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Meeting of Minister with Chairman IBRC, Thursday 5th April 2012

Attendance: Minister for Finance, Michael Noonan
Chairman IBRC, Mr Alan Dukes
Secretary General, Mr John Moran
Mr Michael Torpey

The purpose of the meeting was to review and discuss issues relating to governance and remuneration at IBRC. In a wide ranging constructive engagement on the issues, the following was agreed:

- Two nominees of the Minister for appointment as non-executive directors will be confirmed as available by the Department and advised to the Chairman who will proceed with their appointments. (The Department to confirm the continuing availability of two previously proposed candidates, [REDACTED] Failing this, the Minister will propose alternatives).
- Renewal of board members to be subject in future to prior consultation with Minister. (Noted that next renewals due May 2013 when [REDACTED] will have completed initial 3 year term – clarified by Chairman in phone call subsequent to meeting).
- Chairman to confirm position of current incumbent in IBRC CFO role - whether in an interim capacity or permanent. Status of Ministerial approval, if any.
- Proposed [REDACTED] acceptable but Minister expects remuneration (pro-rata) to fall within his guidelines of total package max €500,000 per annum plus pension contribution of 15 to 20%.
- For permanent appointee, Minister expects appointment on total package not exceeding €500,000 per annum plus pension contribution of 15 to 20% per annum. IBRC to address terms consistent with this to preferred applicant.
- Department to clarify to Chairman expectations in re directors fees following which Chairman will consider and revert.
- Senior executive remuneration discussed. Minister concerned that remuneration should be managed in line with Government policy. Chairman to discuss his (CEO's) remuneration with CEO in this context and advise Minister.

Other issues discussed:

- Chairman raised question of appropriate incentivisation at lower levels in IBRC. Minister open to consideration of appropriate proposal. Chairman to draw up proposal to be considered by Department.
- Sec Gen highlighted concern re IBRC readiness for mortgage arrears issues (INBS legacy book), acknowledging that this is a concern re banks generally.
- Chairman mentioned transactions / relationships that have been the subject to adverse press comment or innuendo and stressed that all such issues are handled on a commercial basis in the best interests of IBRC and the State without favour to any parties.

IBRC "interregnum" transaction review committee - 11 May 2012

In attendance

IBRC: Jim Brydie (Telecon), Tom Hunersen, Jim Bradley, Roger McGreal, Peter Geissel

Observer from DoF: Danny Buckley

Papers were taken as read – it was noted that the Board had not approved the Transaction review charter and that this was only an informal transaction meeting.

In summary:

- Apthorp is a well known NY property
- Total loan value [REDACTED]
- Was not sold as part of main us loan book disposal as borrower consent was withheld
- Plan was to go to market (on a limited basis) with the property
- [REDACTED] has completed a high level price review and valued the property value of [REDACTED] for the property and [REDACTED] for the loan. Concerns were raised by the bank at the meeting that [REDACTED] could be a "price to sell" as they would then get their commission
- The holder of mezzanine debt for the property is [REDACTED] who are threatening litigation. [REDACTED] has also, prior to the open process, submitted a bid of [REDACTED]. This bid includes posting a deposit of \$[REDACTED] immediately which would become non-refundable after 2 weeks.
- While the open market process had not commenced the price, at [REDACTED], was higher than the revised [REDACTED] price (as part of the main US loan book disposal process). [REDACTED] had a higher price initially but reduced it to [REDACTED] when borrower consent was not obtained
- Other recent market validation was lower than the [REDACTED] bid other than in one case where the price was [REDACTED]. The bank's credit committee has decided to go ahead to try and negotiate with [REDACTED] for a number of reasons including:
 - o The higher price may be chipped during the due diligence period. [REDACTED] knows the property as it is a holder of mezzanine debt – should reduce risk of price chipping
 - o Reduces the risk of litigation from [REDACTED]
 - o Hard deposit after a short due diligence and closing
- [REDACTED] has recommended selling on the basis of the reasons above
- The group at the meeting voted to proceed with the transaction
- There is a chance that negotiations will fail with [REDACTED] in which case the bank will, in short order, move to taking the asset to market.

The meeting ended.

Subsequent to the meeting

The bank's board voted to proceed with the transaction at a meeting on 14 May

From discussions with Tom Hunersen on 15 May, the contract negotiations which were due to be completed on 14 May, are not moving as expected and there is a concern about the transaction being executed.

Confidential File Note – Contains sensitive information

Appendix 1

Summary minute of meeting on 23 May 2012 at 17.00

In attendance:

IBRC

Roger McGreal (CRO)

Tom Hunersen (Head of Corporate and Institutional Recovery)

Robert Cameron (HGBSM)

M Lyons (Group Risk)

SMU

Danny Buckley

Tony Smyth

- The CRO outlined the concerns raised in relation to the Apthorp loan note disposal
- TH questioned what the DoF's concerns were and the source of the concerns
- DB noted that as a result of the email that the DoF had concerns in relation to the transaction but also as importantly concerns in relation to the fact that the concerns of senior management in the bank had not been addressed and as such there was an issue with the process.
- The Bank agreed that they would provide a detailed response in relation to the transaction itself. DB also noted that there were other US loans, such as OCW, where there were significant provisions in Q1 2012 and that these were slated for sale in the near term. DB indicated that the bank should review the provisioning on this and other loans given the concerns raised in relation to Apthorp
- ML went on to highlight, from a credit perspective for Apthorp, that all process had been followed and furthermore that the transaction was the right way forward for the bank notwithstanding the concerns raised. This was driven by factors including the banks concerns about the litigious nature of the proposed buyer.
- In relation to the process, TH noted that the view of GBSM was not a required element of the process but an informal sounding. TH highlighted that there was often debate on particularly transactions. [REDACTED]
- DB noted TH's point that this was not a formal requirement, however, given the fact senior management had raised concerns that they should have been addressed. Furthermore, the board's decision to proceed with the transaction had not been with the benefit of understanding the concerns raised by the HGBSM.
- In terms of next steps the bank proposed to raise the matter with the CEO. DB indicated that from the DoF's perspective the matter should be raised with the Board at the meeting to take place on 24 May 2012. This was agreed.
- TH and ML noted that in terms of the Apthorp transaction that it might at this point be difficult practically to pull out of the transaction as the \$15mn deposit was due to "go hard" on 25 May 2012.

The meeting ended

Note for Meeting with Chairman of IBRC

Heading	Issue and Questions	Background	Ref
Appointment of CFO	<p>CFO appointed without Minister's approval</p> <p>Contrary to the express provisions of the Relationship Framework</p> <p>Questions:</p> <ol style="list-style-type: none"> 1. When was the appointment made? 2. Who approved the appointment? 3. Can you provide the Department with a copy of the contract Document? 4. Did the Board approve the appointment? – can you provide details please – board minutes etc 5. How can the Chairman justify the appointment in complete disregard for the law and for the Ministers statutory role in the matter? 6. Apology sought from the Chairman and the Board <p>Sratement</p> <p>This is a typical example of the type of behaviour that undermines the trust between the Department and the Bank.</p> <p>The particular circumstances are such that an application for retrospective approval is needed and an apology is required from the Board. Subject to this apology the Minister will decide how this role is to be filled.</p>	<p>IBRC assert the bank applied for sanction and got no reply and therefore proceeded with the appointment absent Minister's approval. This is despite having being informed of the Minister's wish to appoint a CFO at his direction.</p> <p>May 2011-The bank first applied for approval for JB as interim CFO and was provided with approval on a temporary basis</p> <p>Oct 2011 - IBRC apply for sanction to make JB permanent in the post.</p> <p>Position</p> <p>Discussed – at meetings on 1Nov,24 Nov, 1 Dec at which it was indicated that the Minister wished to make an appointment at his direction</p> <p>Matter was also raised at a meeting between the Minister and Chairman on 15.4.2012.</p> <p>To suggest that the request was not responded to is incorrect</p> <p>To imply that no alternative was put forward by the Department is incorrect.</p> <p>It further appears that the appointment was not approved by the Board or an appropriate Committee.</p> <p>There is no indication of any pressure being exerted on the Board by the Central bank in relation to the filling of the position on a</p>	

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		<p>permanent basis or of any pressure being exerted by any Committee in this regard.</p> <p>There is simply no justification for this appointment.</p> <p>This represents at best a high degree of disregard for the Minister's role and function – at worst an attempt by the bank To thwart the Minister's need to exert a degree of oversight of the bank.</p>	
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<p>Appointment of an Executive Director And a further member of the management team</p>	<p>The Ministers requirement to directly make appointments to senior management positions has been clearly signalled. Following the appointment of a CFO, without approval, the Minister directed that an executive director be appointed to the Board. This appointment will be made at his direction.</p> <p>While the role of this appointee has yet to be finalised, (pending a decision on the CFO post) it is envisaged that the role will be at deputy CEO/director level with CFO and CRO reporting directly to this officer. Obviously this appointee will also be a senior member of GEXCO .</p> <p>The Chairman's response to the minister's enquiry regarding the status of the appointment of the CFO did give rise to concern</p> <ul style="list-style-type: none"> • The letter failed to address the issues raised in our letter of May 2012 • Misrepresented the facts • Disregards the Ministers Statutory role and responsibilities • Abrogates the Ministers role and authority set out in the Relationship framework <p>It is the Minister's wish to work with the Board of the bank, however it is totally unacceptable that the board should disregard the Ministers role and discretion</p>	<p>Ministers Speech</p>	
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Recruitment problems	<ul style="list-style-type: none"> • The bank appears to have a real problem recruiting suitably qualified personnel at appropriate remuneration packages. • Protracted searches do not appear to be producing results and appear to be inflating the remuneration rates. • There appears to be a disregard for the Minister's requirement to exert downward pressure on remuneration. • The proposed base salary for the CRO is almost 40% more than the equivalent salary in Permanent TSB. The current rate offered to the proposed CEO will once rent allowances expire, leave little head room between the CRO and CEO and will leave the CRO on a higher remuneration package than all but one of the GEXCO members. • Pension contribution rate is 25% (20% normal +5% optional AVC) • This is likely to be the basis for proposals to increase remuneration packages. • The €500k package (excluding pension packages) approved by the Minister is too high and creates a difficult precedent. <p>Questions:</p> <ul style="list-style-type: none"> • How do you see the Minister's requirement for downward pressure on remuneration rates being implemented – there is little evidence of this in recent recruitments? • Is there a need to look at recruitment process <ul style="list-style-type: none"> - Length of time to recruit - Suitability of personnel - - Remuneration packages 	CRO Approval Sought Head of Internal Audit – Approval sought Interim Head of HR – Notification Summary of Remuneration Packages attached. NAMA comparison	
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- Why are wage rates in general for new recruits materially higher than in similarly sized institutions? (Comparisons provided)?
- Are you searching in the wrong pool- should you be looking to young up and coming officers or pre retirees or recently retired ?
- What is the appropriate comparator for salary and skills base : a bank or NAMA ?
- NAMA appear to be able to attract highly qualified staff and a fraction of the rates apparently required for IBRC.

Statement:

There is an urgent need to review recruitment policy and practices.

The remuneration package now being proposed for the CRO should not in any way form the basis of comparison or precedent for any adjustment in pay for existing executives and should not be used in any way to support such claims.

Pension contribution rates need to be reduced to a max of 15-20 % inclusive of any optional AVC contribution in accordance with the Minister's .

Approval will be provided for application for CRO, Head of Internal Audit – subject to a maximum pension rate of 20%. Further and annual allowance for a car of circa €26,000 seems inappropriate and excessive. A clubs and membership /allowances should be discontinued

Recruitment surge	<p>It is noteworthy that requests for consent/ notification have been received in respect of:</p> <ul style="list-style-type: none"> • CRO – pension should be capped at 20% • Head on Internal Audit • Interim Head of HR <p>Have been received in the past week and following the statement by the Minister of his intent to appoint an executive director.</p>	<p>CRO Head of Internal Audit Interim Head of HR</p>																	
Management salaries	<ul style="list-style-type: none"> • There appears to be some upward pressure in relation to senior management salaries. Once living allowances, payable in some instances, runs out (2012 generally) there will be a material decrease in the remuneration packages of certain members of Gexco. The current remuneration proposals for CRO will leave the CRO paid more than the majority of the Gexco members and with little headroom between the CRO and the CEO. This will undoubtedly lead to a claim for increased salaries. • However a comparison with other institutions indicates a disproportionate number of staff in the €300k+ bracket in IBRC. This divergence would be more pronounced if there was a €500k+ • It is questionable where the appropriate comparator lies for IBRC and perhaps NAM A might be more appropriate than the Banking sector. • This point is also reflected in the comment in relation to recruitment process and searching in the wrong pool. <p>Statement: There is to be a review of remuneration in covered institutions. In this context IBRC executive salaries will be considered. Consideration will also be given to using NAMA as the appropriate comparator for IBRC salaries. Following this review the Minister will bring forward a revised policy in relation to</p>	<p>Remuneration Committee minutes</p> <table> <tr> <th>Number of employees with basic salaries</th><th>AIB</th><th>PTSB*</th><th>IBRC</th></tr> <tr> <td>>€100k <€199k</td><td>804</td><td>2</td><td>119</td></tr> <tr> <td>>€200k <€299k</td><td>5</td><td>7</td><td>1</td></tr> <tr> <td>>€300k</td><td>12</td><td>2</td><td>8</td></tr> </table>	Number of employees with basic salaries	AIB	PTSB*	IBRC	>€100k <€199k	804	2	119	>€200k <€299k	5	7	1	>€300k	12	2	8	
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	<p>remuneration at covered institutions. This will replace the CIROC approach.</p> <p>The remuneration package now being proposed for the CRO should not in any way form the basis of comparison or precedent for any adjustment in pay for existing executives and should not be used in any way to support such claims.</p> <p>Pension contribution rates need to be reduced to a max of 15-20 % inclusive of any optional AVC contribution.</p>		
Image and reputational Problem	<p>The bank has a serious image problem. This is not helped by matters which have arisen recently which have focused political and media attention on the bank. Such issues include:</p> <ul style="list-style-type: none"> • Blackstone – procurement policy – the appointment did not go before the Board for approval. While it recognised that procurement policy is being revised – there is a need to ensure that the engagement of consultants for sensitive matters such as the disposal of assets should be subject to Board approval. • Siteserve – deleverage policy - • McKillen – texts and communication appear to be inappropriate and even if the method of communication is considered appropriate in the circumstances- the tone and content of the texts and the direct involvement /intervention of the CEO appears to be inappropriate. The discovery of certain information arising in the recent Mckillen case, although it is recognised as “hear say” will give s rise to further concerns. <p>While much of the criticism is in the realm of “here say” it is critically important for the board to ensure that the policies and</p>		

	<p>practices of the bank are above reproach and protect the Government, the bank and the employees of the bank.</p> <p>Questions</p> <ul style="list-style-type: none"> • Has the Board considered the matter of the bank's image? • Has the Board considered how relationships with clients including major clients?. • Did any member of the Board or management of the bank ever travel with or in an aircraft owned or leased by a client of the bank?. • Is the Board satisfied that appropriate policies and controls are in place any hospitality received is within the terms of the bank's policy?. • In light of the above has the Board of the bank reviewed the bank's policy in this regard? <p>Statement:</p> <p>It is necessary to address the bank's image problem, and to ensure that the bank's policies reflect best practice a that business is conducted at the bank in a manner which does not expose the bank to unnecessary criticism. In particular policies relating to:</p> <ul style="list-style-type: none"> • Procurement • Dealings with clients • Relationships with clients • Receipt of/provision hospitality • Composition of Board papers <p>etc</p> <p>The Minister is reliant on Board to ensure that the bank in its approach and operation is operating to the exemplary standards and in the public interest.</p>	
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Board Function	<p>There is a need to ensure that the Board receives all appropriate information to ensure that the decisions taken by the Board are fully informed.</p> <p>The recent situation in relation to Apthorp gives rise to serious concerns that vital information is not being communicated to Board. We understand the situation to be as follows:</p> <ul style="list-style-type: none"> • The assessment of the proposed deal was referred to a senior member of the Management team • The senior manager responded that the structure of the deal was possibly contrived to facilitate the deal. • This member raised serious concerns regarding the approach and outcome (see over) • The reservations were communicated widely among the Senior management team including the CEO, CRO, head of Corporate & institutional recovery etc. • The issues raised were not responded to nor was the Board informed of the serious issues raised by a senior member of staff. <p>Regardless of the rights and wrongs of the views expressed in the assessment of the position taken by the senior manager the fact that there is no evidence that the serious matters raised were addressed at executive level or that the views expressed were brought to the Board's attention in making their decision is extremely worrying and points to</p> <p>Statement</p>	<ul style="list-style-type: none"> • The preliminary review from the documentation supplied as Credit Committee papers makes it clear that: <ol style="list-style-type: none"> 1. The NPV tests conducted are bespoke. Even worse, the bespoke NPV approach adopted for this exposure was potentially contrived to allow the bank to both make a sale decision and an impairment decision down to the sale value. 2. The bespoke NPV test is inconsistent with the bank's NPV modelling methodology and framework developed for the EC Restructuring Plan, validated by 3rd parties and explained to the Monitoring Trustee. As such the transaction may lead the bank to confirming its non-compliance of the EC commitments to the Monitoring Trustee at the next quarter-end. 3. The adverse deviation of the bespoke NPV approach adopted for this exposure from the bank standard NPV model is in the range \$25-50million. • As you are aware, the bank is not capitalised to immediate sale/liquidation of the loan portfolios and widespread adoption of such a strategy would require further material support from the Minister. 	
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	<p>This points to a serious issue in relation to the flow of information to the Board and that issues material to decisions made by the Board are omitted from Board papers. We would like a detailed explanation of the Board's position in relation to this matter.</p>		
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31 May 2012

Meeting with IBRC (the bank) re Governance matters

In attendance

Alan Dukes

Ann Nolan

Mike Aynsley

Michael Torpey

Danny Buckley

For the purpose of the meeting AN used the attached briefing note as an agenda. The briefing note was not shared with the bank's representatives. Items in *italic* did not arise at the meeting but are items for noting.

Items discussed:

AN opened the meeting by indicating that she was now the lead on financial services matters in the DoF. As part of this it was indicated that she was meeting with each of the banks' senior representatives.

Appointment of CFO

- AN noted that the DoF completely refuted that the DoF's position in relation to the appointment of the CFO had not been made clear at a number of meetings and additionally that the provisions of the relationship framework in effect at the time did not allow for consent to be imputed in the event that it was not provided even after the lapse of time.
- AN then read a number of the questions set out in the briefing and asked the bank to respond.
- AD noted that considerable time had passed and as a result the board had approved the appointment. However, he noted that the RF does not say that silence did not mean consent.
- In relation to when the CFO was appointed on a full time basis neither MA or AD knew when this appointment was made. There was a brief rehearsal of the period up to September (ie resignation of Maarten vE, approval by CBI in September followed by consent request from the Minister on 11 October [*Note: this would appear to be an error as the request is dated 3 October*]). The October request for consents arose as a result of changes to GEXCO. AD indicated that the appointment was formalised at a board decision in either November or December 2011 [*Note: from our review of the board packs there does not appear to have been a board meeting in December and the November meeting was on 30 November which was after a meeting between AD and JAM on 24 November with JAM where it had been indicated that the DoF intended to appoint its own CFO*]
- AN indicated that there was no particular issue with the individual involved. As a result, and to put the matter behind us, AN said that a letter which effectively apologised (or some other conciliatory language) for the appointment outside of the terms of the relationship framework.
- AD said that he would draft a letter which he hoped would be mutually acceptable.
- AD also requested that AN in her new role would attempt to ensure that all consent requests were responded to on time. AN stated that it was her firm intention that this would happen.

Appointment of executive director

- AN noted that there were reputational concerns in relation to the bank and that there was certain mood music in relation to IBRC. The Minister and the DoF therefore felt it would be constructive if there was an executive director appointment. This would help build the relationship and trust between the DoF and the bank. The attendance of the DoF at board meetings was also considered a useful step in this regard.
- AD questioned why there was such mood music.
- AN Nolan felt it was down to trust, personal relationships and constant bad feedback from the press and others.
- It was agreed that no matter what steps were taken that these issues could not be eliminated.
- AD noted that the bank was already doing due diligence on the DoF's 2 recommended candidates for the board. He further pointed out that he didn't know if they would pass through due diligence or whether they would be a success on the board. AD also noted that he thought this was an odd process as the DoF did not know either of the candidates yet it was still putting them forward.
- AN said that this was the Minister's position and she would not comment on it. AN then indicated that she would like to meet with the non executives.
- In relation to the appointment of the executive directors, AN said that the DoF did not yet have someone in mind. AN noted that she would liaise with AD on this appointment.
- MA indicated that he too should also be involved in the process as the appointee would report to him. AN said that management level interaction would be with MT and would also be considered. MA wanted to understand the process. AN said that the process had not yet been approved by the Minister so it was not yet appropriate to discuss. Furthermore AN wanted to discuss the current composition of the board and management so that the appointment could be tailored appropriately. MA suggested that COO may be such a role and that perhaps it could be someone from the current management team. AN said that it could be someone from the current management team, but that it was probable that it would be an external candidate.
- AD noted that the board under DOC had decided in 2009 that there would only 1 executive director as this was the norm in State bodies. AN said that things had moved on and in certain instances, such as NAMA, the Minister had requested that there be 2 executive directors.
- As an aside, AD noted that as the bank got smaller that it was important that this was not translated into meaning that the quality of the team could be allowed to deteriorate.

Recruitment

- AN drew parallels between NAMA and IBRC and felt that recruitment should be on bases similar to that seen in NAMA. MA indicated that as a bank there were differences but AN noted that the business objectives were the same.
- AN noted that NAMA had written in relation to term incentivisation and retention plans. Under these plans, staff could be paid, as part of their package, if certain targets were achieved. This payment would not be an annual payment but would try and retain staff in the medium term.
- AN noted that the DoF would be completing a pay review in the coming months and as part of that review the salaries of IBRC would be considered, perhaps benchmarking against NAMA.
- MA noted that the bank was in the process of finalising a report benchmarking their salaries which might be helpful for the DoF. AN agreed that this report would be considered as part of the DoF's review.

- MA noted that they were losing people to other banks who were now trying to do what IBRC had been doing over the past few years. Effectively IBRC had trained them and now the other institutions were going to take the benefit of that training.

Reputational matters

- Siteserv – AN noted that this transaction had received a lot of negative press coverage. AN noted that she had heard, from a reliable source, that there was a higher than the price accepted.
- AD requested what this source was. MT noted that he had not verified the item himself but that the source was very reliable. [REDACTED]
- MA noted that a process was run which included termination dates. An offer was received but it was received after the termination date had passed and it could not therefore be accepted.
- AD noted that the board had been through this in detail and was comfortable with the transaction. Furthermore, the bank could have made press statements to justify the decisions taken but it had been decided that this was not in the bank's best interests
- MA noted that that the CBI was reviewing the transaction.
- It was agreed that DB would review the papers on Siteserv to better understand the transaction
- AN noted that given the circumstances in which the bank operated and the high numbers of PQs on one particular appointment that it was critical that the bank operated in a manner which could fully stand up to scrutiny
- MA noted that Topaz was another case where there was likely to be publicity given issues between DO'B and O'Leary.
- MA was also noted that [REDACTED]

Apthorp

- [REDACTED]
- [REDACTED]
- MA & AD went into the commercials of the transaction. In particular it was noted that this loan was included in the US portfolio disposal and if a price of [REDACTED] had been achieved as part of that process there would have been no specific consideration of this loan whether there was a provision or not. AD noted that there were elements of the US portfolio where holding the asset would have yielded a better return, however, the strategy adopted, with the agreement of the DoF, was that there was more to be gained in selling this portfolio in its entirety.
- AN noted that, while she was not approving or otherwise the commerciality, that this was not what the issue was. It was the governance concerns which were what had to be addressed.
- AD noted that he had met with the individual concerned on 30 May. The individual did not yet feel that his concerns had been addressed. When the individual concerned was asked if he would make an allegation in relation to the pricing / provisioning he was not in a position to do

so. MA also pointed out that it was important to note that the provisioning is inherently highly subjective.

- MA stated that Deloitte had been engaged to carry out a review of the transaction process. He also said that the previous CRO was comfortable with the provisioning and the transaction and that the current CRO was also comfortable.
- AD noted that the bank had strong processes in place and had a speak up programme to facilitate concerns to be raised with the CEO or the board. He noted that no matters had been raised under the speak up programme during his tenure.
- AN noted that it was important that the focus of the review was on the governance issues and not focussed on the whistleblower.
- AD noted that he did have a governance issue to address.

Reporting

- AN noted the private members motion in relation to transparency and suggested that the bank consider what information it could legally provide in relation to assets held for sale
- AD & MA to consider further

The meeting ended

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Discussion of Siteserv with IBRC - 11 June 2012 - 14.30 to 15.30

In attendance:

IBRC

Tom Hunersen
Peter Fitzgerald

Karl Cleere
Pat Walshe

DoF

Danny Buckley
Tony Smyth

At a meeting between DoF and IBRC's Chairman and CEO (on 31 May 2012) it was agreed that the DoF would review the Siteserv transaction to better understand the decisions taken.

The majority of the information below is from the meeting. The DoF is in not in possession of documents on the transaction, other than the timeline which was received at the meeting. No file review was completed.

Items discussed: (IBRC provided a timeline in relation to Siteserv (the Company) which was discussed). In summary:

- In January 2011 the Company commissioned a report from KPMG on the options available – it was assessed that the Company needed €20mn. PwC were engaged by IBRC to review the KPMG plan. Under the terms of the EU Commitments, the maximum the bank could lend was €15mn. As a result it was determined that the Company should enter into an orderly process to sell itself (June 2011). A decision was taken that the Company would run the sales process as to do otherwise might have indicated a potentially damaging degree of distress. Walter Hobbs was appointed to the process to represent the bank's interest.
- There were 50 candidates selected to which information memoranda were sent to 12. This filtered to 9 expressions of interest and finally to 8 bids. It was determined by the Company that, to protect customer contracts, the process would exclude trade players.
- The 8 bids were received in December 2011 and reviewed at that time. The highest bid from the first round was in last place by the second round. Island (Millington / DO'B), was the winner of the process with a bid of €45.42 – but not by a significant amount.
- The Bank felt it appropriate to take 3 bids forward. Including the second bid from [REDACTED]. However, Island then insisted that if it did not receive 14 days exclusivity that it would walk away from the process. On 10 February SiteServ wrote to IBRC saying that exclusivity be entered into with Island. [REDACTED] were informed of this and then, a few days later, provided a revised bid of [REDACTED]. Credit Committee decided to neither accept nor reject the Island bid given the higher bid in from [REDACTED]. It was determined by Siteserv that, notwithstanding the higher bid from [REDACTED], that they would proceed with the Island bid because of the exclusivity but also as the [REDACTED] bid indicated further levels of tax and legal due diligence which could have resulted in price reductions [On request, IBRC indicated that this was despite all parties having the same access to the dataroom etc. IBRC, again on request, responded that, in relation to DO'B, there was no evidence that anything other than a bona fide process.]
- As a result of media speculation on the sale the Company's position with customers was weakened (including some putting the Company on watch) and DBRS lowered the Company's credit rating to N4 (lowest).
- The Bank obtained sign off on the process from Walter Hobb and KPMG.
- In relation to the €5mn the Company received advice from Davys that a payment of €4mn to €5mn was necessary to induce the shareholders to vote through the transaction. PwC felt a payment of between 0 and €5mn was necessary. The Company's advisors were relied upon by IBRC. Once a decision was taken to make a payment it then applied to any of the bids.
- It was indicated that of the €5mn there was 30 – 40% free float in the company with the remainder held by institutional holders and management. Of the €5mn it was thought that Brian Harvey (CEO) received €0.8mn.
- In March 2012, [REDACTED] (a trade player) saying they had contacted the CEO of the Company to offer to acquire. A price of €60mn was in the press at the time. No price was evident in the email correspondence between [REDACTED] and Siteserv. [REDACTED] submitted a conditional offer. Davy's concerns with the [REDACTED] offer include i) contract already in place with Island (IBRC also bound by this), ii) the bid was indicative non-binding, iii) the bid was silent on adjustments (which all the other bids had), iv) bid based on publically available information – no detailed diligence completed – other participants had taken 2 – 3 months, and v) bid silent on reps, warranties and indemnities. As a result IBRC wrote to Davys stating that any proposal for the sale was for Siteserv to consider.
- Arthur Cox were advising Siteserv and Island capital. IBRC were provided (January 2012) with assurances by Arthur Cox on appropriate firewalls being in place to act for both sides.
- EGM to approve the sale to Island took place on 5 April 2012.

Decision	Bank's view	Alternative view / Comment
Allowing the company to run the sales process	<p>For the bank to have inserted itself as a primary in the process would have meant damage to the Company as perception of distressed sale. It was expected that this would then have damaged price achieved.</p> <p>The bank protected its interests through its own process which included the appointment of Walter Hobbs to sit on the Company's committee and through second opinion on the work of the Company's advisors.</p>	<p>The alternate would have been, as principal secured creditor, to have run the process themselves.</p> <p>While we cannot say that the bank's position in relation to the perception of a distressed sale being damaging, this decision was fundamental to everything that ensued.</p> <ul style="list-style-type: none"> - It meant that the bank did not negotiate terms for say debt for equity or some deferred payment arrangement
Not to open the sales process to trade buyers	<p>The Bank felt that there would be damage to or loss of contracts through people reviewing the dataroom information for their own benefit with no intention of bidding. It was indicated that the type of businesses that Siteserv operates and the type of competitors might heighten this risk</p>	<p>Trade buyer may have been in a position to provide the best price and may have had i) lower diligence requirements and ii) lower return requirements.</p> <p>Due diligence process could have been completed keeping customer information redacted or anonymous – which would often be the case in such due diligence.</p> <p>Some risk would have remained</p>
Entering into exclusivity with Island	<p>To take 3 bidders forward, however, given Island request for exclusivity (and threat to leave the process without it) it was decided to proceed with exclusivity</p> <p>Siteserv transaction sub-committee chairman recommended exclusivity to IBRC</p>	<p>Given second round pricing appeared to be relatively close together, could the process have been continued without Island in order to keep competitive process alive</p>
Payment of fee to shareholders i) Necessity ii) Quantum	<p>Payment was necessary to ensure shareholders voted to approve the transaction. Examinership not considered an option because of the terms of customer contracts which would have been in breach. Loss of contracts would have resulted in loss of value.</p> <p>Bank sought view of PwC who agreed that possibly a payment, of up to €5mn, may have been required to secure the vote</p> <p>Advice from Davys was that the fee should be referenced off the average share price for the previous 12 months - €5mn</p>	<p>Arguably no payment should have been made to shareholders given the precarious position the company was in. Examinership would appear to have been a reasonable option, however, contract issues would have remained. The Bank relied on the Company's review of customer contracts which indicated that liquidation or examinership would be a breach. Was there any potential for customers to continue if there was a respected trade or other buyer available quickly?</p> <p>The bank accepted the view of the Company's advisor on the level of fees (albeit it that it was at the higher end of PwC's range of €0mn to €5mn) – bank has indicated that they did not have an ability to negotiate with shareholders as not a primary</p> <p>If more recent share price was used this amount would have reduced by circa 50%. Furthermore, any payout price did not need to be linked to the share price</p> <p>Was Davy's advice the right advice for the bank to take given they were the advisors to the Company (whose responsibility is to the shareholders)?</p>
Not accepting the higher bids of: [REDACTED]	<p>[REDACTED] – further tax and legal due diligence could have jeopardised the price on offer and there were lower levels of conditionality in the Island bid</p> <p>[REDACTED] – the bid came in after the process (although here had been correspondence during the process). Risks in closing (as set out above)</p>	<p>To have followed the other bids as improving the potential return. However, the bank's assessment of the risks associated with each of these bids moved them forward with Island.</p>

Confidential**Non Paper****Siteserv Transaction**

To: **Minister**, John Moran, Ann Nolan
From: Shareholding Management Unit
Date: 12 July 2012

This document should not be shared with IBRC management or board as it refers to confidential information informally received.

Background

At a meeting between DoF and IBRC's Chairman and CEO (on 31 May 2012) it was agreed that the DoF would review the Siteserv (the Company) transaction to better understand the decisions taken. The majority of the information below is from a one hour meeting which took place on 11 June 2012 and some limited follow up thereafter.

The background to the transaction and the process, as set out at the meeting on 11 June is set out in Appendix 2. The DoF is not in possession of documents on the transaction, other than as set out in Appendix 2.

The critical decisions taken by the bank, and possible alternatives, are set out on the following page.

Next steps for consideration

Based on the discussions with the bank, which were high level in nature, there appears to be a reasonable question to be answered in relation to the decision by the bank not to act in a primary role in this transaction. On the facts available, this decision appears to have given rise to a number of other subsequent actions which could, quite reasonably, be considered to have caused a reduction the bank's recovery on the Siteserve exposure.

There are also other connections between the company and the successful bidder which could also have given rise to a potential conflict. Certain market participants have, informally, made it clear that they were very unhappy with the process and that they had provided higher bids.

We understand that the Central Bank has completed a file review of this transaction (focussing on the process rather than the commerciality of the transaction). We further understand that there were any material findings from this review.

Given the apparent question as to the quality of some of the decisions taken, it is recommended that there is an independent review of the transaction to assess the impact that the decisions taken have had on i) the process put in place, and ii) the final recovery for the bank. There are options in relation to how this review might be initiated but the two best options are:

- i) Asking the Chairman, or his appointed advisors, to independently review the decisions taken in the transaction. However, given the board were involved in the decision making this may not provide a truly independent view on the transaction.
- ii) The Minister initiating an independent review of the transaction. This would be considerably more effective but would likely bring media scrutiny if/when it the review enters the public domain.

Comments

Decision	Bank's view	Alternative view / Comment
Allowing the company to run the sales process	<p>For the bank to have inserted itself as a primary in the process would have meant damage to the Company as perception of distressed sale. It was expected that this would then have damaged price achieved.</p> <p>The bank protected its interests through its own process which included the appointment of Walter Hobbs to sit on the Company's committee and through second opinion on the work of the Company's advisors.</p> <p>As it was decided that this was the Company's process, the Company appointed its nominated advisor to complete the work on its behalf.</p>	<p>The alternate would have been, as principal secured creditor, to have run the process themselves.</p> <p>While we cannot say that the bank's position in relation to the perception of a distressed sale being damaging, this decision was fundamental to everything that ensued.</p> <p>Including that the bank did not negotiate terms for say debt for equity or some deferred payment arrangement.</p> <p>While Davy were the Company's nominated advisor, an alternate advisor could have been appointed (the nominated advisor would still have had to completed its regulatory function (arising from the relevant listing requirements) in relation to the transaction).</p>
Not to open the sales process to trade buyers	<p>The Bank felt that there would be damage to or loss of contracts through people reviewing the dataroom information for their own benefit with no intention of bidding. It was indicated that the type of businesses that Siteserv operates and the type of competitors might heighten this risk</p>	<p>Trade buyer may have been in a position to provide the best price and may have had i) lower diligence requirements and ii) lower return requirements.</p> <p>Due diligence process could have been completed keeping customer information redacted or anonymous – which would often be the case in such due diligence.</p> <p>Some risk would have remained</p>
Entering into exclusivity with Island	<p>To take 3 bidders forward, however, given Island request for exclusivity (and threat to leave the process without it) it, it was decided to proceed with exclusivity.</p> <p>Siteserv transaction sub-committee chairman recommended exclusivity to IBRC.</p> <p>IBRC's response to why exclusivity was granted to Island was, in summary (see appendix 2 for additional detail):</p> <ul style="list-style-type: none"> - The process was controlled by Siteserv and its advisors KPMG and Davy. IBRC had an observing role only. - Island Capital's bid would yield the highest proceeds to IBRC. - Other offers had issues such as exclusivity requirements considerable execution risk, lower pricing 	<p>Given second round pricing appeared to be relatively close together, could the process have been continued without Island in order to keep competitive process alive?</p> <p>The bank's response that the process was controlled by Siteserv again points to whether the company running the process was the correct decision.</p> <p>In relation to the commercial points, there appear to have been better bids available but IBRC would argue that delivering on these bids would have proven difficult.</p>

Decision	Bank's view	Alternative view / Comment
	or conditionality.	
<p>Payment of fee to shareholders</p> <ul style="list-style-type: none"> i) Necessity ii) Quantum 	<p>Payment was necessary to ensure shareholders voted to approve the transaction. Examinership not considered an option because of the terms of customer contracts which would have been in breach. Loss of contracts would have resulted in loss of value.</p> <p>Bank sought view of PwC who agreed that possibly a payment, of between €0mn and €5mn, may have been required to secure the vote</p> <p>Advice from Davys was that the fee should be referenced off the average share price for the previous 12 months - €5mn</p>	<p>Arguably no payment should have been made to shareholders given the precarious position the company was in. Examinership would appear to have been a reasonable option, however, contract issues would have remained. The Bank relied on the Company's review of customer contracts which indicated that liquidation or examinership would be a breach. Was there any potential for customers to continue if there was a respected trade or other buyer available quickly?</p> <p>The bank accepted the view of the Company's advisor on the level of fees (albeit it that it was at the higher end of PwC's range of €0mn to €5mn) – bank has indicated that they did not have an ability to negotiate with shareholders as not a primary. If more recent share price was used this amount would have reduced by circa 50%. Furthermore, any payout price did not need to be linked to the share price.</p> <p>Was Davy's advice the right advice for the bank to take given they were the advisors to the Company (whose responsibility is to the shareholders)? From a summary report on the shareholders (see Appendix 2.1) it would appear that a significant proportion of them are Davys' clients – the extent of this relationship, and therefore the extent of any potential conflict, is not evident from the report.</p>
<p>Not accepting the higher bids of:</p> <ul style="list-style-type: none"> - [REDACTED] - [REDACTED] 	<p>[REDACTED] – further tax and legal due diligence could have jeopardised the price on offer and there were lower levels of conditionality in the Island bid</p> <p>[REDACTED] – the bid came in after the process (although here had been correspondence during the process). Risks in closing (as set out above)</p>	<p>To have followed the other bids as improving the potential return. However, the bank's assessment of the risks associated with each of these bids moved them forward with Island.</p>

Appendix 1

Background

- In January 2011 the Company commissioned a report from KPMG on the options available – it was assessed that the Company needed €20mn. PwC were engaged by IBRC to review the KPMG plan. Under the terms of the EU Commitments, the maximum the bank could lend was €15mn. As a result it was determined that the Company should enter into an orderly process to sell itself (June 2011). A decision was taken that the Company would run the sales process as to do otherwise might have indicated a potentially damaging degree of distress. Walter Hobbs was appointed to the process to represent the bank's interest.
- There were 50 candidates selected to which information memoranda were sent to 12. This filtered to 9 expressions of interest and finally to 8 bids. It was determined by the Company that, to protect customer contracts, the process would exclude trade players.
- The 8 bids were received in December 2011 and reviewed at that time. The highest bid from the first round was in last place by the second round. Island (Millington / DO'B), was the winner of the process with a bid of €45.42 – but not by a significant amount.
- The Bank felt it appropriate to take 3 bids forward. Including the second bid from [REDACTED]. However, Island then insisted that if it did not receive 14 days exclusivity that it would walk away from the process. On 10 February SiteServ wrote to IBRC saying that exclusivity be entered into with Island. [REDACTED] were informed of this and then, a few days later, provided a revised bid of [REDACTED]. Credit Committee decided to neither accept nor reject the Island bid given the higher bid in from [REDACTED]. It was determined by Siteserv that, notwithstanding the higher bid from [REDACTED], that they would proceed with the Island bid because of the exclusivity but also as the [REDACTED] bid indicated further levels of tax and legal due diligence which could have resulted in price reductions [On request, IBRC indicated that this was despite all parties having the same access to the dataroom etc. IBRC, again on request, responded that, in relation to DO'B, there was no evidence that anything other than a bona fide process.]
- As a result of media speculation on the sale the Company's position with customers was weakened (including some putting the Company on watch) and DBRS lowered the Company's credit rating to N4 (lowest).
- The Bank obtained sign off on the process from Walter Hobb and KPMG.
- In relation to the €5mn the Company received advice from Davys that a payment of €4mn to €5mn was necessary to induce the shareholders to vote through the transaction. PwC felt a payment of between 0 and €5mn was necessary. The Company's advisors were relied upon by IBRC. Once a decision was taken to make a payment it then applied to any of the bids.
- It was indicated that of the €5mn there was 30 – 40% free float in the company with the remainder held by institutional holders and management. Of the €5mn it was thought that Brian Harvey (CEO) received €0.8mn.
- In March 2012, [REDACTED] (a trade player) saying they had contacted the CEO of the Company to offer to acquire. A price of €60mn was in the press at the time. No price was evident in the email correspondence between [REDACTED] and Siteserv. [REDACTED] submitted a conditional offer. Davy's concerns with the [REDACTED] offer include i) contract already in place with Island (IBRC also bound by this), ii) the bid was indicative non-binding, iii) the bid was silent on adjustments (which all the other bids had), iv) bid based on publically available information – no detailed diligence completed – other participants had taken 2 – 3 months, and v) bid silent on reps, warranties and indemnities. As a result IBRC wrote to Davys stating that any proposal for the sale was for Siteserv to consider.
- Arthur Cox were advising Siteserv and Island capital. IBRC were provided (January 2012) with assurances by Arthur Cox on appropriate firewalls being in place to act for both sides.

Company EGM to approve the sale to Island took place on 5 April 2012.

Appendix 2 – Documents received

From: Karl Cleere [mailto:KarlCleere@ibrc.ie]
Sent: 19 June 2012 14:33
To: Buckley, Danny
Cc: Peter Fitzgerald; Tom Hunersen; Pat Walsh
Subject: Follow up queries on Siteserv for DOF

Danny,

Please see below responses to the queries you raised with Peter Fitzgerald:

Any questions please let me know.

Kind regards

Karl.

Please see attached the following:

1. Share capital table outlining the breakdown of the shareholdings in Siteserv – this shows the % distributions of the €5m shareholder payment.
2. Email correspondence with [REDACTED] who were representing [REDACTED].
3. Letter from IBRC to [REDACTED] outlining IBRC's position.
4. Email exchange between Pat Walsh and Walter Hobbs/KPMG enquiring of [REDACTED].
5. Email from Pat Walsh to [REDACTED] referring [REDACTED] to the "company led process".
6. In relation to the hypothetical query of if the offers in the 2nd round were similar, why would we not seek to exclude Island Capital if they were demanding excluding exclusivity and run with 2-3 other parties in a third round to maximise competitive tension, the following points are relevant:
 - The process was controlled by Siteserv and its advisors KPMG and Davy. IBRC has an observing role only.
 - Island Capital's bid would yield the highest proceeds to IBRC.
 - [REDACTED] wanted exclusivity themselves.
 - [REDACTED] offer was dependent on financing and they were not prepared to enter a third phase.
 - [REDACTED] and [REDACTED] offers had more conditions according to KPMG
 - [REDACTED] offer was dependent on exclusivity and a break fee arrangement
 - [REDACTED] offer would yield only €35m to IBRC and it was unclear as to their deductions from that figure.

Karl Cleere ACA

Davy Corporate Finance

The Cable share register has 617 individual shareholdings

Share Register Analysis

Cable Register as at 9 December 2011

Rank	Shareholder	No. of Shares	% Holding
1.	Brian Harvey	20,273,566	16.0%
2.	Harvest Financial Services (Davycrest)	11,888,433	9.4%
3.	Boundary Capital (Davycrest)	10,803,117	8.6%
4.	Davy Private Client (Davycrest)	7,815,000	6.2%
5.	Desmond Whyte	6,599,285	5.2%
6.	Christopher Neate	6,415,094	5.1%
7.	John Neal	6,415,094	5.1%
8.	Patrick Jordan (Davycrest)	5,454,545	4.3%
9.	Barry Herriott (Davycrest)	3,615,625	2.9%
10.	Goodbody Nominees (GSCLT)	2,947,787	2.3%
-	Other Davycrest Nominees Accounts	21,605,100	17.1%
-	Other Shareholders	22,559,395	17.8%
Total Share Capital in Issue (9* Dec 2011)		126,392,041	100.0%

Source: Company Registrar

- The Cable share register has 617 individual shareholdings.
- Approximately 60% of the ordinary shares are held by current/former Cable employees or individuals that received shares as consideration in past acquisitions. Relationships with the latter category have been difficult in recent years given the changes in the underlying operating environment.
- The balance of approximately 40% is held by a mix of private and institutional investors, none of which have material stakes.

Appendix 2.2

Offer letter from [REDACTED]



Appendix 2.2







Appendix 2.3

Correspondence with [REDACTED]



Addressee Only
Strictly Private and Confidential

[REDACTED]
KPMG Corporate Finance Limited
Russell Court
St. Stephen's Green
Dublin 2
Ireland

[REDACTED]
Davy Corporate Finance
Davy House
49 Dawson Street
Dublin 2
Ireland

29th February 2012

Re: Project Cable Process

Dear Sirs,

Our client, [REDACTED] is disappointed not to be advanced to the next phase of the Project Cable process but accept your decision on the basis that KPMG have indicated that another party has offered a significantly higher price than our [REDACTED] offer. On behalf of [REDACTED], we wish you the best of luck with an expeditious completion. We would also like to note clearly our continued strong interest in the asset and our ability to move quickly if the process does not proceed as expected. To this end we would be prepared to commit to completing a transaction within one month of being awarded exclusivity, on the basis that a reasonable amount of information and access to management would be made available.

Please do not hesitate to contact either myself or [REDACTED] should the situation change.

Yours sincerely

[REDACTED]

[REDACTED]

**Strictly Private and Confidential
Addressee Only**

Pat Walsh
IBRC
Stephen Court
18/21 St. Stephen's Green
Dublin 2

16th March 2012

Re: Project Cable

Dear Pat

We read with interest this morning the announcement made by the board of Siteserv that it has conditionally agreed a disposal to Millington for a cash consideration of €45.42m.

As you will recall [REDACTED] made a cash funded offer of [REDACTED] on January 30th.

We were advised by KPMG Corporate Finance that the preferred bidder was selected on the basis of a higher priced offer. We would welcome an understanding as to why the board of Siteserv and IBRC were happy to proceed with a cash offer that is nearly [REDACTED] lower than our [REDACTED] offer of [REDACTED]

It may be that there is an innocent explanation but if for any reason our clients' offer may have been overlooked, [REDACTED] remain strongly interested and can complete the transaction expeditiously.

I attach copies of [REDACTED] original offer letter together with our follow up letter to KPMG and Davy.

Yours sincerely

[REDACTED]

CC: Richard Woodhouse, IBRC

[REDACTED]

[REDACTED]

Appendix 2.4

Email exchange between IBRC and one of the unsuccessful bidders [REDACTED]

Karl Cleere

From: Pat Walsh
Sent: 15 May 2012 12:01
To: Karl Cleere
Subject: FV Shesha

From: Pat Walsh
Sent: 15 January 2012 09:40
To: [REDACTED]
Subject: FV Shesha

Happy to talk [REDACTED] bid Company bid process well underway at this stage

Pat

From: [REDACTED]
Sent: 14 January 2012 13:12
To: Pat Walsh
Subject: Hi: Shesha

Walsh is speaking about [REDACTED]
[REDACTED] is very interested assessing whether there's something we can do together on all or part of the business.

[REDACTED]

From: Pat Walsh [mailto:PatWalsh@ibrc.ie]
Sent: 12 January 2012 08:12
To: [REDACTED]
Subject: Re: Shesha

Hi [REDACTED]

Pat Walsh
Head of Restructuring - Group Recovery Management Unit

From: [REDACTED]
Sent: 12 January 2012 11:20
To: Pat Walsh
Subject: Shesha

A couple of expressions of interest have been logged with the company, to no avail. Can you direct me to the current case manager?

[REDACTED]

Appendix 2.5

Correspondence in relation to [REDACTED] from the IBRC board's appointee to the process

From: Pat Walsh [mailto:PatWalsh@ibrc.ie]

Sent: 13 February 2012 16:50

To: Karl Cleere

Subject: FW: Siteserv

From: Walter Hobbs [mailto:walterhobbs@virgocapital.ie]

Sent: 13 February 2012 16:44

To: Pat Walsh; [REDACTED]

Subject: RE: Siteserv

Pat,

[REDACTED] were considered by the board, sub-committee and advisors as part of the original discussion of potential investors and were discounted in favour of the 12 parties that were identified (as previously discussed with the bank of the 12 contacted, 8 came through to initial bids with 6 conducting due diligence and making final offers).

Some of the advisers had anecdotal evidence that [REDACTED] did not have strong financial capability at this time. We were under pressure to keep the A list as short as possible to keep the process manageable. In that respect, judgements had to be made as to who was in and out.

There were a number of contacts with the company and/or its advisors following on from the media speculation in recent weeks – you will recall t

[Note that the email was curtailed in the documentation received from IBRC]

IBRC

Briefing Note for meeting with CEO/Chairman

To:	Ann Nolan/Secretary General
Cc:	Secretary General, Michael Torpey
From:	Shareholder Management Unit
Date:	July 2012

This briefing note is intended to provide an overview of the outstanding issues in IBRC. The note is to provide briefing material for the meeting with Mike Aynsley, CEO and Alan Dukes, Chairman of IBRC scheduled for Wednesday 25th July 2012.

Background

This meeting was requested by the Minister on foot of a memo produced by the SMU in relation to certain remuneration issues in IBRC. That memo highlighted a number of areas where the SMU is concerned that there is a continuing lack of regard for the views of the Department and the Minister by senior management in IBRC. This meeting is intended to formally raise these and other issues with the Chairman and CEO.

Overview of Issues

1. General Manager Specialised Asset Management remuneration increase
2. Other Remuneration Issues
3. CFO Appointment
4. Ministerial Executive Director Appointment
5. McKillen Relationship
6. Business Conduct - Apthorp and other transactions

1. Remuneration Increase – (General Manager Specialised Asset Management)

Background

IBRC notified the Minister of its intention to increase the remuneration package of a certain member of staff. You responded to this notification within five working days that you considered the matter to be of significant public interest and that no payment should be made. IBRC responded stating that payment has already been made and are now contractually committed. It should also be noted that the individual concerned has been with Anglo / IBRC since 2002 and has held a senior position in (non-property) lending since 2006.

Our Position

We believe this exchange is a clear example of IBRC's lack of regard for the Minister's wishes. While the actions of Management may not have been a technical breach of the terms of the Relationship Framework which requires notification of a proposed increase, it was, in our view, clearly against the spirit of the Framework. This recent action further serves to erode the Department's confidence in the CEO in IBRC and is



evidence of the lack of trust and collaborative working that has developed between the bank and the Department.

There have been other instances where senior management in IBRC have shown similar disregard for the spirit of the Relationship Framework. The current CFO sent a consent request for a settlement proposal to the Minister in June 2012 in relation to on-going litigation with Fir Tree. The Department indicated that a decision on the matter would be delayed due to the on-going related discussion in relation to the Assenagon legal case. We communicated this decision at a management meeting on 6 July and again via subsequent emails and phone calls. The issue was discussed with the CFO again on 23 July where he indicated that notwithstanding our request to delay a response on this matter he considered the consent period to have expired and that 'technically' IBRC were free under the Relationship Framework to proceed as they wished in relation to this request. Again these comments show that IBRC are not operating within the spirit of the existing Relationship Framework at present.

2. Other Remuneration Issues

Background

IBRC have made a number of consent requests and notifications in respect of various recruitment issues and increases in existing remuneration packages. Summary details of these requests are set out in the table below;

Position	Request	Description
CRO	Approval sought for appointment	Proposed base salary was almost 40% more than equivalent in PTSB. Excluding rent allowances this would leave the CRO and CEO on similar packages and is higher than all but one of the other ExCo members.
Interim Head of Internal Audit	Approval sought for appointment	Consent request for appointment at an annualised cost of [REDACTED]. Appointment did not proceed after strong push back from SMU and alternative now being considered.
Interim Head of HR	Notification	Initial notification signalled an annualised cost of the proposed appointment in excess of [REDACTED]. Appointment did not proceed.
GM Specialised Asset Management	Notification	Increase in remuneration put through without providing the Minister an opportunity to respond
Group Special Legal Advisor	Consent Request	Request to appoint Special Legal Advisor on 60% time at a rate of up to [REDACTED] per annum. Refused on basis of rate of pay, part time arrangements and tenure of post.

The bank has indicated that it has difficulty in recruiting suitably qualified personnel at appropriate remuneration packages. Protracted searches do not appear to be producing results and appear to be inflating the remuneration rates. Initial submissions to the Department have sought the appointment of executives at extremely high levels of pay. It is also noteworthy that the requests for consent/notification in respect of the CRO, Interim Head of HR and Internal Audit were received in the week following the statement by the Minister of his intent to appoint an executive director.

Our Position

There appears to be a disregard for the Minister's requirement to exert downward pressure on remuneration. In fact there appears to be constant upward pressure in relation to senior management salaries. There is a risk that the packages put forward for the CRO will lead to further proposals to further increase the salaries of existing Executive Committee ('ExCo') members. Once living allowances, payable in some instances, run out (2012 generally) there will be a material decrease in the remuneration packages of certain members of the ExCo.

We feel that this could very likely lead to a claim for increased salaries. This position has been further evidenced through comments made at meetings of the Remuneration Committee where it was noted that a member of the senior management team had received attractive offers for roles in other institutions including significantly higher remuneration packages.

In addition to the specific requests outlined above we also understand that there have been a number of other pay increases that have not been notified as they fall below the threshold set out in the Relationship Framework, it is for this reason we propose that all increases above €150,000 should now require the Minister's consent.

In April the Minister requested IBRC to consider a reduction of 15% in senior management salaries. This reduction was not implemented. The Chairman responded stating that due to the demand for senior management by other entities they felt that a reduction could not be implemented as it would result in significant operational risk for the Bank. The Chairman also stated that they would be seeking to introduce medium term incentivisation measures for senior management to improve retention of key staff.

In his response the Chairman referred to the reduction in overall staff costs and numbers that have been implemented since nationalisation. We view much of this response as being simply not relevant and need to be viewed in the context of the bank being in wind down;

- The 20% reduction in salaries which applied post nationalisation is not relevant and applied only to officers employed at the time of nationalisation. All of the ExCo in place at that time have since left the bank.
- The claim that the remuneration paid to the top 50 individuals in the organisation has reduced by 15% from 2009, hides the disproportionate number of senior management whose remuneration exceeds €300,000 when compared to other institutions. This is evidenced in recent PQ responses;

Number of employees with basic salaries	AIB	PTSB*	IBRC
>€100k <€199k	804	2	119
>€200k <€299k	5	7	1
>€300k	12	2	8

- The assertion that the decrease in numbers employed at the bank is reflective of anything other than that the bank has moved to "work out" mode, and has ceased much of its banking operations, cannot be justified. This institution has effectively ceased to operate as a full bank.

The bank contends that difficulties in the recruitment market and the likelihood that the bank will have to pay a premium to recruit similarly skilled replacements, justifies the selective approach being taken in retaining staff. The Department's assessment is that the bank's approach to recruitment should be refocused on young upcoming personnel or on persons nearing the end of their career rather than persons at the peak of their career on peak salary levels (



We believe that at present the proper comparable for the bank is NAMA. Remuneration levels for Senior management in NAMA are significantly below those currently being paid in IBRC. For example, the CEO salary in NAMA is currently set at €365,500 (following your request to staff earning above €200,000 in the NTMA to waive 15% of their salary earlier this year, the NAMA CEO salary is also subject to a 9.6% [REDACTED])

[REDACTED] We also understand that the recent CFO recruited by NAMA is on a salary considerably below those being paid in IBRC. Accordingly, it seems entirely inappropriate that staff generally in IBRC should be on such higher base salaries than those in NAMA and even more unacceptable that requests for increases should be granted. The Department would be satisfied if the remuneration levels at the bank reasonably reflected the rates paid in NAMA and believes that the current difficulties in terms of remuneration and recruitment could be avoided.

3. CFO Appointment

Background

The IBRC CFO was appointed without the approval of the Minister. IBRC argue that they applied for sanction and when no reply was received they proceeded to make the appointment. There is no indication that this appointment was approved by the Board of IBRC or an appropriate Committee.

Our Position

The Department made it clear to IBRC on a number of occasions that the Minister wished to make an appointment to the post of CFO of his own choosing. The matter was discussed at meetings on 1 Nov, 24 Nov, and 1 Dec, the issue was also raised at the meeting between the Minister and the Chairman on 15 Apr 2012. In April we requested details of when the appointment took place and who passed the relevant approvals. To date this information has not yet been provided

The Department's dissatisfaction in relation to this matter was raised again in a letter from the SMU to the Chairman on 15 May. The Chairman responded on 22 May and the response gave rise to a number of concerns. In particular, the Chairman's response stated that the Board was acting in accordance with good governance but it showed little regard for the Minister's statutory role and responsibilities. We believe that this position also completely undermines the Minister's role and authority set out in the Relationship Framework.

This is a typical example of the type of behaviour that has led to undermine the trust between the Department and IBRC. We believe that the episode represents, at best, a high degree of disregard for the Minister's role and function and, at worst, an attempt by the bank to thwart the Minister's need to exert a degree of oversight of the bank.

4. Ministerial Executive Appointment

It is the firm intention of the Minister to appoint an executive director at his discretion. While the role of this appointee has yet to be finalised, (pending a decision on the CFO post) it is envisaged that the role will be at Deputy CEO level with CFO and CRO reporting directly to this officer. Obviously this appointee will also be a senior member of ExCo. The CFO appointment without Ministerial approval has made this issue critical.

5. McKillen

Background

There were a number of disclosures in March 2012 regarding the relationship between Mr Paddy McKillen and the CEO of IBRC. An article published in the Irish Times refers to disclosure of text messages between Mike Anysey and Mr Paddy McKillen in the High Court in London. The article also refers to an assertion made in the High Court by Mr McKillen to the effect that he had been told by the CEO that the bank would stand by him as a "customer of 25 years" who had "the best performing loans in the bank".


Our Position



6. Business Conduct

Apthorp Loan Sale

The SMU received an internal memo from the Head of Group Balance Sheet Management in IBRC, Robert Cameron ('HGBSM') which indicated significant concerns in relation to the Apthorp transaction. In brief the email and memorandum indicated that:

- It appeared that the provisioning on the Apthorp had been tailored to reduce the loan value to the estimated sales value (a provision of [REDACTED] was booked in February 2012);
 - That the bank was not capitalised to sell at these levels.
- 

Our Position

There are a number of Governance concerns that arise from this incident. Firstly we are concerned at the fact that the concerns of a member of the senior management team were not addressed or communicated with the Board. While IBRC state that the views of the HGBSM are not a formal requirement we feel that as they raised these strong concerns they should have been addressed. We are also concerned that the Board's decision to proceed with the transaction was taken without the benefit of understanding these concerns (albeit that the Board has subsequently re-affirmed its position).

Furthermore we are also concerned with how this matter was treated in the aftermath of the Memo being supplied to the SMU. Following our discussion with IBRC on 23 May 2012 we requested that the Apthorp



An Roinn Airgeadais
Department of Finance

Private & Confidential

proposal be raised again with the Board at their meeting on 24 May. At that meeting the issue was discussed where the CRO explained the background to the Memo and indicated that an investigation was required.

The Board discussion focused in part on the fact that the Memo had been provided to the SMU without going through due process within the bank and that the individual concerned should have raised the matter with his superiors prior to sending the memo. We would question the accuracy of these statements as the concerns were raised with the CEO and the member of the group executive committee responsible for the transaction in April. This was well in advance of the Board decision on 14 May. The SMU raised the matter once more with IBRC on 25 May. We felt it was important that the Board be made aware that the HGBSM had made efforts to raise the issue internally, significantly before the original board decision on Apthorp but that nothing had been done. We are concerned that the investigation completed to date has not focused on this important point, but has been focused largely on whether the transaction was commercially appropriate and not whether there is a problem with the process, whether formal or informal.

The Board discussion on the matter focussed in part on the fact that the memo was shared with the SMU rather through internal channels. When the CEO was queried as to whether he had seen the memo referred to he stated that he was on leave at that time. The fact is that this memo was sent to the CEO and CFO two weeks prior to the Board discussion and yet it was not passed onto the Board. We believe that the Board discussion on the subject was skewed by this statement and that the discussion was directed away from why the individual felt it was necessary to share the memo outside the organization when his concerns were not addressed and onto the incorrect assertion that he did not follow reporting protocol.

Other Business Conduct Concerns

1. Wealth Management Unit Disposal	Despite the concerns of the Department IBRC conducted a 9mth sale process in relation to this unit which was eventually abandoned. We believe significant value was lost in relation to this transaction
2. Quinn Family	
3. Blackstone	IBRC proceeded with this appointment without following a standard procurement process. The appointment exposes IBRC to a number of reputational challenges and has also resulted in a high level of political scrutiny and public concern which may have been avoided if better managed
4. SiteServ	We have serious concerns in relation to the execution of this transaction which are the subject of another note (also attached)
5. Topaz	The SMU was informally approached by this customer in relation to the IBRC treatment of their business. We advised that their concerns should be raised directly with the Chairman
6. Apthorp	Sub optimum communication between senior management and the Board leading to misinformed decision making

We are concerned at the number of large transactions that have been poorly executed under the direction of the current CEO. The performance of management in executing these transactions raises the question of the effectiveness of the CEO. The poor management displayed in a number of these items along with the increased level of public concern and political and media scrutiny that they commanded is damaging the credibility of the institution and by extension the State.

In relation to the appointment of Blackstone alone 34 PQs were answered on the subject of their appointment and numerous media reports were filed questioning the independence of their advice. While IBRC did put in place certain safeguards in relation to Chinese Walls etc, the appointment of Blackstone in the absence of an open and transparent procurement process left IBRC and the State exposed to questions in relation to the credibility of the deleveraging process generally. We are also concerned that current procurement arrangements in IBRC allow the CEO to waive procurement rules for up to 10% of appointment (by number) where the CEO believes a genuine need exists. We believe that more comprehensive procurement controls should be in place and that under no circumstances should the CEO be permitted to waive procurement rules where the appointment is above a certain value (as opposed to the limit by number of transactions that is currently in place)

SiteServ is the subject of a separate memo but to summarise we are concerned with the quality of some of the decisions taken in respect of this transaction. The sale decision has raised a number of areas where we believe that decisions taken by IBRC resulted in a less optimum return for the bank. The transaction has also been the subject of a number of PQs and press queries which further questioned the commercial rationale for some elements of the sale including payments made to existing shareholders. We are recommending that the Chairman is asked to commission a full independent review in relation to the Siteserv transaction.



Proposed Approach for the Meeting

Remuneration

The following should be requested at the upcoming meeting;

1. Implement an immediate requirement to seek prior written consent for all remuneration increases for employees earning in excess of €150,000 pending the Minister's final decision on the matter.
2. Instruct IBRC to reverse any pay increases that have been implemented without Ministerial consent since March 2011 for employees earning in excess of €150,000
3. Provide an immediate report from the CEO addressing a number of issues in relation to the remuneration increase of the General Manager Specialised Asset Management.
4. Immediately provide the outstanding explanations in relation to the appointment of the CEO
5. Notify IBRC of our intention to recruit a deputy CEO as previously advised as a matter of urgency

McKillen

6. The CEO should be told that based on the 'hearsay' revealed during the McKillen case that we are concerned with the nature of the relationship that has been described and the possible reputational damage for IBRC it could give rise to. [The CEO should be asked to confirm if there is any truth to the assertions contained in the text messages evidenced in the McKillen case?- JM to confirm if appropriate]

Business Conduct

7. The Chairman should be requested to put in place a comprehensive process to ensure that papers supplied to the Board fairly reflect the views of all senior management. (Apthorp)
8. The Chairman should also be requested to commission a full independent review in relation to the Siteserv transaction.
9. Raise the fact that the Minister is very concerned with how a large number of transactions have been handled over the past number of months and that this has led to the Department to question the effectiveness of the CEO and the current management team.
10. Notify the CEO and Chairman of our dissatisfaction and that the Minister expects the Board and Management to make immediate efforts to remedy the situation before September 2012 when I plan to review the matter once again.

SPEAKING POINTS

Remuneration

- [REDACTED] appears to have no comprehension of the significance of the wider issues in increasing remuneration of staff.
- The long list of remuneration requests and the recent response to my request for a reduction in senior management pay suggests that IBRC are ignoring my instruction to apply downward pressure on pay levels in the bank.
- There is an urgent need to review recruitment policy and practices.
- Proposed appointments are not at the appropriate level; remuneration policy should more closely reflect those being followed in NAMA.
- We believe that the approach to recruitment should be refocused on young upcoming personnel or on persons nearing the end of career rather than persons at the peak of career on peak salary levels
- The remuneration package proposed for the CRO should not in any way form the basis of comparison or precedent for any adjustment in pay for existing executives and should not be used in any way to support such claims.
- There is to be a review of remuneration in covered institutions. In this context IBRC executive salaries will be considered. Following this review the Minister will bring forward a revised policy in relation to remuneration at covered institutions. This will replace the CIROC approach.
- I am requesting that all pay increases for employees earning in excess of €150,000 that have been implemented since March 2011 are reversed immediately. In addition any future proposed increases now require a Ministerial Consent.

Reputational / Management Issues

- It is necessary to address the bank's image problem, and to ensure that business is conducted at the bank in a manner which does not expose the bank to unnecessary criticism. In particular policies relating to:
 - Procurement controls (CEO waiver rights)
 - Dealings/Relationships with clients
 - Receipt of/provision hospitality (should operate above reproach in relation to this)
 - Composition of Board papers
- Events over the past number of months have led me to question the effectiveness of the management team in IBRC.
 - Blackstone appointment
 - McKillen relationship
 - Wealth Management Unit Disposal
 - SiteServ decision making (full review to be commissioned)
 - Apthorp transaction
- I expect the Board to ensure that the bank in its approach and operations is operating to the exemplary standards and in the public interest. I am concerned that the reputation of IBRC and by extension the State has been damaged as a result of these events.
- The Apthorp transaction points to a serious issue in relation to the flow of information to the Board and issues material to decisions made by the Board appear to be omitted from Board papers and discussions.
- I am concerned with the delay taken in appointing my suggested NEDs to the Board. This proposal was discussed as early as Nov 2010 and despite a letter issuing to you to progress the appointments in January it has taken until June for the Board to approve appointment.
- I am extremely dissatisfied with the performance of the IBRC management at the present time and I expect the Board and management to make immediate efforts to remedy the situation before September 2012 when I plan to review the matter once again.

Meeting of Minister with Chairman/CEO IBRC, Thursday 25th July 2012

Attendance: Minister for Finance, Michael Noonan (Min)
Chairman IBRC, Mr Alan Dukes (AD)
CEO IBRC, Mr Mike Aynsley (MA)
Secretary General, Mr John Moran (JM)
Mr Michael Torpey (MT)
Mr Gary Hynds (GH)

The Minister opened the meeting stating that he was concerned at the constant stream of issues that are arising in IBRC which is in contrast to his experience with AIB and Bank of Ireland. The Minister stated that given his accountability to the Oireachtas he was very uneasy with the relationship as it stood and he was seeking explanations on a number of specific issues. The Minister also noted that his confidence was 'wearing quite thin' at this stage.

MA stated that the communication channels with the Department are not working as they should. They are not getting clear feedback on what the shareholder is upset about and as a result they get 'torpedoed' at meetings such as this. He also stated that there is a lack of clarity around the operation of the Relationship Framework.

MT responded stating that in relation to SiteServ it was not clear to us that the choice to allow SiteServ to lead the sale process was the best decision for IBRC. We were also concerned with the noise around the transaction whether it is justified or not. In relation to Aphorp we were concerned with the issues raised in the memo but we were also concerned with the processes in place in the bank that resulted in these concerns not being relayed to the Board and as a result decisions were being made in a vacuum which could result in sub optimum decisions for the bank. In addition we also had concerns about the number of issues that were leading to increased media noise and a high level of PQs being put to the Minister.

AD stated that IBRC was operating in a very sensitive environment with a lot of high profile customers and that this would inevitably lead to significant public interest. In relation to Aphorp he was disappointed that the individual involved did not formally approach the CEO or him to discuss the issue before approaching the Department. He reaffirmed that both the SiteServ and Aphorp transactions were thoroughly assessed by the Board.

JM stated that he was not close with the specific issues but he was concerned with the relationship. He also stated that he was unhappy that appointments to the Board that were signalled over a year ago were still not in situ.

AD disputed this timeline stating that the names were only formally put forward at the meeting of 5th April 2012. AD then went through the process completed since that time and confirmed that the appointments would attend the September Board meeting subject to CBI approval.

JM confirmed that he met the two individuals concerned last year and that the names were mentioned in November 2011. He also made it quite clear on a number of occasions that he wanted individuals appointed to improve the relationship between IBRC and its shareholder and that he expected that efforts would be done to do that straight away. JM then stated that the Department had also made it clear last year that they wished to appoint an Executive Director and that this was still stifled due to the outstanding issues regarding the CFO appointment.

MA stated that a letter was sent on 3rd October last year where the status of the Senior Management team was clearly set out. AD then confirmed that a draft letter was shared with Ann Nolan earlier this month to provide further clarification in relation to this issue.

MT stated that consent for this appointment was never provided and that meetings were held in Nov and Dec 2011 where the Department raised concerns. To date the Department had not received confirmation of when the appointment was made nor have we seen Board papers where the appointment was considered.

AD asked what was the Departments view of the capacity of the IBRC management team? He went onto state that the Board had made some replacements but that they were happy that they now have a good team in place.

Min stated that the Department is acting on his behalf and that he wants a relationship in place that works and mirrors the relationship in place with other institutions. Those relationships are well managed with only occasional input required from the Minister. He is concerned with the high level of PQs, rumours and briefs that are arising in relation to IBRC and that efforts to correct the relationship to date have not been successful. Min was concerned that he had a serious problem insofar as he is accountable and stated that he is "not confident at present that the relationship is sufficiently secure to maintain my confidence in reporting to the Dáil."

AD responded by saying that IBRC should be asked specific questions and not continually asked to explain issues as they arise and that the Board are acting in the very best interests of the taxpayer at all times. AD also confirmed that where significant issues were at stake (e.g. US Loan sale) that the relationship has worked quite well. However remuneration is a very difficult issue for IBRC. MT stated that IBRC are losing significant numbers of staff to AIB and NAMA and that this will have a material impact on the business.

Min asked how AIB and other banks were managing to operate within the guidelines subscribed and asked have IBRC been increasing pay levels.

MA confirmed that individual increases had been given but not across the board. MA then listed the actions taken by management to exert downward pressure to date.

MT asked how remuneration policy compared with NAMA. MA stated that they were losing staff to NAMA on a regular basis and that they do have a bonus scheme or a generous pension scheme. MT asked what MA thought of the package values in NAMA generally compared to IBRC and suggested that NAMA staff had a similar skill set and that he would support a like for like remuneration policy in the institutions.

JM raised the Internal Auditor request as an example of the unreasonable requests being made. MA stated that the cost was driven by a short term need for a critical resource and that they have made great efforts to reduce the cost of professional fees generally.

AD stated that they were unhappy with the current situation whereby staff were trained in IBRC and poached by other institutions.

Min asked was there any substance to the rumours that emanated from the McKillen / Barclay Brothers case in the UK where there were charges of close relationships?

MA confirmed that the bank has large clients and that the relationship must be close but that they are not inappropriate. The clients are managed to ensure a maximum return on all loans. In relation to the McKillen case great efforts were made to ensure that there was a consensual restructuring of the loans to maximise the return to IBRC. MA confirmed that the relationships with McKillen and Denis O'Brien are strong but not inappropriate and that he may have had about 4 dinners/lunches with both individuals.

Min asked specifically about the texts exhibited in the McKillen case. MA stated that McKillen does not email much and prefers to deal by text. Following the board meeting on the issues regarding his account he was charged with communicating the decision to McKillen and this was done via text. MA confirmed that while there was some further correspondence he maintained an appropriate position throughout.

AD stated that this was just one of a number of examples of where there is a noise made because of the personalities at play and that there is likely to be further noise in relation to their relationship with Topaz also as it is connected with Denis O'Brien.

MA stated that IBRC are not creating these issues and that they are managing inherited issues in the best manner possible to achieve the best result for the State. Much of this noise is generated by unhappy parties that have been unsuccessful in their dealings with the bank who then run to the press. MA cited SiteServ and EcoCem as examples of this.

JM stated that he was concerned where problems keep arising and that NAMA/AIB have similar legacy issues but we do receive anywhere near the same level of questioning in relation to those institutions. It is important that IBRC are clean in all of these dealings given the increased public scrutiny. To do this JM suggested that there should be a greater integration of the teams and that the Department will seek to appoint some people into the organisation to make us feel more comfortable.

AD stated that there are a lot of questions in relation to NAMA but they come in a different form. In relation to integration they need to clearly understand what it is the Department wants to know. IBRC already provide a significant amount of information through Board and Committee packs. MA stated that they do not understand what the issues are until they arrive on the Ministers desk. AD then raised the issue that arose in 2009 surrounding the valuation of NAMA bonds where there was a view of the Department and the NTMA that they were being obstructionist and that this was not the case.

JM suggested that there should be a process where staff could be transferred or seconded from other State Institutions to IBRC to improve the level of integration. This was a process that worked well in the Department and that it now appeared that IBRC had a significant need for additional resources. JM suggested that it may also be an option to get another institution such as AIB to provide functions such as HR to IBRC and second other individuals at various levels in the organisation.

MA stated that while he was not adverse to the idea they needed to be key staff. AD suggested that a transfer of the HR function may not help with integration.

JM suggested that given the many remuneration issues that were arising he thought it might be a good idea.

AD stated that he didn't believe the communication issues were as bad as they seemed and that certain units are working very well together including the Balance Sheet Management team in relation to the Tap and Swap project. MA suggested that the issue was a senior relationship problem and that it needed to be addressed on a one to one level as they are not getting the feedback they need to correct matters.

MT agreed that there has been some very good collaboration in the past and the breakdown appeared to be at senior management and policy levels.

MA suggested that he and JM need to discuss. JM stated that it was his team that he needed to get comfortable with the relationship.

Min agreed that a meeting should take place between the CEO and JM. He also indicated that the relationship with NAMA is very good as a result of a good flow of information between the Department and the institution and there is only a limited need for him to get involved in the day to day issues. Min confirmed that he would also meet with AD to discuss further. The Min confirmed that he would take up the offer to meet the Board of IBRC and noted that the Chairman was to remain in place for a further year.



Briefing Note for meeting with IBRC CEO

Enclosures;

Tab A – Minute from Minister Meeting 25th July 2012 with comments

Tab B – Supporting docs for [REDACTED] Remuneration increase

Tab C – IBRC response to interim Head of HR request

Tab D – Supporting analysis on SiteServ transaction

Tab E – IBRC response to Ministerial request for pay reductions

Follow up from last week

- The issues raised at the meeting should not have been any surprise to management. IBRC is fully aware of the issues at hand especially in terms of remuneration.
- The meeting was a culmination of matters where it was clear to the Department that the views of the Minister were being disregarded particularly in relation to remuneration and senior appointments.
- For example the recent [REDACTED] notification (Tab B);
 - The Minister was notified on 6th June
 - 3 working days later the SMU requested further details and the next day you were informed that a paper was being prepared on the matter.
 - We instructed you on 20th June that we requested it be treated as a consent request to which you responded that the payment was made and contractually committed.
- 1. It should have been clear when additional information was requested that the Minister was looking into the matter.
- 2. How were the Ministers views to be taken into account in this example?
- 3. This is a clear example of non-cooperation by the bank and indicates a lack of regard for the Ministers views and goes against the spirit of the Relationship Framework.
- 4. This example mirrors what happened in the case of the CFO appointment where a consent request was made and despite the Dept raising concerns the appointment proceeded.

Relationship Framework

- There appears to be some confusion as to how the Relationship Framework should operate on a practical level.
 - We do not want the Banking Unit to become a bottleneck for important decisions. We want to work toward a trust based relationship with the bank; the Relationship Framework should be a safety net in that respect.
 - We feel that there is a certain sense of contempt for the process at present. The recent appointment and remuneration issues indicated that this needs to be resolved or a much more restrictive framework be put in its place. For example;
 - 1. Recent pay increase made despite feedback from Department [REDACTED]
 - 2. Fir Tree litigation where 20 day rule expiry was expressed despite the Dept making it clear the issue had not been resolved.
 - 3. The aggressive response received to our letter of 11 June re Interim Head of HR (Tab C)
 - 4. Apparent appointment of CFO while the issue was under direct challenge from the Dept.
1. We expect IBRC to operate in a proactive manner in relation to consent/notification submissions. Where a notification is made we expect;
- a. In the case of notifications that IBRC wait a reasonable period prior to completion to allow the Ministers views to be taken on board. IBRC should also commit to taking those views on board.
 - b. Where a consent request is made where the Banking Unit has, sought clarification, additional information or indicated it is considering its options (via discussion or in writing) IBRC should not proceed until the matter is brought to completion regardless of the 20 day rule.



SiteServ

- We are concerned that IBRC consider the CBI report compiled on the transaction vindicates their position.
 - To be clear we are concerned with a number of the decisions taken by the bank in relation to this transaction including (Tab D);
 - The decision to allow the sale process to be run by SiteServ's advisors
 - The decision to exclude trade buyers from the process
 - The timing of the exclusivity period when there were other bids outstanding
 - The payment of €5m to existing shareholders
1. **Is IBRC satisfied that this transaction represented the best commercial outcome for the bank?**
 2. **We want an independent commercial assessment completed for this transaction**

Remuneration

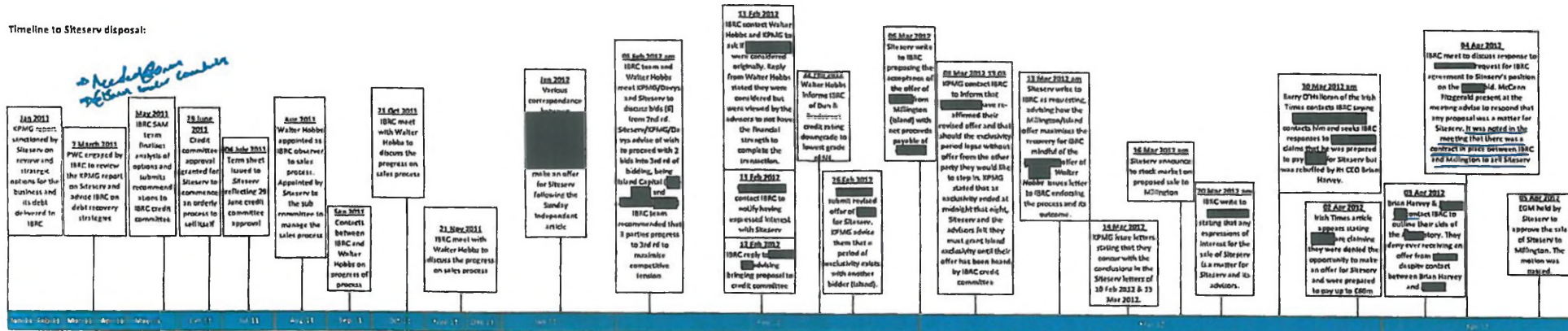
- Discussion at our meeting centred on the difficulties you are experiencing in relation to retention of lower levels of staff (for which retention proposals have not been made)
- Our concerns at present centre on senior management and we are of the view that IBRC is not exerting any downward pressure despite the repeated urgings of the Minister.
- There remains a disproportionate number of senior management whose remuneration exceeds €300,000 when compared to other institutions.

Number of employees with basic salaries	AIB	PTSB*	IBRC
>€100k <€199k	804	2	119
>€200k <€299k	5	7	1
>€300k	12	2	8

- We are concerned at the Boards refusal to cut senior management pay while AIB, NTMA and NAMA have all passed on significant reductions in recent times (Tab E).
- Recent appointment requests have not shown a desire to reduce senior pay; some proposals were at a level far in excess of what we see as reasonable.
Until we witness a change in this approach we will continue to refuse applications for appointments or pay adjustments at this level.

Reputational Issues (McKillen/SiteServ/Blackstone etc.)

- We are concerned that you showed little appreciation for the reputational impact of the McKillen situation.
- We need to protect IBRC against this type of reputational damage.
- You may consider the relationship with these clients to be 'appropriate' however we believe that the objectives of the bank can still be safeguarded while taking a more low key approach.
- You state that these noises are raised because of the personalities at play but we are concerned that you're actions are adding to these issues.
- The reputation of IBRC and by extension the State is vulnerable due to the approach taken by the bank in relation to these matters. IBRC's processes should be beyond challenge to protect this.
 1. **Did you accept flights and accommodation from Mr. McKillen?**
 2. **What is IBRC doing to ensure that it operates to the highest standards?**
 3. **Will you adopt the NAMA Code of Conduct in relation to personal benefits/entertainment as the code is much more prescriptive than that which exists in IBRC?**
 4. **Will you implement the NAMA/NTMA procurement framework?**

[illegible]

<p>Feb 2011 Meetings held between IBRC, Steeven and KPMG to discuss the findings in the KPMG report</p>	<p>Dec 2011 PWC fulfils duty underway with KPMG and Steeven</p>	<p>17 May 2011 PWC report delivered to IBRC</p>	<p>27 July 2011 Facilities agreement signed reflecting the 29 June 2011 credit approval</p>	<p>09 Aug 2011 Walker Hobbs delivers first feedback to IBRC following meetings with Site venv Chairman & CEO</p>	<p>15 Oct 2011 Walker Hobbs emails first progress report</p>	<p>24 Jan 2012 IBRC given assurances by Arthur Orr on appropriate Security being in place to act for both Steeven and Island Capital</p>	<p>01 Feb 2012 Walker Hobbs contacts IBRC to alert that Steeven's largest contract, [redacted] is being as high risk together, and that [redacted] placed Steeven as cover for audit insurance as a result of the recent speculation in the media</p>	<p>04 Feb 2012 KPMG/Dwyer/Steeven advise IBRC of demand from Island Capital for exclusivity period of 14 days to complete sale [redacted] or they will withdraw from the property. 28 Feb 2012: Robert Orr - chairman of Steeven sub committee writes to IBRC recommending exclusivity</p>	<p>01 Feb 2012 Orin approval granted to award Island Capital with 34 days exclusivity to complete final due diligence and confirm final offer for the purchase of Steeven Subcompany in on an Midnight 08 March 2012</p>	<p>01 Mar 2012 17:45 IBRC respond to KPMG by stating that IBRC credit committee approved for such an extension and not exit</p>	<p>01 Mar 2012 17:45 IBRC credit committee heard the proposal to accept the Mitigation offer to purchase Steeven for [redacted] to increase by [redacted] from their position at exclusivity.</p>	<p>11 Mar 2012 IBRC Board meet and approve the sale of Steeven to Mitigation</p>	<p>21 Mar 2012 Walker Hobbs contacts IBRC to inform that [redacted] have submitted a conditional offer of [redacted] to [redacted] Chairman of Steeven.</p>	<p>01 Apr 2012 IBRC writes to [redacted] of Dwyer stating that any proposal for the sale of the business is a matter for Steeven to consider.</p>
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20 of
50
12 MYS
9 E444
8 others
(21 inc)
(mainly UK &
US)
35-70 mm

capto

↳ Trade players
→ Recieved 3 emails
from 1st pers. Not mention
to the company.

12

David Tuohy

From: Margaret Fitzgerald
Sent: 25 March 2015 14:29
To: David Tuohy
Cc: Declan Reid
Subject: FW: Mike Aynsley meeting with Sec Gen

David

As discussed.


Margaret

From: Torpey, Michael
Sent: 08 August 2012 18:00
To: Moran, John
Cc: Torpey, Michael
Subject: Mike Aynsley meeting with Sec Gen

John,

Please note my comments at bottom of e-mail – these are **for internal consumption only and not appropriate for onward transmission** to MA.

I understand that the following were outcomes from Mike Aynsley's meetings with the Secretary General during the week ending 3rd August 2012:

- Secretary General expressed a strong desire that the two incoming directors should be in attendance at the next (August) board meeting.
- Dept of Finance is to look at assisting in populating currently open positions in IBRC including
 - CLO position
 - Market Solutions position
 - Head of HR
 - COO
- 
- Discussed with MA re head of HR, including possible outsourcing to another State controlled institution. Department to consider options further. *(M Torpey to action)*.
- COO. Currently interim appointee. Department to consider possible candidates for proposal to IBRC. *(MT to action)*.
- Market Solutions role – Department considering possibilities *(Sec Gen)*

MA has subsequently sent job specs to the Sec Gen.

Internal discussion, MT with Sec Gen

- 1) Re HR role. MT to follow up with D Duffy re possible candidate identified but not hired by AIB in their recent search. Also re AIB capability to take on IBRC HR on outsourced basis. Depending on outcome, Sec Gen to consider other options.
- 2) COO Role. MT to seek names to propose to IBRC

- 3) Market Solutions: Sec Gen considering possibility of assigning someone for 6 – 12 months in a combination of this role with a strategic delivery brief as well, with combined role to sit on Exco.
- 4) Compliance: Discussed with Sec Gen imposing a compliance requirement of equal standard with NAMA. To consider whether explicit measure in these terms is for the best.

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Minutes of Monthly Meeting with CFO and CRO of IBRC

In Attendance: IBRC Jim Bradley CFO and Roger Mc Greal CRO

DOF Gary Hynds, John Cantwell, John Cronin and Clare McCabe

Date: 13th August 2012

Location: IBRC, Burlington Road

1. Operating Plan Report 30th June 2012

Topaz Energy Group

GH queried the movement on the Topaz Energy Group which showed a specific lending impairment of [REDACTED]. RMG stated that [REDACTED]. He stated that this figure is an initial estimate which he surmised will grow. The issue is particularly difficult as IBRC would like to do restructuring but are unable to at present as the shareholders are not communicating. RMG believes that if the oil price increases [REDACTED]. [REDACTED] IBRC are getting legal advice. Tom Hunersen is looking at this issue. GH informed IBRC that Topaz had contacted DOF who advised them to talk to IBRC.

Edinburgh House Estate

RMG confirmed that Edinburgh has been marked down in value and that more negative figures would be released. The net exposure in the UK is [REDACTED]. Many are in rural areas. The sector is deteriorating and is expected to continue to underperform. RMG offered to meet GH next week and go through the loan in detail.

Origin 8 Developments

No information was available from JB or RMG. JB agreed to get back to GH on this.

2. Revised Operating Plan currently being finalised

Decrease in Interest Income

GH asked why the interest income dropped in the revised forecast. JB confirmed that the figure was based on estimates (re assumed repayments on Pro Notes) and that the current reduction was due to continued deterioration in loans.

Operating Expenses

JB stated that the operating expenses were forecast to go down with assets but there was a problem with time lags and the ability to shed costs. (Mentioned fixed term contracts were

not originally part of the operating expenses). GH highlighted that there was an increase of c20% forecast and that DOF were concerned at the scale of the increase.

Central Bank and ICAAP

IBRC have been asked by Central Bank to provide figures for an ICAAP type process. JC stated that DOF had understood the forecast out to 2020 was to increase by [REDACTED]. However RMG said he believed the figure should be higher but could be potentially offset by the IBNR provision which currently is at [REDACTED]. CBI have requested these figures by the end of the month as they have a Risk Governance Committee meeting October and they want a summary of the material risks and the effects this will have on IBRC's capital.

3. MARS Implementation Update

IBRC have set up a task force team which will assist MARS implementation. IBRC have given details on the products they wish to launch to Central Bank. Legal documentation needs to be worked on and they hope to launch the products in December once Central Bank has given approval. RMG will give a breakdown on these figures to GH next week at their meeting. GH asked if IBRC was happy with the level of contact with customers. RMG confirmed that contact was being made and was improving.

4. Legal Issues





5. Professional/Adviser Fees

The operating plan had a figure of [REDACTED] for the full year. There was a large accrual in the interim accounts. The increase in fees was due mainly to commercial business in Ireland and also the Quinn fees which were higher than forecast. GH requested a breakdown of the Adviser fees. RMG said these figures would be available in the Audit Committee Pack which would be shared with the Department.

6. Revenue

GH affirmed he would like to be kept updated on the tax liability issue affecting former directors and ex-employees of IBRC. IBRC are working on the wording of the letters which are about to go out. JB mentioned the sensitivity of this matter to litigation and the risks of incurring costs for no return.

7. CPC Refund Error

IBRC are still reviewing the correct home for these funds. JB noted although it is not a problem from a P&L point of view he accepted there may be an issue regarding distribution. GH suggested that a reserve could be retained to cover any future calls on the funds with the remainder surrendered to the Exchequer. GH confirmed that there was an expectation now at political level that the funds might be surrendered.

8. Other Issues

Cost of Funds Project.

IBRC confirmed that it was near completion. GH queried if the full cost was likely to be €67m as was provided? JB confirmed that the cost was likely to be slightly less than this and may result in a release.

UK Swaps

RMG spoke about UK swaps which are currently being investigated in the UK with regard to the mis-selling of derivatives. RMG proposed that the exercise of going through the swaps would be a huge exercise (1500 contracts, which would take 1/2 years). RMG said he would be available to discuss this in detail with GH.

US Office

JB mentioned a ruling out of the US which is refiling the IBRC office there as a permanent establishment and not a representative office. IBRC are discussing. There is a provision made in the account for this of €48m which is unlikely to be fully utilised.

Deleveraging

JB then provided an update on the deleveraging progress in the US and UK. The US office is closing in September following the completion of Apthorp with the residual assets managed from London. Remaining projects for this year include the sale of Meadows () and options in relation to the Mandarin hotel.

Follow – Up

1. JB to refer back to GH on Origin 8 Developments
2. JB to provide the professional fees report for GH.
3. JB to refer back to GH on the Cost of Funds issue
4. GH to refer back to JB on the Tom Browne case and organise consultation briefing.
5. RMG to have meeting with GH on Tuesday 21st August.
6. Draft interim accounts to be provided this week.
7. Revised Operating Plan to be approved at August board meeting.