COMMITTEE OF PUBLIC ACCOUNTS debate - Thursday, 14 May 2009

National Development Finance Agency — Annual Report 2007.

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Dr. Michael J. Somers (Chief Executive, National Treasury Management Agency) Mr. Paul Carty (Chairman, National Pensions Reserve Fund Commission) and Mr. Brian Murphy (Chief Executive, National Development Finance Agency) called and examined.

Chairman

I welcome everybody. We will consider the following: the 2007 annual report of the Comptroller and Auditor General, chapter 15.1 — National Treasury Management Agency, annual report 2007; the State Claims Agency; the National Pensions Reserve Fund, annual report 2007; and the National Development Finance Agency, annual report 2007.

I draw attention to the fact that members of the committee have absolute privilege but the same privilege does not apply to witnesses appearing before the committee, and the committee cannot guarantee any level of privilege to witnesses appearing before it. I remind members of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the Houses, or an official either by name or in such a way as to make him or her identifiable. Members are also reminded of the provisions within Standing Order 158 that the committee shall refrain from inquiring into the merits of a policy or policies of the Government or a Minister of the Government or the merits of the objectives of such policy or policies.

Before going further, we heard this morning that Mr. Brendan McDonagh, interim managing director of the National Asset Management Agency, NAMA, is unable to be here today because of a family bereavement. We extend our sympathy to Mr. McDonagh. I am disappointed that we will not have an opportunity to speak to him, as the committee has a key constitutional role in scrutinising public expenditure so as to ensure the taxpayer is getting value for money. We will be unable to speak to Mr. McDonagh today.

Representatives of the NTMA appear before the committee annually and that meeting gives an opportunity to committee members to question how our national debt is being managed, and how the agency is performing in a range of other areas, such as the investment of the national pension fund, its role in developing the public-private partnership process for the procurement of projects under the public capital programme and the way claims against the State are being handled. These meetings also give the agency an opportunity to put in the Official Report its understanding of the way it sees the economy and the financial markets developing in the years ahead.

The major development in terms of the economy and banking in recent months has been the decision to establish NAMA. I should stress that it is not the role of the committee to question the policy of the Government and it is my job as Chairman to ensure that the committee does not stray into that area. As the legislation to establish NAMA has not been published, our questioning this morning should be of a general nature, which will enable representatives outline how NAMA will approach this gigantic task.

It is with regret that Mr. McDonagh is unable to attend and we again extend our deepest sympathy to him. I am sure Dr. Somers will be able to deal with any issues that arise in respect of NAMA at this meeting. Given the implications of NAMA's work for the taxpayer, I am certain this will be a major feature of this committee's work in the years ahead.

I welcome Dr. Somers of the National Treasury Management Agency. Will he introduce his officials?

Dr. Michael J. Somers

Mr. Brendan McDonagh sends his apologies as his father died rather suddenly earlier this week. We hope that between Mr. John Corrigan and myself, we will be able to answer most of the questions from the committee. Mr. Corrigan attended virtually all the meetings that Mr. McDonagh attended and I attended some myself. Between the two of us, I hope we can add to the information required. Mr. McDonagh was only recently appointed by the Government to this position, so it is not as if he had a long build-up.

Mr. Ciarán Breen heads up the State Claims Agency and has appeared before the committee before. Mr. Oliver Whelan deals with our borrowing and debt management, including the retail savings products. Mr. Paul Carty is an Accounting Officer, like myself, and is obliged to appear before the committee to answer questions on the National Pensions Reserve Fund. His position is very much a part-time role. Mr. John Corrigan deals with all issues connected with the National Pensions Reserve Fund and is also closely involved with the recapitalisation of the banks and NAMA. Mr. Brian Murphy is also an Accounting Officer and heads up the National Development Finance Agency. He was appointed with effect from January, succeeding Mr. Adrian Kearns, who has left.

I am also accompanied by Ms Eileen Fitzpatrick, who is a director of the NTMA and who deals with alternative assets in connection with the pension fund. Mr. Michael

Cunningham is a colleague of Mr. Brendan McDonagh and Mr. Stephen Judge is our financial controller.

Chairman

Will Mr. Buckley introduce the annual report? The full text of chapter 15 can be found in the annual report of the Comptroller and Auditor General or on the website of the Comptroller and Auditor General at www.audgen.gov.ie.

Mr. John Buckley

The NTMA, as well as managing the national debt, also manages the National Pension Reserve Fund, the State Claims Agency and the National Development Finance Agency. In 2007 it took on some additional functions, one of which was to manage the purchase of carbon credits on behalf of the State to meet Ireland's obligations under the Kyoto Protocol. At 31 December 2007 the national debt of Ireland was €37.6 billion and, for the year 2007 the cost of servicing that debt was €2.1 billion. The market value of the National Pensions Reserve Fund stood at €21.2 billion at the end of 2007.

To say that the figures I have quoted are historical would be to understate matters. This is largely as a result of the financial market turmoil and economic downturn subsequent to the year end. The net national debt had increased to €50.4 billion by the end of 2008 and this is without counting liquid resources of €22 billion, which were also accumulated from borrowing. The pensions reserve fund stood at €16.2 billion at the end of 2008. After taking account of a further State contribution of €1.7 billion, the gross diminution in the value of the fund was €6.6 billion for the year.

The main features of the financial performance of the NTMA for 2007 were as follows: a total of €32.4 million was spent on administering the group of agencies which operate under the aegis of the NTMA, of which €5 million was an additional contribution to the agency's pension fund; the agency's performance in managing the debt portfolios exceeded that of the benchmark portfolio by €31 million; and €23.7 million had been spent up to the end of 2007 on the purchase of Kyoto credits. The demand for these credits will be affected by the economic slowdown, as will the debt.

Fees to An Post account for €47 million, which was an increase of €11 million on the previous year. The fees are for managing the Post Office Savings Bank, the small savings schemes and the SSIAs that were operated through An Post. A new service level agreement was drawn up in the year, and services are expected to cost around €42 million in an average year, according to the NTMA estimates.

Following the 2007 audit, the NTMA committed to pursuing a more cost-effective scheme to encourage savings by children. The Accounting Officer will be in a position to update the committee on action taken in that regard.

Chairman

I now ask Dr. Somers to make his opening statement.

Dr. Michael J. Somers

I will make a brief statement in connection with the NTMA, after which my colleagues, Mr. Paul Carty and Mr. Brian Murphy, may also wish to make an opening statement.

Chairman

As we have three statements, perhaps we could move through them quickly.

Dr. Michael J. Somers

I will go through my statement quickly.

The NTMA was established at the end of 1990 to borrow for the Exchequer and manage the national debt. Its original objectives were to ensure adequate liquidity for the Exchequer and to minimise the interest burden in the medium term, subject to an acceptable level of risk. Since then the remit has expanded greatly as the Oireachtas and the Government have delegated substantial additional functions to the NTMA, which include the State Claims Agency, the management of the National Pensions Reserve Fund and the National Development Finance Agency. Recently, the Government announced that it intends to establish a National Asset Management Agency, NAMA, under the aegis of the NTMA.

The NTMA operates as a financial institution with a commercial remit outside the Civil Service structure. Its organisational arrangements enable it to operate with a tight staff complement, currently about 170 across all business units and support functions. As such, it has the capacity to deal with a wide range of financial issues on behalf of the State and the flexibility to respond to current trends and market conditions.

When the NTMA was set up, Ireland's national debt was one of the highest in Europe, at around 100% of GNP. By 2007, the year under review today, it had fallen to its lowest level in recent years, 23.3%. The borrowing requirements published in the supplementary budget 2009 imply that the ratio will rise significantly in the next few years. Using the standard EU measure, the general Government debt to GDP ratio rose from 25% in 2007 to 43.2% in 2008, and is forecast to peak at 79% in 2012. It should be noted that the forecast euro area average for 2010, the latest year for which the Commission has published a forecast, is 83.8%, and Ireland is forecast to remain below this average. Additionally, the EU measure is a gross measure and does not allow the assets of the NPRF or the substantial cash balances that the NTMA has built up to be offset against the debt. These assets currently represent more than 20% of GDP.

In terms of the burden that the cost of servicing the debt places on the Exchequer, interest payments were almost 27% of tax revenue when the NTMA was established in 1990. This had fallen to less than 4% by last year. This ratio is also forecast to increase significantly over the next few years and, while it will reach around 18% in 2013, this is no greater than the levels experienced in the mid-1990s. Throughout the decade from 1998 onwards, the Exchequer was either in surplus or broadly balanced. However, as a result of the deterioration in the public finances, there was a relatively small deficit in 2007 and in 2008 the Exchequer recorded its biggest borrowing requirement ever, €12.7 billion. The supplementary budget forecasts borrowing requirements of around €20 billion each year for 2009 and 2010; almost €18 billion in 2011; €13.4 billion in 2012; and €9.4 billion in 2013. In funding these deficits, the NTMA must now compete not only with other euro area sovereign borrowers as they fund their deficits and recapitalise their banks, but also with banks as they rebuild their balance sheets with the backing of government guarantees.

Total sovereign borrowing by European governments this year is expected to be more than €1,300 billion, up one third from the 2008 total of €997 billion. The US budget office announced on Monday that it would borrow a record $1,841 billion in 2009. In 2008 the NTMA issued two new benchmark bonds which raised €11 billion. In addition, we used the short-term commercial paper markets to build up Exchequer cash balances to over €20 billion towards the end of 2008. This has assisted in the timing of borrowing in 2009, ensuring that the NTMA can raise sufficient funds as opportunities arise without having to enter the market at particularly turbulent times.

The first four months of this year have seen a continuation of the volatility that has characterised the global capital markets since August 2007. Nevertheless we have been successful in raising funds through a variety of initiatives. Two new benchmark bonds were issued by syndication, one in early January and one in February. They raised a combined total of €10 billion. Auctions of existing series of bonds raised a further €2.2 billion. In addition, we launched a new treasury bill programme in March which has raised €4.6 billion to date. The success of these deals reflects the continued confidence of investors in Irish Government debt. However, the spread in the cost of funding that Ireland must pay over the German benchmark rate began to increase towards the end of 2008 and rose sharply in January as a result of a number of global and domestic factors. These included: the prospect of continued contraction in Ireland and the major economies; the sudden and steep deterioration in the public finances; adverse comment regarding the bank recapitalisation programme; and the speculative activities of participants in the credit default swaps market. Spreads have been falling steadily, however, since the middle of March.

Funding the deficit and refinancing the existing stock of debt call for the maintenance of an active and liquid market in Irish Government bonds. Relatively, Ireland is a small issuer, with less than 1% of the euro government bond market and most Irish Government bonds – around 85% – are now held by investors outside the State. The NTMA actively markets Ireland's bonds and has already undertaken a number of roadshows in 2009 to highlight the positive features of the Irish economy.

The projections for borrowing and debt levels that I have given today do not include any increased issuance in connection with the proposed NAMA. The purchase of property-related assets by NAMA, at a discount yet to be determined, is expected to be paid for by the issue of Irish Government bonds directly to the banks. This will result in a significant impact on gross debt ratios, with the ratio rising to over 100% over time depending on the level of the discount applied and the fiscal deficits. The income streams from the NAMA assets will mitigate the cost to the Exchequer of servicing the additional debt and the proceeds from their eventual sale will accrue to NAMA and the Exchequer. The establishment of NAMA will require legislation. However, last week the Government announced the appointment of Brendan McDonagh, NTMA director of finance, technology and risk, as interim managing director of NAMA to proceed with the implementation process pending legislation.

The NTMA manages the National Pensions Reserve Fund. It was appointed as manager in April 2001 for a period of ten years. The fund is controlled by the National Pensions Reserve Fund Commission. The functions of the NTMA include provision of policy advice to the commission and implementation of the fund's investment strategy as well as selection of the fund's investment managers. The fund is currently valued at around €17.2 billion and has earned a return of 3.8% to date this year. Overall, since its inception in April 2001, the fund has earned an annualised return of 0.9%, excluding the Exchequer contribution. At the start of 2009, cash balances comprised over 10% of the total fund. These cash balances have been reduced and the fund's government bond investments have been liquidated to finance the €7 billion purchase of preference shares in Bank of Ireland and AIB. This purchase was directed by the Minister for Finance under the Investment of the National Pensions Reserve Fund and Miscellaneous Provisions Act 2009. The NPRF Commission has conducted extensive due diligence of both institutions at the request of the Minister for Finance.

Since December 2001, the NTMA has acted as the State Claims Agency, managing claims for personal injuries and damage to property against Government Ministers, the Attorney General, health enterprises and other State authorities. It is currently managing approximately 4,150 claims, with potential liabilities of €643 million. It also has a risk management role, advising the various State authorities on how to minimise their claims' exposures. Employer liability claims have declined by 78% since the inception of the SCA, and public liability claims have declined by 38%. The resulting direct cost savings are estimated at €70 million. Indirect savings associated with loss of staff, training, absenteeism, overtime, sick pay, administration and so on are estimated at €280 million.

The National Development Finance Agency advises State authorities on the optimal means of financing public investment projects, including projects procured via public private partnerships, PPPs. The National Development Finance Agency (Amendment) Act 2007 expanded the role of the NDFA, giving it responsibility to undertake the procurement and delivery of certain public private partnership, PPP, projects. So far, 127 projects have been referred and the NDFA has completed its advice on 40 of these. The NDFA is the designated procurement authority for ten projects.

In accordance with statutory requirements, the NTMA is audited by the Comptroller and Auditor General. Since its establishment, the NTMA has had in place an internal audit function which operates in accordance with the framework code of best practice set out in the code of practice on the governance of State bodies. The work of internal audit is informed by analysis of the risk to which the NTMA is exposed, and annual internal audit plans are based on this analysis. This work is supplemented by an external firm of auditors engaged by the NTMA to perform internal audit work. All internal audit reports are made available to the Comptroller and Auditor General each year. We have furnished the committee with terms of reference and scope of internal audit plans.

The National Treasury Management Agency internal control system relies on strict organisational independence of the monitoring and control functions, segregation of duties and the application of the maker-checker principle to all activities. The NTMA has received satisfactory reports from both its external and internal auditors in respect of 2007. The NTMA operates with four external boards and two audit committees, namely, one each for the NTMA and the NPRF. These audit committees review the effectiveness of the controls of the NTMA and its service providers through meetings with management, the office of the Comptroller and Auditor General and the internal auditor.

To safeguard the assets it manages on behalf of the State, the NTMA has in place a comprehensive system for managing its credit risk with other financial institutions. Counterparties are constantly monitored for any events that might affect their creditworthiness and all counter-party limits are subject to an ongoing detailed review process. The credit crisis has illustrated the importance of sound risk management. We have seen now the consequences of questionable risk control in the Irish banking sector and the impact on the broader economy. On a global level, the IMF has had to increase repeatedly its estimate for worldwide losses stemming from US-originated assets to $4,000 billion in its April global financial stability report. The NTMA continually reviews its own processes and procedures in the light of lessons learned from the crisis.

Since September 2008, at the request of the Minister for Finance, senior staff from the NTMA have been involved in work relating to the position of the Irish financial institutions. This has been a huge task and none of us expected the situation to turn out as it has owing to an unforeseeable combination of events, including the worldwide economic downturn, the repercussions of the collapse of major international institutions such as Bear Stearns and Lehman Brothers, and the high levels and concentration of property lending engaged in by the Irish institutions.

This gives a brief summary of the main activities carried out by the NTMA. The agency also manages other Government funds such as the social insurance fund and the dormant accounts fund, and borrows on behalf of the Housing Finance Agency. In addition, we operate a central treasury service for non-commercial State bodies.

We are happy to answer any questions on any of these activities. My colleagues, Mr. Paul Carty, chairman of the NPRF commission, and Mr.Brian Murphy, chief executive of the NDFA, will now elaborate on those particular businesses.

Chairman

I thank Dr. Somers. May we publish this statement?

Dr. Michael J. Somers

Yes.

Mr. Paul Carty

I am pleased to have another opportunity to discuss the work of the National Pensions Reserve Fund Commission with the committee. In discussing the fund, it is important to bear in mind the reasons it was established and its investment objective. The purpose of the fund is to meet, as much as possible, the costs to the Exchequer of social welfare and public service pensions from 2025 onwards when these costs are projected to increase dramatically owing to the ageing of the population.

The Government's Green Paper on pensions, published in October 2007, projects that we will move from having six people of working age for every older person today to a ratio of two to one by mid-century. It also projects that spending on social welfare and public service pensions will increase from roughly 6% of gross national product at present to 15% by 2050. The essential point I wish to draw is that higher pension costs arising from increased life expectancy and lower birth rates are going to put very significant pressures on the public finances in the years ahead long after our current budgetary difficulties are resolved.

When I spoke to the committee last year, I noted that after a number of benign years, 2007 saw increased volatility return to the world's capital markets in the wake of the sub-prime crisis in the US and the resulting credit crunch. This was nothing compared with the storm that was to envelop markets in 2008. The fund's 2008 performance of -30.4% reflects the exceptionally difficult market conditions that marked the year, especially following the collapse of Lehman Brothers in early September when the credit crunch escalated into the most serious financial and economic crisis since the 1930s. Major international stock market indices were down in the region of 40% for the year while the domestic ISEQ index recorded a decline of 66%. The average Irish-managed pension fund fell by 34.6% in 2008.

The sub-prime and other collateralised debt instruments which are the root cause of the credit crunch are not part of the fund's investment strategy and the effects of the crisis of 2008 were mainly felt through the fund's equity investments. However, the impact was not confined to equities as all major asset classes, except Government bonds and cash, suffered sharp declines. The effect on the fund was mitigated to some extent by the fact that the commission has adopted a very cautious approach to committing new money to the markets since the onset of the credit crunch in 2007, and by the end of 2008 held 10% of the fund in cash and 22% in bonds.

The fund has earned a return of 3.8% to date this year. Overall, from its inception in April 2001 to end April 2009 it has earned an annualised return of 0.9%, excluding the Exchequer contribution.

The fund's statutory investment mandate is to secure the optimal financial return over the period to the year 2025 and beyond, provided the level of risk to the moneys held or invested is acceptable to the commission. In seeking to meet this objective the commission, as a long-term investor, has significant investments in equities and other real assets. This means that in recessions and bear markets the fund will experience negative returns. Although periods of volatility were factored into the fund's investment strategy, the events of 2008 are very extreme and have prompted most pension fund trustees to revisit their investment strategy.

I shall come to the commission's role in the recapitalisation of the banks presently but clearly a very significant investment in Irish banks was not something that was envisaged when the commission first formulated its investment strategy. The commission was in any event scheduled to conduct a root-and-branch review of its long-term investment strategy in 2009. The last such review was conducted in late 2006. This review will need to take into account both the significant investment in bank preference shares and the tumultuous financial and economic events in the past 18 months. However, none of these factors involves any change in the date of first drawdown from the fund – 2025 — and the commission will continue to make strategic decisions based on a long-term investment horizon. Ultimately, the fund's performance will be determined by the long-term growth of the global economy over a 25 to 30-year period rather than by sharp market movements in response to extreme events.

The Investment of the National Pensions Reserve Fund and Miscellaneous Provisions Act 2009 empowers the Minister for Finance to direct the commission to invest in listed financial institutions or to underwrite share issues by these institutions. It also empowers the Minister to direct the commission with regard to the management and disposal of any investment in these institutions. The fund invested €3.5 billion in preference shares in Bank of Ireland on 31 March and a further €3.5 billion in preference shares in Allied Irish Banks yesterday, 13 May.

Recapitalisation of the banks will involve the diversion of fund assets into specified investments for a period to ensure the long-term sustainability of the banking sector in Ireland. The commission is happy to be of whatever assistance it can to the Minister in securing this public policy objective. Any assets used in the programme will remain part of the fund and any income or capital gains from these assets will accrue to the fund. The approach does not involve any change in the date of first drawdown from the fund, namely, in 2025.

The domestic and international environment within which the National Pensions Reserve Fund operates has changed dramatically in the past 12 months. With the recapitalisation of the banks through the fund, the role of the commission has changed and in a way none of us would have foreseen only a year ago. The commission is committed to playing its part in addressing the challenges we face as a nation, both in the shorter term in monitoring the taxpayer's investment and ensuring the stability of our banking system and in the longer term in helping to secure the sustainability of our public pension system.

Chairman

I thank Mr. Carty. May we publish the statement?

Mr. Paul Carty

Yes.

Mr. Brian Murphy

The National Development Finance Agency, NDFA, was established on 1 January 2003 in accordance with the National Development Finance Agency Act 2002. Its primary function under that Act is to provide a financial advisory service for State authorities in respect of capital projects over a certain size – at present €30 million – under guidelines issued by the Minister for Finance. All projects procured by way of public private partnerships, PPPs, must be referred to the NDFA for advice.

The National Development Finance Agency (Amendment) Act 2007 significantly expanded the role of the agency to include the actual procurement of certain public capital projects by way of public private partnerships. With the passing of the 2007 Act, the NFDA's procurement remit was formalised. The first project referred to the NDFA for procurement, schools bundle 1, reached financial close in March this year and these schools are now under construction.

The areas excluded from the NDFA's procurement remit are transport projects which are already provided for in the mandates of the National Roads Authority and the Railway Procurement Agency, as well as certain local authority PPPs. The rationale for the decision to assign the above functions was, first, the need to have a central and enduring professional expertise available to the State authorities; second, the recognition that the requirement for Government capital projects would have to be matched by a developed institutional expertise; and third, the fact that the NTMA was already managing a number of significant financial businesses on behalf of the State.

The procurement function complements the financial advisory function already established within the NDFA, National Development Finance Agency, and is also governed by guidelines issued by the Minister for Finance. There are currently 19 full-time in-house professionals providing financial and risk advice. A technical project procurement and management group has been established comprising 17 project managers. There are also two in-house legal advisers. The total head count in the NDFA is now 41 including a senior management team of three. To date, some 127 projects have been referred to NDFA for financial advice. The NDFA is currently working on 52 active projects in conjunction with the sponsoring Departments and agencies.

The NDFA is the designated procurement authority for ten of the 127 projects. Of these ten projects, three have been formally handed over to the NDFA for procurement, involving two discrete bundles of schools and the redevelopment of the National Concert Hall. The first of these bundles of schools reached financial close on 6 March 2009. These schools will provide 2,700 pupil places. Construction works have commenced on site with all four schools due to be completed by September 2010.

I refer to public sector benchmarking and value for money. Achieving value for money remains the overarching consideration in the procurement of each public investment project and is central to the role of the NDFA. The preparation of the public sector benchmark, PSB, is the key step in the appraisal of a PPP, public private partnership, project. The PSB serves as a direct, like-with-like comparator for the PPP bids and, at evaluation stage, forms the basis for the value for money assessment of the highest ranking bid. The PSB remains the responsibility of the procuring authority. It will be compiled by the NDFA, with input from the authority, and agreed by the authority before going to the market.

To measure the achievement of the value for money outcome of each PPP project there are key stages at which value for money is formally tested. The Minister for Finance has issued guidelines outlining how and when to carry out these formal tests. The first and second value for money tests are conducted by the State authority prior to going to market and help it to determine whether a PPP has the potential to give value for money against the alternative of procuring it by traditional means. The first value for money test is, to varying degrees, qualitative as there is no market test, as reflected in bid prices, available at that point. The second formal value for money test is carried out when the PSB for the project has been compiled. Some of the issues that were considered qualitatively in the PPP procurement assessment will be quantified in the PSB. The third value for money test is conducted after receipt and evaluation of the bids and is a quantitative measure relying on a highly formalised process. If the highest ranking bid equals or beats the PSB, it is deemed to offer value for money. A key principle is that the figures used in both the PSB and the PPP models must be comparable. In other words, we are comparing like with like.

I refer to the challenges ahead. The current global financial crisis is having an impact on the funding of all investments including PPP projects in all countries. PPPs in Ireland, the UK and other countries have experienced delays in getting banks to lend for long periods. In recent weeks a number of larger deals in the UK have successfully moved to financial close following a period of delay due to the disruption to the financial markets. The PPP model is therefore still considered to be robust. The success of the market in future will be a function of the ability of the public sector and the private sector lenders to respond to the new challenges. The NDFA expects the momentum in PPPs to gain more traction as soon as conditions in the financial market return to normal. There is no doubt that the challenging fiscal position Ireland faces will have an impact on overall capital spending in the medium term. The supplementary budget of April 2009 indicates that the Government is still committed to maintaining high levels of public capital investment. In his budget, the Minister for Finance indicated that there may be scope to access significant private funds for infrastructure projects, thus reaffirming the Government's commitment to the capital programme including PPPs.

I refer to developments in projects since the issuance of the 2007 annual report. Limited detailed information can be provided due to the commercially sensitive considerations in respect of some projects, which are currently in procurement and for which the NDFA is acting as financial adviser and procurement agent. In the education area, the PPP programme consists of 27 schools and has an estimated capital value of €320 million. I refer to the first bundle of schools. As mentioned earlier, the first bundle to be delivered by PPP reached financial close on 6 March 2009 and construction works have commenced on site with all four schools due to be completed by September 2010. The project was handed over by the Department for Education and Science to the NDFA for procurement in September 2006 and Macquarie Partnerships for Ireland, MPFI, was appointed preferred tenderer in October 2007. The contract award followed 16 months later, a significantly longer period than was planned or anticipated. The two main reasons were first, a post tender change to the Department of Education and Science requirements for special needs provision within the schools, which took four months to resolve and second, the withdrawal of DEPFA Bank as the proposed sole funder to MPFI late in the process, causing a further delay of approximately five and half months. Work started on all sites immediately following contract award and the schools are on programme for the target service commencement date of September 2010.

The second bundle consists of six schools which will provide accommodation for 4,700 students. This project was handed over by the Department to the NDFA for procurement on 6 May 2008. This procurement remains on programme to receive tenders in early June 2009 with an announcement on the appointment of the preferred tenderer anticipated in early autumn 2009. Financial close and contract award are planned for late this year, subject to the outcome of the planning process.

The ongoing credit volatility and the consequential variability of bank funding terms is preventing the candidates meeting the rules of the competition as originally laid out at the time of invitation to participate in dialogue. This has led the NDFA to initiate a switch from the competitive dialogue procedure to the negotiated procedure as provided for within the European Communities (Award of Public Authorities' Contracts) Regulations 2006. Despite this change, we expect to maintain the original programme for delivery.

The third bundle of schools comprises seven schools in Counties Donegal, Leitrim, Galway, Wexford, Waterford and Westmeath. The current indicative timeframe from the Department of Education and Science for these schools to become operational is late 2012.

Chairman

I interrupt to alert members to the fact that there is a vote in the House. The usual arrangements will apply.

Mr. Brian Murphy

The third level programme is a PPP programme consisting of 17 buildings or developments across nine sites with a capital value of approximately €270 million.

In respect of the first bundle, the Minister for Education and Science announced the bundling selection for this programme on 15 January 2008. Pre-procurement work on the first bundle is substantially complete. Outline planning permission has been received for each of the four sites. The project has not yet been handed over to the NDFA for procurement and NDFA expects this to take place sometime in this quarter.

I refer to the second bundle of third level institutions. The pre-procurement work on the second bundle commenced in September 2008. The project is expected to be handed over to us for procurement in the third quarter this year. Pre-procurement work on a third bundle is anticipated to start later this year.

I refer to the area of the arts. The National Concert Hall project was handed over from the Department of Arts, Sport and Tourism to the NDFA for procurement in May 2008. Following the evaluation of all expressions of interest, the invitation to participate in dialogue was issued to a short-list of three candidates in September 2008. Shortly afterwards, in early November 2008, one of the participant consortia withdrew from the competition on commercial grounds and the fourth ranked candidate was invited to enter the competition. Stage one outline submissions were received from all three participants in January 2009 and were subject to the review and feedback of the project team. Stage two detailed submissions were received on the 8 May 2009 from only two of the participants as, one month prior, another of the participants withdrew from the competition, again citing commercial reasons internal to the consortium. Despite this withdrawal, there is still a very healthy competition between the two remaining short-listed candidates in the run up to the receipt of tenders in July. Participants in this competition are experiencing the same difficulties I described under the schools bundle 2 competition, due to exceptional market conditions. The decision, therefore, has also been made in this competition to switch the procurement route from use of the competitive dialogue procedure to the negotiated procedure as permitted by the regulations. Final tenders are due in July 2009 with an announcement on the appointment of the preferred tenderer anticipated in the autumn. Financial close and contract award are planned for early 2010, subject to the outcome of the planning process.

In respect of the Abbey Theatre, the Office of Public Works is progressing arrangements for the international design competition. On successful completion of this the standard pre-procurement work will commence, including output specification and risk workshops and the public sector benchmark will be finalised. On completion of the latter and the finalisation of all policy matters, if arising, the project will be handed over to the NDFA for procurement.

The national plan for radiation oncology, NPRO, involves the procurement of a network of facilities for the delivery of radiation oncology services in a number of centres in Ireland as part of the national cancer strategy. The NPRO comprises two principal work streams, known as phases 1 and 2. Essentially, phase 1 refers to facilities that are to be procured by traditional means and phase 2 refers to facilities that are to be procured by PPP. The second phase of the project will be handed over to the NDFA for procurement. The HSE has awarded the phase 1 project design and construction contract to BAM. Planning permission has been granted for the two hospital sites concerned at St. James's Hospital and Beaumont Hospital and site development has commenced.

The phase 2 project, namely, the PPP, is currently being scoped under the guidance of the interim director of the national cancer control program, Professor Tom Keane. The NDFA is working closely with Professor Keane and his staff in the NCCP in the development of the PPP project, providing the necessary statutory financial advice to both PPP and non-PPP elements of the project. Preparation of the PSB has commenced and this is due for finalisation before the end of Q3 2009. The project is on schedule to deliver the full network by 2014, in accordance with the Minister's statement.

Regarding transport, the NDFA is financial adviser to the interconnector from Heuston Station to Docklands. CIE and Iarnród Eireann referred this project to the NDFA in July 2008 for financial and risk advice. The NDFA is currently assisting CIE in devising a commercial structure which has the potential to offer value for money to the Exchequer. The NDFA is also preparing the procedures and methodology for the risk workshops. These will be subject to CIE approval, after which the evaluation and quantification of the risks will take place.

Regarding metro north, the NDFA assisted the Railway Procurement Agency in reviewing the public sector benchmark which has been presented to and approved by the RPA board. The tender documents were issued to the four short-listed consortia in May 2008. Tender submissions were received in February 2009. It is expected that negotiations with the short-listed tenderers will commence by mid-2009 and it is expected that two of the consortia will participate in a best and final offer, or BAFO, stage in 2009. The indicative timing for a preferred bidder to be announced is Q1 2010 and signing of the contract is planned for mid-2010.

RPA has received approval from the Department of Transport to only commence the design and planning phase activities, namely, compilation of PSB and risk contingencies register for metro west. A separate approval to proceed with the procurement process is not expected until mid-2009 or later. Based on this expectation, RPA's current delivery programme suggests that the project could be delivered by late 2015, assuming the railway order application is submitted in Q4 2009.

The social and affordable housing regeneration projects are procured by Dublin City Council under the sanctioning authority of the Department of the Environment, Heritage and Local Government. The committee will be aware there has been controversy about some of these housing projects, which are stalled at present. NDFA has an advisory role to various local authorities regarding social and affordable housing regeneration projects. These are referred to as PPPs, but these projects differ fundamentally from what can be described as "real" PPPs.

The housing PPP projects are essentially land swap deals. In contrast, the non-housing PPPs are generally based on monthly payments made from the Exchequer to the PPP company, subject to the facilities being available to a set standard for 25 years. These PPPs are fundamentally different from the housing model, which requires the private sector to take the market risk for the sale of the private units, and is a model which can only function effectively when there is reasonable certainty of, at a minimum, stable, but, preferably, rising house prices.

Decentralisation phase 1 involves offices in Carlow, Mullingar and Portlaoise. This project is being procured by the OPW, with NDFA acting as financial adviser. The target date for financial close was August or September 2008. However, following the withdrawal of DEPFA Bank as the sole funder to the project, MPFI conducted a funding competition and has identified two new funders as potential joint replacement banks for DEPFA. Financial close should be achieved within eight weeks following the securing of project finance.

Chairman

May we publish the report?

Mr. Brian Murphy

Yes.

Chairman

We have had three very impressive contributions, outlining many activities which have been undertaken by the agency. One thing which struck me is that there are just 170 staff to deal with all the issues and further duties were given to the agency in recent times, in view of the economic crisis we have. Does it have the manpower resources it needs to deal adequately with all of the challenges?

Regarding the financial statement, on the administration account I see salaries increased by some 20% between December 2006 and 2007. The heading "operating expenses" of approximately €6.3 million in 2007 increased from €5.9

million. As we do with other agencies, I would like to get a breakdown of the operating expenses.

On operating expenses and the use of consultants by the agency, I note a Dáil question recently was asked regarding a directive given by the Minister for Finance, Deputy Brian Lenihan, to the agency to appoint eight consultants to deal with the banking crisis. What range of consultants does the agency have? What is the cost of the consultants commissioned by it to deal with these issues?

Dr. Michael J. Somers

I thank the Chairman. To run through the items he mentioned about the adequacy of staff resources, our general aim has been to run the organisation with the minimum number of staff we can operate with. I had the unique experience of being told by a Minister for Finance that I was running the place with too tight a staff complement.

We hired people on the basis they could hit the ground running and were already experienced in the areas in which we wanted to hire them. Our pay arrangements are quite different from those which apply in the rest of the public service, in that people are incentivised to work hard and deliver on the objectives they are given. Everybody has a series of objectives each year and is measured against those objectives by the end of the year. Their remuneration package depends on how well they have performed against it.

The banking crisis is not something which fell within our remit and we were not, nor are we now, staffed to deal with it. A number of my colleagues, as well as doing their ordinary jobs, have had to get closely involved, at the request of the Minister for Finance, Deputy Brian Lenihan, in dealing with the various crises that have occurred since August or September 2008 and have spent a significant amount of their personal time, including weekends and nights, in trying to deal with this.

Depending on how the NAMA project develops, we will have to look again at staffing arrangements. I am told within the commercial banks there are probably between 3,000 and 5,000 people looking at many of the impaired loans. It would be a disaster if we were to try to build up a similar complement of staff to deal with this. I am still not sure how the proposed NAMA operation would interact with the NTMA. Government statements have said it would be under the aegis of the NTMA. There are different models.

If it becomes a function of the NTMA, it would then fall to us to determine the appropriate organisational arrangements. If it falls to me, my preference would be to try and have a small, core staff and leave this function with the banking sector, who have the experience and have been dealing with these loans. It would set up a subsidiary with these people or we would enter into some sort of deal with it, under which it would continue to manage the loans.

For us to try and duplicate what the banks are doing would be an enormous task and would also take a great length of time. To try to build up a feel for these loans would be very difficult. If it falls to me, and I do not know if it will or not because it depends on the legislation, I would not favour building up a large number of staff. We talked among ourselves about this and we have no feel yet for what would be involved, but if we would could get by with 30 or 40 people, that would be what I would aim for.

I have no idea whether this would work because we have no experience of bank restructuring or the whole new area which is coming our way and we will be on a very steep learning curve. Much will depend on the form of the legislation. If it turns out to be a managing director and an advisory board or committee, it would seem to be a function of the NTMA. If it takes some other form, I am not quite sure what the role of the NTMA will be in dealing with this new project. It will depend on the legislation, which is in the committee's hands.

Chairman

I know that the NTMA has spent approximately €3.3 million on consultants for the year ending December 2008, including Merrill Lynch which was advising on the banks for €2.437 million. How does the NTMA balance such expenditure on consultants with acquiring skills within the agency, although Dr. Somers has said it would be difficult to acquire staff within the agency? I presume that does not include the economic consultant appointed recently. Dr. Bacon is also working with the NTMA.

Dr. Michael J. Somers

In regard to the banking problems, we have acted solely on the directions of the Minister for Finance. We have no role. There is significant legislation covering the NTMA which sets out specifically what we are to do in every area for which we are responsible. None of that includes the recapitalisation of the banks or dealing with the banking crisis. We have dealt with that on the directions of the Minister for Finance. We were directed to hire Merrill Lynch. That fee is not the end of it. The total fee will be approximately €6 million. These people do not come cheap. The problem at that stage was that every other financial institution seemed to be either conflicted or was in such dire financial straits that it was in no position to give advice. We do not feel comfortable about paying €6 million to these people but we were asked to get the advice and that is unfortunately what it will cost.

Chairman

Is a separate fee being paid to the economist?

Dr. Michael J. Somers

There has been discussion about Dr. Bacon's fee. He is an independent consultant and has to earn his living. I do not want to compromise his potential to earn money in the future. We hired him into the NTMA on the direction of the Minister for Finance. He was brought in as a special adviser working directly to the Minister. He was not preparing this report for us. I am not trying to wash my hands of this but it is as well to know where we stand on this issue. His fee is a five figure not a six figure sum. Compared with other payments we will make it is not a vast sum of money.

Chairman

Is it under €1 million?

Dr. Michael J. Somers

It is under €100,000.

Chairman

The salaries of the staff within the agency to the end of December were €16 million. The last time we had this discussion here there was sensitivity about revealing the salaries of senior management but the economic climate has changed dramatically since then and everything is and should be open to public scrutiny. Is Dr. Somers in a position to give information regarding payment to senior management within the agency?

Dr. Michael J. Somers

I have explained over the years the dilemma in which I find myself here. The NTMA was set up to be run as a business and I was instructed that the people would not be civil servants and I was to hire them in. Albert Reynolds, who was Minister for Finance at the time, said we were to hire in the best we could get and pay them accordingly. The question of what people are paid has been raised over the years. People are particularly interested in what I am being paid. I am the subject of almost weekly reports in the Sunday newspapers——

Chairman

I do not want to personalise this. I just want to talk broadly about senior management.

Dr. Michael J. Somers

It is a dilemma. When we pay fees to the likes of Merrill Lynch or Pricewaterhouse we know exactly what we pay them in total but have no idea how much the individuals collect. I have that dilemma here. I have gone through the contracts and the psychometric reports for all the people in the NTMA and we have paid what we had to pay, no more and no less. As far as I know, nobody knows what anybody else is being paid. Pricewaterhouse does the payroll off-site. I do it for senior management and do not let it out at all.

I have understood, rightly or wrongly, that the Oireachtas wants me to continue to run the agency on that basis because it has fairly regularly passed legislation on the NTMA, and as far as I know, nobody in the Dáil or Seanad has suggested putting into the legislation a requirement to publish what people are paid. If that happens then we must comply with it. I would caution against it because it will change the nature of the agency. When we pay fees to Pricewaterhouse I do not know how much each partner gets. The only fees that have come into the public arena are for the executive directors of publicly quoted companies. The chief executive of one of the banks told me some years ago that his pay was quoted but that six people in the bank earned more than him. They were not quoted because they were not board members of the company.

It is a dilemma. If the Oireachtas obliges me to reveal the pay I will do so but I caution against doing it because we will get headlines for it and it will damage the manner in which we operate and deliver with a fairly small number of people. We have four major businesses and various other things tagged on and we will get NAMA. There are several other things coming down the track at us. I gather we have to set up a system of annuities for people in private companies whose pension funds have got into difficulties and there are many other issues that may turn up on our doorstep. They are not coming because they like the colour of our eyes but because it is seen that this device operates and delivers. Many of these jobs could just as easily be placed in Departments but for reasons that seemed good to the Oireachtas and the Government, they have ended up at the NTMA which was set up with a much smaller remit than the wide range of matters with which we must deal now.

Chairman

We on this committee must balance our responsibilities to ensure that the taxpayer gets value for the money invested in State agencies, with what Dr. Somers describes as important sensitive material. The climate, however, has changed dramatically recently and the payments to senior bank managers have caused outrage. We are not able to judge the level of payments being made within the agency but I presume there would have been years ago some correlation between the level of payments in the banking sector and the agency which had to get expertise from that sector.

Dr. Michael J. Somers

We get advice each year on levels of pay from Mercers. I have involved the chairman of the advisory committee each year to settle the pay and agreed this many years ago with the Comptroller and Auditor General. We have been involved with the banks and had to carry out due diligence on the banking system before putting €3.5 billion into it.

The perception of bankers' pay reflects only a small number of people. We have seen a much wider group and our pay rates are not out of line with what is being paid to others within the banking system. We have kept a heavy hand on pay, as my colleagues will confirm, and have tried to incentivise people through bonus payments if they deliver, if not the bonuses are affected accordingly. The Comptroller and Auditor General has access to all these figures. It is a matter of public policy whether they are revealed.

Chairman

The quoted figure for salaries up to 31 December 2007 is €16.35 million. What are the current figures for salaries and operating expenses?

Dr. Michael J. Somers

The total for salaries excluding pension costs for the year to 31 December 2008 is €19.4 million. The average salary excluding bonus and pension is €89,850.

Chairman

Do the operating expenses include the bonuses or incentives?

Dr. Michael J. Somers

The €19.4 million figure for total salaries includes the bonus costs. One reason it has increased is that staff numbers have increased. At the end of 2005, we had 107 people. That has increased to 170, largely because the NDFA has grown significantly, but also because we have had to hire a number of people for the State Claims Agency. The original remit of that body was to deal with claims against Government Ministers, the Attorney General, etc., but it was extended to include claims against hospitals and doctors. The quantity of such claims has grown enormously. We also got certain child abuse cases and the rump of the Army deafness cases. As the committee can imagine, some of these cases involve pretty awful situations, and we have had to hire people to deal with them.

Chairman

What is the equivalent figure for operating expenses? It was €6.3 million for the year to December 2007.

Dr. Michael J. Somers

It is €8.9 million.

Chairman

Thank you.

Deputy Jim O'Keeffe

Dr. Somers will appreciate we ask these questions not from idle curiosity but because we have a role on behalf of the taxpayer. I listened to the comments about salaries, expenses and so on, but the dilemma we face is that it is difficult for us to question the situation if we do not have all the information. Dr. Somers pointed out that the NTMA makes separate contracts and incentivises people and so on. I have a couple of questions to put the matter in context. I presume he has no difficulty in telling us what he is paid. Can he tell us?

Dr. Michael J. Somers

No. I do not intend to say. It is the subject of weekly reports in the newspapers. I should say, with regard to myself——

Deputy Jim O'Keeffe

A fact is a fact. I am not talking——

Dr. Michael J. Somers

I do not set my own pay.

Chairman

In fairness, we have dealt with that question, which was encompassed in the questions I asked.

Deputy Jim O'Keeffe

I know, but we did not get the answer.

Chairman

I know. We will have to consider that in our report.

Dr. Michael J. Somers

I should say that I could have been on a pension years ago, so they are getting a good deal.

Deputy Jim O'Keeffe

Join the club. I did not raise the matter in a personal sense but merely to get a sense of the level of the top pay. Dr. Somers said the average pay is about €89,000 excluding bonuses.

Dr. Michael J. Somers

Yes.

Deputy Jim O'Keeffe

What is the average bonus?

Dr. Michael J. Somers

Can I send the figure to the Deputy? We do not have it immediately available.

Deputy Jim O'Keeffe

Yes. Chairman, we have a dilemma if we are genuinely to make inquiries on behalf of the taxpayer, particularly given the new requirement for transparency in salary levels. However, I will leave it at that for the moment.

Chairman

It is a major dilemma. There are rumours that people are being paid €1 million per annum, and I would like to see those rumours scotched. Anyway, we will leave it there.

Deputy Jim O'Keeffe

I do not think these issues should be a State secret.

Returning to the work the NTMA is doing, the Chairman raised the issue of NAMA. Perhaps Dr. Somers could clear that up. The NTMA has been appointed to look after NAMA in an interim arrangement pending legislation. Is that correct?

Dr. Michael J. Somers

I am not sure what our position is. My colleagues, Brendan McDonagh and John Corrigan, have been closely involved in considering the solutions. NAMA arose from a report by Dr. Peter Bacon, which he sent to the Minister for Finance and which the Minister and the Government accepted. It is Government policy to set up NAMA. In his budget speech, the Minister stated it would be set up under the aegis and auspices of the NTMA, but what that means has not been clarified.

I have discussed with the Minister what the organisational structure of NAMA will be. Organisationally, the NTMA is peculiar. It was set up as a kind of corporate Minister of State because there were questions about whether people could negotiate and sign loans on behalf of the Minister for Finance. I recall that when I was in the Department of Finance and I and my colleagues had to go abroad to negotiate deals, the lawyers said, perhaps with justification, although we never accepted it, that we did not have the authority to sign these deals because, under the Constitution, the executive power of the State is given to the Government, which can delegate powers to Ministers. When the NTMA was set up, the Government could delegate the Minister for Finance's powers to the NTMA, which operated through the chief executive, who was answerable to the Committee of Public Accounts and the Minister.

Deputy Jim O'Keeffe

On most issues.

Dr. Michael J. Somers

On most issues. There was no board. We then got the State Claims Agency, which —

Deputy Jim O'Keeffe

We have a limited amount of time.

Dr. Michael J. Somers

I do not want to delay the committee, but I want to explain that the State Claims Agency is the NTMA wearing another hat. The pension fund was set up on a different basis. An independent commission made all the decisions and the NTMA was the manager for ten years so we implemented them. The NDFA was set up with a separate board. The CEO of the NTMA is, ex officio, chairman, and there is a separate CEO. I remember discussing this with Charlie McCreevy when he was Minister for Finance and we thought we might be able to use that mechanism to get stuff off balance sheet. It did not work, but we have the mechanism. I do not know whether NAMA will be a function of the NTMA or whether it will have a separate board and we will just carry out the management. I do not know what NAMA is going to be.

Deputy Jim O'Keeffe

Does the NTMA have clear directions from the Minister on what is to be done?

Dr. Michael J. Somers

No.

Deputy Jim O'Keeffe

The NTMA has appointed one person as an interim——

Dr. Michael J. Somers

No. For clarity, he was chosen by the Government, not by us. I was asked whether I had any objection and I said "No".

Deputy Jim O'Keeffe

The NTMA has not made any arrangements in relation to NAMA because it has no clear brief.

Dr. Michael J. Somers

That is correct. The Government decided about a week ago to appoint Brendan McDonagh as interim managing director. The Minister is setting up an advisory committee, which will advise him on the legislation, and I gather he will announce its members shortly.

Deputy Jim O'Keeffe

Therefore, Dr. Somers is not in a position to answer. I have the gravest doubts about the wisdom of this approach, but we will not get into that policy area. The issue that concerns most people, and I speak on behalf of the taxpayer, is the estimation and valuation of the impaired loans that will have to be taken over. How in the name of goodness can the loans be valued in a situation where there is no market? Has the NTMA given any thought to that?

Dr Michael J. Somers

We have not found a solution. It will be an enormous dilemma. I see great potential for arguments in the courts if we do not get it right. Even if we do get it right, there will still be arguments in the courts because people will say we did not get it right.

Deputy Jim O'Keeffe

Has the NTMA looked into cross-collaterisation and the other obvious issues that will arise in taking over the loans?

Dr. Michael J. Somers

This is not our area of expertise, as the Deputy can imagine. We are taking this on, as we took on many other functions, because we were asked to do it. We have tried to get up the steep learning curve. The implications are enormous. There is no doubt the legislation will be very complex, based on what I have learned of it to date.

Deputy Jim O'Keeffe

Do I take it from Dr. Somers that some of the issues I have raised have not been thought through at his end?

Dr. Michael J. Somers

We have attempted to think them through but we have not found the solutions. I do not know if my colleague, Mr. John Corrigan, who has attended, probably, many more meetings than me, wants to add anything to that.

Mr. John C. Corrigan

One of the issues underlying the NAMA concept is the fact that many of the developers who prospectively will find themselves in NAMA are multi-banked and there is much cross-collateralisation. Centrally managing these through NAMA, offers much better prospects of a reasonable outcome than their being managed within the banks, whose balance sheets are clogged up by these debts, and who are unable to lend to the real economy. The objective is to give the banks a clean break but they will have to pay in the process through the rate of discount that will be applied to these loans. As the Deputy said it will be a complex issue to establish the rate of discount. The level of the developers' indebtedness to NAMA will still be at 100%.

Deputy Jim O'Keeffe

Am I correct in saying that the NTMA is not in a position to offer any comfort to the taxpayer that this approach will end up without a very significant cost to the taxpayer?

Dr. Michael J. Somers

There is an appalling dilemma here. The size of the loans that have been advanced are enormous. Our dealings with the Irish banks over the years would have been very limited. I do not think they saw much profitable business with us. They pulled out of the primary dealer role they used to have in regard to our sale of Government bonds. Our dealings with them would have been very limited. We have seen figures for the loans they have extended and the combined totals. It is not an exaggeration to say we were aghast at the amount of money that has been extended. We are not talking about tens of millions or hundreds of millions of euro but billions of euro lent to individuals. Much of this money has just been lost. We must have an operating——

Deputy Jim O'Keeffe

The taxpayer carries the loss.

Dr. Michael J. Somers

Yes, and obviously the shareholders.

Deputy Jim O'Keeffe

My approach is that the taxpayer should not be the person who carries the loss.

Dr. Michael J. Somers

We must have an operating banking system in the State.

Deputy Jim O'Keeffe

If it became an issue as to whether the taxpayer should carry the loss or the existing bond holders should lend money to the banks, would Dr. Somers agree that in such a situation the taxpayer should be the last to be called upon?

Mr. John C. Corrigan

There is a close relationship in terms of how the capital markets view the bonds outstanding in respect of the banks and how they view Ireland as a sovereign borrower. Walking away from the bank debts and allowing them to default on the bonds, in effect their senior debt, would have a very negative read across for Ireland Inc. I have little doubt that the cost of borrowing to the State would hugely increase if that approach were to be adopted.

Deputy Róisín Shortall

Was not Bank of Ireland Inc. involved?

Deputy Jim O'Keeffe

Were not some of the bonds trading as low as 10 cent in the euro recently?

Dr. Michael J. Somers

They were certainly way down from their nominal value.

Mr. John C. Corrigan

It depends on the bonds as there are different types. There are subordinated bonds and there is senior debt which have different exposures in terms of whether they are loss absorbing. Those referred to by the Deputy that are trading at 10 cent or whatever would be subordinated debt.

Deputy Jim O'Keeffe

At the very minimum these are issues that need to be carefully teased out. Does the NTMA accept all that should be done before any final decision is made to go ahead with what is a highly questionable and dangerous operation?

Chairman

The Deputy's questions are bordering on policy.

Deputy Jim O'Keeffe

I will reserve my further comments for another day and another place. I refer to the question of the national debt and the difficulties here. In brief outline, is there a €5 billion or €6 billion bond that has to be replaced and, if so, how much has been raised already?

Dr. Michael J. Somers

In round terms, we have to raise €25 billion this year.

Deputy Jim O'Keeffe

Does that include the €5 billion——

Dr. Michael J. Somers

That includes €5 billion of a maturing loan which we have now paid off.

Deputy Jim O'Keeffe

A sum of €20 billion is new.

Dr. Michael J. Somers

Yes. That would be the net addition to the debt.

Deputy Jim O'Keeffe

Of the €25 billion how much has been raised already?

Dr. Michael J. Somers

We have raised about half of it so far in medium to long-term borrowings. We saw trouble coming and we built up a huge pot of cash towards the end of last year because we did not know what we were facing into this year. We had already faced a huge increase in the borrowing requirement last year which was unexpected. Most of that money we built up was short term. At the end of the year we had just over €20 billion in cash but we made a call that one is better off having cash, even if it is short term, than not having it. When one has cash people are more inclined to lend one more.

Deputy Jim O'Keeffe

Dr. Somers will appreciate our concern here is with the deal and, at least, a ten-year yield and the fact that the interest rate we are paying is so much higher than the EU average and certainly far higher than the German rate which is 3.5% while our rate is more than 5%.

Dr. Michael J. Somers

That is true. At the ten-year end we are paying about 1.75%

Deputy Jim O'Keeffe

Why are we paying so much extra?

Dr. Michael J. Somers

Because we are bad news everywhere. There is nothing but bad news coming out of Ireland and fear of what might happen here. The difficulty is that the private sector borrowed huge amounts of money from outside this country over the years. When we set up the NTMA, the national debt was about €30 billion equivalent.

Deputy Jim O'Keeffe

I accept all of that.

Dr. Michael J. Somers

It was about €50 billion at the end of last year. Private sector credit grew from about €18 billion up to between €400 billion and €500 billion. In the normal course a bank takes in deposits from one person and lends them out to another. We went way beyond that. The banking system in Ireland borrows a huge amount of money, between €100 billion and €200 billion, from outside the State. To put it colloquially, this was borrowed from Fritz, Gunter, Heinz and so on and now they want their money back and this has put the squeeze on us.

Deputy Jim O'Keeffe

As between ourselves and Germany, how much extra per year per billion euro is it costing us?

Dr. Michael J. Somers

For ten year money we are paying approximately 1.75% more than Germany. It was close to 3%. For five year money we are paying just under 1.5% more than Germany. Again that has come in.

Deputy Jim O'Keeffe

Right.

Dr. Michael J. Somers

We are not the slightest bit happy at having to pay this money.

Deputy Jim O'Keeffe

The German rate has gone up. The cost to the Germans has gone up, rather than our rate coming down.

Dr. Michael J. Somers

Yes, the German rate has gone up and spreads generally against Germany have come in. Our situation is bad.

Deputy Jim O'Keeffe

Our situation has not improved.

Dr. Michael J. Somers

No, it has not. In absolute terms it has improved but in relative terms it has not improved.

Deputy Jim O'Keeffe

What will be the impact of the decision by Standard & Poor's to downgrade us?

Dr. Michael J. Somers

It does not help at all. In fact our bonds were already trading at way below AAA rates. People were not prepared to buy our bonds on the basis of a AAA rating. They did not regard us as having a AAA rating. The fact that we are downgraded does not help. Certain institutions will only buy AAA rated bonds. One institution, Negative Outlook or Watch Negative, still gives us a AAA rating and we would be lucky to hold on to it.

Deputy Jim O'Keeffe

Dr. Somers mentioned that overall 85% is held abroad. Of our most recent issues, what percentage was raised in the domestic sector?

Dr. Michael J. Somers

The Irish banks took up chunks of this. We suspect — it is only a suspicion — that they would have taken them up and then gone to the Central Bank, rediscounted and got cash for them.

Deputy Jim O'Keeffe

Would Dr. Somers know the size of those chunks? What percentage would be involved? Would the National Treasury Management Agency not get a buyer's report from Davy——

Dr. Michael J. Somers

We do. We know exactly who all the investors are.

Deputy Jim O'Keeffe

My question is whether a substantially increased amount of the money being raised is coming from the domestic sector or abroad.

Dr. Michael J. Somers

No. To the extent that it is coming from the domestic sector, it is coming from the banks. We suspect that they will rediscount with the European Central Bank. It is not a genuine end investor result.

Deputy Jim O'Keeffe

To give some comfort to taxpayers, is Dr. Somers confident that the NTMA can fund the remaining €12.5 billion this year without exorbitant additional cost to taxpayers?

Dr. Michael J. Somers

We are as confident as we can be. Having put the money into the banks, etc., we still have approximately €17 billion in cash; that was the last figure I saw. Much of it is short-term and we hope to replace it with medium to long-term moneys. We will have an auction next Tuesday for €1 billion worth of bonds — some ten year and some five year bonds — which will give us an indication of the rates at which people are prepared to lend to us.

Deputy Jim O'Keeffe

I will move on to deal with some other issues because other members wish to contribute. On the current performance of the National Pensions Reserve Fund, did I understand Mr. Carty to say the investment return was, on average, less than 1% per annum during the years? Is that right?

Mr. Paul Carty

When it is annualised, the figure is 0.9%. This year, as the Deputy knows——

Deputy Jim O'Keeffe

I am not talking about the current turmoil, but overall——

Mr. Paul Carty

Overall, it is 0.9% at present, but if the Deputy were to ask what were our objectives and goals, it is a long-term strategy which has short-term risks. We are in that——

Deputy Jim O'Keeffe

Surely the National Pensions Reserve Fund had an objective of an increase in investment returns of more than 1% per year.

Mr. Paul Carty

We envisage that, in the long term, we should be getting a return of 6% to 7% per year on average. The fund was established in 2001. Before the dramatic situation in 2008, we had been performing very well. We are substantially ahead of the average Irish pension fund.

Deputy Jim O'Keeffe

I would not consider them to be the best benchmark.

Mr. Paul Carty

To the end of 2007, we were at a figure of 0.66% per annum.

Deputy Jim O'Keeffe

What was the investment return in 2004, 2005 and 2006?

Mr. Paul Carty

In some years we were at a figure of 8%.

Deputy Jim O'Keeffe

Does Mr. Carty have the figures for 2004, 2005, 2006 and 2007?

Mr. Paul Carty

I do not have them to hand but the average annual return to 31 December 2007 was 6%.

Deputy Jim O'Keeffe

The National Pensions Reserve Fund is a long-term fund with no drawdown expected before 2025; therefore, Mr. Carty can take a very long view. How would the fund compare against other long-term funds? I understand the fund received some advice at one stage from David Swenson of the Yale endowment fund, a similar long-term fund. Was his advice followed?

Mr. Paul Carty

His fund has suffered this year also.

Deputy Jim O'Keeffe

I am talking about the historical position.

Mr. Paul Carty

Pardon.

Deputy Jim O'Keeffe

The Yale fund investment return in 2004 was 19.4%; in 2005, 22%; in 2006, 22%, and in 2007, 28%. Why has Mr. Carty taken advice from somebody like him?

Mr. Paul Carty

We met him. He has a different strategy in that he will be investing in oil production and forestry on a large scale. His alternative assets are weighted. When we set up originally, our strategy was concerned with equities, bonds and cash. We then moved into alternative assets — private equity and property. When we set our strategy, we set it for the longer term. On that basis, the assumption is that there will be a return of 6%, 7% or 8% per annum. There will be a short-term risk. We are in that doomsday scenario.

Deputy Jim O’Keeffe

Leaving out the past year and a half, the strategy in the Yale endowment fund I mentioned appears to have been producing returns enormously ahead of those of the NPRF. The NPRF was operating with a large percentage in equities in 2004, 2005 and 2006. Why were we not making a bigger return?

Mr. Paul Carty

That depends on the risk profile we wish to adopt. Our risk profile would be different.

Deputy Jim O’Keeffe

Moving to the current position, Mr. Carty mentioned——

Chairman

The Deputy's time has concluded.

Deputy Jim O’Keeffe

I will be as quick as I can.

Mr. Paul Carty

In 2006 we had a 12% annual return.

Deputy Jim O’Keeffe

The biggest concern from the taxpayer's point of view is that in 2007 the fund only went down by 30%. That was benchmarked against the Irish pension fund.

Mr. Paul Carty

In 2008 the figure was 30%.

Deputy Jim O'Keeffe

My apologies. In 2008 it went down by 30%.

Mr. Paul Carty

Yes.

Deputy Jim O'Keeffe

Would that have been benchmarked against other——

Mr. Paul Carty

We have and we are ahead by over 4%.

Deputy Jim O'Keeffe

Of Irish pension funds.

Mr. Paul Carty

Of the Irish pension funds.

Deputy Jim O'Keeffe

On the international position, I understand the Australian Government future fund in 2008 only went down by 8.5%. Would that be a reasonable comparison to make? The New Zealand fund only went down by 12.8%. Should we not be benchmarking internationally?

Mr. Paul Carty

We do this, but we must look at the maturity of funds. We started in 2001. We must look to where liabilities crystalise. If we were approaching, say, 2025, our philosophy would be different. We will be moving from equities into bonds. We are engaging in a long-term strategy. The Deputy cannot take one year and say our strategy should be based on what happens in that year. We cannot jump in and out of the markets and guess. We have to have a strategy. Ultimately, 90% of the asset allocation determines the return in the longer term.

Deputy Jim O'Keeffe

Has an independent assessment been made of objective performance?

Mr. Paul Carty

Yes. If the Deputy looks at the accounts to 31 December 2007, he will find, on page 34, a report by an independent consultant, as laid down in the Act.

Deputy Jim O'Keeffe

Who engaged that independent consultant?

Mr. Paul Carty

The commission, because it was laid down——

Deputy Jim O'Keeffe

Who paid for it?

Mr. Paul Carty

The commission.

Deputy Jim O'Keeffe

How independent is an independent consultant if he or she is engaged and paid by the commission?

Mr. Paul Carty

I would be surprised if the Deputy could get an independent consultant to do it for nothing.

Deputy Jim O'Keeffe

Would it not be a better system to have the Minister have an objective assessment made?

Mr. Paul Carty

We have to rely on the professional independents. The conclusions of the report stated:

We believe the NPRF's asset strategy with its significant exposure to 'growth' assets, especially equities, is appropriate for a longterm fund with regular significant positive cash flows and no cash withdrawals until at least 2025. Being long-term in focus means the Fund can accept asset volatility and so can invest heavily in equities which give the highest long-term returns but are also the riskiest of the major assets.

Deputy Jim O'Keeffe

It gives me no joy to say it but compared with the other funds I have mentioned, the performance has not been that impressive, has it?

Mr. Paul Carty

It gives me no joy either to be here in this position but if we look at the French, Norwegian or Finnish funds, the French funds were down by 25%, the Norwegian funds, by 23% and the Finnish state pension fund, by 16%. The Dutch ABB pension fund was down by 20%.

Deputy Jim O'Keeffe

We are down by 30%.

Mr. Paul Carty

We are and I gave the Deputy the reason. In 2006 we were down by 12.4%; they were down by 7%. It must be balanced out. The Deputy cannot take one year in isolation.

Deputy Jim O'Keeffe

It is an issue to which I would like to return. May I raise one other issue?

Chairman

The Deputy must be brief because he has gone way over time.

Deputy Jim O'Keeffe

It concerns the State Claims Agency. Am I correct in sensing that the State Claims Agency adopts a very robust approach in defending cases, especially those involving medical negligence claims?

Mr. Ciarán Breen

In terms of our making a robust defence, we deal with claims on the basis of our examination of the allegations about the plaintiff in a medical malpractice event. We engage experts to comment on the care provided by the doctors or nurses and depending on those and the two issues of liability and causation, to the extent that is a robust defence, it is such. Because there are specific issues of reputation involved for doctors and nurses, they would expect us to be robust in the defence of those claims to the extent that we possibly can be.

Deputy Jim O'Keeffe

Does that result in an additional cost to the taxpayer in that the cases that are brought to the door of the court or to a hearing, in respect of which, objectively, substantial savings could have been achieved had the case been settled earlier?

Mr. Ciarán Breen

If we have concluded absolutely that there is no defence to a case, that the malpractice event has occurred and has led to the injury, our stated objective is to try to get that case settled as soon we possibly can. However, one of the major difficulties in catastrophic injury cases, for example, is that even where we attempt to settle those cases at an early stage, invariably in a catastrophic injury case involving a brain injury we will meet a demand for €13 million or €14 million. The reality is that nothing happens between the point when we want to settle for a fair sum until we get to the steps of the court where the party involved may settle for an award of perhaps €4 million.

Deputy Jim O'Keeffe

That would involve a question of assessment. Could the issue of liability not be dealt with at an early stage? Have not quite a number of cases been brought to the steps of the courts or to a hearing where the liability issue appeared to be clear from an early stage, given that the consequences of that approach of carrying the liability issue into court has involved a huge additional cost to the taxpayer?

Mr. Ciarán Breen

No, I do not accept that. The State Claims Agency's objective is to settle cases at the lowest possible cost to the taxpayer. We are extremely assiduous in regard to what we do on admitting liability. Medical malpractice cases are a particular kind of creature. They have issues of liability but they also have issues of causation. I will explain that for the Deputy. For example, somebody might not have consented properly for an operation. In terms of the liability for that, that is decided against one, but the court might decide that even if that person had consented and done so properly, he or she would have gone ahead with the operation in any event and the outcome might be a normal outcome from an operation of that type.

Deputy Jim O'Keeffe

That would be another defence the agency would use from the point of view of liability.

Mr. Ciarán Breen

Yes. We would have to do that because we are trying to minimise the taxpayer's liability in every instance.

Chairman

With respect, a case was reported in one of the newspapers on 9 May, the detail of which I do not want to go into, but what Mr. Breen said is totally contradicted by the details of that case. This is the case of the family of Paul Healy in Tralee. The case was settled last Friday. No offer was made to the family. It was denied that the family ever made a complaint and no offer was made. There was almost a cover-up in the case. In this case there was denial, secrecy and suppression. Certainly, the

State Claims Agency did not cover itself in glory in regard to that case in bringing the family of a child who obviously had suffered major damage——

Mr. Ciarán Breen

Can I answer that question because there is a specific answer to it? I want to correct the record. There were two defendants in that case.

Chairman

Yes, there were, a doctor and the Health Service Executive.

Mr. Ciarán Breen

There was the doctor who was found by the court in this case to be 75% liable and the midwives were found to be 25% liable. The Medical Defence Union settled the family's case prior to the trial regarding the liability issues between the two defendants. I can assure the Chairman that the State Claims Agency did not engage in any cover-up. We gave the medical records to the family at the earliest stage. We dealt with everything they asked us to deal with but there were liability issues between the two defendants.

Chairman

Is it true that when the family instituted proceedings, a full denial was made of the claim, it was denied that the mother had made any complaints at the time and it was only when the trial began that there was any level of co-operation? There is a difference between robust defence and——

Mr. Ciarán Breen

There were two defences in this case. There was a defence on behalf of the consultant defendant and a defence on behalf of the hospital. Because of the involvement of the different parties, necessarily there would have to be different aspects of the defence. My understanding is the consultant paediatrician, who gave no evidence in the case and declined to do so, put in a very robust, straight traversal type of defence to the case.

Deputy Jim O'Keeffe

Section 15 of the Civil Liability and Courts Act 2004 provides for mediation in such cases. If that process was used effectively, it would save a great deal of money and considerable costs. Is that mediation process used to any substantial degree by the State Claims Agency?

Mr. Ciarán Breen

Yes, we certainly have used it in an appropriate case. We asked a judge of the High Court recently if we could use it in another medical malpractice case but he refused mediation in the circumstances.

Deputy Jim O'Keeffe

What percentage of cases would the agency have referred to the mediation process?

Mr. Ciarán Breen

We have had only two mediations following the enactment of the Civil Liability and Courts Act.

Deputy Jim O'Keeffe

Just two in all.

Mr. Ciarán Breen

Just two because they are not being used by either the plaintiff or the defendant.

Deputy Jim O'Keeffe

Would it be helpful if the agency sent out a signal that it was open to using this process?

Mr. Ciarán Breen

Yes.

Deputy Jim O'Keeffe

It could result in enormous savings.

Mr. Ciarán Breen

It would be helpful if such a signal could be sent out from this committee today. I agree that mediation is a significant way forward in the saving of costs in medical malpractice actions.

Deputy Jim O'Keeffe

Certainly, as somebody who has had some experience of this, I would like to send out that signal. It would result in a saving in costs, savings for the taxpayer and a saving in the sense of the trauma suffered by the victims. The claimants are victims in many cases.

Mr. Ciarán Breen

I quite agree.

Deputy Brendan Kenneally

I welcome Dr. Somers and his colleagues. Since the National Treasury Management Agency was set up it has performed well on behalf of the State. It is one of the State agencies in which I have the most confidence in its ability to do a job and in the way it goes about doing it.

Dr. Somers mentioned in his contribution the changing nature of the debt to gross domestic product ratio. Despite the difficulties we will face and the fact that the debt to GDP ratio is forecast to peak at 79% in 2012, we will still be below the EU average. It is not all doom and gloom. That should be pointed out.

Dr. Somers made the point that the substantial cash balances the NTMA has built up cannot be offset against the debt because of the methodology used. They currently represent 20% of GDP, which if they could be used would reduce the ratio even further. Is Dr. Somers aware of the situation in this respect in other EU member states? Would they have substantial cash reserves such as ours, which, if they were allowed to use them, would reduce their debt to GDP ratio?

Dr. Michael J. Somers

I do not have details of all the things that go on in other countries. People have different ways of presenting figures. We have probably always been cautious in terms of ensuring we have had cash, even in the worst days going back to the 1980s and 1990s, and we have never been caught short of cash. The amount that we had built up at the end of last year was quite unusual but we were heading into very unusual circumstances, and we had seen a huge increase in the deficit for 2008 compared to the figure that had been given at the time of the budget. We did not know what we were facing into this year. There was the banking crisis, the general bad reputation of Ireland and the shrinking economy so we felt the best thing to do was build up as large a mountain of cash as possible. We did the same thing in a previous crisis in 1992-93. There was a currency crisis when sterling dropped out of the EMS and we came under enormous pressure to devalue our currency. I have always believed one is better off having a load of money than not having it.

The Deputy's point about our comparisons with the rest of Europe is valid. With regard to the debt-GDP ratio, we have tried to sell to the rating agencies and to others that we are actually well positioned. Even though we are in a difficult position, we are coming from a very low base. Over the years the debt has been kept down and, notwithstanding what some people have said, we built up a kitty during the good years. We have the National Pensions Reserve Fund which everybody thought would keep growing until 2025 and would then be used to start paying pensions. Unfortunately, we have had to dip into the fund and give €7 billion to the banking system. That is projected to give us a return of 8%, so it is not as if we are handing it over willy-nilly and giving the banks a subsidy. However, it is a kitty; it could have been spent or given away in tax reductions or whatever. That kitty is there. The big unknown we are facing is the increase in the debt arising out of NAMA, which has the potential to add an enormous chunk onto the existing debt.

Deputy Brendan Kenneally

It is lucky that we were prudent enough to have a pensions reserve fund, which is helping us in the current difficult situation. Dr. Somers mentioned the banks and the approximately 8% per annum return we are due to get from them following the recapitalisation. What is the agency doing to ensure we get that return? Given the difficult situation they are in at present, will they have the capacity to pay it?

Dr. Michael J. Somers

We have carried out fairly robust examinations of the two banks, AIB and Bank of Ireland. We expect that they will be. If they do not, we will get equity. The consequences of the banks not paying up are that they will tip into State control fairly rapidly. Mr. John Corrigan has been involved in many detailed negotiations with them. This is not a soft deal for them and they are very conscious that if they do not pay up, they will be in difficulty.

Mr. John C. Corrigan

If the banks cannot service the dividends on the preference shares in cash, they must pay to the pension fund the equivalent amount in shares. In addition, there are warrants attaching to those shares which give the pension fund the right to purchase up to 25% of the ordinary share capital in the banks at quite low strike prices, which are around 50 cent in some cases. Those warrants are exercisable over a five year period.

Deputy Brendan Kenneally

We are fairly well covered.

Mr. John C. Corrigan

The deal gives a certain amount of belt and braces insurance to the fund. It gives the prospect of a steady income or, failing that, shares. It also gives a right to share in the upside through the warrants attaching to the shares.

Deputy Brendan Kenneally

In his presentation Dr. Somers mentioned bonds issued by syndication and the auction system. Could he elaborate on what he means by syndication and auction? Does it mean that various people are competing to buy our bonds?

Dr. Michael J. Somers

We have been out of the market to a significant extent over several years because we did not need to borrow big amounts of money when the State was either in balance or slight surplus. Previous to that we had been issuing through the auction process. This means that we would have a monthly auction and, a week before the date of the auction, we would announce that we propose to auction X million of a ten or five year bond or both at a particular time, usually on a Thursday. Our primary dealers — we have ten primary dealers at present — would bid for these bonds. The process is conducted electronically, by and large, and takes minutes. They can get a secondary allocation the following day. It is a little complex but, depending on how much they have subscribed, they have an option to buy another chunk of those bonds the following day at the same price. We wanted to get back into the auction process because we believed we could have an auction every month.

The syndication process is a less regular method of sale. Syndication means that we went around groups of banks and said: "We want to raise ten year money. How much will it be for you to raise it for us?" We have done that. It is usually possible to raise a larger amount of money on a single day by syndication. Sometimes these things work well and sometimes they do not. On one occasion we were trying to raise 15 year money. On the morning of the deal the banks came back to us and told us it was not on. Then they said we could not do ten years. We said we would do five but they said they could not do five years. They could only do three years. One leaves oneself open to the fact that it might not work. On the other hand, if it does work, one can build up a book. We would usually state that we want to raise, for example, €3 billion and the book would be built to €5 billion, €6 billion or €7 billion. If it does build up and the price is acceptable, we would take perhaps €5 billion out of the market. One can get a big chunk of money quickly. On the other hand, one must pay fees to the banks, which we do not have to pay if we run the auction.

We are trying to get the auction system going again. We have had two so far and there is another next week. We hope to run these on a monthly basis throughout the year. Obviously, we will get in less on each auction. We said we would seek €750 million to €1.25 billion per auction. Next week our intention is to target €1 billion in two stocks. Hopefully, that will be realised.

We have also moved into the treasury bill market. We are auctioning bills. In fact, we had an auction this morning but I do not know the result of it. These are shorter term items; they are one, three and six month bills. Again, however, it builds up our cash balances.

Deputy Brendan Kenneally

How does our ability to raise finance in this way compare with that of our EU counterparts? Are they finding it easier to do?

Dr. Michael J. Somers

I do not believe so. We have seen situations where even the Germans have failed to fill some of their auctions, for relatively small amounts. Everybody is finding it difficult. Most countries are now facing a situation where their borrowing needs are much higher than they were in recent years. In addition, they are in competition with the banks, who are also trying to refinance. By and large, these banks have state guarantees, as do our financial institutions. We are all, therefore, in competition with each other. The banks here have been going individually to raise money on the bond market. In a place such as France, it is centralised in a particular institution that is jointly owned by the state and the banks. That institution raises the money for all the financial institutions, so at least they are not in competition with each other. In this country the financial institutions would be, to some extent, in competition with each other and in competition with us. If people just have an allocation for Ireland, for example, they would look at the banks and the Government.

Deputy Brendan Kenneally

I have a brief question about the figure for salaries. I fully accept Dr. Somers's reasons for not stating what different individuals are earning. I believe Dr. Somers has a highly skilled workforce. He has told us he has a staff of 170 and the costs in 2008 were €19 million, which suggests an average payment of €110,000 per person, per annum. Dr. Somers gave the figure of approximately €80,000 earlier on, so that would suggest there is an average bonus per person of €20,000 or in excess of that. Can Dr. Somers give us figures based on the number of people under €50,000, those at €50,000 to €60,000, and those at €60,000 to €70,000? Is it possible to give the committee figures in that way?

Dr. Michael J. Somers

We have not given that information before and I am hesitant on the pay issue. We have had to hire in a lot of highly qualified professional people. I have paid what I had to pay, although I have not paid any more than that. I have been in competition in trying to get these people. We have to extract them from existing jobs where presumably they are comfortable. Just looking at the figures, I have 28 accountants, 14 lawyers, ten risk analysts and ten IT people. We have two medical doctors, five nurses and 17 engineers. They are all technical people. We want the best and have always tried to get the best people who can hit the ground running. We have put them through a psychological test which takes three to five hours. We want to get in people who will deliver and one gets what one pays for.

Deputy Brendan Kenneally

I am not querying the amounts that people are getting. I do not have an issue with that because, as I said, the NTMA is performing so well it obviously does have good people involved. However, is it possible to give the committee the figures in a band-width situation? I do not want Dr. Somers to individualise them.

Dr. Michael J. Somers

I have not got the figures in that format at the moment. If the committee can leave it with me, I will come back to it.

Deputy Brendan Kenneally

By all means. As regards the State Claims Agency, how has Dr. Somers been able to reduce the liability by so much? Is it through collating information as to people who might be making multiple claims against different organisations and therefore he knows what is or is not fraudulent? How has it been brought down by so much? Is it because the NTMA is not an easy target as many State entities would have been in the past?

Dr. Michael J. Somers

The origins of the State Claims Agency were in the Army deafness situation, where something like 15,000 Army personnel sued the State for deafness. It was recognised that the whole scene could have been handled better. Various other similar type cases were coming down the tracks at the State, including the asbestos issue, which in fact was seen off the patch. Mr. Ciarán Breen joined us who had huge expertise in this area and he had built up an expert team. There has been a suggestion that we deal with claims robustly. Our job is to try to keep down costs to the State. We have tried to investigate claims as quickly as possible. We have put in suitable defences. There have been suggestions in the past that the State did not put in a robust defence quickly enough. We have tried to keep costs down. Where liability is not an issue we have to negotiate on costs. We are still concerned about the high level of many of these cases. We are paying out substantial amounts of money. The reserves on the outstanding cases are of the order of €650 million.

Legal costs are enormous. Some cases are tragic and one ends up paying perhaps €4 million, €5 million or €6 million. There is an issue, of course, that if the person one pays that money to dies suddenly, there is a big chunk of money that was intended to pay for their costs over a normal lifetime, and the money then goes to the family. There is a question of whether payment should be made on a staged basis and whether anything can be done to reduce the level of legal costs, which in this country is extraordinarily high. The Central Bank recently commented on legal costs in this country and said they were way above costs in other countries. Mr. Breen may wish to add to that.

Mr. Ciarán Breen

One of the reasons we brought down the numbers by the figures we have given is that we put in place robust risk management systems with all the State authorities, particularly the ones that give rise to most claims, which are An Garda Síochána, the Defence Forces and the Irish Prison Service. We audit them to standards we put in place for their health and safety management. That has been a real success in addition to the matters of which Dr. Somers has spoken.

Chairman

Comparing our situation to that of the UK, the NHSLA is the equivalent of the State Claims Agency here. It is built into legislation there that the NHSLA has three months to respond to a letter of claim in which it can admit or deny liability. This timescale means the NHSLA must focus its mind on the case and must decide whether to accept or deny liability. Here, however, it seems to drag on indefinitely. Why is there not a timescale here to accept or deny liability? My main concern is for the victims who, together with their families, are often caught in a tragic situation. I often see case histories where there is no commitment from the agency in any way as to whether it is accepting or denying liability. Why does it not adopt the idea of a three-month timescale in which to deal with a particular claim?

Mr. Ciarán Breen

As the Chairman said, England has the National Health Service Litigation Authority which, by the way, only handles medical malpractice claims. It does not handle the range we do. The Wolff reforms were brought in to frontload the admission of liability at an early stage. In fact, there are similar provisions to those in the Civil Liability and Courts Act 2004 and we operate according to those. I can assure the Chairman that we do not engage in any kind of suppression of evidence, cover up or obfuscation of cases. That is not our mandate. Our mandate is to ensure that we settle these cases at the least possible cost. We operate to those optimal standards all the time, but medical malpractice cases are complex and we have to get expert opinion. For example, in an individual cerebral palsy case we often have to get reports from a paediatric neurologist, an anaesthesiologist, a paediatrician and an obstetrician, as well as a midwifery report. Then we have all the other reports on aids and appliances, nursing care, future income losses and so on. These are complex matters and are not amenable to simply saying that within a three-month period, "Yes, we can now settle this case" just like that. We do not.

On behalf of the agency I want to point out that we often operate to a significant disadvantage. Typically, what happens in a medical malpractice case is that the injured party will get their records under the Freedom of Information Act. They will go to their solicitor with those records and he or she will refer them to experts. All of that work will be done and they issue their proceedings. We are then on the back foot because we are now only hearing of this case for the first time. A hospital may have neglected to let us know that a significant, adverse event may have occurred. Therefore, we are constantly trying to catch up and are under the considerable shortened timescales of the 2004 Act to which we must adhere rigidly.

Chairman

Is Mr. Breen satisfied with the co-operation he gets from the HSE and the medical profession in dealing with these sort of cases? Certainly, in the Paul Healy case, to which I referred, there was a denial that even a claim or complaint was submitted by the mother. After that, there seemed to be an attempt to cover up the facts. As an agency, do Mr. Breen and his colleagues feel at times that they are victims of intransigence or a refusal by public authorities and individuals to give full information?

Mr. Ciarán Breen

Our experience is that in dealing with medical staff in a hospital, be they nurses or doctors, we have never come across a case where a doctor has been deliberately intransigent in accounting for his or her care based on meetings with us. Difficulties arise where, for example, we are looking at an early stage for the medical records from the hospital and because of the resources issues in hospitals, sometimes we must write several times and make several telephone calls to get the records. That is hugely frustrating for us in terms of framing our defence or our case.

I will take the committee back for a moment to the Paul Healy case. I want to assure the committee that in that case there were two defendants. The Medical Defence Union represented the paediatrician. The committee can draw its own conclusions from the fact that our midwives went into the box and gave their evidence under oath, and we represented those. The paediatrician did not give any evidence in that case. As far as we were concerned as an agency, we felt that the Medical Defence Union operated a way of running that case with which we certainly did not agree. We would not have run the case in that way. We had every sympathy for the family. We were willing to contribute at an early stage but the Medical Defence Union was demanding so much liability from our side that we would have ended up overpaying on the taxpayers' behalf. At the end of the day the judge decided that we had only a 25% liability and the paediatrician had 75%. We completely co-operated with all aspects of that trial.

Chairman

Mr. Breen's answer, therefore, is that the State Claims Agency is at times a victim of intransigence by other parties.

Mr. Ciarán Breen

We are a victim of poor resources in hospitals in getting records to us at the earliest stage. That is a difficulty for us.

Chairman

What would be the legal costs in that case or what is Mr. Breen's estimate?

Mr. Ciarán Breen

In the Paul Healy case, for both plaintiff and defendant, they will run to close to €750,000 or perhaps even exceed that. By the way, the Medical Defence Union will be liable for 75% of that sum.

Deputy Brendan Kenneally

On the National Development Finance Agency and the public private partnership process, the first bundle of schools was to be delivered by PPP. It reached financial close on 6 March 2009 but the project was handed over in September 2006. It took two and a half years. I acknowledge the agency ran into particular difficulties with that project. Is that likely to happen again? Is it not possible for us to have a form of fall-back position where if somebody pulls out, for instance, a bank, there would be somebody else lined up as a second best option or whatever? One of our great frustrations in dealing with anything to do with State agencies, Government or whoever is how slow all of them operate. What measures is the National Development Finance Agency putting in place to ensure this does not happen again and these projects can be turned around quickly?

Mr. Brian Murphy

There are a number of things to be considered. For the first bundle of schools, it closed on 6 March last and it was handed over in September 2006. Effectively, the period from hand-over to financial close was approximately two and a half years. We lost approximately nine and a half months there, four months of which was due to the fact that subsequent to it being handed over by the Department, because of changes in legislation or whatever, the Department required the output specification to be changed. That required an increase in the size of the school and a change in the specification to provide for special needs. It was a little like going back to the drawing board.

Deputy Brendan Kenneally

That was bad planning on the part of the Department. It did not give the National Development Finance Agency what it needed.

Mr. Brian Murphy

One could be perhaps overly critical of the Department. There were changes involved in legal requirements for special needs. However, the fact is the outcome of that was we lost four months.

DEPFA Bank, which is probably the biggest project finance and public sector funder in the world and which has an operation in the IFSC, got into serious trouble early last summer and announced in July it was pulling out. Effectively, it had stopped lending. It had pretty much committed to this project.

Again, it was back to the drawing board with the banks. The point is it is not just a case of going to the bank and asking it to lend to the project. There is a huge process of due diligence. These are complex projects with complex documentation. The project agreement is very complex and the banks do extensive due diligence before committing. Contemporaneous with that, of course, there was complete meltdown in the banks in the second half of last year, aside from the particular DEPFA Bank problems. We lost five and a half months because of that.

If one takes 30 months less the nine and a half we lost, the period from hand-over to close was approximately 21 months, which is actually very good and compares more than favourably with traditional procurement. We ourselves have done quite a bit of analysis on this and comparisons with other countries. The average delivery period in the UK for accommodation-type PFI projects is between 22 and 24 months from hand-over to close, and we compare very favourably with that.

The second schools bundle will come through more quickly. It will beat that average. It will be under two years assuming there is not some other apocalyptic market event that we cannot control and which impacts the delivery of the project.

Deputy Brendan Kenneally

Is there any way of speeding up that process?

Mr. Brian Murphy

No. What one must understand is we are driven, as is the entire process, by public procurement rules which are defined by both national legislation and EU procurement law. Much of that is prescribed. It is dictated by the timeframes within which one must operate such as the length of time for which one considers the tender. All such processes are prescribed. It is very difficult.

We have built much expertise within the NDFA on the procurement side and when we get projects handed over, it is like a military operation. We know exactly what needs to be done. We can do things very quickly but we are constrained by EU procurement rules and by national rules.

Deputy Brendan Kenneally

Has the third bundle of schools been handed over to the NDFA yet?

Mr. Brian Murphy

The third bundle has not been handed over yet. The second bundle has and is progressing at present.

Deputy Brendan Kenneally

Does Mr. Murphy know when the NDFA will get the third bundle?

Mr. Brian Murphy

I would say it will be before the end of the year.

Deputy Brendan Kenneally

On the NTMA's pension obligations, there was an expression of concern in the audit as to why there was an excess on the current requirement. Basically, it was underfunded and the NTMA went about catching up on it and seems to have overdone it in that it put too much into it. How did the agency fall so far behind in the first place? What is the position at the end of 2008? Is it back in deficit or is it still in surplus?

Dr. Michael J. Somers

The first point I should make is that when the NTMA was set up there was no obligation on us to set up a pension fund. However, we were anxious at the time to ensure the full costs of the NTMA would be reflected in the charge on the Exchequer every year and we decided that to do that, a separate pension fund should be set up in respect of the staff within the NTMA.

The pension arrangements for staff within the NTMA are the same as in the public service generally, that is, one gets one eightieth of pay for every year of service and three eightieths by way of lump sum, and there are no fancy early retirement or redundancy arrangements or anything like that. It is the same as the standard Civil Service provision and there is no provision for double years, added years or anything like that.

The fund, with other pension funds, got into difficulty in that the actuarial results showed that it was not able to meet its actuarial liabilities. The actuaries have ways of doing hard sums and one may or may not agree with them.

One of the factors we put into the basis on which they did their calculations was a retiring age of 60. I will not identify people but there are a number of us beyond that age and there are certain savings to the fund in that regard.

Like every other fund, ours has run into difficulties. An additional amount was put in at the end of 2007 but, based on what has happened since, I gather the pension fund is back in deficit again.

To try to constrain the costs on the Exchequer in terms of pensions, all our new recruits going back quite a while have been on a defined contribution rather than a defined benefit arrangement. We pay a percentage of their pay into a pension fund of their choosing each year. They do so in order to stop the build-up of liabilities for the State. I am coming under considerable pressure in respect of this matter because some of the staff are quite upset that they are paying a levy in respect of pensions they will not receive. I may be obliged to consider introducing some form of hybrid arrangement in order to provide them with some basic guarantee of a pension when they retire. The area of pensions is fraught with difficulty.

As a result of the general decrease in the value of pension funds, the fund was in deficit to the tune of approximately €5.5 million at the end of 2008. We are by no means unique in this regard. There is a proposal that because of what has happened we may be obliged to assume responsibility for the liabilities of universities and other institutions because their funds are also in deficit. I am a member of the board of a hospital and a question has arisen with regard to the extent to which the State is going to pick up the liability in respect of all the people employed there. As of now there is no guarantee that the State will pick up the tab and the auditors have qualified the accounts as a result. The entire business of pensions will be a nightmare in the future.

Deputy Brendan Kenneally

With regard to the management fee the NTMA is paying to An Post, I did not realise one could still purchase savings stamps. I recall buying such stamps as a child but I did not realise that the facility to do so remained in place.

Chairman

Does the Deputy still have them?

Deputy Brendan Kenneally

They are long gone at this stage. The NTMA is paying a management fee of €1 million to An Post in respect of this scheme, which seems an extraordinary amount for something so small.

Dr. Michael J. Somers

We have been trying to get rid of these things for many years.

Deputy Brendan Kenneally

Yes, I saw information in that regard.

Dr. Michael J. Somers

I think we are finally on the way towards abolishing them. I was given a political direction to the effect that I was not to abolish them because they encouraged thrift in young people. I was told that we were to keep the scheme going. We are now in the process of unwinding and getting rid of it.

Deputy Brendan Kenneally

It is a great idea to encourage young people to save. How can they do so, however, when they do not even know about the scheme? I accept that is not Dr. Somers's fault and I presume An Post is supposed to be marketing the scheme.

Dr. Michael J. Somers

We want to get rid of it. Our game is to raise money for the Exchequer and this scheme is not raising such money. It is merely a cost. We think it is inappropriate for us to be encouraging thrift in young people. As the Deputy stated, many people do not even know about the scheme. I suppose people buying stamps, sticking them in a book and then cashing in the book generates employment but that is about all.

Deputy Brendan Kenneally

It is archaic. Why does the NTMA have four external boards?

Dr. Michael J. Somers

It is like this: one would not start from here if one was starting again. When the NTMA was established, it was decided to set up an advisory committee because it was not possible to have a board. I do not know if the Deputy was present when I outlined the constitutional problems that arose. However, we exercise the powers of the Minister and it was held that it was not possible to have a decision-making board because this would diffuse responsibility too much. It was necessary, therefore, to assign that responsibility to one individual. That was the reason for the establishment of the advisory committee.

When the pension issue arose, the then Minister for Finance, Charlie McCreevy, wanted to ensure that the fund could not be interfered with by his colleagues or his successors. As a result, he wanted to establish an independent board to take all the decisions relating to the pension fund. In such circumstances, the NTMA would be the manager for a period of ten years and would take instruction from the pension commission. It was decided that the CEO of the NTMA would have an ex officio seat on the pension commission.

On the State Claims Agency, because the Departments were quite sensitive and thought we were going to start spending their money a decision was taken that they would be represented on some form of body that would have an insight into our activities. As a result, the State Claims Agency policy advisory committee was established. There are more outsiders than representatives of Government Departments serving on that body.

The NDFA board was set up when the country was quite wealthy but when we were affected by various EU rules regarding what was and was not off-balance sheet. We were of the view that if we established an entity with separate legal existence and with borrowing powers, it might be able to conclude deals which would be off-balance sheet. This would enable projects that might not otherwise go ahead to proceed. When the legislation was passed, etc., the EUROSTAT experts in Luxembourg began to investigate the matter and stated that they would not allow us to proceed because all deals had to be on-balance sheet. In any event, the board is in place and the CEO of the NTMA is ex officio chairman thereof.

We also have another board which operates on a purely internal basis and which relates to a company called Ulysses Securitisation plc. The latter was established in the mid-1990s to sell off the State's mortgage book. It seems we are going to have some form of additional board, committee or whatever in respect of NAMA. We also have two audit committees and the pension commission has two sub-committees, one relating to private equity and the other to property. We are not short of boards.

Deputy Brendan Kenneally

I have no difficulty with the audit committees. However, the overall number of boards seems excessive. In any event, I thank Dr. Somers for his replies.

Chairman

Deputy Kenneally inquired about salaries and Dr. Somers indicated that he would consider providing information in that regard to the committee. He also stated that such information would be categorised and would indicate earnings under €50,000, under €100,000, under €500,000 and over €500,000. This would provide the committee with an indication of the position with regard to salaries and would not be overly specific.

Dr. Michael J. Somers

I will communicate further with the Chairman in respect of that matter.

Deputy Thomas P. Broughan

I welcome Dr. Somers and his colleagues. On a number of previous occasions I have commended the NTMA in respect of work done. However, this meeting has revealed by far the worst loss of public money I have ever seen. We have been told an incredible story to the effect that an agency lost €5 billion or €6 billion and that it is committed to a refinancing programme of €7 billion for the two main banks. I accept that a policy decision was taken in respect of the latter amount. However, if my sums are correct, some €12 billion — a large part of the budget of the Department of Health and Children — has been lost or is at risk as a result of the actions of the agency.

Chairman

The Deputy is correct, this matter relates to a policy decision.

Deputy Thomas P. Broughan

The €5 billion loss does not relate to a policy decision.

Deputy Darragh O'Brien

It is about——

Deputy Thomas P. Broughan

The figures clearly show that we seem to have frittered away between €5 billion and €6 billion of taxpayers' money on the financial markets during the past 18 months. Is that not the bottom line? As already stated, this is by far the biggest loss of public money by a State agency. Each year we set aside €1 billion or €1.5 billion and we have discovered that €5 billion or €6 billion of this is missing. Are we not right to feel the same kind of anger felt by AIB shareholders yesterday? The shareholdings of such individuals were devastated and have become worthless. However, we have suffered extremely serious losses. My constituents and other citizens want to know the position in this regard.

Are the representatives of the agency cognisant of the fact that they have just informed the Committee of Public Accounts about the biggest loss of taxpayers' money is the State's history? That is an appalling state of affairs. Is it not the case that the banks may well be obliged to seek further capital and that Ireland will get into a situation similar to that which obtained in Japan in the 1990s? Is it not the case that an amount of money equivalent to the entire budget of either the Department of Health and Children or the Department of Education and Science has either gone with the wind or has been placed in severe danger. Is that not the bottom line in the context of what our guests have stated?

Dr. Michael J. Somers

With regard to the €7 billion we are putting into the banks, the National Pensions Reserve Fund Commission has investments in approximately 2,600 companies across the globe. These investments were decided upon by the commission and the NTMA is responsible for managing them and it does what it is told.

I do not wish to trespass on Mr. Carty's area of expertise. However, the view of the National Pensions Reserve Fund Commission was that we could not justify investing €7 billion in two financial institutions because, in light of our remit under the relevant legislation, there were no circumstances under which we could take that kind of risk. We told that to the Minister for Finance. The result was the Oireachtas passed legislation just this year enabling the Minister to give the pension commission a direction to place this money in the two banks through the —

Chairman

Therefore, it is a policy issue and Deputy Broughan should note that.

Dr. Michael J. Somers

It is a policy issue. We did what we were told.

Deputy Thomas P. Broughan

Our constituents want to know what is left in the kitty. When I asked the Minister for Finance about this in the House, he stated €1.6 billion of this year's money and next year's money is going straight into the banks. Is the kitty down to €9 billion or €10 billion? Is the bottom line that we are back to 2003 levels?

Dr. Michael J. Somers

I refer to where the money going into the banks came from. I am not justifying this, it is a policy issue. We got very uneasy about the developments in the international markets over the last year or so. We got very jumpy in August 2007 about what was happening. I was on holidays at the time and I received a telephone call from Dublin complaining that we had stopped putting Exchequer money into the market overnight. This is a slight diversion but I would like to explain where we are coming from.

Typically at the end of any one day we would have had between €5 billion and €10 billion in cash and we placed the money on deposit in approximately 100 banks to try to get the best rate of return. The alternative approach for us was we could place that money with the Central Bank and get a slightly lower rate of return. Mr. Oliver Whelan was in the office at the time. I was on holidays and I got a telephone call of complaint from officialdom in Dublin that we were ceasing to put money into the banking market and that we were putting it instead in the Central Bank and sterilising it. That was our view as far back as August 2007 and we continued to sterilise money. We got any money that was with the banks together and we put it into the Central Bank because we are risk averse. We were not prepared to take that kind of risk.

As the Deputy correctly said, the pension fund gets 1% of GNP every year. We got increasingly jumpy about the state of the international markets and we did not invest any significant amounts over the previous 12 months, so much so that we had built up a cash kitty of approximately €1.5 billion. The problem with the banks came along as did the question of refinancing them. The capitalist market system has got into very serious difficulties——

Deputy Thomas P. Broughan

As the Chairman and other colleagues have said, we pay Dr. Somers large sums and he explained last year——

Chairman

The Deputy should allow Dr. Somers to finish.

Deputy Thomas P. Broughan

We had this discussion last year. People are highly paid to manage equities correctly, to get it right, to sell in May and go away or whatever.

Chairman

Allow Dr. Somers to finish.

Dr. Michael J. Somers

The position in regard to equities is we hired the best in the world to invest this money and the best in the world, unfortunately, have failed. This crisis has come along and overwhelmed us all.

With regard to the specific issue about the banks, we had €1.5 billion in cash and approximately €2.5 billion in bonds, which we could realise without losing huge amounts of cash. We sold the bonds, which gave us €4 billion in cash. The State wanted €7 billion to put into the banks. The Minister for Finance decided he would give us the full contribution for this year, which is approximately €1.5 billion, and the Exchequer would prefund next year's contribution, which is another €1.5 billion, and that gave us the €7 billion. On the instructions of the Minister — we carried out due diligence on the banks for him – we put €3.5 billion into Bank of Ireland and €3.5 billion into AIB but that was based on a direct instruction from the Minister given under legislation passed by the Oireachtas. It was not our decision. We did what we were told.

As regards the losses on the pension fund, everybody has lost. Even Warren Buffet has lost a packet. He is the Sage of Omaha and is supposed to make an absolute fortune. I am a long time at this game and I have never seen a crisis like this before. Everything has just collapsed. If we had invested a packet of money in the Irish market, we have seen AIB shares go down 90% from more than €20 a share. This is awful stuff.

Deputy Thomas P. Broughan

Would it have been better to direct the money towards capital development? We all asked this question of Dr. Somers last year.

Dr. Michael J. Somers

We said we allocated money to these capital projects but, up to the last 12 months, cash was not the problem. There were wads of cash. I have appeared before the committee for years and I have always been in favour of capital development. However, again, we were told there was so much going on in this country, the market was overheating, prices were going through the roof and we did not have the capacity to build any more.

Mr. Paul Carty

I appreciate the Deputy's concern. This is the worst scenario since the 1930s. None of us has experienced this. If one takes the FTSE and the developed world, the market between peak and trough between June 2007 and March 2009 dropped

52.7%. The ISEQ index between June 2007 and March 2009 dropped almost 80%. These are unprecedented times.

With regard to the pension fund, I feel the same as the Deputy but we are a long-term investor. One cannot just take the 12-months short term and say that is a disaster. We started off with a long-term view. I am sure the Deputy feels confident we will come out of the recession——

Deputy Thomas P. Broughan

What is the chance of us having a €140 billion fund in 2025? Is that not a total pipe-dream?

Mr. Paul Carty

Nothing is a pipe dream. We are not in pipe dreams, we are in reality and we must face up to it.

Deputy Thomas P. Broughan

Well then I will ask Mr. Carty the bottom line——

Mr. Paul Carty

Let me finish.

Chairman

Allow Mr. Carty to finish.

Mr. Paul Carty

We are coming out of a recession. We will get out of it, be it in 18 months or two years. We have invested in global markets, which will come out of recession. The share prices will move up. The question from the point of view of the performance of the fund is we beat our peers and the average pension fund, by a substantial 4%. The Deputy must give us some credit. We take our business seriously——

Deputy Thomas P. Broughan

Well I think——

Chairman

When witnesses appear before the committee, I expect them to be treated with courtesy and that members will listen to replies when they put questions. All I want is courtesy to witnesses.

Deputy Thomas P. Broughan

I want to raise another issue. In 2011, based on the NTMA's performance, will the agency give consideration to removing the management contract for the pension fund from that company?

Mr. Paul Carty

The commissioners would have to decide and assess that situation. In my experience with 19 years as an associate in professional life, the NTMA is the best organisation in the world and people do not appreciate that. Officials are working day and night for this country and they do not get the comments they deserve.

Deputy Thomas P. Broughan

Citizens who support us and who enable us to be present say they had savings at certain times and they ensured their savings were not devastated. It might have been only €4,000 or €5,000 but they did it on a personal basis. However, Mr. Carty is telling the committee the State has frittered away approximately €5 billion.

Mr. Paul Carty

The Deputy should not use the word "fritter". He is not dealing with non-professional——

Deputy Thomas P. Broughan

It is a lot of money.

Mr. Paul Carty

The Deputy should not use such words. As commissioners, we are all working hard at this for Ireland Inc. We will get out of this problem. We will work our way through it but the Deputy should give the people credit. We are ahead of the average. He must give the people credit. We are investing in the banks and the commission has responsibility to protect the taxpayer's money and oversee this investment. The Deputy can be sure, with the help of the NTMA, the commissioners will act in the best interest of the taxpayer to assess and have an oversight of the performance of the banks.

Deputy Thomas P. Broughan

The committee staff have provided members with international benchmarks for one or two other sovereign funds but we do not have a complete picture as a committee to be able to say whether the funds have delivered. All we can see is a 0.9% return, which is no return, and a portion of the fund disappearing.

I will return to a question for Dr. Somers on the issue of the National Asset Management Agency, NAMA. It seems he is fearful, perhaps terrified, of some of the implications of NAMA and the work it will do. We have had various discussions about economics and about black swans and unknown unknowns. Is Dr. Somers confident the €90 billion horizon in terms of bad debts is what faces us? This would colour what I have to say about the pension fund and is against the background of where every citizen has given a guarantee to the banks for €500 billion. We have given a massive guarantee, including for subordinated debt, of €500 billion and now face from €90 billion to €100 billion of bad and non-performing debts for which we will now have responsibility owing to a policy decision.

Dr. Somers seems to have serious concerns about the NAMA and how it may operate. I understand Mr. McDonagh is the interim person leading the agency, but does Mr. Somers think the chief executive should, ultimately, be from outside this country, perhaps from a different jurisdiction such as Sweden?

Chairman

That is a policy issue and is a matter for the Minister to decide. He has made an interim decision. We went through this issue already when the Deputy was absent and I do not want to go over it all again.

Deputy Thomas P. Broughan

May I ask Dr. Somers a basic point about NAMA? Are there more black swans running around the room ahead of us?

Chairman

Dr. Somers has already answered those questions.

Deputy Thomas P. Broughan

He did not talk about black swans.

Chairman

I did not hear anything about black swans either.

Deputy Thomas P. Broughan

That is the problem, is it not? There were loads of them in AIB, Bank of Ireland and, particularly, in Anglo Irish Bank. The place was cluttered with black swans. Is that not the problem?

Dr. Michael J. Somers

I am not sure what the Deputy means by "black swans".

Deputy Thomas P. Broughan

Unknown unknowns — debts and all kinds of shenanigans we did not know about.

Dr. Michael J. Somers

We came into possession of information as a result of the due diligence that was done and we were fairly aghast at what we discovered about the extent of the loans to a relatively small number of individuals who had borrowed not from one bank but from a number of banks. When we added the whole lot together, it was huge.

As my colleague has pointed out to me, we are not the regulator. There are people who are watching——

Deputy Thomas P. Broughan

On that point, over the past five or six years——

Chairman

The Deputy should let Dr. Somers finish.

Deputy Thomas P. Broughan

He is coming to a point I want to discuss.

Chairman

Please allow Dr. Somers to finish.

Dr. Michael J. Somers

We got dragged into this whole thing; it is not part of our functions. Everything we do, we do under legislation. We have no responsibility for the banks or what they do, but we have had to get involved because of the legislation that was passed by the Oireachtas this year obliging us to put money into the two banks by way of preference shares. We have had very few dealings with the Irish banks because, as I mentioned earlier, they opted out of even acting as primary dealers for our bond issues, obviously because they were not lucrative enough and there were more lucrative ways of making money.

Deputy Thomas P. Broughan

Did Dr. Somers ever raise that point with the Government? Did he ever say he did not like the way Anglo Irish Bank or Allied Irish Banks were conducting business? Did he ever ask, in 2003, 2004 or 2005, what those banks were up to? Constantin Gurdgiev, the Trinity College economist, argues that when the NTMA had a bond issue early this year, it skewed it towards those banks to try to help them. He made the allegation that in the NTMA's January issue it was trying to help the banks then. Clearly the NTMA was watching the banks and keeping an eye on their general activities. Did it ever say to Government, given the good work its staff was doing, that the banks could get us into terrible trouble?

Dr. Michael J. Somers

I do not want to give the impression that we have any oversight over the banks, because we have not. We are not a policeman of the banks. I have not seen Mr. Gurdgiev's article.

We have always had certain reservations about Anglo Irish Bank because it was a kind of mono-line activity that lent to a particular sector. I am speaking as an outsider. I do not have huge insight or knowledge about how these places operate. However, it always seemed to me that Anglo Irish Bank paid too much on deposits and charged too much when lending money out. That model may be fine when seas are calm, but as soon as it hits choppy waters it runs into trouble.

I mentioned earlier how we placed deposits. We had counterparty credit limits for approximately 100 banks where we placed all our spare cash. We would have had limits of up to €200 million to €300 million on so-called good banks. I am not breaching any confidence by saying now that we were always hesitant about Anglo Irish Bank. We came under great pressure to create a limit for Anglo and to place money with it. The largest limit we went to for Anglo Irish Bank was €40 million. That was as high as we were prepared to go.

Chairman

Who put the pressure on?

Dr. Michael J. Somers

The bank. It wanted us to have a bigger limit and to place more cash with it. We could not necessarily knock the bank back. It was a credible institution at that stage and was the third largest bank in Ireland. We did not know about all its inside operations or anything like that, but we were never comfortable with Anglo Irish Bank.

With regard to the other two banks, we did not know there was anything wrong with them. Those banks were top of the class and seemed to be doing very well. We always felt Anglo Irish Bank was lending for property. We presumed the other banks were doing so also, but we had no idea of the extent of it. It was a huge eye-opener for us when we saw what had happened. However, we are not the regulator or the Comptroller and Auditor General. We are trying to run a business on behalf of the State as best we can. We are aghast at what has happened.

Deputy Thomas P. Broughan

I would like to touch on two other brief points before my colleagues ask their important questions. Dr. Somers mentioned Fritz and Gunther and Heinz and colleagues by the banks of the Rhine and in Berlin, etc. Given we are now paying so much for our debt because of what the banks did to us, is he disappointed, as I am, that the European Central Bank has not consulted the NTMA about the possibility of having some kind of eurobond structure that would give smaller euro economies like ours and those of the Greeks and the Spanish some kind of protection in the current desperate situation? Has it consulted Dr. Somers on that?

Dr. Michael J. Somers

I have known Jean-Claude Trichet for many years and have sat on various committees with him. He was the head of the French Treasury at one stage. I went to see him recently in connection with NAMA. Several others accompanied me on that visit. There is great reassurance from the European Central Bank, ECB. Mr. Trichet has said there is unlimited liquidity available in the form of loans from the ECB. He extended the maturity out to six months and is, I think, in the process of extending that to 12 months now. He said he has widened the types of collateral the ECB will accept against which it will lend cash. Therefore, the ECB has been as co-operative a bank as we are likely to get.

On the basic problem with the banks, as I mentioned already, we had €5 billion to €10 billion in the interbank market, but we pulled it in and put it into our Central Bank. Every other country did the same and the interbank market ceased to function. That created a huge gap in the international financial scene because central banks are not good recyclers of cash. The money all ended up in the central banks. They would give it out, but only against collateral because they are not geared to doing business in the same way as the interbank market worked.

I remember hearing a suggestion that we needed some sort of new, perhaps international, institution that would recycle credit, rather than have it all dumped into central banks from where it was difficult to extract it. Central banks are largely bureaucracies, not businesses. If trying to extract money from them, they look at the collateral and will only accept certain types of collateral. Therefore, confidence disappeared from the market and will take some time to return.

We found ourselves in the situation where the Irish banks borrowed all the savings of Gunther, Fritz and Heinz, etc., and Gunther, Fritz and Heinz say, "OK, you guys, you have had a good enough time, now we want our money back." I was at the IMF — World Bank meetings last autumn and we got quite a lot of flak, particularly from the Germans who were very annoyed over the Lisbon treaty. They said, "You guys were prepared to take what you could get out of the rest of us when it suited you and now when it looks as though you are going to have to pay something in, you give us the thumbs down and you have messed us all up." They also complained to me about the fact we guaranteed the six Irish institutions and have forgotten about everybody else and they were very annoyed about DEPFA. The Germans were always very supportive of us but we got this hot and heavy from them at the meeting. These people would be major purchasers of our bonds and because they are still holding our bonds they are also not best pleased to see that the spreads against Germany have widened which means of course that the capital value compared with other bonds, has gone down. We are trying to sell our bonds into this market — I do not want to call it a hostile market because it is not but they are not as well disposed towards us as they used to be.

Deputy Thomas P. Broughan

In the early 1990s I was a member of this committee. The National Treasury Management Agency has responsibility for the National Development Finance Agency, the reserve fund, the State Claims Agency, the Dormant Accounts Fund, central treasury, it works for the Department of Foreign Affairs, PIPS and carbon credits. Is it the case that when something terrible happens, the Government throws the issue into the agency's corner? Is Dr. Somers inclined to the view that the agency has enough on its plate, given the desperate performance of the pension fund and some of the other difficulties and the horrendous vista facing us in NAMA?

Dr. Michael J. Somers

The short answer is "Yes". We have been the recipients of a huge amount of activities. A former Taoiseach made a comment that we will be trying to take over Leitrim County Council next, which is not one of our ambitions. The Government has seen fit to hand these responsibilities over to us. It is not that we are out looking for them. However, it does say something about the state of public administration in the country that this outfit which was set up originally as a boutique, if I may use the word, specifically to deal with the national debt, borrowings and such like, has become involved in a range of activities which the committee has heard about. By any standards this is an enormous amount of work. We are trying to keep the whole thing on the road and this is becoming increasingly challenging, particularly in the present environment where we are in a disaster scene, the likes of which we have never seen before.

Deputy Thomas P. Broughan

Would Dr. Somers agree with Mr. McWilliams and other economists that NAMA should be completely independent?

Chairman

Dr. Somers is not a politician and I would not ask him to comment. We have an indication of his thinking.

Deputy Thomas P. Broughan

NAMA has an interim head at the moment.

Dr. Michael J. Somers

The legislation has to be passed. It would be up to the Oireachtas to decide the format of all this.

Chairman

One of Dr. Somers's interesting comments refers to the state of public administration and the fact that the agency is being loaded down, as Deputy Broughan said. This ties in with some of the concerns of this committee which we expressed to Mr. Doyle when the Department of Finance was here. We are concerned about the ability of the Department of Finance to deal with the major challenges. Dr. Somers's comments reflect our thinking and our concerns.

Dr. Michael J. Somers

I do not want to drop Mr. Doyle into it and I would prefer not to comment.

Deputy Seán Fleming

I thank the delegation for attending today. I ask Mr. Corrigan to deal with my first question because he dealt with it. The sum of €3.5 billion was given to the Bank of Ireland and the other €3.5 billion was given to AIB yesterday, a total of €7 billion. I listen to the radio every day. There is an impression that this €7 billion can be loaned out by the banks to customers tomorrow morning. What is going to happen that €7 billion? Can Mr. Corrigan tell the people what the purpose of that €7 billion is? Is it for capital ratios and all those issues? I think 99% of the public think this €7 billion will be loaned out to small businesses tomorrow. I ask Mr. Corrigan to clarify this issue because there is an awful misunderstanding. He understands it and he is the source of the funds. What is the purpose of giving the funds to the banks? More to the point, what is it not to be used for?

Mr. John C. Corrigan

The purpose of the €3.5 billion is to underpin what is technically called the core tier 1 capital which the banks have——

Deputy Seán Fleming

Could we have that in English, please? I am not being glib but the people do not understand that.

Mr. John C. Corrigan

Banks are regulated and they must have the equivalent of 4% of their risk-weighted assets in core tier 1 capital. If they do not have that 4%——

Deputy Seán Fleming

Is that kind of money locked away and cannot be used for other purposes?

Mr. John C. Corrigan

It is locked away but the size of that core tier 1, the extent of it, is looked on by other banks in terms of establishing the counter-party limits to which Dr. Somers referred. What this reinforcement of the banks' core tier 1 capital will do is it will underpin their ability to borrow funds on the interbank market and in doing that it will help them lend money to the private sector.

Deputy Seán Fleming

Is Mr. Corrigan saying that sum of €7 billion is to be locked away in the vaults, that it cannot be used but that ultimately it can be used as leverage to borrow other moneys down the road?

Mr. John C. Corrigan

In effect, yes.

Deputy Seán Fleming

The €7 billion from the taxpayer cannot be loaned out directly to Irish businesses?

Mr. John C. Corrigan

It is part of the general cash that is available to the banks but they have to have a certain level of capital in order to conduct their business in the ordinary course.

Deputy Seán Fleming

That €7 billion has to be kept for core tier 1 purposes but Mr. Corrigan still has not explained that term. The money has to be kept for that purpose and it is not for day-to-day lending.

Mr. John C. Corrigan

It will help them in their day-to-day lending activities. If they had not that money they would not be able to lend.

Deputy Seán Fleming

They would not be able to borrow in order to lend out?

Mr. John C. Corrigan

Yes. They would not be able to take deposits.

Deputy Seán Fleming

Is there any guarantee they will do the second half of the equation? Now that they have the €7 billion locked away in the vaults and they are in a stronger capital position they can now go to the international markets and say, "We have €7 billion in the vault, we are strong, will you lend us some money so we can lend it on to our customers?" How do we know that they will do the second half of that equation?

Mr. John C. Corrigan

As part of the deal with the banks the Department of Finance negotiated certain undertakings from the banks which are embodied in the subscription agreement relating to the €3.5 billion, under which they have committed to lend for the type of activities the Deputy refers to.

Deputy Seán Fleming

What will the €7 billion from the taxpayer translate to in terms of additional cashflow out to Irish businesses? What will that €7 billion allow in loans from the banks? What is the figure?

Mr. John C. Corrigan

I do not have the figures with me.

Deputy Seán Fleming

Does anyone here today know or is it a matter for the Department of Finance?

Mr. John C. Corrigan

The Department negotiated the transaction. It is not a State secret; I just do not have the information.

Deputy Seán Fleming

It is a pity there is no one here from the Department of Finance.

Mr. John C. Corrigan

Yes, it is unusual.

Deputy Seán Fleming

I will direct that question to Mr. Doyle.

There is an impression that the €7 billion will be loaned out tomorrow morning. I know this is not the case but I do not think people understand that.

Reference was made to guarantees and it was stated that the banks are paying a very high 8% on it, and we are all very happy with that. Mr. Corrigan mentioned that in the event of default by the banks on making their payments that the commission has the option of taking 25% of ordinary shares. Is that correct? He stated it was a kind of belt and braces approach.

Mr. John C. Corrigan

No what I said was that there are two legs to the transaction and I refer first to the perpetual shares. The fund is to receive an annual non-cumulative dividend of 8% payable in cash or in the case of non-payment by the bank of the cash dividend, ordinary shares in lieu. In addition, the fund has what are technically described as warrants, which give the right to buy up to 25% of the ordinary share capital of each bank at pre-specified prices. In the case of AIB, the warrant price of the first 15% of the ordinary capital of that 25% is 97.5 cent. The remaining 10% is at 37.5 cent. In the case of Bank of Ireland the first 15% is at a strike price of 52 cent and the second 10% is at a strike price of 20 cent.

Those warrants are exercisable at any time from fifth to the tenth anniversary of the subscription agreement. Hopefully as the banks' share prices recover, as Mr. Carty said, and as we come out of this recession there will be a substantial capital gain for the taxpayer through the exercise of those warrants.

Deputy Seán Fleming

I hope so. It is possible. That provision is in place in the event of default. If the banks were not in a position to make those payments they would be on the verge of collapse. They would be on the verge of nationalisation at that point, which would be the ultimate last resort that nobody wants to do at this stage. At that stage we would own 100%. What is the value of the belt and braces given that it is 25% of something of which we would effectively have taken 100% already?

Mr. John C. Corrigan

I am giving the details of the transaction we executed under direction from the Minister for Finance.

Deputy Seán Fleming

It is a direction from the Minister. I want to take up a matter with Dr. Somers. As Deputies, we need to listen to public servants complaining about the pension levy. Dr. Somers mentioned it a few minutes ago in so far as it affects NTMA staff. Some of the lowest paid workers in the State, including part-time firemen, pay the public sector pension levy and cannot get any benefit as they are not eligible for a pension. Some prison officers and gardaí, who having worked for 30 years have built up their pension rights and continue to work, are paying a pension levy even though they get no additional value.

I believe I heard Dr. Somers mention some friction in his organisation on this matter. He seems to be hinting that special arrangements will be made by the NTMA for some of the highest paid people in State employment. It is so high that he cannot really tell us how high it is because that in itself would cause another problem. I am shocked to hear the NTMA suggest special arrangements for the public service levy for the highest paid officials in the country. We could give many examples of people who might be on one 30th of their salaries having to pay the full public sector pensions levy. Can Dr. Somers understand how people might be horrified to hear this issue? I ask him to flesh out what he said because I am picking up on something he said.

Dr. Michael J. Somers

I do not know. It is always dangerous to be absolute about things. We may be the only institution in the State where people would be regarded as State employees in the widest term but where a defined contribution rather than a defined benefit arrangement applies to a substantial number of staff. I have long since earned full pension. I am paying the levy and I am not getting any benefit from it. A number of these people have been on a defined contribution scheme. They have seen their funds wiped out, like a lot of——

Deputy Seán Fleming

Like everybody else.

Dr. Michael J. Somers

Like everybody else, yes. At the same time, unlike everybody else, they have been caught with this pension levy.

Deputy Seán Fleming

There are 350,000 people paying it now. The NTMA staff represent a small handful.

Dr. Michael J. Somers

Yes, but most of those people who are paying the pension levy are entitled to a defined benefit pension arrangement.

Deputy Seán Fleming

I have given an example of where people are——

Chairman

Allow Dr. Somers to speak.

Dr. Michael J. Somers

These people are not entitled to a defined benefit arrangement. I cut a deal with them in terms of what we did when they came in. They were not on a defined benefit arrangement. They were to be on a defined contribution scheme. The value of their defined contribution has been wiped out, but they are stuck with the levy. The Deputy is probably aware that many of the banks faced problems with their pension schemes and they introduced a kind of hybrid arrangement where one got a pension based on a certain amount of one's pay and on the rest of it one got a defined contribution arrangement. That is what I am looking at.

Deputy Seán Fleming

I find it very concerning. With the banks, it is their money, it is not taxpayers' money. However, Dr. Somers is working for the taxpayer. The funds the NTMA receives and the 1% that goes into the National Pensions Reserve Fund every year are taxpayers' money. While it may be more widespread than we are aware, I am amazed to hear that the highest echelon of public servants is possibly being considered for a special hybrid arrangement in respect of their pensions because of the introduction of the pension levy. I am sure 350,000 other public servants would like to see if they could also make a special arrangement for their pensions. A number of people are paying the pension levy and getting no benefit, just like Dr. Somers. There are many anomalies. I am amazed to hear that the poor people in the NTMA need to get this special arrangement because of the losses in the pension funds that essentially the NTMA is managing.

Dr. Michael J. Somers

I do not know how many of the 350,000 people mentioned by the Deputy are not on a defined benefit arrangement. I suspect it is very few. We introduced this measure because we were trying to save money for the taxpayer. I am under considerable pressure from people. The banks covered the pay up to approximately €70,000. They did not cover pay beyond that. This is not a bonanza for people.

Deputy Seán Fleming

We will move on from this topic. Dr. Somers is again referring to the banks. Their employees are not public servants and are not paid by the taxpayer. On the one hand, Dr. Somers wants the benefits available in the private sector and, on the other hand, the defined benefit scheme that is available for the public servants. He seems to want for his organisation almost a hybrid system that will give it the benefit of both systems, the public and private. That is not available to many other people. Employees in the NTMA are well paid and it is surprising that we are having this debate about this organisation of all organisations. Can Dr. Somers understand the concern about his organisation? He probably thinks it is normal but nobody else thinks it is normal.

Dr. Michael J. Somers

There is no personal benefit to me in this.

Deputy Seán Fleming

I am not talking about Dr. Somers personally, I am talking about the staff in his organisation.

Dr. Michael J. Somers

The point about——

Deputy Seán Fleming

I apologise for upsetting some of the gentlemen to Dr. Somers's left and right and behind him if they are potential beneficiaries of that. It is not my intention to be personal. I am talking about the general principle here.

Dr. Michael J. Somers

The point about the banks is that they are not paying the levy.

Deputy Seán Fleming

They are private organisations, the NTMA is not. Dr. Somers said the NTMA's employees are public servants

Dr. Michael J. Somers

Yes. What I am saying is that they are paying the levy but they will not get anything out of it.

Deputy Seán Fleming

I believe Dr. Somers does not grasp the point of view of hundreds of thousands of people. He is referring to the banks again. They are private sector employees. What happens in the private sector is not the affair of this committee. Good or bad arrangements are its affair. Dr. Somers is here because he and the other NTMA employees are public servants. He cannot compare the NTMA's pension arrangements with the hybrid arrangements in the private sector.

Dr. Michael J. Somers

I exclude myself because this has nothing to do with me.

Deputy Seán Fleming

Yes, fine.

Dr. Michael J. Somers

Excluding the people in the NTMA, I think virtually everybody else in the public service is on a defined benefit arrangement.

Deputy Seán Fleming

I told Dr. Somers about the part-time fire fighters who are paying the levy and who get no pension.

Dr. Michael J. Somers

I have just got a note from Mr. Corrigan stating that part-time firemen are in the same position as our people. They pay the levy but they get no pension.

Deputy Seán Fleming

Yes, but no hybrid arrangement is being discussed by their employers for the lowliest paid staff in Ireland. Some of them are retained and they get only a couple of hundred euro a week. However, NTMA employees on hundreds of thousands of euro a year are well down the road to a hybrid arrangement. Dr. Somers has made my point. NTMA employees are in the same position as the fire fighters but NTMA employees will now get a special arrangement. Does Dr. Somers not see the anomaly?

Dr. Michael J. Somers

I have not agreed to anything yet. I just mentioned it because the question of pensions had come up.

Deputy Seán Fleming

I will move on. People outside the committee will ask questions about the hybrid arrangements being made for individuals at the highest levels of pay in the public service who feel a little aggrieved about pension levies. We have had a discussion of the issue and I am still amazed at what I am hearing.

Chairman

The Deputy's time is up.

Deputy Seán Fleming

I will have further questions later.

Deputy Róisín Shortall

I will ask first about the National Pensions Reserve Fund. Many of us are aghast at what is taking place. It is difficult not to stray into the policy area. The issues the committee is discussing and which the National Treasury Management Agency has been charged with dealing dwarf all the other matters with which the committee has been dealing throughout the year. This is the reason members have such strong feelings about the issue. While they are not allowed to stray into the policy area, given the scale of the issues before us, the committee should have a special session that involves the Minister for Finance. With all due respect, it cannot address these issues adequately with the delegation before us.

Chairman

Unfortunately, the Committee of Public Accounts cannot have such a session because its terms of reference do not extend that far.

Deputy Róisín Shortall

May the committee invite a Minister before it?

Chairman

I will have to check the terms of reference.

Deputy Róisín Shortall

It is inevitable that our successors will pick over all of these issues at some point in the future. We need to get this right. The committee must devote considerable time to these issues and the action the Government is proposing to take on the banks because of their massive implications for future generations. I make this point to highlight the requirement that the committee address this matter further, not only by speaking to the delegation. The committee must take on this issue as a major project in the coming months.

On the National Pensions Reserve Fund, the latest figures indicate the fund has lost €6.5 billion in value in the past 15 months. Is that correct?

Mr. Paul Carty

Yes.

Deputy Róisín Shortall

One could argue that we would have been better off putting the money in the credit union where it would have at least held its value. Mr. Carty spoke about the investment strategy the National Pensions Reserve Fund was pursuing. Is it intended to ride this out or is the fund's investment strategy being changed?

Mr. Paul Carty

The last time we set the allocation was in 2006. It was earmarked that we would look at the strategy again in 2009. We are now in a situation where we have to consider the direction we have received from the Minister to invest in the banks. Effectively, this investment in the banking sector in Ireland represents 35% of the pension fund. That would be a very unusual allocation in a normal pension fund. In effect, in terms of risk responsibility, it takes into account that the risk that applies to this applies to the direction. The commission has to look at the overall portfolio and address what is the allocation, the risk and the expected return. To address the Deputy's point, the figure of 8%, as it is paid, is a very good return in today's terms with interest rates as they are. I accept what Deputy Fleming says in this regard. It is not a case of just sitting there and taking the beating and so on. We have to look at the question of what is the asset allocation. We have about 55% in equities. We also have bonds and alternative assets. We have 35% in the Irish financials. It is not true to say we will just do nothing and weather the storm. We will sit down and look at how we move forward, having an objective, as we always had, of a 6% or 7% return over the life of the pension fund. The danger is that people will take a short-term view of one year. We know that in the longer term the risk will be less but people here are looking at one year and taking a short-term view.

I know it is a shock but one cannot have a long-term pension fund and believe there is no risk. We have a risk in one year. In previous years we had returns of 12% or 13%. We have invested in 2,500 companies around the world. I am confident that economies around the world will eventually come out of recession and that companies' profitability will grow again. We have invested in these companies and the earnings per share will grow and Ireland will benefit. We are well diversified. If one looks at our peers — the Deputy referred to what Australia was earning and mentioned the Yale endowment fund — my notes show that the Yale endowment fund lost 28% in the second half of 2008. No experts have avoided losses. In answer to the Deputy's question, we will sit down and look to the future, having regard to the investment we have made in the banks and the 8% return we are due to get over at least the next five years.

Deputy Róisín Shortall

I would like to be a little more specific on what is happening to the fund. How much of it was invested in Irish banks last year?

Mr. Paul Carty

Does the Deputy mean before this episode?

Deputy Róisín Shortall

Yes, last year.

Mr. Paul Carty

We had invested less than 1% in Ireland.

Deputy Róisín Shortall

As of the end of March, the value of the fund stood at €15.5 billion. How was the €7 billion for the recapitalisation of the banks raised? Mr. Carty stated the cash balances were used.

Mr. Paul Carty

Yes, I explained that matter. In 2007, when we saw the credit crunch, we took tactical decisions. We were not investing the contributions coming through in equities but building up our cash. In the same way, we were underweight in equities by 15% and, at the same time, we had more in bonds. We had cash and equities and about 32% in bonds. That is reducing our risk. We did not rush into equities with the contributions but exercised caution. We saw the crisis coming and stood back.

Deputy Róisín Shortall

That is not my question. I am asking about the €7 billion to recapitalise the two main banks.

Mr. Paul Carty

It came from cash balances and bonds. The other €3 billion came as a form of contribution which will represent a contribution for 2009 and 2010.

Deputy Róisín Shortall

From where did the €3 billion come?

Mr. Paul Carty

From the Exchequer I would have thought.

Deputy Róisín Shortall

Was the money borrowed?

Mr. Paul Carty

If it came from the Exchequer, there are borrowings somewhere on its balance sheet. However, we are getting an 8% return for it. If that is the case, I presume Dr. Somers pays less for borrowings.

Dr. Michael J. Somers

Yes, that is correct.

Deputy Róisín Shortall

The €3 billion the Government borrowed as a contribution towards the pension fund this year has been redirected towards the banks.

Mr. Paul Carty

Yes.

Deputy Róisín Shortall

The net contribution from the pension fund towards the bank recapitalisation was €4 billion. Is that correct?

Mr. Paul Carty

Yes.

Deputy Róisín Shortall

This means €11.5 billion remains in the pension fund.

Mr. Paul Carty

At today's date, that is correct. There is roughly €13 billion and €7 billion in the banks. The fund stands at €20 billion, represented by the €7 billion that has gone into the banks and the residual sum of €13 billion.

Deputy Róisín Shortall

The quarterly report states that as of 31 March——

Mr. Paul Carty

I am speaking about today, that is, after yesterday's decision with the banks. The total fund today is €20 billion, of which €13 billion is in the fund and €7 billion is in the banks.

Deputy Róisín Shortall

The €3 billion the Government is contributing was borrowed.

Mr. Paul Carty

Yes, but it only gave a return of 8%. It will make a profit.

Deputy Róisín Shortall

What were the fees charged for management of the fund last year?

Mr. Paul Carty

The fully loaded cost is 27 basis points. Investment managers' fees would have come to €20 million. That does not include other fees such as custodians' fees.

Deputy Róisín Shortall

What was the net loss on the fund last year?

Mr. Paul Carty

It was, as the Deputy stated, €6 billion.

Deputy Róisín Shortall

That was for last year. I was talking about €6.6 billion up until the end of March. Therefore, for last year it was €6 billion.

Mr. Paul Carty

Yes. It must be remembered that, on average, the investment is €20 million. It must also be remembered that these losses are unrealised. The Deputy must understand the volatility in the markets; the fund is up 4% since January. It can change from €500 million to €1 billion with such volatility which we have not seen since the 1930s.

Deputy Róisín Shortall

We are not talking about a daily change.

Mr. Paul Carty

No, but, for example, since January the fund has risen by 4%.

Deputy Róisín Shortall

What role does the NTMA have, if any, in the social insurance fund?

Dr. Michael J. Somers

The surplus in the social insurance fund is managed by the NTMA on behalf of the Ministers for Social and Family Affairs and Finance. It is managed in accordance with instructions from the Department of Finance as to whether it is all held in cash or invested for long periods. The NTMA receives moneys when the Department wants to hold it. When it wants to withdraw moneys, notice is given to the NTMA. It is very much a passive operation.

Deputy Róisín Shortall

Does that apply when the fund is in deficit?

Dr. Michael J. Somers

I presume if the fund were in deficit, the additional moneys would have to come through the Vote for the Department of Social and Family Affairs.

Deputy Róisín Shortall

The Minister for Social and Family Affairs recently clarified that the fund was expected to dry up by the beginning of next year. There will be a requirement for an investment of €4 billion in the fund. Will the NTMA have a role in sourcing these moneys?

Dr. Michael J. Somers

Traditionally, during the years the fund has been in deficit. It built up a surplus in recent times of around €3 billion. If additional moneys need to be spent on the fund, they will have to be borrowed and the NTMA would have to wear its State borrower hat. We would pay the borrowings into the social insurance fund to enable social welfare benefits to be paid.

Deputy Róisín Shortall

Has the NTMA been approached about this?

Dr. Michael J. Somers

No, but we would not necessarily be approached because it would be just part of the general borrowing activities that we would have to undertake. Presumably, it would form part of the Government's borrowing requirement. If the fund were in deficit, I assume the making up of it would be regarded as ordinary governmental expenditure.

Deputy Róisín Shortall

It is a significant additional borrowing requirement next year.

Dr. Michael J. Somers

I am surprised to hear that the needs are that large. We have seen some funds flowing from the social insurance fund but they have been relatively modest.

Mr. Oliver Whelan

There have been a number of requests for the transfer of sums of €100 million or €200 million back to the Department of Social and Family Affairs to meet obligations in respect of the fund. The Department expects this to continue and the kitty we have to be exhausted by early next year. It will then be funded, as I understand it, from ordinary Exchequer contributions to the social insurance fund, as would have been the case previous to the past ten years.

Deputy Róisín Shortall

What has Dr. Somers been informed about NAMA to date? What additional resources and supports will be available? What kind of animal will it be?

Dr. Michael J. Somers

I know very little, apart from what has appeared in the newspapers. Dr. Peter Bacon was asked to produce a report on the idea of a bad bank which he did relatively quickly. He submitted it to the Minister for Finance and subsequently it went before the Cabinet. The decision on the establishment of NAMA was announced in the April supplementary budget and that it would be done under the aegis and the auspices of – both words were used – the NTMA. What more do I know? I do not know a vast amount. The legislation is being drafted by the Department of Finance and the Office of the Attorney General. I believe Mr. Corrigan has attended some meetings on the matter. It will be very difficult.

Deputy Róisín Shortall

Does Dr. Somers expect it to be an entirely new organisation?

Chairman

Deputy Shortall, we were through all of this earlier and in great detail. The same questions are being asked.

Deputy Róisín Shortall

I did not hear an answer to the question as to what type of organisation NAMA will be. Will it be a separate organisation under the auspices of the NTMA? Will there be an overlap of staff?

Dr. Michael J. Somers

Mr. Corrigan informs me that the Minister has appointed an advisory committee on the legislation and the business model, on which the NTMA will probably have a seat. However, I, frankly, do not know any more details. It has been decided that there will be an interim managing director, not an interim chief executive officer. That is the distinction the Government has made and I am not quite sure of the subtleties involved. It has also spoken about setting up an interim advisory committee which will advise on the legislation and the business model. I understand the Minister for Finance is putting together that group. I do not know whether it will be an integral function of the NTMA where, as I explained, it will act as a corporate Minister of State and the Government will delegate the power of a Minister to the NTMA. In the event the Minister for Finance would be given these powers. We report to the Minister in respect of our current functions. He can give us directions or guidelines on how we carry them out. How the entity will be set up will be a political issue. Is that the control wanted or does it need to be controlled by an independent outside body? I do not know and presume it would be a matter for the Oireachtas to tease out.

Deputy Róisín Shortall

I accept that but I am just surprised the matter has not been progressed to a greater extent and that Dr. Somers is not more aware of it. That is not a criticism of him. However, the Minister for Communications, Energy and Natural Resources, Deputy Eamon Ryan, said recently he expected NAMA to be set up on an administrative basis in the next few weeks. If that were the case, I would have thought there would have been clarity in the NTMA about what was being proposed.

Dr. Michael J. Somers

I received a letter in the past couple of days from the Minister for Finance informing me the Government had appointed Mr. Brendan McDonagh as interim managing director and urging me to do whatever needed to be done. We will proceed in so far as we can. However, until the legislation is passed, we will have no power to do anything. We will obviously come up with some model. As I explained, my preference would be to have a small number of people within the NTMA dealing with this matter, while the banks establish a subsidiary company to enter into a deal with us and continue the work they are already doing in the area. I have been told that the banks have between 3,000 and 5,000 people working on these deals, which is an enormous number. Obviously, there is no way we could contemplate duplicating that type of business.

Deputy Róisín Shortall

Does Dr. Somers believe there is sufficient expertise in the NTMA to deal with this or does he envisage bringing in specific expertise?

Dr. Michael J. Somers

There is not sufficient expertise. As I was explaining earlier, Mr. John Corrigan and Mr. Brendan McDonagh spent an enormous amount of their so-called own time, in terms of meetings over weekends, late at night and everything else, to deal with this. We are not geared to deal with this. We were brought into it because the view was there was expertise in the financial field in the NTMA, but we are not geared for it and I have not hired a single person to deal with this. Obviously, it will be a very significant job and as the Deputy has rightly mentioned, there will be eating and drinking from this thing for the Committee of Public Accounts for decades because it is going to be quite controversial.

One tries to anticipate all the problems and the issues that will arise, but this is completely new territory for us all. I hear the people in the courts are delighted because they foresee an enormous bonanza here——

Deputy Darragh O'Brien

Dr. Somers is straying into opinion.

Chairman

I have been very lenient. We have been over all this earlier and there is an element of repetition here. We are three and a half hours into the hearing and we should complete this line of questioning.

Deputy Róisín Shortall

I have a final question on the National Asset Management Agency. It will be interesting to look later at the allocation of time during this meeting. I want to ask Dr. Somers about pensions and the timebomb that is ticking away there. Does the NTMA have an input into pensions policy, for example, in the overall Green Paper process and the pensions framework?

Dr. Michael J. Somers

We were asked for our views quite a considerable time ago.

Mr. John C. Corrigan

We gave some calculations on what contribution the National Pensions Reserve Fund would make towards meeting the social welfare pensions bill and those were reflected in the Green Paper which was published. However, the NTMA does not have a policy role in the pensions area. Its role might be more categorised as that of an investment manager. To the extent that the potential size of that kitty helps alleviate the future pensions bill, that feeds into policy. However, the shape of the policy is beyond our remit.

Deputy Darragh O'Brien

I will try not to cover old ground but I want to pick up on a couple of points. In terms of the scheme we are dealing with here, this is relatively minor but I want to touch briefly on the hybrid pension arrangement proposal. Mr. Carty has said, correctly, that the losses on investment to the fund are not realised losses. The same goes for any defined contribution arrangement. Defined contribution losses for people who have joined the NTMA of late are not realised either. It would be safe to say that the purchasing of units is at a much reduced price and cost for the people who have been recruited to the NTMA and been contracted in a defined contribution arrangement. Could Dr. Somers clarify the approximate numbers in the defined contribution arrangement and how soon the pension liability will arise in respect of those?

Dr. Michael J. Somers

We have 170 staff at the moment, about 100 of whom are in defined contribution arrangements.

Deputy Darragh O'Brien

When did they start in that?

Dr. Michael J. Somers

It would be over the past five or six years.

Deputy Darragh O'Brien

Therefore, it is safe to say that over the past five or six years there has been a return of perhaps zero or, based on Dr. Somers's figures, about 0.9% annualised or less.

Dr. Michael J. Somers

Certainly. If they had invested in the Irish market, it would be substantially less.

Deputy Darragh O'Brien

Their entire pension fund will not be invested in Irish equity funds or Irish property. Of the 100 people in the defined contributions scheme, what percentage of them will retire within the next five years?

Dr. Michael J. Somers

None, I should say.

Deputy Darragh O'Brien

That is my point. I agree very much with what Mr. Carty said about introducing a hybrid arrangement at this stage on a defined benefit basis, and I shall touch on the National Pensions Reserve Fund in a moment. Units can purchased at a greatly reduced price compared with five years ago for many funds. The NTMA does not have any pensions liabilities within the next five years for these people in the defined contribution scheme. Most people would expect to see an improvement in the markets over a five-year period, as Dr. Somers has stated. I shall not even touch on the pensions levy and go over old ground. Why is the NTMA proposing to introduce a hybrid arrangement when there are no pension liabilities for these 100 people to be met within the next five years?

Dr. Michael J. Somers

We have done nothing yet. I have mentioned this as one of the issues we were thinking about.

Deputy Darragh O'Brien

I am trying to tell Dr. Somers why he should not do it.

Dr. Michael J. Somers

It might lead to a revolution, in the event.

Deputy Darragh O'Brien

Welcome to my world, but while the NTMA is proposing or thinking about it, I am saying, as is this committee, I believe, that the agency should not proceed with such an initiative. I say this on the basis that NTMA has no pension liabilities to meet.

Deputy Róisín Shortall

I point out that this is not a committee view.

Deputy Darragh O'Brien

I am sorry. I am saying it is my view that the NTMA should not do it. I am not saying it is the view of the committee. This is especially the case if people have contracted on a direct contributions basis when they signed up. There are no liabilities to be met in the next five years, so I do not understand why we are going down this road.

Dr. Michael J. Somers

We have heard that there are part-time firemen who are in the same position as my guys and——

Deputy Darragh O'Brien

Leave that out of the way. I am talking about a decision the NTMA will make. There are distinctions and Dr. Somers has talked about private sector considerations. Leave all that aside. I am talking specifically about Dr. Somers's thought process and that of the NTMA in bringing in a hybrid scheme. When is the first of those 100 persons due to retire?

Dr. Michael J. Somers

It is not for a long time yet, I would say.

Deputy Darragh O'Brien

Will it be within ten or 15 years?

Dr. Michael J. Somers

It is probably ten, I would say.

Deputy Darragh O'Brien

On that basis I would ask Dr. Somers to have a serious think about it since there are no liabilities to be met for the guts of 15 years. I am not going to labour the point apart from being of the opinion that the NTMA should not go down that road.

Dr. Michael J. Somers

As my colleague pointed out, I made the mistake of thinking out loud.

Deputy Seán Fleming

We are listening carefully.

Dr. Michael J. Somers

I have been thinking for quite a while about this and have not done anything.

Deputy Darragh O'Brien

I have been thinking about this for a while too. On a serious point, however, does Dr. Somers take the point I am making about the five years?

Dr. Michael J. Somers

I do not give anything away that I do not have to.

Deputy Darragh O'Brien

I am saying I do not believe he has to give anything away.

Chairman

We might reflect on that.

Deputy Darragh O'Brien

I am not going to go any further with this. To get back to the fund management fee and Mr. Carty's statement that it was 0.27 basis points or just above 0.25% per annum, which in my view is a very reasonable price for the amount of money and the different type of investments the NTMA is managing, how would the management fee compare if taken in parallel with a normal Irish managed fund?

Mr. Paul Carty

Probably about 1%. It is very competitive and low cost in relation to the total of the fund.

Deputy Darragh O'Brien

I would agree with Mr. Carty on that. As regards the losses that people have discussed today and having read the NTMA's opening statement, it is fair to say that it has outperformed the index.

Mr. Paul Carty

If one takes 2007, for instance, we had a return of 3.3%. The average Irish group pension fund had a return of -3.8%. We were seven percentage points better off. In 2008 we had -13.4% and the average pension fund had -34.6%. We had a relative return against that average of 4.2%. I should add that in 2008 we outperformed the average Irish pension fund by 4%, which is equivalent in money terms to €800 million. In this dynamic situation, some credit is due, I believe.

Deputy Darragh O'Brien

That is why I wanted Mr. Carty to outline the figures because I genuinely believe there is a lot of credit due for the way it is being managed. To talk about €6.5 billion being wiped away is not correct because that is not a realised loss. Will Mr. Carty explain in more detail what he means by the loss not being realised?

Chairman

We have dealt with that matter.

Deputy Darragh O'Brien

I just think it is important.

Chairman

It has been explained.

Deputy Darragh O'Brien

It is important to show the performance of the NTMA and the National Pensions Reserve Fund against their peers in the market. Mr. Carty has outlined how they have outperformed the average fund by a substantial amount. Will he explain the 8% return on the banks recapitalisation? How will this be reflected in coming years in the fund?

Mr. Paul Carty

I see it coming in as income, as we would have with dividend income. It is reflected somewhere in cash and increases the assets in the fund. It is just like a gain on shares — it comes into the profit and loss account as a gain.

Deputy Darragh O'Brien

Are there any other investments that the fund holds that will give an 8% guaranteed return this year?

Mr. Paul Carty

No.

Deputy Darragh O'Brien

What would be the closest?

Mr. Paul Carty

In the longer term we would have been working on an average return of 6% or 7%. On the question raised by Deputy Shortall, we would be borrowing at a much lower rate and receiving 8%, a very attractive return. Individual deposits would not receive anything like that figure — they would only receive 3% or perhaps 3.5% a year.

Deputy Darragh O'Brien

The cost of borrowings that the two agencies are currently paying was touched on. What changes in the cost of borrowings have there been since the last quarter of last year and the start of the first quarter?

Dr. Michael J. Somers

Not a huge amount in absolute terms. The spreads for Germany for the ten-year period had moved towards 3% but are now at about 1.75%.

Deputy Darragh O'Brien

It has moved from a 3% differential for Germany to 1.75%. Is that not a substantial reduction?

Dr. Michael J. Somers

It is, but German rates have gone up a little.

Deputy Darragh O'Brien

We were left out on the wing paying 3% more than Germany, but now we are paying 1.75% more.

Dr. Michael J. Somers

We are still very much on the left wing. We are now comparing ourselves with Greece, whereas we used to compare ourselves with France. It is not a comfortable position.

Deputy Darragh O'Brien

I have no doubt about that, but that is why I am asking Dr. Somers to clarify the changes that have taken place since the start of the year in the cost of borrowing and to compare us with France and Germany, not with Greece.

Dr. Michael J. Somers

We got a deal on 8 January for a syndication which would mature in 2014, through which we raised €6 billion at a cost of 4%. In February we had a syndication for a new bond and all we could get then was a three year deal to mature in 2012. We received €4 billion as part of this deal for which we paid 4.01%. We had an auction in March for a 4.5% treasury bond to 2020. We raised €900 million and the yield was 5.808%. At present it stands at just over 5%; therefore, the figure has fallen in absolute terms. Against Germany, it has also fallen. However, the point is that the spreads of other countries have come in also but we are an outlier with Greece.

Deputy Darragh O'Brien

Understood. In his opening statement Dr. Somers mentioned that the agency had held a number of road shows in 2009. It is very important that we do our best internationally in difficult times. As part of these road shows, where have agency officials gone and what has the reception been like?

Dr. Michael J. Somers

The Minister for Finance is out doing a road show and intends to do more next week. I have not had time myself to go out.

Mr. Oliver Whelan

The Minister was in London over St. Patrick's weekend and met a broad range of investors. I had been in London before then meeting investors and using the primary dealer banks to bring the most important investors to meetings with us. We are not loved in the capital markets and people are waiting to see how we handle our difficulties with the economy, the public finances and the banks. It is not a warm embrace, but we still go out and sell the story.

Deputy Róisín Shortall

To what extent is our lax regulatory regime a factor regarding attitudes in other countries and among potential investors?

Mr. Oliver Whelan

The issue was not raised with me in the meetings I had with investors as a specific point. It was more about how we would deal with the overall problems of the banks rather than being specifically regulatory.

Deputy Jim O'Keeffe

I have a couple of loose ends I would like to tie up.

Chairman

We have covered everything and have been here for nearly four hours.

Deputy Thomas P. Broughan

We could spend 24 hours on these matters and would not even have started.

Deputy Jim O'Keeffe

There was a reference to the 3.7% return in 2007. Do I take it that was presented with a sense of satisfaction? Looking at the figures, net assets to the fund at the start of the year were almost €19 billion. At the end of the year they were just over €21 billion. In the meantime, the main change has been an Exchequer contribution of €1.6 billion. There was also investment income——

Mr. Paul Carty

That was an investment return. One does not take in the capital contribution.

Deputy Jim O'Keeffe

Let me finish the question. There was investment income of €600 million, minus €54 million in tax, leaving about €550 million in net investment income. The only increase in the underlying value of the fund in that year, before the financial tsunami struck, was in the order of €100 million on a €19 billion fund. Perhaps the bull run was petering out a little but it continued into that year. Did this give rise to any questions as to whether the correct strategies were being followed or whether correct investments were being made?

Mr. Paul Carty

If one compares the return of 3.3% in 2007 with those of other peer funds, including, Norway and France, they are all around the same. In 2006, we had a 12.4% return; France had an 11% return; Norway had a return of 7%; Finland had a return of 7%; the Dutch had a return of 9%, and Sweden had a return of 12%. Therefore, we were on the high side. In relative terms, we were very close to the competition.

Deputy Jim O'Keeffe

My main point is that the National Pensions Reserve Fund's investment return was mainly related to the income yield of the underlying fund as opposed to any increase in value. In a situation where there was a substantial increase in the equity market in those years, that does not seem impressive. I mentioned the Harvard and Yale endowment funds. The former had an investment return of 23% in 2007, while the latter achieved a return of 28% in that year.

Mr. Paul Carty

It is very easy to make such comparisons. However, the reality is that we were limited in terms of the investments we could make. Heretofore, we could not take control of companies, although that has changed slightly with direct investments. For example, the Harvard Management Company can own 100% of a company in forestry and hold 70% in oil. We are curtailed by where we can invest. We could not invest more than a certain percentage——

Deputy Jim O’Keeffe

Should we recommend removal of these restrictions?

Mr. Paul Carty

I am not making any recommendation in the current volatile situation.

Deputy Jim O’Keeffe

Is it proper that the fund should operate with these restrictions?

Mr. Paul Carty

The Investment of the National Pensions Reserve Fund and Miscellaneous Provisions Act 2009 has changed it. However, one cannot compare us with such entities as the Yale and Harvard funds, the remit of which is far more open.

Deputy Jim O’Keeffe

The question arises as to whether the National Pensions Reserve Fund's remit should be equally open. My sole concern is the return to the taxpayer.

Mr. Paul Carty

The commissioners share that objective, as well as taking into consideration the risk involved.

Deputy Jim O’Keeffe

My last question to Mr. Carty relates to strategy. The last strategic review was undertaken in 2006 and we are told a new review will commence some time this year. In the aftermath of the recent major changes in the marketplace, was any consideration given to changing the existing strategy?

Mr. Paul Carty

I addressed that issue in the Deputy's absence.

Deputy Jim O'Keeffe

I was speaking in the House.

Mr. Paul Carty

I appreciate that. As I explained, we take tactical allocations. In 2007 we built up the cash——

Deputy Jim O'Keeffe

My question is whether there was any decision to bring forward the strategic review when it became clear that the marketplace was entirely changed.

Mr. Paul Carty

Yes, we regularly review the allocation. In other words, we regularly review the tactical approach that should be taken. That is done every year. We do a three-year run and make our tactical judgments. When the fund was first established, we had 80% in equities. We have since moved into alternative assets, private equity, property, commodities and so on. We are diversifying the fund as much as possible. However, what is emerging from this meeting is that members are taking a very short-term view. I understand this in the context of the general shock at what has happened. However, we must take a long-term view.

Deputy Jim O'Keeffe

No, I accept we must take a long-term view. All I am saying is that the change in the marketplace was of such enormous and unprecedented proportions that there was surely a case for a strategic review last year.

Mr. Paul Carty

We looked at that matter. The market changed with the collapse of Lehman Brothers.

Deputy Thomas P. Broughan

Does Mr. Carty remember Keynes's famous dictum that in the long term we are all dead?

Mr. Paul Carty

Of course, I may not be here in 2025. What I am doing is offering my best understanding of the situation. The collapse of Lehman Brothers on 15 September 2008 was catastrophic for all markets. We could not simply make a decision to sell all the equities. If one sells 20% of the equities, giving a 15% return, the performance will only be changed by 1%. We must look at the matter in that context.

Deputy Jim O'Keeffe

I will not bring this any further. I am merely saying there may be a case, in the light of catastrophic changes in the market, for having a greater degree of flexibility in strategic planning. This might have involved bringing forward a review. I understand it is a long-term fund and that it is not a question of running for cover. It was obviously an enormous change.

Chairman

I understand a lot of money went into cash at that stage.

Mr. Paul Carty

Yes, we ended up with 32.7% in cash and bonds.

Deputy Jim O'Keeffe

According to the last report, 56% is still in equities.

Mr. Paul Carty

Yes.

Deputy Jim O'Keeffe

My final question is for Dr. Somers. There was a reference to consultants and so on. Various consultants, including estate agents, accountants, lawyers and so on, will be required if the Government insists on proceeding with the establishment of the National Asset Management Agency. Has the National Treasury Management Agency always followed the Irish and European Union procurement guidelines in the employment of consultants?

Dr. Michael J. Somers

By and large, we have. In the context of the NAMA operations, I have explained what we had to do in connection with Merrill Lynch, where we received a direction to employ that company. In connection with the recapitalisation of the banks, I understand the due diligence had to be carried out at great speed. The decision was taken in association with the National Pensions Reserve Fund Commission that in a situation where PricewaterhouseCoopers and Arthur Cox had already done a lot of work for the regulator, the best thing to do in terms of speed and costs was to hold onto them for the recapitalisation process. Therefore, that particular process was not subject to the normal tendering arrangements.

Deputy Jim O'Keeffe

Does Dr. Somers understand the concerns in regard to the requirement for contracts over €50,000 to follow a certain process? These concerns are not entirely allayed merely by mentioning that certain parties were already engaged in work in this area. I am aware of a report produced by PricewaterhouseCoopers but I am not sure I fully accept its findings.

Dr. Michael J. Somers

Our invariable approach is to follow all rules to the letter. We are absolutely scrupulous in putting projects out to tender and ensuring they are undertaken with the necessary diligence to ensure we would be in a position to withstand a High Court challenge. This is invariably our practice, particularly in regard to the pension fund because a lot of business has been done. I am aware that there have been complaints about the hire of certain legal and accountancy firms from others annoyed at not getting that work. We found ourselves in a position where we had little option in this regard. We are also looking for advisers, at the request of the Department of Finance and the Office of the Attorney General, on the setting up of NAMA. I understand the Attorney General wants some external advice. That work has been put out to tender, as indicated on our website.

Deputy Jim O'Keeffe

Dr. Somers has explained certain urgent matters that may have arisen in recent times. However, as a member of this committee, I am bound to emphasise that the guidelines and procurement rules are in place for a purpose. Any deviation should only occur in absolutely exceptional circumstances.

Dr. Michael J. Somers

We are not comfortable with any deviation.

Mr. John C. Corrigan

The exceptions to which Dr. Somers referred were in regard to the due diligence work on Allied Irish Banks and Bank of Ireland. The Minister directed us to conduct that due diligence exercise on his behalf. In the situation in which we found ourselves time was of the essence in completing the transaction. Two firms, one legal and one accountancy, had already done a substantial amount of work for the regulator in those two institutions. It would have slowed down the entire process and resulted in increased costs if we had taken that business elsewhere. I assure the Deputy it was very much an outlier. Speaking for the pension fund, which I am responsible for, there are procurement issues concerning the hiring of managers that we followed scrupulously. Regarding the NDFA, my colleague has vented his frustrations but we must abide by these procedures.

Deputy Róisín Shortall

Was that Mr. Corrigan's call on those two firms?

Mr. Paul Carty

Having been in practice for many years and understanding the cost aspect, I should add that the run they had on the work up to then would be very competitive. Mr. Corrigan and Dr. Somers consulted me on this. I supported the judgment made by the NTMA based on my experience of 35 years in practice.

Deputy Róisín Shortall

Was it Mr. Carty's call to employ those two firms?

Mr. Paul Carty

Yes.

Deputy Róisín Shortall

Was Mr. Carty instructed to do that, as he was with Merrill Lynch?

Mr. Paul Carty

No.

Deputy Seán Fleming

We have not spoken much to Mr. Brian Murphy of the NDFA. The report of 2007 indicated a number of projects nearing completion, the metropolitan area network and the decentralisation of three Government offices. Schools in Laois-Offaly have gone ahead. Are there many projects where the NDFA has closed off and contractors are on site?

Mr. Brian Murphy

We provided financial advice for a number of projects but we were not the procuring authority. A number of those projects are well advanced. For example, the criminal courts complex at Parkgate Street is an iconic building and is ahead of schedule. It was originally scheduled to be handed over in February 2010 but will be handed over in November 2009. The National Convention Centre on the Liffey is ahead of schedule. We were financial advisers on Lansdowne Road, which is well advanced.

We have ten projects in pre-procurement or procurement.

Deputy Seán Fleming

Which projects does Mr. Murphy expect to close?

Mr. Brian Murphy

Does Deputy Fleming mean reaching financial close?

Deputy Seán Fleming

Financial close.

Mr. Brian Murphy

I spoke about schools in bundle 1 and Deputy Fleming asked a question on that. Schools bundle 2 will close this year, as will the National Concert Hall and perhaps a third level project.

Deputy Seán Fleming

Has the metropolitan area network been closed? What about decentralisation?

Mr. Brian Murphy

The NDFA provided financial advice on that but is not procuring it. I am not up to speed on it, the NDFA is not the procurer.

Deputy Seán Fleming

Why not?

Mr. Brian Murphy

The specific legal mandate of the NDFA provides for it to provide PPPs outside the transport area and outside the local authority area. Under the existing rules we should be the procurer of a number of projects but they are legacy projects and preceded the legislation.

Chairman

Mr. Murphy did not mention Thornton Hall. Does the NDFA have an involvement in the project?

Mr. Brian Murphy

The NDFA is providing financial advice on that but is not the procuring agency. The project has been procured by the IPS. Negotiations are at an advanced and delicate stage and, on the grounds of commercial sensitivity, I cannot elaborate any further.

Deputy Seán Fleming

While I do not want to go over ground already discussed, on page 92 of the State Claims Agency accounts, total payments including awards and costs is €27 million. On behalf of the State authorities, the State Claims Agency recovered €200,000, about two thirds of 1%. Is that figure correct? Do I understand that the State Claims Agency succeeded in recovering less than 1%?

Mr. Ciarán Breen

To date, we have recovered €6.6 million savings on legal costs. There are different kinds of recovery and this relates to legal costs. There are other types of recovery. Until the State Claims Agency was established, the State did not recover from insurance companies in respect of damage to State vehicles by insured vehicles. The figure is increasing all the time and currently stands at €1.2 million.

Deputy Seán Fleming

How much was that figure last year? Is it a cumulative figure?

Mr. Ciarán Breen

It is a cumulative figure.

Deputy Seán Fleming

It is still tiny relative to activity in recent years. Does this figure include recovery of legal costs where the State has been granted costs?

Mr. Ciarán Breen

We recover legal costs wherever we can.

Deputy Seán Fleming

How much did the State Claims Agency recover in legal costs in the year under review?

Mr. Ciarán Breen

We can only recover legal costs in respect of cases where the State Claims Agency is granted an order of the court to recover costs. In many cases where we have won the case, such as against prisoners who have made claims, the court makes no order on costs so we are not allowed to recover. Last year, in respect of a number of asbestos plaintiffs who discontinued cases, we recovered €110,000 from one firm of solicitors that dealt with an inventory of those cases.

Deputy Seán Fleming

The State Claims Agency has legal fees, plaintiff fees and the fees of the agency of €8 million in the year under review. The recovery amount seems tiny. Have costs been awarded that the State Claims Agency has not yet recovered?

Mr. Ciarán Breen

Yes.

Deputy Seán Fleming

What is that figure?

Mr. Ciarán Breen

It is a small fraction of that, perhaps €100,000 or €200,000. These involve cases where the person is impecunious and cannot pay.

Deputy Seán Fleming

I note that some 80% of the work of the State Claims Agency seems to be on medical negligence claims.

Mr. Ciarán Breen

Not in terms of the volume of claims but in terms of the quantum.

Deputy Seán Fleming

I am speaking in terms of money because this is the Committee of Public Accounts and we contemplate costs. Some 80% of money is in that area. Has the State Claims Agency paid out in respect of MRSA cases?

Mr. Ciarán Breen

We have paid out in one particular case.

Deputy Seán Fleming

Every case is different but the State Claims Agency has accepted the principle that there is liability in respect of cases where someone has contracted MRSA in a hospital.

Mr. Ciarán Breen

We do not accept that principle at all. The case we made a payment on was a standard medical malpractice case. It had a central medical malpractice aspect to it, with an MRSA overlay. It became known as the first case where the State Claims Agency made a payment where MRSA was involved. MRSA complicated recovery from a medical malpractice event and added to the damages.

Deputy Seán Fleming

Is the official position that the State Claims Agency, defending claims of medical and clinical malpractice, does not accept liability for MRSA other than in that isolated case?

Mr. Ciarán Breen

Not necessarily, every case will be taken on its merits. Some cases are so clear in the facts that we admit liability. For example, if someone had been swabbed prior to coming into hospital and we accepted we caused the MRSA outbreak through something we did in treating a wound, we would accept liability. Our difficulty is that, in liability and causation, any number of people in the general populace who visit hospitals carry MRSA.

Deputy Seán Fleming

And many HSE staff.

Mr. Ciarán Breen

Of course. How does anyone prove negligence on the part of the hospital or a practitioner?

Deputy Seán Fleming

Mr. Breen is saying that when a person presents at a hospital, he or she should ask for an MRSA swab in order to ever be successful in a case.

Mr. Ciarán Breen

I am not saying that at all.

Deputy Seán Fleming

Mr. Breen indicated one would need proof of being free of MRSA when one entered hospital. Mr. Breen mentioned a swab at that stage. That is the only way of proving it. If people do not ask for MRSA swabs, how can they prove they did not have MRSA before entering the hospital?

Mr. Ciarán Breen

A person can come into a hospital and be a carrier or may already be infected with MRSA. Causation is complex in this area, even for the bio-chemists dealing with it, in terms of how MRSA got into the wound. There is a multiplicity of factors or causation agents.

Deputy Seán Fleming

Mr. Breen does not seem to accept liability for MRSA cases. Has the State Claims Agency accepted liability in any MRSA case other than the one which involved an overlay of a different issue? The agency appears to be setting a high obstacle for people whose lives have been ruined by MRSA. It is right that the bar should be high but it seems almost impossible to cross.

Mr. Ciarán Breen

It is not an impossible bar. We discussed the national health service authority previously with the committee. When I consulted my opposite in that body, I learned we both take exactly the same approach. Fundamentally, a plaintiff has to prove that MRSA arose as a result of negligence on the part of somebody within the hospital. It is the plaintiff's burden to prove to the court exactly why he or she should be compensated and not ours to disprove him or her. We simply have to argue that a multiplicity of factors are involved which are unrelated to negligence on the part of the hospitals we cover or their practitioners. That is a high bar to cross.

Deputy Seán Fleming

It seems a very high bar. The person almost has to prove he or she did not have MRSA upon arriving in the hospital. This appears to be a prerequisite for success.

Mr. Ciarán Breen

There has been no judicial attitude towards the matter in that I am not aware of any MRSA case coming before either the High Court or the Circuit Court.

Deputy Seán Fleming

Are many cases in the pipeline?

Mr. Ciarán Breen

There are pleadings in 109 cases.

Deputy Seán Fleming

Are there 109 cases?

Mr. Ciarán Breen

We have 109 claims. At least three quarters of these are mainstream medical malpractice claims with the complication of an MRSA element.

Deputy Seán Fleming

Does Mr. Breen see this as a potentially problematic area?

Mr. Ciarán Breen

When I was last before this committee I thought the problem would be more significant because we were told that certain solicitors were carrying large inventories of cases. However, having regard to the Statute of Limitations and the fact that they have not come through our system, as can be seen by the relatively low numbers, I believe it is not as significant as we anticipated.

Deputy Seán Fleming

Last week we learned that the Department of Health and Children paid €10 million to the agency in the year under review and €40 million during the following year. Was there a big increase in 2008? We were unable to get an answer to that question last week.

Mr. Ciarán Breen

Is there a big increase?

Deputy Seán Fleming

Yes. The agency's awards were approximately €20 million in 2007. What was the ballpark figure for 2008?

Mr. Ciarán Breen

The figure for 2008 was €41 million.

Deputy Seán Fleming

Why did the figure more than double?

Mr. Ciarán Breen

A number of significant cerebral palsy cases were settled during that period. In other words, these cerebral palsy cases, which took approximately three years to reach their conclusion, peaked in that period.

Deputy Thomas P. Broughan

The State Claims Agency may be aware of a major case which is before the commercial list of the High Court in Clonskeagh between a construction company and its supplier regarding claims of devastated and damaged houses, sometimes referred to as the pyrites houses. It is alleged that a number of householders are pursuing the issue of local government and State liability. People in the industry suggest that liabilities of up to €60 billion may arise between companies and the State. Have any cases been brought by ordinary citizens thus far and is the issue on the State Claims Agency's monitor? I have raised the issue several times with the Minister for the Environment, Heritage and Local Government. There could be as many as 60,000 damaged homes and commercial premises. This may be an incredible disaster for the areas allegedly affected.

Mr. Ciarán Breen

We do not cover local authorities and if they were building houses, their liabilities would be taken on by their insurers rather than the State.

Deputy Thomas P. Broughan

State bodies drew up building regulations but never enforced them. The construction industry was allowed to regulate itself, with disastrous results it now appears.

Chairman

I do not think we should discuss these cases one way or another.

Deputy Thomas P. Broughan

This is the first time I have raised the issue in the Committee of Public Accounts. We spoke about black swans and unknown unknowns. I am alerting the agency that the matter may come back to haunt us.

Mr. Ciarán Breen

We have not seen any claims of that type.

Deputy Thomas P. Broughan

I ask Dr. Somers about the role of National Development Finance Agency in the interconnector, metro north and metro west transport projects. In conducting cost benefit analyses, does it advise whether a project is worth pursuing? A journalist asked me yesterday whether the Government will proceed with metro north. While I accept this is a policy issue, does the NDFA ensure that projects proceed at the lowest possible cost to the taxpayer?

Dr. Michael J. Somers

The general reason we were brought in as advisers was to ensure State bodies were not ripped off by banks. Fears were expressed that the level of financial knowledge in institutions might not be up to speed. Mr. Murphy, who is closer than I to these projects, might be in a better position to address the Deputy's questions.

Mr. Brian Murphy

In our role as finance and risk adviser we support the procuring agency in preparing the public sector benchmark, which is the comparator against which bids are evaluated. We assist the authorities, in this case CIE, Iarnród Éireann and the RPA, but they are responsible for the technical inputs. Although we help them to build the model, they have to sign off on it to show they are satisfied it represents precisely what they want. The benchmark gives a discounted number against which bids are evaluated. When the bids are submitted, we conduct a value-for-money analysis against the benchmark.

Deputy Thomas P. Broughan

The final two bids for metro north would have to fulfil the benchmark.

Mr. Brian Murphy

It has to beat the benchmark before we can give a value-for-money opinion. If it does not beat it, the procuring authority has to refer the issue to the relevant Minister for a decision.

Dr. Michael J. Somers

I wish to clarify some issues in case I create an incident. When I mentioned that we got a rough time from the Germans at the IMF and World Bank meetings, I was referring to German banks and not the German Government or its officials. I do not want it to emerge that I was criticising Chancellor Merkel.

Chairman

Would Mr. Buckley care to comment on what he has heard?

Mr. John Buckley

Yes, I would like to reflect on what I have heard today. I tend to see most of what was discussed through the lens of risk because that is what auditors tend to focus on in their planning. It is clear that the risk environment has changed dramatically and that will feed into costs. This can already be seen in the premiums paid on borrowing.

I would like to draw from the discussion matters such as the assignment to the National Pensions Reserve Fund of part of the risk stabilisation money. Since the assets of the pension fund will now include this money, greater vigilance will be needed to ensure they remain available for its primary purpose of smoothing out pension costs over the next 50 years.

Counterparty risks must have increased dramatically and will require an even sharper focus in view of the stability of those parties. When the agency is dealing with counter parties, and when one thinks that $4,000 billion of losses are being worked out of the system, obviously counterparty risk must have increased. We will face financing challenges in the funding of the PPP programme. From a technical point of view we will be keeping a very close eye on the public sector benchmark to ensure it is done with rigour.

From the point of view of what was in our report, I welcome the fact that we are moving to wind down the saving stamps arrangements because the costs seem to be disproportionate to the amount of money being garnered from it. Also, coming out of the debate I noticed a considerable amount of pre-incorporation costs are being incurred in relation to NAMA. In whatever legislation goes through, so the Comptroller and Auditor General does not come back and catch people out later, it would be important to have a provision that would allow the new agency, in whatever form it takes, to ratify or adopt the pre-incorporation transactions, rather as when a company is set up and has pre-incorporation transactions and expenses.

Chairman

Thank you, Mr. Buckley. I thank Dr. Somers, Mr. Carty and Mr. Murphy and their colleagues for a very open and forthright exchange of views. I thank them for their contributions today.

Deputy Thomas P. Broughan

Given that these matters are so vast, could I ask——

Chairman

Would Deputy Broughan allow me to finish? As I said, we regret that the acting director of NAMA was unable to attend today due to personal reasons. Maybe at an early date we could ask him to come in and talk to us. The legislation will have been passed at that stage and it will give him an opportunity to talk to us and give us some of his ideas and views. I thank the witnesses for their very forthright contributions and responses to the questions.

Deputy Thomas P. Broughan

We have to keep these issues under very close review because as the years go on we may be called to account for the information we received about the 2007 and 2008 accounts and down to today. We need to reflect very carefully on what we have heard and invite Dr. Somers and his colleagues, including the colleague the Chairman mentioned, back here in the next ten or 12 weeks.

Chairman

We can discuss that issue privately later or next week. Is it agreed that the committee dispose of chapter 15.1 — National Treasury Management Agency? Agreed.

The agenda for next Thursday is the Comptroller and Auditor General's special report, Accountability of North-South Bodies 1999-2007. We have the Food Safety Promotion Board, Northern Ireland, the Safefood annual report 2007 and the Food Safety Authority annual report 2007.

The witnesses withdrew.

The committee adjourned at 2.25 p.m. until 10 a.m. on Thursday, 21 May 2009.

- **National Pensions Reserve Fund — Annual Report 2007.**
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