QUEEN'S UNIVERSITY BELFAST

APOLOGIES, ABUSES AND DEALING WITH THE PAST

THE IRISH BANKING CRISIS

E·S·R·C ECONOMIC & SOCIAL RESEARCH COUNCIL

Apologies, Abuses & Dealing with the Past

PREFACE

This background report was commissioned as part of the Apologies, Abuses & Dealing with the Past project – a three-year initiative funded by the Economic & Social Research Council.

The wider project explores the relationship between apologies, abuses and dealing with the past. Using the island of Ireland as a case-study, the project will explore a range of wider themes concerning the ways in which apologies have been constructed, delivered and received beyond the state. It focuses on apologies for harms inflicted by paramilitaries, state actors, churches and the corporate sector.

The project team are based at the Schools of Law; History, Anthropology, Philosophy and Politics (HAPP); and Social Sciences, Education and Social Work (SSESW) at Queen's University Belfast.

Despite widespread acknowledgment and acceptance that apologies are key to dealing with past harms, the theoretical literature is rarely informed by detailed empirical assessment of the views of victims, apologisers, or the general public. In recent decades, states, armed groups, churches and large corporations have all apologised for past wrongs, albeit with mixed results. However, in practice, the precise relationship between apology and notions of law, accountability, truth, reconciliation and legitimacy is little understood.

More broadly, while 'saying sorry' is almost a given as an acknowledgement of harm and suffering, there have been few concerted efforts to develop a nuanced understanding of what constitutes a legitimate apology and how the drafting, performance and reception of such apologies may impact on efforts to come to terms with past wrongs.

Through exploring the perspectives of victims, apologisers and the general public, this project aims to make a difference both to theory and to practice and to provide a comprehensive analysis of the role of apologies in dealing with the past.

With fieldwork ongoing, the reports are designed to be of immediate value to practitioners and as such we have sought to avoid complex academic terminology and language.

We will also develop fully theorised accounts of some of the themes explored in these practitioner reports for academic audiences.

The anticipated readership mirrors the diverse range of interviewees with whom we have been engaging:

- Victims and survivors
- Legal professionals (including lawyers and judges)
- Government officials
- Local and national policymakers
- The clergy and Church officials
- Bankers
- Civil society activists
- Journalists and other commentators
- Scholars interested in the role of apology in dealing with the past

The entire paper series will be made available on our project website: **www.apologies-abuses-past.org.uk** and will be circulated via our various networks and twitter accounts.

We hope that you enjoy reading this report and encourage you to disseminate it amongst your colleagues and networks.

For further information about the wider project please feel free to contact us via the 'Contact Us' section of our website or by email to: **Lauren.Dempster@qub.ac.uk**.

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ACKNOWLEDGEMENTS AND DISCLAIMER

This report was prepared by Muiris MacCarthaigh, in association with the Apologies, Abuses and Dealing with the Past project team: Kieran McEvoy, Anne-Marie McAlinden, Anna Bryson, Shadd Maruna and Lauren Dempster.

EXECUTIVE SUMMARY

This report is concerned with apologies for the banking crisis of 2008. It provides a background to that crisis which manifested itself a decade ago on 29 September 2008 when the then Minister for Finance Brian Lenihan issued a blanket two-year guarantee of all Irish domestic bank deposits. The paper begins with an overview of the structure of the Irish banking system prior to 2008, including the rapid expansion in the size of domestic Irish banks prior to the crisis. The origins of the Global Financial Crisis (GFC) are then briefly presented, followed by an analysis of the effect they had on the Irish banking system and subsequently the Irish economy. The responses of the Irish government to the crisis as it unfolded are then presented. The final section provides an account of the apologies that have been given by individuals associated with the banking crisis.

THE IRISH BANKING SYSTEM PRIOR TO THE 2008 CRISIS

Until the 1980s, the main high-street banks in Ireland were domestic in ownership, and though they were amongst the larger private companies in the state, they ran relatively small-scale operations by international standards. By the early 2000s, however, Ireland had established a global profile in banking and financial services, with the Irish state benefitting considerably from the revenues generated by the sector. In examining the dramatic expansion of the Irish banking sector during the intervening period, Clarke and Hardiman (2013) identify key changes in the 1980s that followed a growing international trend toward liberalization of capital controls. Firstly, the 1989 Building Societies Act permitted building societies to expand the scope of their lending activities. The Act and subsequent legislation allowed building societies to raise more funding than their deposit books would allow, facilitating expansion in their activities.

Secondly, the government of then Taoiseach Charles J. Haughey extended the state's attractive corporate tax regime to the financial sector, and created the Irish Financial Services Sector (IFSC) as an international hub of traded financial services. The IFSC attracted subsidiaries of a number of major international financial institutions providing services to parent companies in London, though few were involved in domestic Irish banking. Indeed, so attractive did the IFSC become to international banks, that one of the first European banks to fail post-Lehman Brothers in the US was Depfa Bank, an IFSC- based subsidiary of a German bank. Its liabilities rested with its German parent; but its problems were understood to have developed due to the freedoms it availed of following its incorporation under Irish law (Clarke and Hardiman 2013).

Irish membership of the Eurozone led to a decrease in nominal and real interest rates for banks to borrow money, and also removed the exchange risk that had been previously associated with European borrowing. Irish banks became increasingly reliant on wholesale short-term borrowing in the Euro area. The report into the Irish banking sector by Regling and Watson drew attention to this rapid increase in short-term borrowing by the Irish banks, noting that 'securities of one year remaining maturity or less amounted to €41bn at end 2006 for the two largest banks, up from €11.1bn at end 2003' (Regling and Watson, 2010: 33).

On the eve of the crisis, therefore, the Irish banking sector was comprised of a) six domestically headquartered banks and b) domestically-orientated subsidiaries of foreign-owned banks[1]. The six 'Irish' banks were:

1. Bank of Ireland
2. AIB Bank
3. Anglo-Irish Bank
4. Irish Life & Permanent
5. Irish Nationwide Building Society
6. Educational Building Society

As Lane identifies, during the 2000-8 period of rapidly increased bank lending activities, AIB and Bank of Ireland were the dominant banks. Though a smaller bank, the relative size of Anglo-Irish Bank increased rapidly from the mid-2000s. Indeed, the pace of its growth led to the larger two banks relaxing their credit standards to compete with it (Honohan 2010b, Regling and Watson 2010, Nyberg 2011). Table 1 below identifies the rapid growth in lending by the six domestic banks (plus Ulster Bank, headquartered in Belfast) between 2000 and 2008.

Table 1: Customer loan growth in Irish banks 2000-8

Customer Loans (€billions)	2000	2008	% Growth
AIB	46	129	180%
BOI	45	136	202%
ULSTER	4	39	875%
ANGLO	8	72	800%
IL&P	8	40	400%
EBS	4	17	325%
INBS	3	10	233%
TOTAL	**118**	**443**	**275%**

Source: Houses of the Oireachtas 2016a, p. 29.

O'Riain notes that such was Anglo-Irish Bank's expansion in the property lending sector that it significantly narrowed the gap in profits between it and much longer-established Bank of Ireland by 2007 (2017, p. 29). With such large profits being produced, executive remuneration followed suit, and as was later uncovered, so too did secret loans to executives and directors of up to 70 million euro. O'Riain also draws attention to the centralisation of executive authority within the banks such that the scope for any internal challenge to the expansion in property lending was limited (2017, p.30). Shareholders were content to see their investments rise in value, and international credit-rating agencies also approved of the remarkable performance of Irish banks.

The arrival into Ireland during the 1990s of foreign banks increased competition in the sector, leading to 'new and more aggressive lending products and practices in the commercial real estate and residential mortgage sectors' (Houses of the Oireachtas 2016, p.6). The Nyberg report into banking regulation found that as Irish banks had more cheap credit available to them than good quality loan demands, their lending standards diminished in order to maintain and expand their share of a booming construction market.

Added to this was what one witness to the Oireachtas banking inquiry characterized as essentially a golden circle:

> I would characterise the relationship between the major players in the property sector, the construction industry, government, certain elected representatives and the banks, as well as the relationship between the Government, the banks and the financial supervisory authorities, as extremely cosy in the period leading up to the 2008 banking crash. To take a phrase from former Finnish civil servant Peter Nyberg's thorough report on the causes of the banking crisis, the various players, including politicians, builders, bankers and regulators, displayed "behaviour exhibiting bandwagon effects both between institutions (herding) and within them (groupthink)." Nothing I came across in my research would contradict that statement. On the wild frontier of the Celtic tiger era, Anglo Irish Bank was the one trick pony in a frenetic land grab, leading a poorly regulated and highly competitive race for market share and profit. (Carswell 2015)

This finding of a 'herd mentality' by the Nyberg Commission was explained as follows:

> Bank management and boards in some of the other covered banks feared that, if they did not yield to the pressure to be as profitable as Anglo, in particular, they would face loss of long-standing customers, declining bank value, potential takeover and a loss of professional respect (Nyberg, 2011: v).

[1] **Official statistics on the Irish banking sector prior to this period were skewed by the presence of foreign-owned banks, which were externally oriented in their activities.**

The herding metaphor was also reflected in the evidence provided by a witness to the Oireachtas banking inquiry, who took over as Director General of the Irish Construction Industry Federation (CIF) in early 2007:

> …if I was put back in my new role when I went in, to sort of stop the galloping horse that was there would have been an extremely difficult job. If I had to jump out in front of it, I probably would have been dumped out of the job very, very quickly.
> (Parlon 2015)

THE GLOBAL FINANCIAL CRISIS AND IRELAND

The collapse of the US dot-com bubble in the early 2000s resulted in the American Federal Reserve lowering interest rates in a bid to stimulate domestic economic growth. This policy allowed private commercial banks to borrow money at very low rates from the Reserve, which was in turn passed on to customers, fuelling a housing bubble in the United States. The Reserve had benefitted from large investments in US government bonds by China during the early 2000s, and had been able to offer this surplus money to financial institutions. Larger banks bought mortgages from smaller banks, which they then added to their asset sheets. However, when interest rates began to rise from 2004, the rate of mortgage defaults began to grow, and financial institutions came under pressure from a massive crisis in the 'sub-prime' mortgage market. Adding to the complexity of the crisis was the fact that such mortgages had been aggregated and resold as financial products known as credit derivatives and collateralised debt obligations (CDOs).

The crisis was not one affecting the US banking system alone. European banks in particular had become very active in the US market during the 1990s, increasingly binding the fortunes of the European financial system to that of the US. When totemic US bank Lehman Brothers went bankrupt on 15 September 2008 due to its huge exposure to the property market, a worldwide banking crisis quickly broke out. Interbank borrowing markets froze, and a global liquidity crisis rapidly took hold (Connor et al. 2017, p.85). And although some efforts were made in Europe to find international coordination (such as a G-20 meeting and Euro-summit in October 2008), each country moved to solve its own banking problems.

Ireland (as well as Iceland and Latvia) were the worst hit of European states by the banking crisis[2]. These countries had experienced a dramatic increase in bank lending and credit extension practices in the years preceding the international crisis of 2008, all of which contributed to an explosion of construction-related activity (Clarke and Hardiman 2013). Productive investment in new industry and strategic approaches to foreign direct investment in the economy during the 1990s gave way to widespread and effectively unregulated property speculation (O'Riain 2017, p.27), made possible by large amounts of cheap credit.

As elsewhere, Irish bank lending had become less reliant on customer deposits for funding and instead were increasingly reliant on wholesale capital markets to borrow money short term with a view to lending long term. This asset-value based lending model, in which liabilities were essentially treated as assets, made banks more vulnerable to a large liquidity risk which was not properly recognised. Fortunately, Irish banks had avoided the mistakes of American and some European banks by not engaging directly in credit derivatives and CDOs during the 2000s. Instead, it was excessive lending for residential and commercial development during the 'Celtic Tiger' years that led to a property bubble which was eventually exposed in September 2008.

As noted above, cross-border movement of funding also contributed to the expansion of Irish banks' lending practices. Everett (2015: 340) identifies that funding inflows grew by a factor of five between 1999 and 2008, peaking at over 200% of GDP that year. She notes that:

> ...concurrently, bank lending to households and non-financial corporates increased from 62 to 176 per cent of GDP. The interaction between global banks and Irish retail banks in international financial markets provided the latter with funding to facilitate increasing domestic credit demand, and contributed to fuelling the Irish credit boom during the mid-2000s.

As noted above, domestic policy choices added to this rapid growth in lending. For example, in 2007 the government had passed the Asset Covered Securities (Amendment) Act, which allowed banks to use commercial property loans (rather than just residential mortgages) as collateral for bonds, thus allowing them to borrow even more money in markets. This despite the fact the commercial property loans were generally regarded as a more volatile asset than residential mortgages.

Much of Irish bank lending during the 2000s was channelled into the property construction sector, to which it became increasingly dependent. Irish banks also became involved in what was referred to as 'relationship banking', with developers working with particular banks only up to and including both parties becoming business partners in joint ventures (Houses of the Oireachtas 2016a, p. 9). The massive increase in commercial and housing construction activity (including employment), particularly during the 2000s, generated huge revenue flows to the government from this sector alone through capital gains and real estate sales. As Dellepiane and Hardiman (2012) identify, at its peak these property-related revenues accounted for some 15 per cent of total government revenue, more than twice the OECD average.

With such large revenues, successive Irish governments were able to reduce personal tax liabilities, populist moves that were to leave the state badly exposed when the property crash occurred. Successive Irish governments thus presided over a period of unprecedented growth in tax revenues. However they adopted fiscal policies whereby long-term expenditure commitments were made on the back of unsustainable construction and transaction-based revenue. When the banking crisis hit and the property market collapsed, the gulf between sustainable income and expenditure commitments was quickly exposed and the result was a significant structural deficit in the State finances. The rapid effects of the failure of property developers and others to repay loans were felt not just in the banks but also in the wider Irish economy that had become enmeshed in construction.

[2] In fact, as Lane (2015) identifies, from mid-2007 multiple indicators signalled that the funding conditions of the Irish banks were deteriorating but insufficient action was taken.

A series of reports into the banking sector and regulatory system (Regling and Watson 2010; Honohan 2010 and Nyberg 2010) all acknowledged the international dimension to the Irish crisis, but also found that domestic factors played a significant contributory role. These ranged from institutional failings in corporate governance standards and prudential regulation, to cultural/societal issues concerning 'group-think' and herd mentalities that left little room for dissenting voices or 'contrarians' pointing to the fatal flaws within the Irish property market and banking system to be heard. A subsequent parliamentary inquiry found that 'no one single event or decision led to the failure of the banks in the lead in period to the Crisis, but rather it was the cumulative result of a series of events and decisions over a number of years' (Houses of the Oireachtas 2016a, p. 7).

With the fear of a complete collapse of the domestic Irish banking sector in late September 2008, the then Fianna Fáil-Green Party coalition government gave a late-night blanket guarantee not only to depositors but, controversially, to all bond-holders of the six main domestic financial institutions[3]. As the scale of the losses materialised, the Irish government pumped huge sums of money – much of it borrowed on international bond markets - into the banks. At one stage, then Minister for Finance Brian Lenihan claimed the bailout would constitute 'the cheapest bank rescue in history' (Carswell, 2008). But the government had stumbled blindly into unknown and rapidly escalating commitments. As the scale of the banks' losses unfolded over the following three years, the cost to the taxpayers of bank recapitalization rose to over €60bn.

Almost half of these losses were attributable to a single bank, Anglo Irish Bank, which the government was forced to nationalize in early 2009. Most of the remaining losses were incurred by the two oldest domestic banks, the Bank of Ireland, and Allied Irish Bank. One London hedge-fund manager stated that 'Anglo Irish was probably the world's worst bank. Even worse than the Icelandic banks' (Lewis, 2011). The incoming Governor of the Central Bank, Patrick Honohan, concluded in May 2010 that this was 'one the costliest banking crises in history' (Burke-Kennedy, 2011)[4].

[3] The Oireachtas Banking Inquiry was not able to determine from the evidence given it what exactly was agreed between the banks and the government during the night of 29 September 2008. Executives from BOI and AIB provided different views as to whether the government was going to guarantee 4 or 6 banks, and no minutes of the meeting or drafts of the wording for the guarantee were kept by the Department of the Taoiseach (Houses of the Oireachtas 2016a, p.15).

Residential house prices fell by 47 per cent between 2007 and 2011 (CSO, 2012). General public debt soared from 25 per cent of GDP in 2006 to 107 per cent at the end of 2011 (Central Bank, 2012). This figure peaked at almost 120 per cent of GDP (and over 130 per cent of GNP) in 2013 before starting to decline thereafter (International Monetary Fund, 2011: 14). And with the property market brought to a sudden halt and the shockwaves spreading to other sectors, confidence in the Irish economy nosedived during 2009-10. Of the six domestic banks that existed before the crisis, only three survived. Of these, the state owned practically all of two of them (Allied Irish Bank, 71% state shareholding by mid-2018, and Permanent TSB which remained 75% state-owned by the same period) and a 14% share of Bank of Ireland.

This government's banking guarantee was made without full knowledge of the scale of the losses within these banks which, as the Banking Inquiry uncovered, had not been subject to sufficient investigation by the Central Bank and Financial Services Authority of Ireland (CBFSAI)[5] before September 2008. Indeed, the Oireachtas Banking Inquiry found that the regulatory regime for the Irish banking sector involved reliance on 'moral suasion and protracted correspondence' (2016a, p.7) rather than more intrusive regulatory practices. Such practices could have, but did not, include imposing conditions on or revoking banking licences, or suspending banking business, but the Inquiry found that such was the scale of regulatory capture that there were no enforcement actions taken against any financial institution for prudential breaches during the 2002-8 period. Stress tests conducted on the Irish banks by the CBFSAI in 2006 were inadequate and failed to expose the liabilities within them. Largely deferential regulatory authorities also did little to question or inhibit the rapid growth in lending to the property sector or to invest in independent probes of the financial institutions.

Indeed whatever about institutional design, Regling and Watson concluded that 'the structure of regulation seems to have been less important in explaining Ireland's banking crisis than the way in which supervision was implemented in practice' (Regling and Watson, 2010: 36). The adoption of a 'principles-based' (or 'light touch') form of regulation relied on the existence of robust internal governance and oversight systems by regulated bodies, systems which did not operate in practice. And at the time, there was no European banking regulatory authority in place. The Irish Department of Finance, which also had a regulatory role for the sector as well as the work of the CBFSAI, also did not intervene. Equally, the dominant external auditors of the banks in the years prior to the crisis – identified by the Banking Inquiry as KPMG, EY and PwC - audited particular banks for extended periods but did not identify the problems which were to later emerge.

[4] The costs of the banking crisis did not end with the bailout. In July 2017, following Freedom of Information requests, it was revealed that the daily fees paid to barristers in the criminal case against ex-Anglo-Irish Bank chairman Sean Fitzpatrick were the highest ever in the state's history This followed an appeal by the Director of Public Prosecution to the Department of Expenditure and Reform to increase the fee rate due to the 'complexity and importance of the trial' (Gallagher 2017). The trial collapsed following a ruling by the judge that the case could not proceed due to serious errors made in the investigation by the Office of the Director of Corporate Enforcement. It was the second trial against FitzPatrick to collapse.

[5] The Financial Regulator and Central Bank of Ireland had been combined in 2003 to form the Central Bank and Financial Services Authority of Ireland (CBFSAI), a hybrid organisation that had added complexity but also role ambiguity between the respective roles of the two combining entities. It linked a monetary authority carrying out functions related to the European System of Central Banks with a single regulatory authority responsible for licensing, prudential regulation of the banking and insurance sectors, and consumer protection, entitled the Irish Financial Services Regulatory Authority (IFSRA).

As a result of the crisis in the Irish banking system, the State undertook a number of measures to stabilise that system, as follows:

- Immediate liquidity support (during late 2008 and continuing into 2009) provided by the Central Bank of Ireland
- State guarantees for bank liabilities, which gave rise 'to significant contingent liabilities for the State' (Office of the Comptroller and Auditor-General 2015, p. 33)
- Provision by the Central Bank of 'exceptional liquidity assistance' to Irish domestic banks and recapitalisation of these banks
- Provision of Government guarantees of deposits and certain other liabilities, recapitalisation of domestic banks
- The establishment of the National Asset Management Agency (NAMA) to acquire impaired assets from banks.

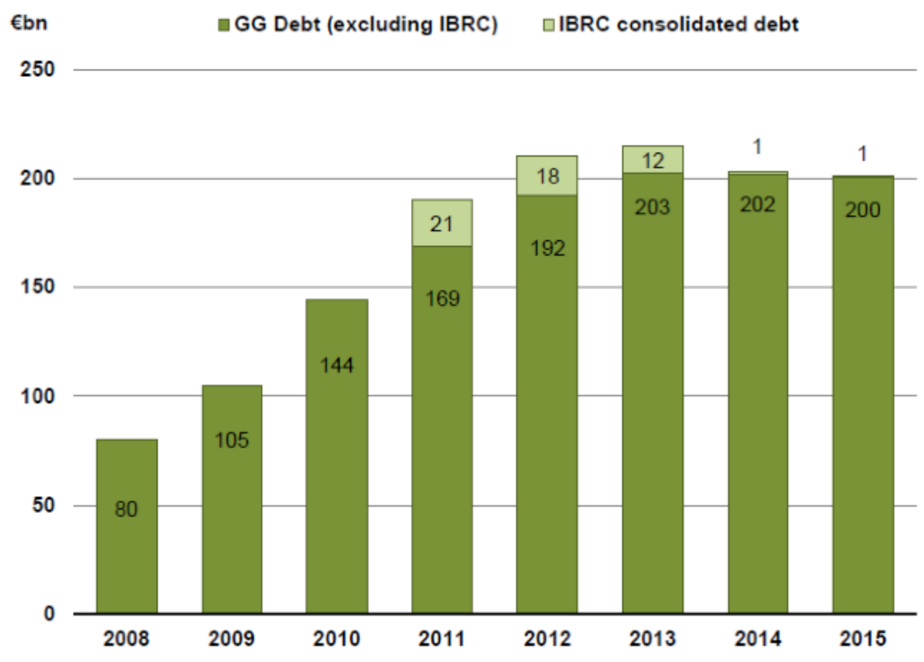
Figure 1 below shows the effects of one stabilisation measure, namely recapitalisation of the Irish banks using public funds. A particularly large injection of funds in 2010 put public finances under further pressure and increased Irish general government debt.

Figure 1: General Government Deficit: The Impact of the banking crisis

Source: CSO 2013: 2

A review by the Office of the Comptroller and Auditor-General published in 2015 estimated that the net cost to the State arising from these measures was approximately €60 billion (Office of the Comptroller and Auditor-General 2015, pp. 44-5)[6]. Of this, some €36 billion was spent on the Irish Bank Resolution Corporation (IBRC), an organization created to deal with the two most problematic banks: Anglo-Irish Bank and Irish Nationwide Building Society (below). IBRC was later liquidated in 2013 following legislation rushed through parliament. Figure 2 below identifies the rapid increase in Irish government debt post-2008 arising in large part from the bank recapitalisation, including for the IBRC.

Figure 2: Trend in Irish government general debt, 2008-15



Source: Office of the Comptroller and Auditor-General 2016: 19

The cost of borrowing on the international markets to fund public services as well as repay loans to 'bail out' the banks became prohibitively high and Ireland came under huge pressure not to reverse the bank guarantee which could expose the wider European banking system to deeper crisis. As it became locked out of international bond markets, the Irish government was forced to enter an IMF-EC-ECB or 'Troika' loan programme in December 2010, effectively borrowing from the lender of last resort. Ireland thus became the 3rd EU member-state (after Latvia in December 2008 and Greece in May 2010) to seek help from the Troika. The Irish banking crisis had turned into a sovereign crisis for which Irish taxpayers would be required to pay a huge price.

[6] The review also estimated the value of the State's remaining shareholdings in AIB, Bank of Ireland and Permanent TSB to be €16.7 billion, meaning that the estimated net outturn as of end-2014 was a cost of just over €43 billion. The equivalent analysis by the Office of the Comptroller and Auditor General estimated the cost to be around €40 billion.

THE NATIONAL ASSETS MANAGEMENT AGENCY (NAMA)

Perhaps the most controversial aspect of the Irish banking crisis was nationalisation by the Irish government of the private debts of the failed banks. In effect, Irish taxpayers were saddled with repaying not only the loans borrowed to repay those debts (to private investors), but also the interest on those loans. This socialization of Irish banking-related debt also prevented contagion effects to banking systems in other Eurozone countries, a point frequently raised by Irish governments at subsequent EU meetings.

A large proportion of the non-performing loans of the bailed-out banks were bought from them at a sizeable discount and placed in a new public entity known as the National Asset Management Agency (NAMA). NAMA's purpose was:

- To acquire property-related bank assets (mainly property loans to developers) from Anglo-Irish Bank, Allied Irish Bank (AIB), Bank of Ireland, Irish Nationwide Building Society (INBS) and Educational Building Society (EBS)
- To hold and manage the loans and related collateral
- To dispose of these assets in a manner that protects the State's interests.

Created in 2009, NAMA was expected to have a 10-year life cycle during which time it would reduce its property and loan portfolio to zero. At time of writing, however, no end-date was in sight for the agency. A review by the Office of the Comptroller and Auditor-General in 2015 found that NAMA had paid €31.8 billion to banks to purchase property-related loans in respect of which the borrowers owed just over €74.4 billion. The total loss incurred by the banks was thus 57% of the loans' carrying value (Office of the Comptroller and Auditor-General 2015, p.42).

CORPORATE GOVERNANCE FAILURES

The report by Regling and Watson (2010) also identified four key areas in which bank management and governance contributed to the Irish banking crisis:

1) Bank managements failed to appreciate the risk involved in the concentration of bank assets in property-related activity.

2) Lending guidelines and processes were not adhered to.

3) Breaches of basic governance principles concerning conflicts of interest issues, including allegations within Anglo-Irish bank of undisclosed loans to directors and

loans to investors to purchase the bank's shares. Indeed in breach of the UK's Combined Code on Corporate Governance, which companies listed on the Irish stock exchange were required to adhere to, Anglo-Irish Bank's CEO moved directly to the position of Chairman in 2004.

4) Remuneration policies that encouraged and rewarded risk-taking. This Oireachtas banking inquiry also drew attention to this matter, noting that as well as more aggressive and competitive lending practices by banks 'was a culture of excessive executive remuneration in the banks' (Houses of the Oireachtas 2016, p.6).

Bank failure, which ultimately led to the intervention and support of the state, was the responsibility of senior executive management and the boards of directors. Throughout, AIB and Bank of Ireland dominated the banking system, even if the rapid increase in the relative size of Anglo Irish Bank was visible in the mid-2000s. Despite the much smaller size of Anglo Irish Bank, the main banks perceived it to be important to relax credit standards to compete with this relatively minor player (Honohan 2010b, Regling and Watson 2010, Nyberg 2011). In fact, the over-extension of domestic bank lending had already become apparent during 2007 and 2008, as bank share prices faltered even prior to the fall of Lehman Brothers in the US. But these early warning signals were ignored.

As the bank most exposed to the construction and property market, Anglo-Irish Bank's shares collapsed by 99% from their May 2007 peak of $23.61 to $0.28 by Jan 2009, leading to the state nationalization of the bank. This collapse in share price had been accelerated by the revelation, post-guarantee, that the bank's Chairman and former CEO, Sean Fitzpatrick, had secured enormous personal loans in his name and that of his family from the bank, which had been hidden from the bank's auditors. At a court case investigating Fitzpatrick for 27 offences under the 1990 Companies Act, including making misleading, false or deceptive statements to auditors and furnishing false information, the Dublin Circuit Criminal Court heard that loans taken out by Mr FitzPatrick and family members increased from c.€10 million in 2002 to about c.€100 million in 2007. However, arising from flaws in the investigation, he was acquitted in May 2017 from all charges following the longest criminal trial in Irish history.

The activities of Anglo-Irish Bank's senior executives prior to the bank's bailout in 2008 have also made headlines. One of the most infamous episodes of the banking crisis was the publication in 2013 of tape recordings in which senior Anglo-Irish Bank executives discussed how to deliberately mislead the financial regulator and government officials, with a view to obtaining state funding to address their losses. The tapes indicated that if the money was provided by the government (an amount of €7 billion was going to be sought), it was unlikely to be ever repaid.

To date four bank executives, including some of those recorded on the tapes, have received jail sentences relating to the activities of Anglo-Irish Bank. As part of investigations into that bank, it was discovered that another (and also subsequently nationalized) bank, Irish Life and Permanent, had provided short-term loans to artificially reduce the size of Anglo-Irish Bank's liabilities at the end of the financial year. This resulted in the bank's former finance director Willie McAteer and former head of capital markets John Bowe receiving jail sentences of three and a half and two years respectively in 2016. The former chief executive of Irish Life and Permanent, Denis Casey, received a sentence of 2 years and nine months also. In a separate investigation, and following his extradition from the United States, Anglo-Irish Bank's former CEO David Drumm was convicted by the Dublin Circuit Criminal Court in 2018 of two charges of false accounting and conspiracy to defraud and sentenced to six years in jail. At time of writing, the former managing director of INBS, Michael Fingleton, is before an inquiry examining alleged regulatory breaches at that branch, along with three other former senior executives.

APOLOGIES AND THE IRISH BANKING CRISIS

There has been little international research conducted on the issue of apologies provided by the financial sector following the GFC. The most in-depth investigation examined the testimony of senior bankers (from RBS, HBOS) before the UK Treasury Committee during the Banking Crisis Inquiry in 2009 (Hargie et al. 2010, Tourish and Hargie 2012). They propose that the testimony of bankers was characterised by four discursive strategies. First, bankers avoided providing direct apologies, opting instead for expressions of regret. Therefore, while the bankers were sorry for what occurred, they were not sorry for their own actions. When apologies were offered, the plural pronoun 'We' was used in order to deflect personal culpability.

Secondly, the bankers positioned themselves as being affected by the crisis as victims. As perpetrators and victims are viewed as mutually exclusive categories, Hargie and colleagues argue that this was a tactic also employed to mitigate personal blame. Thirdly, the bankers dissociated themselves (and their colleagues) from the crisis by omitting any reference to the agency that caused the crisis. Instead, the bankers presented themselves as passive observers of an unforeseen event, outside of anyone's control, i.e. the failure was systemic rather than ad hominem. Finally, when presented with the opportunity to apologise, none of the bankers accepted the opportunity to do so. Instead, each referred to a previous 'apology' and stated a willingness to apologise again in an attempt to encourage politicians and the general public to 'move on.'

The UK financial sector was not unique in 'apology avoidance'. In the United States, few financial executives apologised for their role in the crisis (Vinayagamoorthy 2013). For example, Citibank engaged in bolstering and corrective action strategies (such as compensation), rather than abject apologies (Weber et al. 2011). Moreover, subsequent actions by the banks served to raise scepticism as to the sincerity of the banks' contrition. For example, the Royal Bank of Scotland (RBS) announced a two percent cut in its workforce following the inquiry, while HBOS paid four top executives £7.6 million between them. Similarly, the American International Group (AIG) spent $440,000 on hotel rooms and spa treatments in the week following the bailout and executives appearance at the House Financial Services Committee (Lerbinger 2012, p. 66). Failure to accept blame displays unwillingness by the financial sector to learn from past mistakes in a process of 'voluntary organizational forgetting' (Tourish and Hargie 2012, p.1065).

Responses by bankers are not wholly out of line with other corporations in the face of public outcry. Kellerman (2006) states that refusals to apologise can either be individual or institutional. Leaders may find apologising professionally risky; they may fear losing support among the rank and file of the organisation; or more immediately, worry that admission could lead to litigation. Corporate leaders often face a conflict between their own moral compass and duties to stakeholders and their fiduciary responsibility to stockholders or investors. Apologies can often be considered a sign of failure or weakness as they can result in costly consequences for bankers both professionally and financially, such as loss of current and future positions, damage to personal reputation and credibility, as well as earnings.

Senior representatives of some Irish banks made apologies to shareholders for the failings of their institutions in the aftermath of the bailout. At Anglo-Irish Bank's emergency shareholding meeting called for 16 January 2009, the newly appointed Chairman Donal O'Connor said that his predecessor's loans were 'wrong and unacceptable' and that 'I'd like to apologize for that' (Lynch 2010, p. 176). A week after that emergency shareholder meeting, the Irish parliament passed the Anglo Irish Bank Corporation Act 2009, leading to that bank's nationalization.

At an Extraordinary General Meeting of Allied Irish Banks in May 2009, the bank's Chairman Dermot Gleeson said:

> With hindsight I regret some of the lending decisions that were made, particularly in relation to property development here in Ireland. Most of all, I regret the impact of those decisions on our shareholders, our customers, our staff, and on everyone else affected either directly or indirectly, and, on behalf of the Bank, I apologise unreservedly to you for the anxiety and distress that shareholders have suffered. (Gleeson 2009)

When the billion euro transactions between Irish Life and Permanent and Anglo-Irish Bank, which were used to artificially inflate the latter's balance sheet, became public the Chairwoman Gillian Bowler released a statement noting that '...in providing support to the broader financial infrastructure, mistakes were made – for which I and the board apologise unreservedly' (Irish Life & Permanent 2013).

Other Chairmen and CEOs did not issue apologies to shareholders or the public and some have decidedly avoided doing so. For example, only a week after the state guarantee of bank debts in September 2008, in a radio interview with the national broadcaster RTÉ, when asked if he would personally apologise for what had happened in the Irish banking system the Chairman of Anglo-Irish Bank Sean Fitzpatrick said:

> The cause of our problem was global, so I can't say sorry with any type of confidence, sincerity and decency. But I do say a very genuine 'thank you' because that is right. (Quinlan 2008)

In his account of the collapse of Anglo-Irish Bank, Carswell notes how 'Fitzpatrick's refusal to apologize created a wave of controversy as excerpts from his interview were replayed in news bulletins and reproduced in the newspapers' (2012: 223)

And in an interview with a journalist in 2010, when asked if he would say sorry to the taxpayer and to the shareholders in Anglo Irish Bank, Fitzpatrick said

> That's a simple question, but the answer isn't. What if I were to invite you, Ronald, to sit down here with me for a cup of tea and a chat. And what if, in the course of our conversation, you were to have a cigarette. And when you were finished with your cigarette, you were to throw the butt on the floor and this shed burned to the ground. Could I ask you to say 'sorry'?"
>
> "You could ask me, and I would apologise," I respond immediately, while marvelling at Seanie's notions of blame and how it should be apportioned.
>
> "Well, why would I ask you to apologise? It wasn't you who burned my shed down. It was the cigarette," he replies, perhaps revealing just a little of the world according to Sean FitzPatrick. (Quinlan 2010)

In contrast to public apologies for the collapse and nationalization of Anglo-Irish Bank, Carswell records that when it was revealed that Sean Fitzpatrick had obtained large personal loans from the bank which had been kept from its books, at a subsequent board meeting he did make an apology:

> Fitzpatrick told his fellow board members that he was very ashamed of what he had done with his loans and how he had bought shame on the bank. He apologized and confirmed he was going to resign. (Carswell 2012: 252)

Turning to politicians, there was also a general avoidance of direct apologies. In an interview with the Irish-language television station TG4, former Minister for Finance (2004-8) and Taoiseach (2008-11) Brian Cowen expressed his 'regret' at what had happened. He continued:

> I would like to say — because it's important to do so, and I've said this before — I have a serious duty to accept my responsibility for what happened and I'm doing that," he said. (Clifford 2013)

There was some controversy when Cowen was awarded an honorary doctorate in July 2017 by the National University of Ireland, a tradition that had applied to all former Taoisigh. In his speech at the award ceremony, Cowen said 'The greatest hardship of the recession was the loss of employment for so many of our people - something which I deeply regret'.

Arising from constitutional constraints, including a referendum proposal to provide parliamentary committees with powers to investigate the banking crisis (O'Leary 2014), it took the Irish government a number of years to establish an inquiry to investigate the origins and causes of the banking crisis. During 2014-15, a parliamentary committee comprising members from both Houses of the Oireachtas was established as the 'Committee of Inquiry into the Banking Crisis'[7]. The Inquiry received considerable media attention as many prominent figures from the political, banking, construction and public service sectors were called to give evidence in public.

In its final two-volume report published in January 2016, the Inquiry concluded that 'there was in reality two crises, a banking crisis and a fiscal crisis. These were directly caused by four key failures; in banking, regulatory, government and Europe' (Houses of the Oireachtas 2016a, p.4). The report proposed that

The crisis in the banks was directly caused by decisions of bank boards, managers and advisors to pursue risky business practices, either to protect their market share or to grow their business and profits. Exposures resulting from poor lending to the property sector not only threatened the viability of individual financial institutions but also the financial system itself. (Houses of the Oireachtas 2015a, p.4).

The evidence presented to this inquiry from a range of actors provides primary source material, and in particular for the presentation of apologies by a number of key actors in the Irish banking crisis. All are presented below.

[7] Upon coming to office in 2011, and with the banking crisis in mind, the grand coalition of centre-right Fine Gael and centre-left Labour Party had organized a popular referendum to empower parliamentary committees to perform inquiries. The proposal was defeated however, and a statutory framework - the Houses of the Oireachtas (Inquiries, Privileges and Procedures) Act, 2013 - subsequently developed to allow the banking inquiry.

APOLOGIES BY BANKERS

ANGLO-IRISH BANK: FORMER NON-EXECUTIVE BOARD MEMBER OF ANGLO-IRISH BANK (2002-8) FINTAN DRURY

> The first is that the part of the definition of "non-executive directorship" is to be non-executive and that in accepting such a role in any business, there is what I have chosen to describe as "an unstated contract of trust" between you, the non-executive, and the executives or senior management in that business. The non-executive holds a part-time role on the board and he or she is dependent on the integrity and the openness of the senior full-time management who have access to all the information about the organisation's business. In 2009 Donal O'Connor, the then chairman of Anglo Irish Bank, addressed the board's failings and made a fulsome **apology** to all those who had been affected by its underperformance, from shareholders to staff. And as a result of the ... a result of what had happened – the ultimate fallout – an **apology** to the taxpayers. I was party to that **apology**, as a former director, albeit I had retired in June 2008. I want to recapture the essence of that apology this morning ... or this afternoon and restate it for my own part because with more ... the more that has emerged in the intervening period, I would want there to be no obfuscation when it comes to **apologising** for whatever part I may have played in the difficulties that arose. Quantifying that is for others, including this committee, to do.

AIB: FORMER CHAIRMAN (2003-9) DERMOT GLEESON,

> The great recession of 2008, the worst the world had seen for 80 years, didn't start in Ireland or in the Irish banks, but there's no doubt that there were decisions made in AIB which made things worse than they need have been for citizens, for employees and for shareholders. I wish to express my sincere regret for my part in those events, and to renew the **apology** which I made at the AIB AGM in 2009.
>
> In analysing what went wrong at AIB, I should point out that I resigned from the board in June 2009 and my perspective is, therefore, largely limited to information that became available before my departure – I haven't worked there for the last six years – and may to that extent, be incomplete.

AIB: FORMER CEO (2005-9) EUGENE SHEEHEY

> Chairman, members of the committee, thank you for affording me the opportunity to outline my views on the banking crisis. At the outset, I want to say I'm very sorry for what happened and my role in these events. I know a lot of people were let down and feel very angry, deservedly so. I draw no comfort from the extraneous factors that contributed to the crisis. I take personal responsibility for my actions and omissions. Public **apologies** on many occasions have not diminished the deep disappointment that I feel on a daily basis.

Senator Susan O'Keeffe: Finally, Mr. Sheehy, this morning ... you apologised and Mr. Buckley expressed regret, and yet listening to some of the remarks today, **I'm still not clear what you're apologising for**.

Mr. Eugene Sheehy: Well, I'm very clear. We took too much risk in a sector that turned out to be toxic. I was CEO, I could have stopped it. **That's what I'm apologising for.**

BANK OF IRELAND: FORMER CEO (2004-9) BRIAN GOGGIN

Goggin: While improved risk governance structures in particular the availability of consistent risk information would have helped the bank to more fully realise the amount and nature of the risk it was accumulating at an earlier stage and potentially reduce the impact of the crisis, the banks fundamental difficulties arose primarily because the strategy did not anticipate the exceptional extent of the reduction in property values combined with the contraction in wholesale money markets.

I personally deeply regret this failure and its consequences. Not withstanding the fact that the state has been repaid in full by the bank, I regret that state assistance was required to support the bank and that shareholders lost a significant proportion of their investment ion Bank of Ireland. I am very sorry that this ultimately happened on my watch. Throughout the 2000s my colleagues and I together with the board made judgments based on what we genuinely believed were solid grounds following thorough analysis and significant challenge. These judgments good or bad, were always made in a considered fashion and in good faith. It is encouraging today to see Bank of Ireland make significant progress in its own recovery and in the recovery of the Irish economy. The states support for the bank at a pivotal point in its history has been profoundly instrumental in facilitating this recovery. Thank you, Chairman.

BANK OF IRELAND: FORMER CEO (2009-17) RICHIE BOUCHER

Senator Susan O'Keeffe: Mr. Boucher, you've acknowledged errors and mistakes, you've talked about not recognising risk, you've said yourself you accept your share of responsibility. Would you like to **apologise** either to the shareholders or to the people of Ireland for what you did within the bank and your role in that?

Mr. Richie Boucher: I have done that. I continue to do that. One of my ways of dealing with that is putting action behind words. The actions over the past six-and-a-half years are a recognition of the mistakes I made and my responsibility and a huge drive I have to restructure the bank, to make it a sustainable, viable institution. I've been particularly personally conscious of the history of the bank. I joined the bank ten years ago, it's a 230-year history. I never wanted to be the person that saw that bank demise. I recognised that we had a huge responsibility to taxpayers and I haven't gone around talking in pious terms about, like, what I see other people, you know, "Maybe the taxpayers maybe get their money back at some indefinite date in the future, you know, when the curlew cries three times at Newgrange." I have said we must put in a definitive plan. It's in our commercial interest to repay.

Senator Susan O'Keeffe: No, forgive me, **because I didn't see the words "sorry" in your statement** and I just wanted to make that clear.

Mr. Richie Boucher: I've **made my personal apology** but I actually believe that you must back words with action. I hope I've demonstrated, in the past six-and-a-half years, I've put action behind words.

BANK OF IRELAND: FORMER GOVERNOR (2005-9) RICHARD BURROWS

As I said at the time and at the AGM in July 2009, **I accept responsibility and accountability** as governor for the situation in which Bank of Ireland found itself in 2008. I also placed clearly on the record then, **my appreciation** of the Government actions in 2008 and 2009, which ensured the survival of Bank of Ireland.

...

Let me conclude these remarks by repeating that it was a **source of great regret** to the board of Bank of Ireland, which had served its stakeholders so well for over two centuries, that we required substantial support from the Irish taxpayer and from the State. As I've said earlier, that support was comprehensive and ensured the continuing viability of the bank, and for that **I remain very grateful**. I'll do my best to answer any questions which you may wish to raise, Chairman.

...

Senator Susan O'Keeffe: Yes. Earlier on, Mr. Burrows, you expressed regret for needing support of taxpayers ... that the bank had required that. Would you go as far as to say that ... **is that an apology**?

Mr. Richard Burrows: I was very clear at the time, as I recall in my opening remarks, t**hat I had apologised very comprehensively to shareholders, to people within Bank of Ireland and I had... and also to the Irish taxpayer**. And again, I put on record at that time, our appreciation of what Government had done in relation to the elements that I've described earlier.

INBS: FORMER CHAIRMAN (2001-9) MICHAEL WALSH

Like, I am sure, every witness who has appeared before the Inquiry, **I truly regret the events that led to the banking crisis in Ireland**. It is clear, both from the evidence that has been provided to the Inquiry so far, and indeed the systemic nature of the crisis, that none of the financial institutions, none of the Central Bank, the Financial Regulator or the Department of Finance ("the Authorities") and none of the economic bodies fully appreciated the significance of the global credit bubble and the consequential bubbles, particularly in the property and structured credit markets. This was equally true in the US where the two major quasi government agencies in the housing finance sector failed.

> I do not dispute that much of the criticism that has been levied at the Irish financial institutions, including the Society, is merited. The Society played its part in the crisis. However, the version of events portrayed by some is not supported by the facts nor my own experience as Non-Executive Chairman.
> I said **I deeply regret** I didn't see the problems much earlier. If I had, hopefully, I would have taken the right decisions earlier but I didn't. I **apologise unreservedly** for that but I think if we want to avoid the same problems occurring again, you've got to think about how you actually avoid that, sort of, silo-type thinking. Thank you.

EBS

No apologies given at the Oireachtas inquiry. Neither the chairman at the time of the crisis, nor his successor, appeared to give evidence.

ILP

No apologies given at the Oireachtas inquiry.

APOLOGIES BY POLITICIANS

FORMER TAOISEACH (1997 – 2008) BERTIE AHERN

From his official statement to the Inquiry:

> I did make mistakes, I admit that but so does everyone who governs. I know that during my time as Taoiseach, while I did not get everything right, I can honestly put my hand on my heart and say I did try my very best to do the right thing by the Irish people. **Of course, I apologise for my mistakes**, but I am also pleased that I did get a lot of things right.

During evidence to the Inquiry:

> Deputy Michael McGrath: **You have apologised for mistakes that you made during your tenure as Taoiseach** and so far in your evidence what I have picked up is an acknowledgement of a mistake in terms of public spending, that it was too much, the loss of competitiveness, and I think an acknowledgement of the over-dependence on construction and property. Are there any other areas where you believe mistakes were made, or do you believe that those are the key ones? **Is that what you're apologising for?**
>
> Mr. Bertie Ahern: Well, I think certainly the competitiveness issue because it affected a number of issues in the end of the day. The expenditure late on. I defended it on the percentage but I think when you go late on, definitely that wasn't a wise issue and it was wrong. **And I suppose as I said I can't ... I can't apologise for issues I hadn't got control over. But I do apologise to myself that I didn't know about them because at least you might have been able to do something about them and in the Office of the Taoiseach you would have been able to do about that.** I mean I don't think it's good enough for the future that the data that's available to us now, about the size of loans, looking backwards, I don't think that's data that shouldn't be there on a current basis in future, because then you don't have to put names on it, but at least you would have been able to deal with the situation.
>
> Deputy Michael McGrath: But, Mr. Ahern, when you look back now and you add up the impact of those mistakes on public spending, competitiveness, over-dependence on construction, over-dependence on transaction taxes, did that ultimately amount to an unsustainable economic model?
>
> Mr. Bertie Ahern: Well it's ... when you put them all separately, but actually, they're ... three of them are the same. We're talking about the ... because the houses were ... when the houses are being sold, people pay tax on them and people are employed to build them so they are all the one issue. So the question is, was trying to have 14% or 15% of your economy in one basket ... was that sustainable? No, it wasn't. Was it wise? No, it wasn't. Was it dangerous to do that? Yes, it was.
>
> Deputy Michael McGrath: So it ... do you acknowledge, looking back, it ended up being an unsustainable model?
>
> Mr. Bertie Ahern: Yes. Yes, I do.
>
> Deputy Michael McGrath: **Okay, and is that what you are apologising for?**
>
> Mr. Bertie Ahern: **I'm apologising mainly to all the people who suffered because of the end result.**

FORMER MINISTER FOR FINANCE (1997-2004) CHARLIE MCCREEVEY

> Deputy Michael McGrath: And do you believe, Mr. McCreevy, in any sense that you should take any share of the responsibility for the crisis that emerged four years later?
>
> Mr. Charlie McCreevy: Well, I suppose **what you're asking me to do there is to apologise for certain things, but you ... you would only apologise for things that you think you got very much wrong or you made a mistake, or a big mistake or a series of large mistakes. I don't believe that I did.**

APOLOGIES BY PROPERTY DEVELOPERS

In general, there was little by way of statements of regret or apologies at the banking inquiry by property developers for their role in the banking crisis. Rather, many expressed their unhappiness with the actions of NAMA.

CONSTRUCTION INDUSTRY FEDERATION: FORMER DIRECTOR-GENERAL (1993-2007) LIAM KELLEHER

> To conclude, the level of construction activity reached unsustainable levels in the 2006-2007 period. Specifically, too many houses were being built; too much economic activity was dependent on the sector. Our mental focus as a federation, rightly or wrongly, was on the pressures that existed to deliver needed works in the building and civil engineering sectors and to meet the demand in the housing sector from a growing population. When decline in the housing sector commenced, we believed it was a necessary correction and that the industry would settle around the 50,000 units output per annum. We believed in the soft landing expectation from all Irish sources and a wide range of economic forecasts – the IMF, the EU and the OECD. We made mistakes; I made mistakes. Not listening to contrarians was one of them, believing too readily the benign economic forecasts of the ... and the soft landing, **and I am sorry for that.**
>
> There were many other entities involved also, but we are a part ... we were a part of it, I was a part of it and, to that extent, Chairman, I **apologise**.

CONSTRUCTION INDUSTRY FEDERATION: DIRECTOR-GENERAL (2007-PRESENT): TOM PARLON

> As this inquiry is all too aware, over the last ten years the construction industry went through some very, very good times and we've also had to endure just over seven years of decline. Obviously, it is the work of this Inquiry to find out the causes of the collapse of the economy as a whole, and I would like ... I would also encourage you to take a ... a close look at the plight suffered specifically by the construction industry during the course of your deliberations. Without wanting to pre-empt the findings of the committee, I am sure that these findings will suggest that the causes of what went wrong in the economy were complex and had many different dimensions. Certainly, one element that went wrong was the scale of the industry, how big it grew. It reached unsustainable levels of activity and was responsible for far too big a percentage of the Irish economy. As leaders of the industry, the CIF have to accept responsibility for the role we played in that growth. Everything we did and every position we adopted we did to help our sector and to help our members. Our various policy positions were driven by the views of our members as well as the prevailing economic and industry thinking at any particular moment in time. Yes we were being told by national and international experts, economists and the Government that there would be a soft landing but we have to take responsibility as well. However, time has shown that that approach was wrong **and we're certainly sorry for that situation**. We accept that we should have done more to encourage a more responsible level of activity, we should have taken greater heed of the warnings coming from the various sources even if they were going against the mainstream. We should have encouraged greater caution. If we knew of course back then what we know now we would do things entirely differently. There was a huge demand for houses and people needed some place to live, but looking back with perspective we can see that some of that demand was driven by speculation and the level of house building became sustainable. **We're sorry that this happened**, we want to learn from the lessons that the economic collapse has taught us. We are acutely conscious that tens of thousands of people in the construction sector lost their jobs and we want to ensure nothing like this happens again. If the construction industry was one of the drivers of the boom it is certainly one of the major victims of the crash.

COMMERCIAL PROPERTY DEVELOPER, DEREK QUINLAN

> Senator Susan O'Keeffe: Is there anything that you regret, that you might have, if you like, contributed? In all the deals ... I'm not asking you about individual deal, but in all the deals that you did and all the business that you did, do you regret anything that you did that might have contributed?
>
> Mr. Derek Quinlan: Well, I mean, **I have a number of regrets**. You know, I'm not living in Ireland, Senator. You know, some of my children live here. It's not by choice and, you know, I miss Ireland every day.

COMMERCIAL PROPERTY DEVELOPER, JOE O'REILLY

> From my personal perspective and for the benefit ... and with the benefit of hindsight, **I do regret that I did not foresee the extent of the banking crisis and the property crash**. The severity of the crash took most property professionals by surprise, as it did the Department of Finance, the Central Bank and many respected international agencies.

APOLOGIES BY STATE ACTORS

FORMER CHIEF EXECUTIVE OF IRISH FINANCIAL SERVICES REGULATORY AUTHORITY (2006-9), PATRICK NEARY

> Before I begin my statement, I would like to say that, with hindsight, the supervisory measures taken by the Authority, which I will be outlining in this statement, were not sufficient to meet the challenges posed by the crisis and the recession that emerged **and I am deeply sorry for that**.
>
> The Authority, from the date of its establishment on 1 May 2003, initially referred to itself as IFSRA, an acronym of its official name "The Irish Financial Services Regulatory

Authority" but after the first two years of its operations rebranded itself as "The Financial Regulator". It used this name in its publications and public references. Despite the fact that it had its own Board and staff and was a constituent entity within the Central Bank, the use of its new name over time affected its standing with the public, as the impression was created, through the press and public representatives, that the Financial Regulator was an individual. I wish to correct this. **The Financial Regulator was not an individual and any reference to an individual as the financial regulator is simply wrong**.

...

This statement has addressed the menu of headings requested by the Inquiry and has focussed heavily on the supervisory approach of the Authority. I have set out for you the Authority's approach to the prudential supervision of banks as well as the various initiatives taken by it to strengthen its oversight of banks, such as the higher capital requirements, liquidity, impaired loans, fitness and probity, consumer code and the influence of the white papers on regulatory policy.

I also acknowledge, with the benefit of hindsight, that the supervisory measures introduced by the Authority were not sufficient to meet the challenges posed by the crisis and the recession that emerged. **I regret that very deeply**.

Mr. Patrick Neary: No, as the chief executive of the Financial Regulator, I mean, I have to accept responsibility for that and I'm not … in no way would I seek to throw that elsewhere. And **I regret that** and I've said that already this morning … that **I regret that** we did not have a hard look at that sectoral limit and see was there an alterative way of dealing with the risk. And it would have been done-----

Deputy Kieran O'Donnell: But, Mr. Neary, that's fine, **apologising**, that's great, right, but this was left run unchecked for six years. Maybe one year may be unfortunate, two years would be careless but three and four and five and six-----

...

Senator Michael D'Arcy: But, Mr. Neary, are you aware of the many people who are be- fore the courts at the moment as a result of the failure to control their personal indebtedness?

Mr. Patrick Neary: I most certainly am, and I … **I regret** that very much, there is no doubt, but the system did fail, and that the warnings from the Central Bank, that came out in the area of financial stability were certainly not strong enough. Now, having said all that, I mean, just to defend the position of the Financial Regulator, not to defend it but to explain it, Senator, I mean, we … we had a heightened awareness in relation to the level of residential mortgage growth, and, in fairness to some of my colleagues, and they were here yesterday, I think, they did outline some of the initiatives that were taken, and, you know, that were put forward by, by the former prudential director in relation to mortgage credit. And also, on … the authority took action on the consumer protection side, expecting banks to … to carry out what they called a stress test to make sure that there was affordability at two and a half, 2.75% above the ECB rate, etc. So we were doing our bit, in that sense, at an individual bank level, but … you know, I take your point here that what was coming out in the FSR, despite all of these indicators, wasn't strong enough.

...

Deputy Michael McGrath: But, Mr. Neary, the inability to reach a conclusion and to follow through on that, does that also illustrate a failure of regulation?

Mr. Patrick Neary: I think it does. I … I think we … I … I have to say that we had an opportunity with that sectoral concentration limit. Rather than letting it fall into abeyance and get into all this back-and-forth correspondence, we had an opportunity at least to look at that limit. Now, it seemed to have been unworkable in the way it was expressed and the way in which it was interpreted but we could have at least, I think, taken the opportunity to … to visit upon that guideline and to see was there ways in which we could segregate some of the riskier sectors out and put a limit on that. We did not do that and that … that … **I regret** that.

...

Deputy Kieran O'Donnell: And … well then, finally, your period as regulator, how would you define it, Mr. Neary?

Mr. Patrick Neary: Well, it was a period where I bought into a system of regulation that didn't work. The system failed and **I regret that**.

...

Senator Susan O'Keeffe: Mr. Neary, when you came in this morning you said to us that you **regretted** what had happened. You said the system failed, you said you'd bought into the principle-based regulation. You then laid out your own statement in which you talked about stress testing, White Papers, Central Bank forecasts, strategic plans, Basel, inspections, capital requirements to domestic standing group. I would have thought, Mr. Neary, that given the scale of what happened … that in saying at the outset **that you accepted responsibility and that you regretted it**, that you would have then laid out all the things that had gone wrong and you would have given us the detail of the errors that had occurred, the mistakes that were made, you would have offered the documentation to show us the exact trail of activity and where it went wrong. That's not what you chose to do and I'm wondering why you did, if you like, try to offer us the good side of what you had done, rather than say, do you know what, we were wrong, and here's how we were wrong.

Mr. Patrick Neary: And when I came into the meeting this morning, I didn't hesitate to say that we got it wrong and I was wrong. And-----

Senator Susan O'Keeffe: Yes, but you spent 15 minutes telling us how you were right. You didn't-----

Chairman: I understand the main question you're pursuing, Senator, and I'll give you some time on that. So go on.

Mr. Patrick Neary: Okay, I mean, I'll accept that as an observation. That's all I can do, Senator. I wanted to set out the activities that the authority took. They … no, I think it's important for balance-----

…

Mr. Patrick Neary: No, I think, Senator, I think it's important. This, thankfully, is an opportunity for people within the regulator to advise the committee, if you like, of an alternative view of the regulator. We've heard … one could argue we've heard a view from a particular cohort of people, who … the regulated community so far. I think it's important for balance that the regulator should also try and give their sense of … of what happened, the measures that they tried to take, albeit that they didn't work. But I think that's important for balance. That's why I took the opportunity in my opening statement to set out those measures, to inform the committee and I think we now have a … have an opportunity here today to discuss the … the good things that we did and the bad things that we did or the things that we didn't do at all.

Chairman: Senator, I'll bring you back in because I need to reframe this for Mr. Neary so it's very, very clear. And to remind you you're under oath, you're here for questioning and that this inquiry has two things to do: one is to find out what went wrong, and secondly is to prevent it from happening again. What Senator O'Keeffe is asking you is that yes, there were a lot of actions taken by the … by you and your office. The question is … is that there were series of things that happened and we ended up in the biggest financial crisis that this country ever faced. For us to prevent that from happening in the future, we need to know what went wrong. And Senator O'Keeffe is asking you what went wrong and we need to hear it from you.

Senator Susan O'Keeffe: And what went wrong in the detail, Mr. Neary, because obviously that it is part of the problem? Lots of people have been surmising about might and might not have happened. You were central, you were there, as were your colleagues. And yet, we are still no clearer, after being here for two and a half hours or whatever, we are no … really no clearer as to what the mistakes were that were made and what errors were made------

Chairman: The question has been made, Senator, so don't get overly prescriptive on it and it is made clear to Mr. Neary, now.

Mr. Patrick Neary: I'm sorry, Senator, if I may have taken you up the wrong way and I apologise for that. I believe that in setting out my statement today that I should emphasise some of the actions taken by the authority because I believe comprehensive studies have been taken … have been carried out by Professor Honohan and Professor Nyberg and … Watson and Regling … in those reports, that clearly cover the failings of the principles-based system, the failings of the regulator. I mean, they are all set out for everybody to see and **I felt that in my statement that I should just give the counter argument to those to get some balance into it**. That's all. There is no ulterior motive and I'm sorry if you feel that, you know, I didn't give enough focus on the downside.

…

Mr. Patrick Neary: I'd like to thank you, Chairman. And I suppose it gave an opportunity to me, I suppose, to put the regulatory complexion on your discussions and I hope you've found it helpful. And, you know, it is clear that the system of regulation that we endeavoured to oversee was, was … did fail. And **I regret that very deeply**, Chairman. So, other than that, I'd just like to thank you for the courtesy you showed me here today and to wish you well with the rest of your work.

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