



**An Coimisiún Imscrúdúcháin
(Gníomhaireacht Náisiúnta
um Bhainistíocht Sócmhainní)**

**Commission of Investigation
(National Asset
Management Agency)**

**The Honorable John D. Cooke
Sole Member**

**Fourth Interim Report
10th June 2019**

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Fourth Interim Report of the Commission of Investigation (National Asset Management Agency)

Request for the revision of the timeframe for submitting the final report under section 6 (6) of the Commissions of Investigation Act 2004

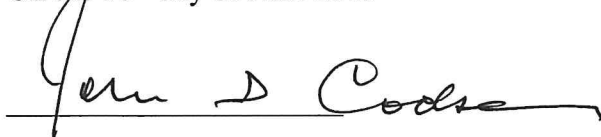
1. The Commission submits this Fourth Interim Report pursuant to Sections 6 (6) and 33 of the Commissions of Investigation Act 2004 with, for the reasons set out below, a request for revision of the timeframe for submission of its final report. So far as concerns the outline of the Commission's approach to the issues identified in paragraph 2 of the Terms of Reference and the production and analysis of documentation, this Report should be read in conjunction with the Second and Third Interim Report referred to below.
2. The Commission's First Interim Report, as required by paragraph 8 of its Terms of Reference, was submitted on 12th September 2017.
3. A Second Interim Report was submitted on 17th May 2018, on foot of which the timeframe for the submission of a final report was revised to 31st December 2018.
4. The Third Interim Report was submitted on 30th November 2018 following which the timeframe was extended to 30th June 2019.
5. Since the submission of the Third Interim Report, the Investigation has made further substantial progress.
6. As of 30th of November 2018 the Commission had taken sworn testimony from 17 witnesses. As of the 7th of June 2019, the Commission has taken evidence from an additional 20 witnesses bringing the total number of witnesses who have cooperated voluntarily to 37. Subject to the possibility that some of those witnesses may require to be briefly recalled in the light of further overall analysis of the oral and documentary evidence, the Commission will shortly conclude the evidence-gathering phase of the Investigation.
7. As described in the earlier Interim Reports, the issues required to be investigated by the Commission and particularly those under paragraphs 2 a), b) and c) of the Terms of Reference require a detailed examination and understanding of the day-to-day evolution of the Project Eagle disposal processes, including the valuation of the portfolio, the marketing arrangements and the completion of the sale, between 2013 and 2014. This has involved the need for careful appraisal of the testimonies of the relevant witnesses in the light of the contemporaneous documentary evidence.
8. As the investigation of those issues continued, highly technical evidence was received from witnesses who had been directly involved in the making of the assumptions and detailed calculations upon which asset valuations and pricing decisions had been based. In order to comply with the obligation imposed by paragraph 6 of the Terms of Reference that the Commission's investigation and report be informed by appropriate expertise, it became apparent that particular specialist advice would be needed from an expert with knowledge and experience of large-scale sales of distressed loan assets and especially those involving public or semi-public bodies.

9. While the Commission has identified and approached suitable experts, it has encountered the difficulty that expertise in the area of large scale disposals of distressed loan assets is a limited field and such has been the extent and geographic spread of the operations of NAMA that many otherwise suitable experts find themselves conflicted by reason of previous involvement in advising either the Agency or bidders on other portfolios. It has also been necessary to wait until all evidence relevant to the commercial and financial issues has been taken and assessed in order to settle instructions for such formal expert advices.
10. The Commission, with some difficulty and a protracted search, recently located an expert who is prepared to assist and who has no conflict from previously having dealt with NAMA or with any entities connected to the Project Eagle transaction.
11. The Commission has applied for sanction to engage the advice of that expert once all evidence in respect of the issues in paragraph 2 (a)- (c) has been taken and appraised.
12. As previously reported, a total of over 600,000 documents including extensive chains of e-mail exchanges have been obtained and examined including the working papers, credit reviews and spreadsheets generated by the disposal preparations in the Asset Recovery and Finance divisions of the Agency and by the large volumes of emails exchanged within the Agency by the individual asset recovery managers and executives concerned.
13. One of the necessary procedures which has taken more time than the Commission expected has been the painstaking exercise of reviewing the indexes of received documentation to filter and extract the documentation deemed relevant to the investigation.
14. As pointed out in the Third Interim Report, the fact that several of the individuals and entities best placed to provide relevant direct evidence in respect of some of the key issues and controversies relevant to the Investigation are located or now resident outside the State has presented a difficulty and has caused some delay as they are not compellable as witnesses by the exercise of the Commission's powers under the Act of 2004.
15. The Commission has continued its endeavours to work around this problem and to obtain the voluntary assistance of such potential witnesses. It has had some limited success but largely confined to receiving written confirmations of specific facts or dates already known to the Commission. For the most part, however, individuals now outside the State who were directly involved in the Project Eagle transaction have declined assistance either on grounds of ill health or because they claim to be constrained by virtue of their on-going involvement in the criminal investigation being conducted by the United Kingdom's National Crime Agency. A number of approaches or renewed approaches to some such witnesses remain outstanding.
16. While the work of drafting the substantive content of a report cannot be started until the all evidence has been collated and assessed, the Commission has begun work on sketching out the structure and headings of a first draft.
17. As adverted to at paragraph 15 of the Third Interim report, under section 34 of the Act, the Commission is required to send the draft Report or relevant parts of it to any person identified or identifiable in it for the purposes of sections 35-36 of the Act.

18. The Commission anticipates that, in view of the complexity of the issues which will be addressed, especially those arising under paragraphs 2 a) – c) of the Terms of Reference, and the large number of individuals who were involved in the various stages of the disposal processes, sufficient time will have to be allowed to those concerned in order to afford them an adequate opportunity to consider their entitlements under sections 34 – 36 of the Act to make submissions for review of the draft and/or requests for amendments or omissions.
19. The Commission should also allow adequate time for proper consideration of objections or requests for amendments to the draft before it can be submitted as the Final Report.
20. In these circumstances the Commission considers that it would be prudent to provide for an adequate period for those steps to be taken having regard particularly to the intervention of the Summer holiday period.
21. For these reasons, the Commission requests extension of the timeframe until 31st December 2019.
22. As previously stated, the Commission has endeavoured to pursue the Investigation in an efficient and focussed manner with a relatively small but highly skilled and hardworking support team and will continue to do so until the submission of its report.

Delivered to the Taoiseach as the specified Minister and in accordance with the provisions of Section 32 of the Commissions of Investigation Act 2004.

On the 10th day of June 2019

A handwritten signature in black ink, appearing to read 'John D. Cooke', written over a horizontal line.

John D. Cooke
Sole Member of the Commission