference with the broadcasting of this meeting.

I welcome the officials from the Department of Finance to this meeting. We are joined by Mr. Feargal Ó Brolcháin, principal officer in the EU and international division, Mr. Antoine Mac Donncha, head of the legal unit, Mr. Enda Newton, senior lawyer in the financial services division and Mr. Paul Keogh, assistant principal officer in the financial services division. An written invitation to attend was sent to the Minister, Deputy Noonan, but I understand he is not in a position to attend.

The witnesses are here to assist the committee in its examination of the draft heads of the Central Bank Bill 2014. These draft heads were referred to the joint committee last Wednesday, 19 March and I understand the Minister intends to seek the approval of the Government next week to publish the Bill, with a view to enactment by the end of April or as soon as practical after that. Procedures relating to consideration by committees of the draft heads of Bills are relatively new and the Houses of the Oireachtas Service is finalising a protocol with Departments aimed at ensuring the system works smoothly and that committees can do their work properly. Timely notice of the heads of the Bill and adequate time for consideration at committee is part of this. That said, discussion will begin with opening remarks from Mr. Ó Brolcháin and Mr. Mac Donncha, following which members may put appropriate questions.

I advise witnesses 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. However, if they are directed by the committee to cease giving evidence in respect of a particular matter and they continue to do so, they are entitled thereafter only to a qualified privilege in respect of their evidence. Witnesses are directed that only evidence connected with the subject matter of these proceedings is to be given and are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable.

Mr. Feargal Ó Brolcháin: We are dealing with the draft heads of the Central Bank Bill 2014. This legislation has two purposes, the first of which is to extend Part 3 of the Central Bank Act 1971 so that it will apply to building societies as well as to banks. Specifically, this will make provision for the effective and expeditious transfer of the business and other assets and liabilities of building societies, and for those and other purposes to amend the Central Bank Act 1971. The second purpose is to make provision for certain payments out of the central fund to the account established by the European Stability Mechanism, ESM, as agent on behalf of the euro area member states to receive payments for the purpose of providing financial assistance to the Hellenic Republic and for related matters. I will deal with the measure for the Hellenic Republic while my colleague Mr. Mac Donncha will deal with the amendment of the Central Bank Act.

The second purpose of the Bill relates to measures for the Hellenic Republic, which I will refer to as Greece from now on. This is to provide a legislative basis for Ireland to make trans-

fers to an intermediate account operated by the ESM on behalf of the euro area member states. These transfers are to be an amount equivalent to the income that accrues to the Central Bank of Ireland from the securities market programme portfolio of Greek Government debt. In November 2012, as part of a package of measures designed to help Greece, the euro area member states agreed that the securities market programme-related income of member states would be transferred to Greece under certain conditions. In January 2013 the euro area member states agreed that the ESM would be the agent for making such a payment.

The ESM accordingly established an intermediate account into which the euro area member states can place an amount equivalent to the income of the securities market programme portfolios accruing to the national central banks as from budget year 2013. Member states under a full financial assistance programme are not required to participate in this scheme for the period in which they are in receipt of financial assistance. As Ireland exited its EU-IMF programme of financial assistance in December 2013, the measure now applies to us. The next transfer date for this measure is 1 July 2014, which is the earliest date by which Ireland could be required to make a payment. The necessary legislation needs to be in place by then.

Mr. Antoine Mac Donncha: The essence of this aspect of the legislation is to extend the application of Part III of the Central Bank Act 1971 from its current application, whereby it applies to banks only, to also apply to building societies. Only one building society exists in the State, ICS Building Society. The extension will enable the transfer of assets and liabilities from building societies to banks. There is existing legislation analogous to Part III of the 1971 Act which applies to building societies under Part X of the Building Societies Act 1989, however those provisions would enable the transfer of engagements from ICS only to another building society, of which there are none.

In July 2013, Bank of Ireland agreed an amendment to its restructuring plan which had been agreed with the European Commission in respect of the State aid received by Bank of Ireland. This amendment allowed Bank of Ireland to retain its life assurance subsidiary, New Ireland Assurance Company. As part of this amendment Bank of Ireland committed to certain substitution measures which included the sale of the ICS distribution platform together with, at the option of any acquirer, up to €1 billion of mortgages and up to €1 billion of matching deposits. Bank of Ireland has until 30 June 2014 to execute this commitment. Bank of Ireland is not required to sell ICS, rather to offer certain specified assets and liabilities of ICS for sale. To facilitate this potential sale, the State committed to enact appropriate legislation by 31 December 2013. This deadline has not been met but the Department of Finance has continued to liaise with the European Commission to keep it informed of our progress.

The Central Bank Act 1971 can be used by banks as it stands to transfer between each other their assets and liabilities under a scheme of transfer. Part III transfer schemes have been used successfully many times. This legislation is not currently available to a building society but is limited exclusively to banks. The amendments proposed in these heads of Bill would bring building societies within the scope of the existing provisions which apply to banks and enable the transfer of assets and liabilities from ICS to a bank pursuant to that framework. Any transfer of assets and liabilities pursuant to the 1971 Act is subject to the approval of the Minister for Finance after consultation with the Central Bank.

If the Bill is enacted, it is anticipated that ICS would apply, pursuant to Part III of the 1971 Act, to transfer of the bulk of its assets and liabilities to Bank of Ireland. It is further anticipated that an onward transfer of some of those assets and liabilities to a third party could subsequently be effected. The restructuring plan agreed between Bank of Ireland and the European Com-

mission requires that the Commission would approve any purchaser of the ICS platform. The primary purpose of this condition in the restructuring plan is to enhance competition in the mortgage intermediaries market.

Deputy Michael McGrath: I thank Mr. Ó Brolcháin, Mr. Mac Donncha and their colleagues. The provision relating to ICS-Bank of Ireland resulted from an amendment to the restructuring plan which was approved by the European Commission. It was part of that process and was a condition which had to be put through. For ICS to effect that amendment, an amendment is required to the Central Bank legislation so that assets can be first transferred to Bank of Ireland, which can then sell them on. Is that what is happening here?

Mr. Antoine Mac Donncha: That is correct. As part of that restructuring plan the State committed to enact the necessary legislation which would enable the transfer of the ICS platform to take place. The mechanism we are using to give effect to that undertaking is to amend the 1971 Act. We could potentially have legislated in other ways to do it but this is the way we are giving effect to it.

Deputy Michael McGrath: Is Bank of Ireland required to put on the market mortgages of up to €1 billion and batched deposits, assets and liabilities, in matching amounts up to €1 billion?

Mr. Antoine Mac Donncha: Yes, it is required to put the platform at the option of the acquirer of these assets and deposits, to make them available for sale. It is not required to sell them. That is because the Commission is anxious that there would be further competition in that sector of the market. It is to facilitate a new entrant potentially acquiring that platform and entering the market, or another organisation strengthening its position.

Deputy Michael McGrath: It is not required to sell them, just to put them on the market.

Mr. Antoine Mac Donncha: That is correct.

Deputy Michael McGrath: What is the logic of that?

Mr. Feargal Ó Brolcháin: Presumably the Commission did not want to require Bank of Ireland to sell them without knowing whether there was somebody interested in acquiring them.

Deputy Michael McGrath: Whether or not to sell would remain a commercial decision of the bank. Is that the position? That is outside the Bill but I am trying to understand the transaction we are trying to facilitate.

Mr. Paul Keogh: Initially Bank of Ireland has to put the distribution platform up for sale. Potentially there might be an acquirer which is interested only in the platform, not in loans and deposits.

Deputy Michael McGrath: What is the platform?

Mr. Paul Keogh: The platform is the broker network, contacts, contracts, IT platform and the ICS brand.

Deputy Michael McGrath: It is the infrastructure.

Mr. Paul Keogh: Exactly. The bank is required to put that up for sale together with the option for the potential acquirer to include loans and deposits.

Deputy Michael McGrath: To do that, the amendment is required so the assets and liabilities can first be transferred to Bank of Ireland.

Mr. Paul Keogh: Yes.

Deputy Michael McGrath: Mr. Mac Donncha indicated that ICS is the only building society in the country. Under the Central Bank legislation it cannot transfer anything to a bank.

Mr. Antoine Mac Donncha: That is correct. Under the 1971 Act as it stands ICS cannot transfer its assets and liabilities because only a bank can use that provision as matters stand.

Deputy Michael McGrath: I will move on to Greece and the ESM. Is the securities market programme the precursor to outright monetary transactions, OMT? Could Mr. Ó Brolcháin explain what happened here? Did the ECB intervene as part of one of the bailouts for Greece and buy bonds on the markets? Is it the interest income deriving from that which has been distributed to the constituent central banks of the eurozone we are dealing with here? Could Mr. Ó Brolcháin explain the background?

Mr. Feargal Ó Brolcháin: The securities markets programme was discontinued when OMT was announced. In that sense it could be seen as a precursor. The securities market programme was announced by the ECB in 2010. The aim was to address tensions in certain market segments which it considered were hampering monetary policy transmission mechanisms. Under the programme, euro area national central banks and the ECB could conduct interventions in the euro area public and private debt securities markets. It began in May 2010 and the last purchases took place in February 2012. The programme was formally terminated in September 2012.

Deputy Michael McGrath: What about the Greek Government bonds?

Mr. Feargal Ó Brolcháin: It bought the government bonds of a number of countries, including Ireland, Portugal, Greece, Spain and Italy.

Deputy Michael McGrath: Secondary markets.

Mr. Feargal Ó Brolcháin: Yes, that is right.

Deputy Michael McGrath: What about the money being disbursed here?

Mr. Feargal Ó Brolcháin: I will get the correct form of words. It is the equivalent of the income that accrues to the Central Bank. An estimate was made of this and finalised in approximately May 2013. The distribution will be made on that estimate. This was part of a package of measures agreed for Greece in November 2012. As we were in a programme we were not required to provide for it but as we are now out of a programme and we agreed to do this, we need to make provision for those disbursements.

Deputy Michael McGrath: How much is involved?

Mr. Feargal Ó Brolcháin: In the draft head there is a figure of €160 million. That would have included the disbursement for 2013. As of 2014, the amount is just under €126 million spread out up to approximately 2026. For the current year the amount is approximately €31 million.

Deputy Michael McGrath: Until now the figure is approximately €160 million but going

forward each year-----

Mr. Feargal Ó Brolcháin: No. Ireland's share of the total amount would have been €160 million; excluding the 2013 accrual, for which we were not liable because we were in a programme, the amount is just under €126 million.

Deputy Michael McGrath: Over how many years is that spread?

Mr. Feargal Ó Brolcháin: It is spread to 2026 in declining amounts. The bigger amounts arise in the earlier years.

Deputy Michael McGrath: This arrangement is unique to Greece.

Mr. Feargal Ó Brolcháin: It was part of a package arranged for Greece. There were a number of measures involved, including deferral of interest payments, reduction of interest, elimination of margin and so on. These were outlined in a Dáil debate on the legislation for the interest rate reduction in early 2013 but I can outline them again. They were specific to Greece. The disbursement is subject to conditionality, so certain conditions must be met in order for Greece to receive the additional funding.

Deputy Michael McGrath: To clarify the flow of money, it is to provide a legislative basis for Ireland to make transfers to an intermediate account operated by the European Stability Mechanism, ESM.

Mr. Feargal Ó Brolcháin: The ESM is providing an account. It is not an ESM facility as such but rather a multilateral facility from euro area member states to Greece. The ESM is facilitating this and providing an administration or banking function.

Deputy Michael McGrath: In Ireland's case, from where will the money come?

Mr. Feargal Ó Brolcháin: The money will come from the Central Fund.

Deputy Michael McGrath: It will go from the Central Fund to an intermediate account and onwards to Greek authorities.

Mr. Feargal Ó Brolcháin: It will go to the Greek authorities subject to the relevant conditionality being satisfied by the troika process.

Deputy Kevin Humphreys: I will take up where Deputy Michael McGrath finished. On 1 July the payment will be €31 million.

Mr. Feargal Ó Brolcháin: Yes.

Deputy Kevin Humphreys: Is there a schedule of payments for the second, third and fourth years? Are they equal payments?

Mr. Feargal Ó Brolcháin: There is a schedule and the payments are not equal but rather declining. In 2015 it will be €24 million and in 2016 it will be €18 million.

Deputy Kevin Humphreys: I have not received the documentation. Will the payments always fall on 1 July?

Mr. Feargal Ó Brolcháin: Yes.

Deputy Kevin Humphreys: What are the payments for the next three years?

Mr. Feargal Ó Brolcháin: In 2014 the payment will be €31 million, in 2015 the payment will be €24 million and in 2016 the payment will be €18 million.

Deputy Kevin Humphreys: Do the payments decline until the end?

Mr. Feargal Ó Brolcháin: They decline up to 2026.

Deputy Kevin Humphreys: What will be the last payment in 2026?

Mr. Feargal Ó Brolcháin: It is €1 million.

Deputy Kevin Humphreys: There is a downwards trend.

Mr. Feargal Ó Brolcháin: Yes. There is a rapid fall after 2018.

Deputy Kevin Humphreys: There was a figure of between €7 billion and €9 billion mentioned for the Greek bailout package. There was an agreement across all the central banks.

Mr. Feargal Ó Brolcháin: Strictly speaking, the agreement was among member states to provide an amount equivalent to the profit accruing to their national central bank.

Deputy Kevin Humphreys: Is there an overall figure for that?

Mr. Feargal Ó Brolcháin: The overall figure is €10 billion.

Deputy Kevin Humphreys: Some work was done by the Central Bank in that regard that resulted in a technical paper on security market programmes. Was there any consideration of the benefit that would have accrued if we got a similar package. We had distressed bonds purchased by member states and if we received a similar package, we would have been looking at an accrued figure paid over a similar period of €3 billion. Is that correct?

Mr. Feargal Ó Brolcháin: I cannot confirm that and would have to check. As I pointed out, this approach concerns measures determined for Greek purposes. As I noted, the disbursement continues subject to conditionality.

Deputy Kevin Humphreys: Will the witness confirm there was a technical paper done on the security market programme? Did it confirm the amount of accrual back to Ireland of approximately €3 billion? I do not expect the witness to have the figure.

Mr. Feargal Ó Brolcháin: I do not have the information to hand but I can check it and revert.

Deputy Kevin Humphreys: This concerns senior members of the Central Bank. Did Ireland seek a similar deal to that received by Greece?

Chairman: The officials are from the Department of Finance and note the Central Bank.

Deputy Kevin Humphreys: It is even more relevant to the Department of Finance. Was a similar deal sought?

Mr. Feargal Ó Brolcháin: This issue was addressed when another piece of legislation relating to this package of measures was in the Dáil early last year. The position outlined at the time was that these measures were considered applicable to Greece. Ireland, as a country heading to the exit of its programme, had different requirements and we would seek measures appropriate to Ireland. As I noted, all the measures provided for Greece come with conditionality

attached. We have exited our programme and its specific conditionality. Other measures were provided to us, including extension of maturities of the European Financial Stability Facility and ESM loans, as well as the arrangement for the promissory notes, both of which are very important to Ireland.

Deputy Kevin Humphreys: Yes. This is also just part of a package that Greece received. I raised this with the Minister for Finance last year when the matter came through the Dáil, and his answer was that Ireland is not Greece.

Mr. Feargal Ó Brolcháin: It is important to point out the disbursement of this funding over the period is subject to conditions being satisfied. Further conditionality could be attached but that has not yet been sought.

Deputy Pearse Doherty: This is urgent legislation that was supposed to be introduced. There was an attempt to append the Greek part of this to the Central Bank (Supervision and Enforcement) Act.

Mr. Feargal Ó Brolcháin: No, it was the Credit Reporting Bill.

Deputy Pearse Doherty: When I heard the committee would discuss the heads of this Bill I thought I should set aside a lot of time because Department officials have missed deadlines. Then I saw this paragraph. What is so tricky about this? It looks quite simple but I know sometimes it is not that simple and involves a lot of work and contact with the Attorney General and the Central Bank. Yet, what is before us seems very simple.

Mr. Feargal Ó Brolcháin: The Greek measure was a small item of legislation. We thought for the sake of convenience it could be attached to another Bill. That was not well received and in view of that response the Minister considered it was not appropriate to do that. It could have been done soon afterwards, late last year, but the other issue relating to the ICS measure was current and the two were attached and finalising the ICS measure was more complex.

The Greek measure needs to be done by 1 July but the ICS element is more urgent.

Deputy Pearse Doherty: There was a deadline for the ICS element, which was missed but looking at the heads of the Bill it seems quite simple. What was the delay? I support the idea of not attaching this to the Credit Reporting Bill because that was important in its own right. Why was the deadline for the ICS element missed? Why was it so difficult to produce this head?

Mr. Antoine Mac Donncha: Although the head was reasonably straightforward it threw out some issues that needed to be negotiated very carefully with the Attorney General's office. Preparing it for the deadline of 31 December is one thing but we have to wait for the next vehicle, or legislation, to which it can be attached. It is travelling with this legislation on its own rather than wait for a vehicle to come along. That is partly why there is a gap.

We have been liaising with the European Commission. The legislation is a commitment in the restructuring plan to enable any onward sale but in the run-up to Christmas there was no immediate, pressing prospect of a sale of the ICS platform so there was no particular reason to have the legislation in place to facilitate that.

Deputy Pearse Doherty: I was just interested in that.

Let us go back to the Greek part of this, the ESM. The witnesses said this State would disburse €124 million to the Greek Government up to 2026.

Mr. Feargal Ó Brolcháin: It is €126 million.

Deputy Pearse Doherty: How much of that would be in feta cheese? The Minister told us our connections are very small, only a bit of feta cheese here and there. That would amount to quite a few baskets of it.

Why is the €160 million written here, if the amount is €126 million? What are the variables?

Mr. Feargal Ó Brolcháin: The figure of €160 million was the total figure, including 2013. We will probably suggest that it be changed to €126 million. That will be subject to decision.

Deputy Pearse Doherty: Does the 2013 payment not have to be paid?

Mr. Feargal Ó Brolcháin: No because we were in a programme at that time.

Deputy Pearse Doherty: We received €26 million from the Greeks in 2012, which was the interest we had accrued. That was in a response to a parliamentary question I tabled. Do we not have to pay that back?

Mr. Feargal Ó Brolcháin: No.

Deputy Pearse Doherty: The payment starts from 1 January 2014.

Mr. Feargal Ó Brolcháin: The interest on the Greek loan facility is separate. This is a separate measure. This relates to an imputed profit, or the equivalent of the profit that would accrue to the Irish Central Bank from the securities market programme purchases of Greek Government bonds.

The interest to which the Deputy refers is the interest on the euro area loan facility, which we call the Greek loan facility. We had an initial participation of some €345 million before we went into a programme. The interest on that is reducing. That was the subject of the legislation last year. It was part of these measures.

Deputy Pearse Doherty: The figure will come down to €126 million.

The payments are calculated on a sliding scale, starting with €31 million on 1 July. Can Mr. Ó Brolcháin explain the reducing effect?

Mr. Feargal Ó Brolcháin: The profit will accrue on redemption. The bonds might be bought on the secondary markets at a lower price than the price at which they issued but they are redeemed at the full price. Once they are redeemed the difference is the profit. The value at purchase would be known. They mature in the early years so there is a lot less maturing in the later years. Therefore because there is less maturing the amount of profit reduces accordingly. I do not know what the individual rate on these is but this is the calculation that was agreed and fixed at a point in time.

Deputy Pearse Doherty: I understand. Can Mr. Ó Brolcháin furnish the table for the sliding scale to the committee?

Mr. Feargal Ó Brolcháin: Yes. We can furnish the table.

Deputy Pearse Doherty: We mentioned earlier mixing both in terms of the reduction to 1% and the loans of €357 million issued, with the bonds, and the profit to be made by the Central Bank. Why are we agreeing this legislation for a country that is struggling when other

countries were not so generous to us when we were struggling?

Mr. Feargal Ó Brolcháin: There are several issues. The position outlined last year was that these were the measures considered appropriate to Greece, and Ireland would pursue measures appropriate to itself in the context of its exit from a programme. More fundamentally all these measures for Greece come with conditions attached. The question is whether it was appropriate to seek those measures and to continue in conditionality.

While we still face many challenges, the other euro member states would have to agree to this and the question is whether this was something one wanted to ask other euro member states, some of which, notwithstanding our current difficulties, have considerably lower GDP per head than we do. The decision was taken that there were other approaches more appropriate to Ireland. Other arrangements have been made for us in respect of the extension of maturities on our EFSM loans and the promissory note. To enact this legislation would be a breach of our commitment given in the November 2012 ECOFIN meeting. That would have consequences for international relations.

Mr. Feargal Ó Brolcháin: All such commitments by member states are made subject to national procedures and the necessary legislation being passed. I agree there would be international consequences and, particularly in respect of Greece, it would not appear to be a generous approach from a country that has just emerged from a programme.

Deputy Pearse Doherty: I can understand that. The Minister for Finance gave his commitment to the extent that he could, presumably on the advice of the officials before us, support this initiative for Greece. When we were being asked to support these measures in November 2012 and during the preceding months, did we at least ask for similar treatment for Ireland?

Mr. Feargal Ó Brolcháin: As I have already stated, we considered what would be appropriate in Ireland's circumstances. A key element of the measures for Greece was that conditionality would attach to them for their duration. The last disbursement for Greece will be 2026.

Deputy Pearse Doherty: Was that a "Yes" or a "No"?

Mr. Feargal Ó Brolcháin: The answer is that we did not ask for this at the time.

Deputy Pearse Doherty: I wish to ask some technical questions to clarify the issues arising in respect of legislation I am currently drafting. The legislative programme mentions a security markets programme Bill, which amends the Central Bank Act 1971. Is that Bill related?

Mr. Feargal Ó Brolcháin: This is the same Bill.

Deputy Pearse Doherty: There is a separate Central Bank Bill in section C. Is that a different Bill?

Mr. Antoine Mac Donncha: It is a different Bill.

Deputy Pearse Doherty: What will happen when ICS transfers its mortgage and home loan assets to Bank of Ireland? There is potential for an unregulated third party to purchase those loans, in which case we will have a repeat of what is already under way in terms of mortgage holders no longer being protected by the Financial Ombudsman and the code of conduct on mortgage arrears. Has that issue been considered or is it not relevant to the current discussion?

Mr. Antoine Mac Donncha: When departmental officials appeared before this commit-

tee several weeks ago, we noted that we were exploring legislation to address that issue in the broader sense across the system. It cannot be ruled out that an unregulated financial service provider might ultimately try to acquire these assets. That is not something we are aware is likely to happen but clearly it is not impossible and the statutory scheme would not necessarily preclude it. However, it is worth bearing in mind that the purpose of including in the restructuring plan the requirement to sell assets on is to encourage competition in that sector of the market. For somebody to participate properly and compete in that sector of the market, authorisations would be required. I suggest the Commission would be unlikely to approve a sale to somebody who was seeking to acquire these mortgages simply to extract value from them and who was not operating actively in the market to generate business. It is much less likely in this instance that the assets would travel to an unregulated provider but clearly it cannot be ruled out.

Deputy Pearse Doherty: Even in the case of an institution, such as AIB or Bank of Ireland, which operates in the market, the protection of the Financial Ombudsman and the code of conduct is required because people are still using these facilities to protect their interests. It is not the case that the protections would not be needed. I will not support the legislation if it facilitates the sale of €1 billion in home loans to an unregulated third party and leaves mortgage holders without protection.

Mr. Antoine Mac Donncha: To clarify my previous answer, the Commission is unlikely to approve a transfer to an unregulated financial service provider because it would not offer the competition it seeks for the sector. I cannot say that is certain, however. The legislation enables the transfer of assets from ICS to Bank of Ireland, or any bank that is a regulated financial services provider subject to the code of conduct and other protections. It is anticipated that there will be an onward sale. It is not clear at this stage who will ultimately acquire the assets but there is no indication as matters stand that they will be sold in a subsequent sale to somebody who is not a regulated financial service provider.

Chairman: As we are pressed for time, I ask Deputy Pearse Doherty to conclude now or else I can give him an opportunity to speak later.

Deputy Pearse Doherty: I have only one question. I am sure we will have ample time to debate the Bill on Second and Committee Stages. Could we include a provision that the assets can only be sold on to regulated institutions given that the Bill only amends the Central Bank Acts in respect of ICS?

Mr. Antoine Mac Donncha: Effectively, the Bill enables the anticipated transfer of assets from ICS to Bank of Ireland. Those assets will then be held by a regulated financial service provider, along with all the other assets currently held by Bank of Ireland, and they will occupy exactly the same legal position as the bank's other assets.

Deputy Pearse Doherty: The problem is that we know these assets will be sold on to a third party. We do not have that knowledge in respect of the other assets in Bank of Ireland. If that bank was to sell a big loan book, Mr. Mac Donncha can rest assured that Opposition Deputies, at least, would argue that the same protections should be put in place. It stretches our generosity to ask us to facilitate the transfer of assets in the knowledge that they will be sold to a third party which could be unregulated and it is not something I am willing to approve. Mr. Mac Donncha still has not answered my question on why we cannot include a provision preventing the transfer of the assets. That would not address the broader issue but we know this will happen soon after the legislation is passed. The excuses given on the other transaction

related to the role of the special liquidator and potential court cases. There is no such excuse in this context.

Mr. Enda Newton: I refer the Deputy to the protections afforded by virtue of requiring the Commission's approval for any transaction that may occur in respect of these assets. In order to receive the Commission's approval, a prospective purchaser must be reasonably expected to obtain the necessary approvals from a relevant regulatory authority. There is a certain security in considering the matter from the Commission's perspective and realising that if it is appropriate and necessary for approvals to be sought, the Commission would require this before it approved the transaction. The Commission has a role to play in authorising certain transactions, having regard to the regulatory status of the purchaser.

Deputy Stephen S. Donnelly: I will begin where Deputy Doherty left off. I would love to share Mr. Newton's optimism but I do not trust the European Commission for one second, given all that it has been party to in respect of this country. Nor do I trust the Government, because the Minister, Deputy Noonan, has no difficulty allowing sales to happen without any protections of the type of which Mr. Newton speaks. For what Mr. Newton is suggesting to be true, the European Commission would have to be insisting on a higher level of guarantee than the Minister for Finance and Government are happy with. It is not Mr. Newton's area, as this is an area of policy, but I do not share his comfort in any way. The Minister, Deputy Noonan, will happily allow these assets be sold to the highest bidder, and to hell with the mortgage holders, just as he is doing in letting the special liquidator for IBRC do what it is doing. The Government's position on this is clear.

The question Deputy Doherty asked, which was not answered, was whether we can legally ring-fence these assets as they transfer into Bank of Ireland so that under Irish law - I will not be relying on the European Commission to protect anyone in Ireland - Bank of Ireland could be prevented from selling them on to an unregulated entity.

Mr. Antoine Mac Donncha: The primary difficulty with that approach would be that if we were to introduce a provision of that nature, anybody who is looking to purchase any assets from Bank of Ireland thereafter would have to satisfy himself or herself that those assets were not part of this bundle of mortgages, for example, that transferred in from ICS, and that would inevitably lead to enormous complications down the line. If one tries to differentiate a particular class of assets such as that which will be transferred into a larger pool, one will give rise inevitably to legal complications. That is aside entirely from the fact that would, I suggest, inevitably give rise to issues as to whether Bank of Ireland would be well advised to seek to transfer from ICS into Bank of Ireland to invoke that sort of restriction because of the complications or contamination effect it would be likely to have on the rest of the bank's pool of assets.

The issue of whether it would be legally possible is primarily a matter for the Attorney General, not necessarily us, to consider, but it is clear that it would certainly give rise to complexities if we were to attempt to do it.

It is worth bearing in mind that what is being proposed here is to effectively transfer from one regulated financial service provider to another. That is what the legislation is giving effect to.

Deputy Stephen S. Donnelly: It is not. Deputy Doherty has covered this. That may be what will be contained in the Bill, but it is clear that Bank of Ireland will have a requirement to sell on many of these assets and it is not true to state that all we are looking at here is a transfer

from ICS to Bank of Ireland. We are clearly looking at a transfer from ICS to Bank of Ireland to a third party. I cannot think of any regulated entity that will be interested in buying loan books in Ireland. None of them is buying any of the other loan books. Those who are coming in to buy them are the distressed asset specialists. They are the folk from Dallas and from all of those other places. Those folk are getting ready to start bidding on Bank of Ireland, Permanent TSB and all sorts of other distressed assets and we know that will happen. As for who will buy them, they will be bid for by the same unregulated entities that are bidding for the IBRC loan book. Whilst it might be technically true on this Bill, it is not accurate to state that all we are talking about is a transfer from ICS to Bank of Ireland.

Mr. Antoine Mac Donncha: We opened by outlining that it is anticipated that there will be a further transfer on. It is worth bearing in mind that the core of what is being transferred is the ICS platform. That is something that is of interest, not to an hedge fund which is looking to exact value out of existing assets but to somebody who will be generating business. Such a purchaser will almost inevitably be seeking authorisation. As matters stand, we have no indication whatsoever that there is any likelihood of this. First, it is not necessarily the case that the mortgages would be transferred on. That is something that will be there at the option of the purchaser - whether mortgages and matching deposits are included as part of the transaction. Even if they are, it is unlikely that any purchaser would not be a regulated financial service provider because it will want to maximise the value of the ICS platform.

Mr. Enda Newton: It is worth stating that the objective here is potentially the promotion of competition. If one buys a platform, one buys intellectual property and other assets that enable one to carry out a business, which, I am sure, any potential acquirer would intend to grow. There are options as to whether any particular acquirer acquires mortgages and matching deposits. I suppose it is not a foregone conclusion that any particular acquirer would acquire any mortgages or deposits. This is a measure that is intended to promote competition and competition, necessarily, from an acquirer's perspective, involves the growing of one's business. It would not necessarily attract the type of entities to which Deputy Donnelly referred.

Deputy Stephen S. Donnelly: I appreciate that it is not a foregone conclusion, although it would be most peculiar for any commercial entity to purchase a platform and not have a mortgage book behind that platform already working away. That would be a bizarre situation. While I accept that it is not a foregone conclusion, it is highly likely. One will not buy a platform without bringing the mortgage book in with it. One will not have the whole back end of a retail banking operation sitting there waiting for the first few mortgages to gain approval. One will have a mortgage book on which one's staff will work at the back end and one will add to and subtract from it all the time. Am I correct? There is no way anyone will buy a banking platform and not attach an existing loan book to it. Would Mr Newton agree?

Mr. Enda Newton: It is not really for me to say.

Deputy Stephen S. Donnelly: Right.

Mr. Enda Newton: Ultimately, from a purchaser's perspective, he or she will look at a mechanism for growing the business.

Deputy Stephen S. Donnelly: Does this effectively shut out ICS? The conversation we have just held suggests that ICS, as a brand and a retail network with all its IP, whatever that IP may be, will continue to exist. From the public's perspective, it will not see anything. This is an ownership issue. Essentially, ICS will continue to operate. The staff will continue to be

employed. There will, undoubtedly, be a loan book plugged in to the front end, the retail end. Is that the idea? The idea is not that ICS disappears and that this is essentially an asset transfer.

Mr. Antoine Mac Donncha: That is correct. Effectively, the brand is transferring. It is worth pointing out that the business is probably continuing, but not as a building society.

Deputy Stephen S. Donnelly: I thank Mr. Mac Donncha. Certainly, it is ironic for me to be concerned about loans leaving Bank of Ireland. To have one's mortgage owned by an unregulated entity will be an unenviable position for these mortgages holders to be in. Are they aware of any difference in approach to mortgage resolution solutions being applied to ICS customers as opposed to Bank of Ireland customers? On the basis that Bank of Ireland owns ICS, is it essentially the same suite of so-called solutions being used?

Mr. Antoine Mac Donncha: I am not aware of any distinction but I cannot tell Deputy Donnelly I am certain it is an identical approach that is taken in both.

Deputy Stephen S. Donnelly: Has the Department looked into that?

Mr. Antoine Mac Donncha: The Department is engaged in addressing mortgage arrears across the whole system. As to whether somebody has looked to clarify whether ICS customers are being treated in any way dissimilarly from Bank of Ireland main-company customers, I doubt if they are, but I am not aware of whether anyone has made that specific inquiry.

Deputy Stephen S. Donnelly: I thank Mr. Mac Donncha.

Mr. Antoine Mac Donncha: The Department would clearly be satisfied that the customers across the system are all being dealt with within a particular framework, which is the code of conduct on mortgage arrears.

Deputy Stephen S. Donnelly: Most, not all of them. Some of them have no protection from the CCMA.

Mr. Antoine Mac Donncha: Those in ICS or in Bank of Ireland would both be within the rubric of the CCMA, but I am not aware of whether a more granular approach for particular books is taken within that spectrum.

Deputy Stephen S. Donnelly: The reason I ask is that it is possible that ICS is getting a different suite of mortgage solutions and I fail to see anyone from Government or the Department, which goes to the heart of what is happening in IBRC, asking what are the implications of this law or policy for mortgage holders. Clearly, no one in the Department has asked that question in terms of IBRC. The Minister, Deputy Noonan, is on record as saying no Department official has even seen the special liquidator's report which refuses to allow the citizens and borrowers to bid for their own mortgages. Is anyone in the Department asking whether this adversely affects the mortgage holders?

Mr. Antoine Mac Donncha: That is something which is being carefully considered in the context of this transaction-----

Deputy Stephen S. Donnelly: Does it?

Mr. Antoine Mac Donncha: As the Deputy will be aware from our appearance here a number of weeks ago, the Department is actively exploring the possibility of legislating to protect mortgage holders who are transferred to unregulated financial service providers across

the system and not just in the context of this. As I have said, in this particular instance, it is not currently anticipated that it is likely that a purchaser which is not a regulated financial services provider will be acquiring this platform.

Deputy Stephen S. Donnelly: Is Mr. Mac Donncha saying that someone in the Department has asked whether this adversely affects the ICS borrowers?

Mr. Antoine Mac Donncha: Yes.

Deputy Stephen S. Donnelly: What is the Department's answer to that question?

Mr. Antoine Mac Donncha: It is something that is being considered in the context of the legislation, that is, whether or not borrowers or, indeed, depositors would be adversely affected. That is one of the factors that had to be considered in terms of the transfer. We are talking about a two-step process here. In terms of the legislation, the initial transfer is to Bank of Ireland, so it would not appear that there is any real adverse consequence for members from that aspect of it.

Deputy Stephen S. Donnelly: If the Department does not know whether there is any difference in approach to mortgage resolutions being used with ICS customers versus Bank of Ireland customers, how can it conclude that the ICS customers will not be adversely affected by being subsumed into Bank of Ireland?

Mr. Antoine Mac Donncha: I suppose the Department is aware that the customers in ICS and in Bank of Ireland are both being treated under the framework of the CCMA. We are clear that is the case so all of them are receiving the same level of protection that is extended across the system as a whole. I anticipate that if there were some particular difficulty in terms of contrast between ICS mortgage holders or Bank of Ireland mortgage holders, it is something of which we would be aware. I am not aware whether that particular inquiry has been made. That is not to say that I am certain nobody has looked at whether there is any difference in approach between ICS and Bank of Ireland. It is just that I am not in a position to say to the Deputy that somebody has looked at that specifically. I would be very surprised if there were any significant contrast in the approach being taken by Bank of Ireland, effectively, towards those mortgage holders who are in ICS and those who are in Bank of Ireland. I do not see any reason it would be likely to differentiate between them.

Deputy Stephen S. Donnelly: Mr. Mac Donncha has checked.

Mr. Antoine Mac Donncha: I have not checked.

Deputy Stephen S. Donnelly: No one in the Department has checked.

Deputy Stephen S. Donnelly: I am not aware whether anyone else in the Department has checked. It would not be my role to check that relationship in terms of ICS and Bank of Ireland.

Deputy Stephen S. Donnelly: Whose role would it be?

Mr. Antoine Mac Donncha: There are elements of the Department that supervise each of the various institutions.

Deputy Stephen S. Donnelly: I will leave that point which, I hope, has been reasonably well made. I do not believe the Department is asking the question as to whether this adversely affects the ICS customers in a meaningful way if no one in the Department has checked whether they are currently being treated in a different way. The answer may be that they are all under

the CCMA but AIB and Bank of Ireland customers are under the CCMA even though they are being treated in completely different ways by the two banks.

If the Department of Finance wants to credibly appear before this committee and say that it is satisfied that the Bill it will put before it will not adversely affect ICS borrowers, it must know whether they are currently being treated in a different way from Bank of Ireland borrowers. That is not an unreasonable thing to ask. Will someone in the Department take a look at that?

Mr. Antoine Mac Donncha: Yes.

Deputy Stephen S. Donnelly: I thank the witnesses.

Deputy Richard Boyd Barrett: Following on the same line of questioning, do we know how many customers, in particular mortgage holders, ICS has?

Mr. Antoine Mac Donncha: I am sure the Department is aware but I do not have that figure here.

Deputy Richard Boyd Barrett: Following on the same line of thought that we might consider the implication of this legislation for real human beings and families, maybe it would be useful to find that information out. Is there any intention on the part of the Department to notify or alert customers with ICS that legislation in the offing which could affect their mortgages or deposits. Has that been discussed?

Mr. Antoine Mac Donncha: The legislation, as it is framed, is an amendment to the 1971 Act. In that 1971 Act, there is a two-month period after a scheme is announced before any transfer would take place. Obviously, the mechanism that is there is the same as would be available if, for example, Bank of Ireland was transferring some of its-----

Deputy Richard Boyd Barrett: Is that after the legislation or before it?

Mr. Antoine Mac Donncha: As matters stand, the provision in the 1971 Act applies to banks, so if a bank was transferring assets and liabilities pursuant to that statutory scheme, there is a framework in place for notification. If this Bill is enacted, that same framework would apply to a building society - in this case ICS, being the only remaining building society in the State.

Deputy Richard Boyd Barrett: That means after the fact, or after legislation has been passed to facilitate the transfer of people's mortgages and deposits to Bank of Ireland to be sold on to some unknown party, they will be notified that this will happen. Am I correct?

Mr. Antoine Mac Donncha: Yes, if that mechanism was being utilised to transfer the assets and liabilities of ICS.

Deputy Richard Boyd Barrett: Am I not correct in saying that it will be utilised and that is why we are passing the legislation?

Mr. Antoine Mac Donncha: We anticipate it is likely to be utilised.

Deputy Richard Boyd Barrett: I thought it was a condition and that the European Commission requires this to happen.

Mr. Antoine Mac Donncha: Yes, but the Oireachtas has not passed this amendment yet, so that is why I am phrasing this conditionally. It is anticipated that is what will happen but the

Oireachtas could choose not to enact this amendment in which case it clearly will not happen. I cannot prejudge that.

Deputy Richard Boyd Barrett: That is slightly semantic. I understand-----

Chairman: Let us be clear. We are dealing with officials from the Department. They take a position in regard to going through the system.

Deputy Richard Boyd Barrett: I understand that and the constraints on them but from the point of view of the lay person, that is kind of semantic because, in reality, we will decide whether to pass legislation which is being put before the Dáil specifically for the purposes of transferring ICS to Bank of Ireland which then is required to sell it on.

Mr. Antoine Mac Donncha: To be clear, it is required to sell parts of ICS onwards and those specific parts being the distribution platform rather than the mortgage book itself.

Deputy Richard Boyd Barrett: We have established it is highly likely or possible that would be attached to a mortgage book.

Chairman: To assist the Deputy, the context of this meeting is pre-legislative scrutiny. It is not to challenge the Bill as such but to scrutinise it. The Deputy is making a very interesting observation in terms of scrutiny of the Bill that if the loan book of ICS moves in a particular direction, the customers of that loan book, whether their loans are in distress or are performing, would be given an indication as to where they are going. I think that was the Deputy's request.

Deputy Richard Boyd Barrett: It is that but I would go further. They should be informed that legislation pertaining to them and which could affect them in a very substantial way is now being discussed. They might have views. We just discussed whether it might be the case that Bank of Ireland would deal differently with mortgages than ICS or whether another third party purchaser might deal even more differently with them. We can speculate on that.

Would it not be fair and reasonable that we should hear from the mortgage holders, or at least that they should know about this and have the opportunity to express their views in the pre-legislative discussion because they might tell us building societies have quite a different regime in terms of how they deal with mortgage holders than banks. Building societies have quite a different regime to banks in terms of how they deal with mortgage holders. ICS might tell us. I do not know enough about ICS to say it but part of the reason a distinction was made between banks and building societies in the Central Bank Act 1971, which precluded them from selling on or transferring those assets, was precisely because of the unique character of building societies because they operated on a different philosophy, which one might argue is a slightly more benign, less commercially profit-orientated approach.

Mr. Antoine Mac Donncha: I will address both aspects of the question sequentially. The first element the Deputy asked about is whether people should be notified of the legislation. As matters stand, the Government has not decided to bring the legislation forward but it is something we anticipate it will do. If the decision is made – I am not trying to prejudge the Government but it is my expectation that it is likely to happen - then the legislation will be published and there will be an opportunity to engage with people before the legislation is ultimately debated and finalised in the Oireachtas. The Oireachtas has every prerogative to change, amend or reject the legislation as it sees fit.

In terms of the second element where Deputy Boyd Barrett is talking about the existing

building societies legislation permitting transfer of engagements only to another building society and the different regime that applies to building societies, it is correct to say that in general building societies were, for example, mutual organisations and the profit that would accrue would eventually go back to members. That is not the case any longer in terms of ICS because although it is a building society there is no economic ownership in the society by its members in the way that would have been the case in the past and as was traditionally the case with building societies. Effectively, the transfer from ICS to a bank is not the same as would have been the case if one was transferring from a traditional building society to a bank. One is really moving from like to like.

Deputy Richard Boyd Barrett: I accept that in many ways building societies have started to function like banks but that said, in ICS there might be a legacy in terms of how it deals with customers which means it has a slightly different approach from dealing with customers to banks, who some might argue – perhaps not me - have a more hard-headed approach with mortgage holders. There are questions to which we do not know the answers in terms of what this might mean for ICS customers. I do not know how we would do it but I suggest to the Chair that in discussing the heads of the Bill in the pre-legislative stage that ICS customers might be given the opportunity to give their views. I do not know if that is possible or how we would go about doing it.

Chairman: The issues are separate. The difference between pre-legislative scrutiny and consultancy is an ongoing bugbear. We do much pre-legislative scrutiny. Consultancy is an issue for the lead Department while the role of the committee is to scrutinise legislation. I say that bearing in mind that it is setting a precedent for other matters coming down the line. Distinguishing between one and the other is a bugbear with all committee Chairs. A composite position will be taken following today's meeting taking all statements into account. The point made about the legislation and the Department engaging consultants will be part of the report that will be finalised following the meeting.

Deputy Richard Boyd Barrett: In other words, there might be an opportunity for stakeholders to-----

Chairman: Yes, that will be an issue for the Department and its officials. It will not be an issue for the committee. Our job is to legislate; it is not to open up a consultancy on the matter. That is the recommendation we will make.

Deputy Richard Boyd Barrett: Do you mean now or later, Chairman?

Chairman: At the conclusion of the scrutiny a composite report will be drawn up on today's engagement with the officials. The recommendations, points and observations made by members will be forwarded to the Minister and his officials. That will conclude our scrutiny of the legislation. We will refer to the further facts arising, the matters that need to be examined and suggest what the legislation might need to contain. We will also indicate whether other stakeholders or groups might need to be involved in the consultation process.

Deputy Richard Boyd Barrett: I will have to think about the response. I would make the point to the Department and whoever is listening - I hope the Minister is listening – that some effort should be made to alert the customers that legislation is being considered which could impact on their mortgages or deposits so that they might have an opportunity to come forward and make their views known. We do not even know the number involved but it probably runs to thousands or tens of thousands. That is an entirely reasonable suggestion. I hope it will be

taken on board.

I wish to turn to the other issue relating to Greece in order to get clarity on it. Europe had a bond-buying programme whereby it bought Greek bonds on the secondary market at a significant discount, therefore anticipating a significant profit. We were part of that. The anticipated profit made from buying distressed Greek bonds will be given back to Greece. Europe, and Ireland as part of Europe, is making a benign decision not to profit from Greece's misery but to give the money back to Greece and the legislation will facilitate that. Is that a reasonable layman's summary of what we are doing?

Mr. Feargal Ó Brolcháin Yes, it is. It was not Europe it was the ECB that engaged in the bond-buying process, so it was one part of the EU institutions. Essentially, it is the estimated or imputed profit that would arise from the difference between the purchase price and the redemption value that would be returned to Greece on the basis of each member state's central bank's estimated share, as it were, of the profit. It is an amount that is equivalent to that.

Deputy Richard Boyd Barrett: The point has already been alluded to that it was a pity we did not get this deal or even ask for such a deal because the other side of the equation is that people did profit and are profiting from our distress and from purchasing our bonds at discounted rates and making the full whack on them because they knew we were going to pay every cent back at the point of redemption. The Government had made that clear. Europe decided not to offer such a deal and we decided not to ask for a similarly benign deal. That is shameful. Therefore, it seems reasonable we should do this for Greece but it is an awful pity we did not ask for the same for ourselves. Mr. Ó Brolcháin said the difference between the two situations is that there was conditionality on Greece getting this deal but there was conditionality on us too in terms of what we did or did not get, depending on how one looks at it. Is it not true that we had lots of conditions attached?

Mr. Feargal Ó Brolcháin We were subject to conditionality for the period while we were in a programme and we are not subject to conditionality following our exit from the programme. The disbursement of the funding for the continuing period will be subject to the satisfaction of conditionality. It will be subject to conditions continuing up to 2026 in the case of Greece.

Deputy Richard Boyd Barrett: I will not labour the point except to say that we are subject to conditionality still. There are all sorts of post-programme monitoring mechanisms.

Mr. Feargal Ó Brolcháin We are subject to post-programme monitoring and we are subject to the economic and fiscal policy co-ordination mechanisms that apply to all euro area member states under the six pack and the two pack.

Deputy Richard Boyd Barrett: Is it correct to say that we are giving the money in anticipation of a profit we will make?

Mr. Feargal Ó Brolcháin Let me put it this way-----

Deputy Richard Boyd Barrett: The reason I ask the question is because, if for any reason Greece defaulted, is it the case that we would not get the money back? Is that correct?

Mr. Feargal Ó Brolcháin: No, the point is this is an estimate of the profits to be made each year or, if one likes, of the income accruing to the Central Bank. It is the amount equivalent to the income that would accrue to the Central Bank. It is not an actual promise by the Central Bank; it is the member state providing an amount equivalent to that. In the event-----

Deputy Richard Boyd Barrett: To clarify, Ireland is putting in money now from the Central Fund, in anticipation of a profit we will make on the redemption of the bonds. If the bonds were not redeemed, for whatever reason, that is, were Greece to default, we would have given away the money and would not be getting it back. Am I correct?

Mr. Feargal Ó Brolcháin: The annual estimate is based on the assessment of what the income accruing in that year would be. Consequently, while a commitment is made forward on the income accruing, Ireland's share of that being €126 million, for any particular year, it is just the amount that is assessed to accrue in that year. For 2014, the assessment is that Ireland's share of the income that will accrue in 2014 will be €31 million and that is what is being provided. That obviously is based on an assessment that the bonds will be redeemed at par. It is an annual assessment and so it is the annual redemption each year.

Deputy Richard Boyd Barrett: No, I fully get that, because we are not talking about the interest, which is a different matter that was discussed earlier. However, if the bonds were not redeemed, we would not get our money back. Am I correct? I ask just so members know. As it happens, I still believe we probably should do it because it is a benign thing to do but if members are passing or discussing legislation, they should know what is involved. In this case, what is involved is that Ireland will be paying out money from the Central Fund in anticipation of making a profit from these bonds if they are redeemed. The assumption is they will be redeemed but it is possible that they might not be redeemed.

Mr. Feargal Ó Brolcháin: The payment in each year is not in anticipation. It is on the basis of the realised amount.

Deputy Richard Boyd Barrett: The full amount, that is, the €160 million.

Mr. Feargal Ó Brolcháin: It is €126 million.

Chairman: I must ask the Deputy to conclude as we are running out of time.

Mr. Feargal Ó Brolcháin: The amount in any particular year is what is estimated to be realised in that year. We are not paying an amount now in anticipation that this amount will be realised in a number of years' time. It is the amount that is to be realised this year.

Chairman: Does Deputy Boyd Barrett have a final question?

Deputy Richard Boyd Barrett: No, I will mull over that response.

Chairman: That said, I thank all the officials for their contributions to today's meeting and this discussion has been very useful. I propose that the joint committee prepare a report to the Houses to the effect that it has considered the draft heads and attach a transcript of this meeting, which will be adapted to elicit the main recommendations, findings and observations this evening. The draft report will be put to the joint committee for agreement at its next meeting. Is there any other business?

Deputy Richard Boyd Barrett: Although not many members are present, would the committee-----

Chairman: No, because the legislation is coming before the House in the next couple of weeks.

Deputy Richard Boyd Barrett: The legislation is being brought forward.

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Chairman: Moreover, the joint committee has other matters with banks appearing before it. I do not intend to open up a consultation process with anyone. That will not happen, as the joint committee does not have the time or the space. I do not wish to give people the illusion the joint committee is doing something when legislation is actually happening-----

Deputy Richard Boyd Barrett: It is up to members to ring the alarm bells individually, as it were.

Chairman: Our job is to scrutinise legislation this afternoon. That is what we are doing. If someone wishes to contact the bank or to make that recommendation, off with him or her. In addition, the points will be made in the report.

The joint committee adjourned at 5.35 p.m. *sine die*.