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Date: 14/04/2015 12:30
Subject: Item for Meeting Tomorrow
Sent by: Declan O'Farrell

Cathaoirleach and Committee Secretary,

I would ask for time to be made available at Wednesday's meeting regarding concerns I have had for some time with issues relating to the banking inquiry, some of which I have had occasion to raise with the Cathaoirleach in the past. I am cc'ing this to all members of the committee and the investigation team.

In relation to next week's public hearings, the immediate concerns I have are:

1. the books of evidence for AIB
2. the treatment of the Central Bank records
3. Project Atlas
4. NAMA

I'll take these in turn and explain the reasons for my concerns:

1. Book of evidence for AIB:

The books of evidence are being presented to us as a done deal. Last week my assistant was able to identify 24 documents which tied into the forthcoming sessions with AIB. Having reviewed the list, I requested that these documents be added to the supplementary book of evidence. One of the requests was for a book of evidence of the minutes of AIB board meetings for 2007 and 2008. This was refused. The investigation team told us that the team had already gone through all the minutes for 2007 and 2008 and assured us that all issues of interest had been noted. The rest of the documents were also refused, save for a collection of 40 loose pages from 14 of the documents. Time, space and legal pressures were cited. Wednesday 8 April had already been flagged as the deadline for additional material.

The next day my assistant came across the following documents - AIB02489 ("Project Omega") which relates to a possible takeover of Anglo Irish Bank by AIB, dated 24 November 2008; and AIB02124 ("Minutes of the Board Meeting of AIB plc 7 September 2008"). On Friday he found AIB02147 (minutes of an AIB board meeting in Baltimore, 17 September 2008).

The 7 September minutes has the regulator, AIB and BOI speaking directly to the liquidity of INBS in the run up to the bank guarantee, and the attitude of AIB, BOI and the regulator to same.

I believe this document is important because it has the regulator and the two banks discussing the state of INBS a mere three weeks before the guarantee and has AIB saying that although they would be willing to provide €2bn each in liquidity to INBS, they will not put any money into the bank without a state guarantee as they believe they would lose €1 billion in the process. BOI suggested that INBS was looking at up to 50 percent of a write-down on its property construction loan book. AIB also wanted €2bn in liquidity to be made available to AIB from either the Central Bank or the NTMA. How can this not be put to Gleeson and Forbes when they appear before the committee next week? Liquidity, possible insolvency, and the state guarantee. These gets to the heart of the inquiry.

The Baltimore meeting of 17 September speaks to liquidity issues with AIB, as well as the systemic nature of the crisis.

As already noted, I was assured by the investigation team that they had gone through all the minutes for 2007 and 2008 and that it had chosen what it sees as important in relation to the investigation. Indeed, they said that they were using the minutes as their base-line for the AIB investigation. This makes the exclusion of AIB02124 all the more baffling. How was this document deemed to be of such low significance with regard to the upcoming witnesses from AIB that it had been left out of the main body of evidence?

Similarly with AIB02489. What is the logic that led the investigation team to decide that this document - multi-layered and rich in investigative material regarding AIB and its world-view in the immediate aftermath of the bank guarantee - was not relevant with regard to the upcoming witnesses from AIB?

When I queried the exclusion of these two documents, the investigator wrote an email to say that these documents were left out for legal reasons, yet it seems that now, after some protest, that they will be included after all. What changed with regard to the legal advice? Why did the investigators decide that the minutes were not of relevance?

I also have concerns regarding the documents entitled "request for approval of exception to group large exposure policy limits" - which were signed off on with regard to large loans. I asked for all exception forms to be provided as evidence, only to be told that legal have assured the investigative team that two examples are enough to prove a pattern. These exceptions are crucial to establishing the nature of the relationships between finance, property and the state in this country. They are already on the system, yet despite this only two or so examples are to be given

to the committee members in books of evidence? This is not acceptable. We are here to investigate the relationships. The exception forms speak to this line of inquiry. Their omission - as a book of evidence in itself - undermines the investigation.

On the issue of the books of evidence - AIB - B1 contains an entire section on foreign exchange charges in a few local branches in 2004 which, while interesting in itself, does not pertain in any fashion to the systemic banking crisis of 2008. Furthermore, AIB-B1 reproduces the minutes of a board meeting of 13 January 2004 twice - they appear on pages 11-16, and again on pages 69-73. Why did the investigation team feel the need to reproduce the same minutes twice in the same book of evidence, given the argument about space constraints?

I believe that the minutes of all the boards of all the banks need to be produced in books of evidence. All of them from 2007 and 2008, with additional minutes as needed from other years. The banks did not expect anyone outside to be reading them, and in the ones I've seen from AIB there is a frankness there that speaks directly into the crisis. Their omission as a stand-alone book of evidence in itself is baffling.

I have been told that supplementary books of evidence need to be smaller than the original books. This doesn't make any sense whatsoever. We are investigating a banking collapse, not writing a report for our local book club. The books of evidence need to be as comprehensive as possible to allow the committee to do its job. The argument has also been made that the issue of binding is constraining how much goes into each book. This is, quite frankly, ridiculous. This is a parliamentary inquiry, the first of its kind under the new legislation, with a multi-million euro budget, and it needs to justify that expenditure to the Irish people. The way the inquiry will be judged will be on whether it uncovers any new evidence and makes that evidence available to the public who, after all, are the ones actually paying for the inquiry. It will not be judged on whether it used soft-binding or ring folders for its books of evidence. The binding is not a binding issue.

2. the treatment of the Central Bank records

At one of the first meetings I raised the issue of access to all the documents, including those of the Central Bank. As early as February we were promised training and access to central bank correspondence and documents for ourselves and our assistants. It is now April and nothing has been done. We are still being blocked from these records, as well as from correspondence between the investigation team and the Central Bank, with "training" cited as the reason.

Let me state that again. The inquiry committee, at the moment, does not have access to correspondence between the Central Bank and the inquiry investigation team. Simply stunning.

Staying with the Central Bank documents. So far, what we are seeing in the documents from the banks is a series of discussions on the systemic problem, but mostly from the self-interest viewpoint of the individual banks. The Central Bank, however, had an eye on the entire system. They watched it move in real time. It is crucial that we are able to cast our eye over the central

bank documents. It is difficult to see how the committee can achieve a systemic analysis without the Central Bank files. The experience with the AIB documents leaves me with some concerns regarding the ability of the investigation team to see what needs to be seen.

3. Project Atlas

We have been informed that the committee cannot see an un-redacted version of Project Atlas, again for "legal reasons" but that aspects of the leaked version that were published by the Sunday Business Post will be used. The investigation team is apparently in talks with AIB to acquire an un-redacted version of the section of the AIB section of Project Atlas.

The investigation team is making the argument that because the leaked version is now in the public domain that the committee of inquiry should be given a copy of the part of Project Atlas that pertains to AIB. Yet, Project Atlas was commissioned by the Financial Regulator – an office that falls under the terms of reference of the inquiry. Why is a parliamentary inquiry, with powers to compel evidence, essentially asking a favour of AIB to pretty please send in some essential information? Why is the investigation team photocopying extracts from a newspaper report on and putting it in as evidence (AIB C2c. page 7, PUB00185-001), instead of actually using the original document instead? What is going on here?

Project Atlas - the un-redacted version - has to be made available to the committee and has to be used as evidence. Committee members have to see it in its entirety and if not I would like to see in writing the legal reason for the blocking of Project Atlas from the committee members. Legal reason was also cited with regard to the AIB minutes, but this seems to have changed in the meantime.

4. NAMA

There is nothing new of substance in the NAMA evidence book. Absolutely nothing. Why?

The NAMA book of evidence contains the list of questions that NAMA asked of the banks regarding the top 100 borrowers on their books, but not - and this is amazing - the actual answers received.

So, we have the questions that NAMA asked of the banks in relation to their loan books, but not the answers received. What use are the questions without the answers? Will this be our conclusion, that NAMA asked questions of the loan books and... well, that's it. They asked questions. Now let's move on.

I have requested that the excel sheets that contain the answers be made available to the committee. It is stunning that a case actually has to be made for the importance and relevance of that information to our work as a parliamentary committee investigating the banking crisis.

The write-downs of different types of properties still has not been made available to the committee, despite the fact that I have raised this issue repeatedly over the past three months.

On a separate, administrative matter, the committee was promised a flowchart of the members of the investigation team and the lines of inquiry they are working on, along with their emails and extension numbers. I would like that sent on as soon as possible.

These are the issues I would like discussed at Wednesday's meeting, as well as the reasons why I think it is important for the committee to discuss these issues.

Regards,

Pearse.

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