

Draft Terms of Reference as agreed by Government

In respect of the period 1 January 2003 to 28 September 2008, the Commission shall undertake an investigation of and no later than six months from the date of its establishment shall complete a report into, the following specific matters considered by the Government to be of significant public concern and requiring in the public interest an expedited examination.

1. In respect of the credit institutions that are covered institutions (pursuant to the Credit Institutions (Financial Support) Scheme 2008 (S.I. No. 411 of 2008) the main causes of the serious failures, within each of those institutions, to implement and adhere to appropriate standards and controls (including checks and balances), in the context of corporate governance and prudent risk management policy and procedures, such as would have avoided the requirement for the provision of exceptional financial support from the State.
2. In respect of Anglo Irish Bank Corporation and Irish Nationwide Building Society, the main causes for the adoption, during the period 1 January 2003 to 28 September 2008, by their Boards of business models and strategies, and the implementation by their senior management of business and lending practices which resulted in those institutions experiencing severe financial distress.
3. Whether the external auditors of each of the covered institutions commented in their audit reports or other communications to the institutions on the failures referred to in paragraph 1 or the business models and strategies and business and lending practices referred to paragraph 2.
4. The main causes for the failures in the performance of the statutory roles and responsibilities of the Central Bank and Financial Services Authority of Ireland in respect of the regulation and supervision of the covered institutions and the maintenance of financial stability, in particular in relation to the supervision and oversight of corporate governance and risk management policies and practices in all of the covered institutions and the relevance in this regard of any advices or directions given by the Department of Finance to the CBFSAI in relation to its supervisory role.

For the purpose of the investigation, the Commission shall adopt and implement a working methodology or framework to ensure that the report is completed within the permitted timeframe, which methodology or framework may include or provide for such sampling techniques or selection of examples as the Commission may determine.

The Commission may, as it thinks appropriate, also rely on the information and findings in the Regling & Watson report, *A Preliminary Report on the Sources of Ireland's Banking Crisis* (May 2010, Klaus Regling & Max Watson) and the Honohan report, *The Irish Banking Crisis and Regulatory and Financial Stability Policy 2003 – 2008, a Report to the Minister for Finance by the Governor of the Central Bank* (31 May 2010).

