An Roinn Caiteachais
Phoiblí agus Athchóirithe
Department of Public
Expenditure and Reform

DPE 022/002/2021

24th March 2021

To: Accounting Officers

DPER Circular: 04/2021

Minute of the Minister for Public Expenditure and Reform in response to the Committee of Public Accounts Report on the Examination of NAMA's 2019 Financial Statement & C&AG Special Report 109

A Dhuine Uasail,

I am directed by the Minister for Public Expenditure and Reform to circulate, for your information, a copy of the Minute of the Minister for Public Expenditure and Reform in response to the Committee of Public Accounts Report on the Examination of Matters in relation to NAMA's 2019 Financial Statement & C&AG Special Report 109.

Issues raised

The Minute of the Minister addresses the following issues:

- Undervaluation of the Project Nantes loans and lack of a competitive sales process:
- Lack of detailed research of the companies involved in managing the assets and purchasing the loans;
- Residential Housing provision; and
- Lack of documentation in the sale of the Avestus portfolio.

Enquiries

Enquiries in relation to this Circular should be addressed to Government Accounting Unit, Department of Public Expenditure and Reform, telephone: +353 1 6767571 or email: govacc@per.gov.ie.

Mise le Meas,

David Moloney
Secretary General

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Committee of Public Accounts Report on the Examination of NAMA's 2019 Financial Statement & C&AG Special Report 109

The Minister for Public Expenditure and Reform has examined the Committee's Report and has taken account of its conclusions. In relation to the Committee's conclusions, the Department of Public Expenditure and Reform has engaged with the Department of Finance and the response to each conclusion is as follows:

Issue 1 – Undervaluation of the Project Nantes loans and lack of a competitive sales process: NAMA acquired the Project Nantes loan bundle for €46.2m. However, in 2006 the loan bundle had a par value of €307 million and the purchase price represents an 85% discount. NAMA then miscalculated the target price for the Project Nantes loans and achieved just €38.6 million when it subsequently sold Project Nantes. NAMA also decided to sell the loans based on appraisals conducted two years beforehand. Further, NAMA granted 'exclusivity' for the sale of the loans to Clairvue-Nantes Luxco SARL (Clairvue) for six months, which prevented NAMA from engaging with other potential buyers.

Conclusion 1:
The Committee is of the opinion that NAMA's miscalculation and the decision not to seek up-to-date appraisals of the Project Nantes loan portfolio directly resulted in a loss of approximately €10 million to the taxpayer. This, coupled with the lack of a competitive sales process, has resulted in a total potential loss to the taxpayer of approximately €29 million. The Committee was informed by NAMA that since the sale of Project Nantes in 2012 all property is sold on the open market to ensure competitiveness in the sales process. The Committee welcomes this information. The Committee also welcomes the information provided by NAMA that it now has a centralised IT system to reduce the potential for further miscalculations. However, as the revelation with regard to issues with Project Nantes arose outside of NAMA the Committee remains concerned and does not believe it has received adequate assurances that similar matters could not have occurred with other sales.

The Minister for Public Expenditure & Reform is informed by the Department of Finance that it notes this conclusion.
The Minister has been advised by NAMA that, while they accept that there was a miscalculation made in setting the repayment target for the portfolio, they do not believe that the error negatively impacted the ultimate outcome of the sale. NAMA has advised that it generated €210 million cash from the debtor connection and that this was the best commercial outcome achievable at that time and resulted in an overall profit for the taxpayer of €68 million.

NAMA has further advised that they have developed robust internal controls to try and ensure that no other miscalculations could occur in future. Transactions are continually audited by NAMA internal audit as part of business as usual operations and all NAMA transactions since inception are open to review by C&AG.

Issue 2 – Detailed research:
The Project Nantes loans were part of a larger loan portfolio being managed on behalf of NAMA by asset management company Avestus. Following the sale of Project Nantes, it was discovered that one of the directors of Clairvue had previously been a director of Avestus. This was not disclosed to NAMA before the sale was complete.

Conclusion 2:
While this was not in breach of the NAMA Act 2009, the Committee is of the opinion that NAMA should have done more to investigate the connections between companies managing assets on its behalf, and the companies seeking to purchase NAMA loan portfolios. The Committee believes that the circumstances that existed allowing this to occur represent a failure of due diligence.

The Minister for Public Expenditure & Reform is informed by the Department of Finance that it notes this conclusion.

Issue 3 – Residential Housing provision:
Under Section 2(b) of the NAMA Act, NAMA's objectives include protecting the interests of taxpayers, and contributing to the social and economic development of the State. In 2015 NAMA informed the Minister for Finance that it could potentially contribute 20,000 units to Ireland's housing stock from 2016-2020. However, NAMA stated that construction delays due to Covid-19 have led to the target for completion being extended until the end of 2021. During its engagement the Committee raised concerns regarding planning permission for approximately 7,300 properties on NAMA owned land that have yet to begin construction. It was noted that funding has been provided for 1,100 of these properties.

Conclusion 3:
The Committee notes NAMA's explanation that construction delays due to both COVID-19 and other issues outside of its control - such as water infrastructure and access to sites with planning permission - have led to delays in construction. However, the Committee is of the opinion that NAMA must continue to work to ensure that the target of 20,000 residential units is met by the end of 2021.

The Minister for Public Expenditure & Reform is informed by the Department of Finance that it notes this conclusion.

The Minister has been advised that NAMA remain on track to achieve its 20,000 unit delivery target by end-2021, subject to current Covid-related restrictions on construction and commercial viability. To end 2020, NAMA had achieved the delivery of 19,000 units: 12,450 new residential units were directly funded or facilitated by NAMA; and 6,550 new residential units were delivered on land previously secured to NAMA for which NAMA funded planning permission, enabling works, legal or holding costs.

Issue 4 – Lack of documentation in the sale of the Avestus portfolio:

During the sale process NAMA informed Avestus that it aimed to achieve a €125.5 million repayment target on the sale of its loan portfolio. As the debtor, Avestus was given six months to obtain a buyer who could meet this target. NAMA did not document this communication process or put the proposal in writing to Avestus. Consequently, there is no formal record of the agreement.

Conclusion 4:

The Committee is of the opinion that the lack of documentary evidence of the sale of the Avestus portfolio resulted in a lack of transparency in the process. The Committee believe this to be a blatant failure of NAMA to implement appropriate levels of transparency and good practice.

The Minister for Public Expenditure & Reform is informed by the Department of Finance that it notes this conclusion.

Given under the Official Seal of the Minister for Public Expenditure and Reform on this the 24 day of March, 2021.

L.S.

David Moloney

Secretary General

Department of Public Expenditure and Reform