# Ed Sibley: Central Bank of Ireland's views on the No Consent, No Sale Bill 2019

Introductory statement by Mr Ed Sibley, Deputy Governor (Prudential Regulation) of the Central Bank of Ireland, at the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach (Head of Parliament), Dublin, 2 April 2019.

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Chair, Committee members,

Thank you for the invitation to discuss the Central Bank's views on the No Consent, No Sale Bill 2019 ('the Bill'). I am joined by Gráinne McEvoy, Director of Consumer Protection and Vasileios Madouros, Director of Financial Stability.

## Consumer protection

The Central Bank serves the public interest by safeguarding monetary and financial stability and by working to ensure that the financial system operates in the best interests of consumers and the wider economy. We treat the dual arms of our mandate – safeguarding stability and consumer protection – with equal weight. Our work in each domain is mutually reinforcing.

Over the last decade, the Central Bank has proactively worked in conjunction with the Oireachtas, the Government, state agencies and international counterparts to strengthen the solvency and stability of the financial sector and enhance protections for consumers.

We believe that a strong consumer protection framework is essential. This is particularly the case for mortgage borrowers, as a mortgage is the most significant financial commitment for most families and individuals.

That is precisely why we advocated for a legislative regime whereby borrowers would be protected regardless of whether their loan was held by a bank or a non-bank. This is now the case. Customers whose loans are sold to another firm maintain the same regulatory protections they had prior to the sale, including under the various statutory Codes of Conduct issued by the Central Bank. Firms must comply with these Codes by law.

This includes the Code of Conduct on Mortgage Arrears (CCMA), which was put in place in 2009 to ensure the fair and transparent treatment of financially-distressed borrowers. The CCMA includes requirements that arrangements be sustainable and based on a full assessment of the individual circumstances of the borrower and that repossession be used only as a last resort. Firms must also follow the Mortgage Arrears Resolution Process when dealing with borrowers facing arrears.

Within the broader Irish consumer protection framework, there is significant support for those in arrears, including the Money Advice and Budgeting Service (MABS), the national Mortgage Arrears Resolution Service (Abhaile), the Personal Insolvency regime, and a Court Mentor service.

Collectively, these protections have kept the vast majority of distressed borrowers in their homes, despite the scale of mortgage arrears experienced following the financial crisis.

At the end of 2018, less than one in sixteen mortgages relating to private dwelling homes are in arrears over 90 days. In 2018 there were over twenty two thousand (22,171) new restructure arrangements for mortgages relating to private dwelling homes.

This brings the total number of private dwelling homes loans categorised as restructured to over one hundred and ten thousand (111,504) as at the end of 2018. In addition, over three thousand distressed borrowers have secured Personal Insolvency Arrangements, which return borrowers to solvency, while keeping them in their home in over 95% of cases.

The enactment of this Bill will not offer new or existing borrowers any additional regulatory consumer protection and it could have negative consequences for the functioning of the mortgage market, with wider implications for all mortgage borrowers.

## Functioning of the mortgage market

The enactment of the Bill in its current form would hamper the ability of banks to access market-based sources of financing using mortgages as collateral, such as securitisations and covered bonds. Access to such forms of finance helps diversify the funding base and achieve lower funding costs relative to issuing unsecured bonds. Constraints on the ability to mobilise mortgages as collateral to raise funding through these market-based channels could ultimately limit the availability, or increase the cost, of mortgage credit.

At a time when the severe dysfunction in the Irish mortgage market is finally easing, this Bill could, unintentionally, slow or even reverse that progress. It would certainly give further pause for thought for any firm considering entering the Irish market by increasing the cost of doing business in Ireland and effectively limiting the funding available for mortgage lending. We do not believe this in the interests of current and future mortgage borrowers.

## Financial stability

During the financial crisis, the ability of Irish banks to post securitisations and covered bonds as collateral was crucial to allow them to borrow from the eurosystem to meet their acute liquidity needs. Total monetary policy lending provided to Irish-domiciled banks rose to a high of €140 billion towards the end of 2010, of which approximately 40% was collateralised by mortgage-related securities.

The Bill would render the type of asset transfers required to use these financial instruments effectively impossible. The eurosystem would have concerns about the realisation of such collateral in the event of a counterparty default. This, in turn, has the potential to restrict the capacity of Irish banks to access central bank funding.

If banks cannot mobilise collateral quickly in times of financial stress, crises can get worse, very quickly. Whilst the bill makes an exception for Failing Or Likely To Fail institutions, this is not sufficient. If banks are close to the point where they are deemed failing or likely to fail, they are likely to have taken actions (such as reducing availability of credit) that will harm the economy. The entire focus of the resilience changes made over the last decade have been to try and prevent institutions getting into a situation where they are failing or likely to fail, precisely to guard against the kind of events that trigger damage to the system, to businesses, households and consumers.

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The financial crisis serves as a stark reminder of the severe costs of financial instability to society as a whole. While there has been significant progress towards repairing the banking system, legacy vulnerabilities from the crisis remain. The restrictions imposed by the Bill would reduce the ability of the banking system to absorb shocks in the future. Ultimately, these costs will be faced by households and businesses in Ireland.

Over the last decade, a lot of work has been undertaken to enhance the resilience of the banking system. This has included increasing capital, reducing non-performing loans (NPLs) and making funding sources more stable.

We continue to expect banks to use a full toolkit to reduce NPLs. The ability to sell portfolios – while ensuring full compliance with statutory consumer protections – is important.

Since the 2013 peak, the stock of NPLs held by the retail banks has declined by €67 billion. Around 12 percent of that reduction was achieved through residential loan portfolio sales.

In our view, the introduction of this Bill will significantly constrain the ability of banks to engage in portfolio sales and, so, limit their ability to deal with outstanding vulnerabilities from the crisis. These constraints will hinder the continued post-crisis recovery of the banking system. And, crucially, it will reduce the ability of the banking system to deal with any future macroeconomic downturn and the accompanying deterioration in asset quality.

Put simply, this means the banking system is more likely to be impaired in times of stress and less capable of supplying credit to households and businesses.

## Conclusion

To conclude, and as the Governor noted at this Committee on March 26, the Central Bank has grave concerns about this Bill, given its potentially far-reaching implications for the operation of the banking system and for consumers.

While designed to give effect to a voluntary code dating from 1991, the regulated financial services sector has changed fundamentally in the intervening three decades, and consumer protection has been strengthened. The voluntary code has been superseded by statutory Codes of Conduct and wide-ranging and strong regulatory powers which are underpinned by intrusive supervision.

As such, our view is that this Bill will not offer borrowers any additional regulatory consumer protections, and instead could have significant unintended consequences to the longer term detriment of all borrowers.

In that respect, we concur with the ECB's view that the Bill, at a minimum, should undergo a thorough impact assessment to ensure it is in the best interests of consumers as a whole.

I look forward to your questions.