An Roinn Gnó,
Fiontar agus Nuálaíochta
Department of Business,
Enterprise and Innovation

An account of the shortcomings identified by Judge Aylmer of the Circuit Court concerning an investigation by the Office of the Director of Corporate Enforcement

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Foreword by the Minister for Business, Enterprise and Innovation

Ireland has a strong economy underpinned by a robust regulatory environment in which business can operate and thrive. The Government is committed to ensuring that our corporate legislation is accessible and coherent thereby supporting greater compliance. The Government is also committed to ensuring that our regulatory authorities are fully equipped to combat corporate crime and malpractice.

One of the most complex and largest investigations in the history of the State commenced in 2008 with the investigation into Anglo Irish Bank. This investigation involved multiple strands and resulted in several separate sets of charges. The trial in the case of the DPP V Seán FitzPatrick ended on 23 May 2017 when Judge Aylmer directed the acquittal of the defendant on all charges. The then Minister for Business, Enterprise and Innovation requested a report from the Director of Corporate Enforcement on the issues arising and agreed to publish an account of the investigative shortcomings.

The aim of publishing this account is to present the facts surrounding the investigative shortcomings identified by Judge Aylmer, to learn from them and to take measures to address them. Chapter 2 of this account sets out the factors that led to these shortcomings, notes the steps already taken and identifies further appropriate steps to ensure that the Office of the Director of Corporate Enforcement (ODCE) is equipped to undertake large scale and complex investigations as the Government continues with its commitment to ensure that Ireland continues to enjoy its well-deserved reputation as a good place in which to do business.

A key action in the Government's package of measures to strengthen Ireland's response to "white collar crime" centres on the establishment of the ODCE as an Agency. My intention is to bring forward this legislation to ensure this new Agency will have greater autonomy in terms of staffing resources and is better equipped to investigate increasingly complex breaches of company law. This will be done in a manner that is in keeping with international best practice.

Heather Humphreys, T.D.
Minister for Business, Enterprise and Innovation

Chapter 1 - Overview of a Criminal Investigation and Prosecution Process

The diagram below sets out the processes involved in a criminal investigation and prosecution process.

Investigation

(ODCE)

Role of the ODCE

- Instigate investigation
- Collect evidence (witness statements, documents obtained under search warrants, production orders, bankers' books orders etc.
- Analyse material obtained
- Identify appropriate response (administrative rectification, civil litigation; or criminal prosecution)
- For more serious cases, refer file to DPP

Once the prosecution starts, the ODPP is in charge of the prosecution case. More serious offences are heard before a Judge and jury in the Circuit Court.

(Office of the Director of Public Prosecutions)

Role of the ODPP

- Receive file from the ODCE
- Assess evidence
- Decide if evidence is sufficient to put before the Courts
- If evidence is deemed to be sufficiently strong, the case will go to court
- Disclosure to the defence

Court

Court

- Witnesses give evidence. Prosecution and defence can ask questions / cross-examine
- Judge sums up evidence, explains law to the jury and tells them what to consider to reach their verdict
- Jury consider verdict and reach decision

Chapter 2 - Learnings from the judicial rulings and measures to address them

Introduction

The aim of this account is to present the factors surrounding the investigative shortcomings identified by Judge Aylmer in a case in May 2017, to learn from them and to take measures to address them.

On 23 May 2017, the then Minister for Business, Enterprise and Innovation requested a report from the Director of Corporate Enforcement on the issues arising from the manner in which this investigation was conducted. Because of Section 956 of the Companies Act 2014 the Minister for Business, Enterprise and Innovation is prohibited from publishing reports prepared pursuant to Section 955 of the Act. Furthermore, the publication of any confidential investigative material contained in such a report may also have the undesirable effect of compromising any ongoing or future investigation into corporate or other regulatory offences. It must also be respected that parties engaged in any statutory investigation will have engaged and co-operated on the basis that any correspondence is to be treated as confidential.

There is, however, a public interest in providing an account of the investigative shortcomings that were identified by the trial Judge. We must understand what factors led to these shortcomings and take appropriate steps to address them and ensure that the ODCE is equipped to undertake large scale and complex investigations as the Government continues with its commitment to ensure that Ireland continues to enjoy its well deserved reputation as a good place in which to do business.

Investigation into any suspected criminal offence is laborious work, requiring diligence and a wide range of skills. In contrast with civil trials, criminal trials are always prosecuted by the State and are subject to more rigorous regulation by the Constitution. In a criminal trial, the burden of proof rests with the prosecution (i.e. the Director of Public Prosecutions (DPP)) who must demonstrate that the person standing accused is “beyond reasonable doubt” guilty on all elements of the offence. Throughout a criminal trial, the Judge retains inherent jurisdiction to halt any prosecution if she or he is of the opinion, having heard the circumstances, that the evidence presented is not safe.

It follows that any investigation into alleged wrongdoing is necessarily challenging and time consuming. With an investigation into alleged corporate wrongdoing the responsibility lies with investigators to investigate and present any available evidence to the DPP for a decision as to whether charges should be directed. This, combined with the need to safeguard third parties' rights to fair procedures and due process; the collection of evidence potentially affecting third parties' rights; and the obligation to seek, verify and preserve evidence, requires time and resources. Those persons tasked with the responsibility of investigating allegations of corporate wrongdoing - carefully and judiciously - must have the requisite skillsets, capabilities and capacity to do so.

The findings by Judge Aylmer have highlighted the importance of ensuring a robust, impartial and unbiased investigation and prosecution process, which is an essential ingredient for a fair trial and due process. Judge Aylmer, having presided over a lengthy re-trial in the case of the DPP V Sean FitzPatrick, identified several defects in both the investigation and prosecution processes and found that there was a real and substantial risk that the processes were unfair and the trial thus unsafe. In view of this, Judge Aylmer directed the acquittal of the defendant on all charges, as Article 38.1 of the Constitution provides that "no person shall be tried on any criminal charge save in due course of law".

With the benefit of hindsight, it is clear that the ODCE, at the time of this investigation, lacked the specific skillsets, experience and risk management processes to allow it to undertake multiple, parallel investigations of the scale and complexity involved in the investigations into matters relating to the former Anglo Irish Bank Corporation ('Anglo'). This resulted in errors in the manner in which witness statements were taken, which were deemed by the Judge to be the most significant shortcoming, as well as shortcomings in the investigation process and the issue of the shredding of documents. The factors leading to these are set out below.

In the interest of balance, it is important, however, not to lose sight of the fact that the investigative shortcomings in this instance should not overshadow the ODCE's track record in other investigations and prosecutions, which have led to successful convictions. While, regrettably, the standard of investigation in this particular instance fell below appropriate standards, no such issues have arisen in other trials, including previous Anglo related trials, resulting from ODCE's investigations.

1. Staffing and Skills Issues

The scale, novelty and complexity of the investigations into Anglo were unprecedented in the history of both the ODCE and the State. At the start of the investigation, in terms of specialist skills and Garda resources the ODCE had the following resources among its staffing complement[1]:

- 2 Accountants
- 3 Legal Advisors
- 1 Principal Solicitor
- 2 Solicitors
- 8 members of An Garda Síochána (1 Detective Inspector, 2 Detective Sergeants and 5 Detective Gardaí).

It is clear, from subsequent staffing reviews and from the Judge's findings, that the office was not equipped to undertake multiple, complex investigations in parallel. Of note was a significant deficit in the specific areas of in-house forensic accountancy expertise and in-house IT forensic expertise, which would have been essential to an investigation of this complexity, given the extent to which information is presented and stored digitally.

Measures Taken and Actions Underway

While it is crucial to identify and learn from the shortcomings identified by Judge Aylmer in this particular case, it is important to note that this investigation took place in the period December 2008 to 2012. Since then, there have been a number of staffing, structural, procedural and other changes in the Office.

In 2013, the Director of Corporate Enforcement carried out a review of the extent to which ODCE's then skills mix was commensurate with its statutory remit. That review highlighted the need for the Office to be further professionalised, particularly in the area of in-house forensic accountancy expertise, to enhance the investigative capability of the Office.

Arising from this, sanction was sought, and subsequently obtained, to recruit several additional specialist staff. Since then, the Department of Business, Enterprise and Innovation, on behalf of

[1] As at 31 December 2008

the ODCE, has recruited 8 suitably qualified and experienced Forensic Accountants together with a suitably qualified and experienced Digital Forensics Specialist, 2 Enforcement Portfolio Managers and 2 Enforcement Lawyers.

When compared to the 2008 staffing complement, as at November 2018, the following professional staff have been recruited to the Office:

- 1 Digital Forensics Specialist
- 2 Enforcement Portfolio Managers
- 8 Forensic Accountants
- 2 Enforcement Lawyers

The ODCE also has an approved complement of seven members of An Garda Síochána (one Detective Inspector, two Detective Sergeants and four Detective Gardaí).

With these additional specialist resources in place and with the level of resources under regular review, the ODCE is much better equipped to investigate increasingly complex breaches of company law.

The skillsets, competencies, roles and responsibilities within the ODCE are reviewed on an ongoing basis by the Director to better reflect the organisation's current needs.

Nonetheless, challenges remain. Resources for the ODCE must be balanced against other priorities across the 15 Offices and Agencies under the aegis of the Department. It, like other statutory bodies, would benefit from greater autonomy with regard to recruitment and resources, particularly given the need to recruit specialised staff, which is a particular challenge facing many State organisations at present.

The establishment of the ODCE as a statutory Agency will provide greater autonomy in relation to recruiting specific resources, thus ensuring the Agency is better equipped to investigate increasingly complex breaches of company law. Sourcing of expertise and specialist staff, such as forensic accountants, will be enhanced under the Agency model. The publication of the General Scheme of a Bill to underpin the new Agency is expected shortly and it is intended that the Bill will be enacted in 2019.

2. Collection of Evidence

The lack of expertise and experience referenced above also manifested itself in the shortcomings identified by Judge Aylmer in the way in which the ODCE set about taking statements from witnesses and the failure to presume innocence as well as guilt, which is an essential element of an impartial trial. In particular, the process by which the taking of witness statements was led by ODCE civilian staff was the subject of judicial criticism. This occurred against a backdrop of the Office running other complex investigations which absorbed resources and, critically, Garda resources to a greater extent than had initially been anticipated. This resulted in a course of action being adopted whereby a small number of civilian staff in the ODCE took the lead role in obtaining witness statements, none of whom had any training or experience in taking such statements.

Judge Aylmer also identified a failure to collect evidence as to how the letters of representation were obtained, which he noted "might have been more apparent to the prosecution and to the defence, had their statements been taken in the usual and proper manner in a criminal investigation."

The taking of evidence to a standard needed for a criminal trial is a painstaking and highly complex undertaking, requiring specialist training and experience to ensure any evidence collected is of a sufficiently high standard to be admissible in a Court. As the civilian personnel involved in the statement taking process - including, among others, personnel within the ODCE - lacked this specific expertise, this resulted in a judicial finding of coaching, contamination and cross-contamination of the main witnesses' evidence, factors which Judge Aylmer identified as "the most damaging of the failures to a fair trial", although noting that this "was not done in an intentional or premeditated way".

Measures Taken and Actions Underway

To enhance the capability of the staff in the ODCE to investigate complex breaches of company law, specialised training was provided in December 2012 in the Garda Training College, Templemore for ODCE staff to assist with statement taking, interviewing of witnesses, preparation of files for the DPP, exhibits handling and disclosure. Garda Level 1 Interview training was also made available in 2015.

In addition, procedural changes were fundamentally amended so that all criminal investigations are now led by members of An Garda Síochána assigned to the ODCE. At the time of writing, all vacancies in the Garda staffing complement to the Office have been filled.

An enhanced culture of risk management is also in place within the Office.

3. Organisational Structures

Measures Taken and Actions Underway

1. Organisational and Structural Changes

There have been several significant organisational developments in the ODCE since 2012.

Following his appointment in 2012, the Director restructured the Office, particularly with regard to the area of Enforcement and Professional Services, in response to operational needs.

As referenced earlier, there has been recruitment of additional specialist expertise to the Office and an enhanced culture of risk management is also in place within the Office.

2. Establishing the ODCE as an Agency

A key action in the Government's package of measures to strengthen Ireland's response to "white collar crime", published in November 2017, centres on the establishment of the ODCE as an Agency. Changing the structure of the Office to a statutory Agency will provide greater autonomy to the Agency in relation to staff resources and ensure it is better equipped to investigate increasingly complex breaches of company law. Sourcing of expertise and specialist staff, such as forensic accountants, will be enhanced under the Agency model. This will provide the body with the necessary flexibility to ensure that it has the right type of expertise at its disposal when it needs it.

The Government is committed to ensuring the Agency will be created in keeping with international best practice, including its standards of risk management and internal controls, staffing, budget and corporate governance. The Department of Business, Enterprise and Innovation will engage with the Organisation of Economic Co-operation and Development to seek their assistance in taking account of international best practice in the operation of the Agency.

Harnessing the significant amount of corporate knowledge and expertise that exists within the ODCE will be critical to the successful establishment of the new Agency.

3. Legislative Structures

Ireland is a safe economy in which business can operate and thrive. The Companies Act 2014 has made the law more accessible, more coherent and more reflective of actual business practice. This simplification of the regulatory environment is designed to ensure compliance.

The Companies Act 2014 vests substantial and wide-ranging powers in the Office of the Director of Corporate Enforcement. The Government is committed to ensuring that the

Companies Act 2014 continues to deliver a robust yet competitive corporate regulatory framework for business in Ireland. Consequently, the provisions of the Companies Act 2014 are under continuous review.

In his judgement, Judge Aylmer referred to the investigative shortcomings in the case. He did not point to any deficiencies in the company law legislative framework. Nevertheless, as part of the process of preparing legislation to establish the ODCE as an Agency, any further powers that are identified as a requirement for carrying out the functions of the Agency will be explored and conferred under statute as appropriate.

Conclusion

The standard of investigation in this instance fell below appropriate standards. The investigative shortcomings relating to the ODCE point to the need for a broader skills base, a greater range and depth of knowledge and experience and a greater appreciation of the necessity to employ appropriate procedures and manage risk.

The ODCE, in a statement released at the time of Judge Aylmer's ruling, fully accepts responsibility for its failures as identified by the Judge. In particular, an extract of that statement points out that:

'*In delivering his ruling this morning, and in indicating that he intends to direct the jury to acquit Mr. Sean FitzPatrick on all counts, the trial Judge heavily criticised the ODCE investigation that preceded that trial. In particular, the Judge criticised the manner in which the statements of two witnesses central to the prosecution – i.e., two audit partners from Ernst & Young - were obtained. Specifically, the Judge ruled that both witnesses were coached by the ODCE and that, as a result, their evidence was contaminated.*

The ODCE fully accepts that criticism. However, the practices that were so heavily criticised by the trial Judge date as far back as to early 2009. Over the intervening years, the ODCE has undergone substantial organisational change and as a result, some 8 years later, it is a very different organisation to what it was at that time. It is clear at this remove that, at that time, the ODCE was simply not equipped to undertake parallel investigations on the scale involved. As a result of what have transpired to be very serious failures, a course of action was adopted at that time under which the lead role in obtaining statements from the two Ernst & Young witnesses was assumed by a small number of senior civilian staff. Regrettably however, none of those individuals had any training or experience of taking witness statements. Moreover, the inappropriateness of the approach that was subsequently adopted in obtaining those statements was not sufficiently appreciated nor were the attendant risks responded to appropriately.'

As noted in the above statement, the manner in which the ODCE operates now is very different to the manner in which it operated at that time.

Taken together, the staffing and the organisational reforms set out above, together with the recruitment of staff with a variety of specialist skills and expertise, mean that ODCE is now better placed to investigate increasingly complex breaches of company law.

Chapter 3 - The case of the DPP V Sean FitzPatrick (Bill No: DUDP 250/2013): a chronological summary

The trial, in respect of the former Chairperson of Anglo Irish Bank, commenced on 13 April 2015 before then Judge of the Circuit Court Mary Ellen Ring. A jury was sworn in, before whom the defendant was arraigned on 21 alleged breaches of section 197 (false statements to auditors) and 6 alleged breaches of section 242 (furnishing false information) of the Companies Act 1990.

Following substantial legal argument, in the absence of the jury, Judge Ring delivered a ruling on a range of issues on 2 June 2015, discharged the jury and set a new trial date for October 2015.

Subsequently, in August 2015, the High Court ordered (in judicial review proceedings brought by Mr FitzPatrick) that the trial date be deferred to 25 May 2016. Ultimately, the retrial commenced on 21 September 2016, before Judge Aylmer and a jury in the Dublin Circuit Criminal Court. Legal argument in the absence of the jury meant that the hearing of evidence commenced in December 2016.

On 23 May 2017 Judge Aylmer directed the acquittal of Mr FitzPatrick on all charges.

Chapter 4 - Judicial rulings addressing the conduct of the investigation

In his ruling on 23 May 2017, Judge Aylmer identified 5 main shortcomings in fair procedures that, combined, led him to form the opinion that the prosecution had become so unsafe as to be beyond repair from jury warnings. The criticism concerned:

a. Lack of any investigation into how the letters of representation came into being;
b. The failure to seek out the actual persons in the audit team who procured them;
c. Coaching, contamination and cross-contamination of the witnesses' statements;
d. Shredding of documents; and
e. A partisan and biased approach to the investigation.

The Judge identified that the most damaging of these shortcomings was the coaching, contamination and cross-contamination of the main witnesses' evidence.

Chapter 5 - Findings of Judge Aylmer

Extracts of court transcripts where the trial Judge discusses these challenges to a fair trial are set out below. These are partial excerpts of the transcripts, which focus on the role of the ODCE. The full ruling was published on the RTE website at:
https://static.rasset.ie/documents/news/sean-fitzpatrick-full-ruling.pdf

All references to names of individuals or bodies corporate have been removed from these extracts within this account, the purpose of which is to learn from the investigative shortcomings identified and to take measures to address the deficiencies identified. The term *[name]* has been substituted for all references to such individuals or bodies corporate.

Coaching of witnesses and cross-contamination of witnesses' statement:

The following extract from a ruling on the admissibility of the evidence of the two main witnesses was delivered following a *voire dire*, on 3 November 2016.

What is a voir dire ?

A *trial within a trial* which is resorted to whenever before, or in the course of, a trial an issue arises involving a decision of law by the Judge without the presence of the jury eg whether a child witness is capable of understanding an oath; whether a confession is voluntary; whether a witness is privileged from answering a specific question; or whether some point of law be argued, at the request of the defence, in the absence of the jury.

Judge:

'Bearing in mind that ongoing inherent constitutional obligation on the Court, I would observe that it may be incorrect to seek at all to determine where the burden of proof lies between the parties to establish whether the accused is at risk of receiving an unfair trial and the risk is incapable of being avoided by appropriate direction to the jury on summing-up and the standard of proof of such a party. The constitutional obligation is on the Court, independent of the parties, at all times to ensure the accused receives a fair trial. If it appears to the Court at any time in the course of the trial that the accused is at real and substantial risk of receiving an unfair trial and that risk cannot

be avoided by appropriate direction to the jury, the Court is under an obligation to stop the trial from proceeding any further. However, this is an issue which ultimately will be returned to, given that I have been specifically requested by the defence to make no determination on the burden or standard of proof at this stage.

The first application is for an order deeming the proposed evidence of [name] and [name] inadmissible on the grounds that their evidence was coached and contaminated by other persons, including the lawyers acting for [name], which I shall herein after referred to as [name], as it is now known, and the investigators within the ODCE and that it was cross contaminated as one to the other. It is further contended that the entire investigation was unfair and amounted to a flawed process such that the evidence arising from the investigation ought not to be admitted in evidence. It is contended that the defect and unfairness in the investigation arises from the failure to seek out and preserve evidence of innocence as well as guilt, prejudgement by the investigators of the outcome of the investigation and lack of independence and impartiality on the part of the investigators. Included under this heading is the shredding of documents relevant to the investigation by an official of the ODCE and an inadequate disclosure process in relation to the evidence to be given by the two witnesses and the delay in the investigation. Further, or in the alternative, it is contended that the evidence of these two witnesses ought to be excluded as being unfair under the jurisdiction identified in POC.'

What is a POC application ?

Throughout the trial the defence submitted several so-called POC applications. A POC application refers to an application for a dismissal that is made to the Judge during a trial because due process and a fair trial in the circumstances is not possible. The name is derived from a unanimous Supreme Court decision.

'It is not disputed that the statements of intended evidence of [name] and [name] were prepared in a manner which is unlawful in a criminal investigation. [Name] has been extremely forthright in conceding that this occurred as a consequence of inexperience and ignorance on his part and with the benefit of hindsight, to some extent as a consequence of a lack of resources within the ODCE, while a number of Gardaí were seconded to the ODCE they were more preoccupied with the contemporaneous section 60 investigation with the ODCE. While initially he had intended that the statements of the relevant witnesses would be taken by members of the Gardaí in the ordinary way, sight was lost of that objective at an early stage in the investigation and he orchestrated the procedure whereby the statements of the two intended witnesses were drafted by [name's] solicitors with the benefit of counsel's advice at times, with the assistance and contribution of various personnel within the offices of [name], including their in house lawyer and with personnel

within the ODCE, including [name] and [name] himself, assisting, contributing and making suggestions to the drafting of the statements.

It is clear from the evidence of [name] that this was not done in an intentional or premeditated way or with any sinister objective. It occurred more by accident than design for the reasons identified already. With the benefit of hindsight, [name] is understandably aggrieved that nobody sought to admonish him or correct him in this erroneous approach to the preparation of the statements, notwithstanding that the members of the Garda Síochána seconded to the ODCE were aware of this defective process at a relatively early stage, as was the office of the DPP, albeit perhaps not until somewhat later.

The lawyers within [name] appear to have been equally inexperienced in the preparation of statements in a criminal case, oblivious to the prohibition against coaching and the need to avoid contamination and cross contamination of a witness by others. They appear to have adopted the same approach to the drafting of the proposed statements of evidence as would be adopted in the preparation of an affidavit in civil proceedings. It is clear that they did so always with an eye on their duty to their client, [name], to protect its interests insofar as they were potentially exposed to criticism as regards the adequacy of their audit of Anglo Irish Bank, in circumstances where they were being or about to be investigated by their regulatory authority, a professional body, and were being or about to be sued by IRBC.

There is no dispute as to the legal prohibition against coaching, contamination and cross contamination of a witness's evidence in criminal cases and I accept that the guiding principles in that regard are correctly set out in the cases opened to me on behalf of the defence, including the decision of the Court of Appeal in the UK in R v. Mamadou, which was cited with approval by Hogan J of the High Court as he then was in Byrne v. Judges of the Circuit Court and the DPP and by Mr Justice Charleton of the High Court as he was then in GOR v. The DPP.'

What is witness coaching ?

The conventional line is that lawyers may "familiarise" their witness with the process of giving evidence, but not coach them on the content of it:

In R v Mamadou [2005]:

iThe witness should give his or her own evidence, so far as practicable uninfluenced by what anyone else has said, whether in formal discussions or informal conversations. The rule reduces, indeed hopefully avoids any possibility, that one witness may tailor his evidence in the light of what anyone else said, and equally, avoids any unfounded perception that he may have done so. These risks are inherent in witness training. Even if the training takes place one-to-one with someone completely remote from the facts of the case itself, the witness may come, even unconsciously, to appreciate which aspects

of his evidence are perhaps not quite consistent with what others are saying, or indeed not quite what is required of him. An honest witness may alter the emphasis of his evidence to accommodate what he thinks may be a different, more accurate, or simply better remembered perception of events.i

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'I also have had regard to all of the authorities open to me as to the options available to the Court when faced with proposed evidence which has been or is at risk of having been coached, contaminated or cross contaminated, including the English cases of R v. Skinner, R v. Shaw and R v. Ariff and the Irish case of the People DPP v. Gillane relied upon by the prosecution. The passage quoted at paragraph 32 of the defence written submissions from page 11 of the judgement of Mr Justice Coleman in Ariff aptly summarises the discretion vested in the trial Judge in such circumstances where he stated: "In some cases, it may emerge in the course of cross-examination at the trial of the witnesses concerned that such suggestions may well have led to fabrication of the evidence in the sense which we have described. In such case the Court might properly take the view that it would be unsafe to leave any of the evidence of the witnesses concerned to the jury. There may, however, be other cases where the nature of such pre-trial discussions is such that it would be quite sufficient to draw the jury's attention in the course of summing-up to the implications which such conduct might have for the reliability of the evidence of the witnesses concerned.

It seems to me that there is little practical difference as to whether such evidence is excluded as inadmissible on the basis that its prejudicial effect is perceived to outweigh its probative value or as having no probative value or whether it is excluded in the performance of the Court's inherent constitutional obligation under the jurisdiction identified in POC to ensure a fair trial. It seems to me that the course to be adopted by the trial Judge is not necessarily dictated by the degree of coaching or level of contamination or cross-contamination and that the focus must be much more on the perceived effect or likely effect of the coaching and cross contamination on the particular witnesses in the particular circumstance of the case and the extent to which it appears to the trial Judge that it would be sufficient to warn the jury in the course of summing-up of the implications which such conduct might have for the reliability of the evidence of the witnesses concerned.

I have given very careful consideration to the evidence given by both [name] and [name] in the voir dire. While they are witnesses as to fact in the prosecution's case as opposed to expert witnesses, they are two professional auditors giving evidence as to their professional role as lead audit partners with [name], in charge of the [name] audit team which carried out the audits of Anglo Irish

Bank, [name] for the financial year ends of 2001 through to 2004 and [name] or (sic) the year ends 2005 through to 2007. Having reviewed the disclosure files of [name's] solicitors since last giving evidence before Judge Ring in 2015 they fully acknowledge the extent to which their statements were prepared and edited for them, although at the time of the preparation of their statements they were not aware of the full extent of that process and/or of the number and identity of contributors to it. However, both are adamant as to the truth of their statements as declared in the usual manner at the commencement thereof and both appear to me to be conscientious witnesses whose evidence might well be accepted by a jury as being conscientious and truthful, notwithstanding the level of so called coaching, contamination and cross contamination which preceded the signing of the their (sic) original statements. I note from reading the statement of these witnesses that while the statements are necessarily very lengthy in order to contextualise the offences alleged against the accused, the core controversial elements of their proposed evidence is relatively net. That evidence goes to the issues of whether or not the accused omitted to disclose to the audit team his alleged refinancing arrangements for each of the six years, whether such disclosure was required by the auditing team, whether such alleged non-disclosure misled or deceived the auditing team and whether such alleged non-disclosure was material to the auditing team. This is all evidence of quite a technical nature in relation to the exercise by them of their professional duties, with reference to the legal obligations placed upon the accused under the relevant legislation and their obligations under the relevant legislation and professional guidelines. The preparation of their statements necessarily involved very careful consideration and reconsideration by them of the issues involved. At the very core of the evidence of each of them is the proposition that they were not made aware of the refinancing arrangements in question by the accused and that the audit team required such information. Thereafter, the evidence amounts to a retrospective consideration with the benefit of hindsight of the effect of the failure of the accused to inform the audit team of the alleged refinancing arrangements and whether it was material and whether they were misled by it.

In relation to the evidence of [name], I found particularly note worthy (sic) the fact that he was so "disturbed" when he realised the extent to which his evidence before Judge Ring in 2015 was erroneous, something which he only realised upon reading the law firm's disclosure file which was furnished to him, a transcript of the 20th of October 2016, page 7, line 20 to 22 refers, and the manner in which he sought to rectify the situation by contacting the solicitor for [name] to seek to make amends and ensure that his error was brought to the attention of the ODCE and the Court, that culminated in his making an additional statement of evidence in relation to the matter on the 18th January 2016.

While I was somewhat concerned in relation to [name's] evidence whereby he continues to insist that paragraphs 108, 109 and 110 of his original statement, while ultimately drafted by [name], were based upon statements made by him and noted by associates in [name] at a meeting held sometime between the 1st of December and the 8th of December 2011, in circumstances where there are no notes of any such meeting ever having occurred, transcript of the 20th of October 2016, page 17, line 30 to page 19 line 12 refers, I note as elicited in re-examination that there is documentary evidence, I refer to defence book 2 of 2011 at tab 89, in the form of an e-mail from [name] to [name] suggesting that attempts were being made to arrange such a meeting for the 2nd of December 2011. Accordingly, such a meeting may, in fact, have occurred notwithstanding that any notes taken at it may not have survived. It seems to me that in those circumstances this is a credibility issue of a type which ought properly to be left to the jury who might well accept the veracity of [name's] account.

In relation to [name's] evidence in chief, like [name], he confirmed that prior to signing each of his three statements he declared that his statement was true to the best of his knowledge and belief and that he made it knowing that if it is tendered in evidence he would be liable to prosecution if he stated anything which he knew to be false or did not believe to be true. In cross-examination, he was not directly challenged in relation to this averment or given an opportunity to insist as undoubtedly counsel for the defence anticipated he would, that what was put in his statement was truth. In relation to [name], it was clear from his evidence that notwithstanding that drafts of his proposed statement were being presented to him, he was conscientiously involved in resisting and editing out anything which did not accord with the truth to the best of his knowledge and belief. An example is found at page 58 of the transcript for the 20th of October 2016, from which evidence it appears that on the 29th of September 2010 [name] of the ODCE was canvassing legal counsel of [name] as to whether the witnesses for [name] were prepared to say that the undertaking from Anglo Irish Bank to Irish Nationwide to hold funds in trust for Irish Nationwide amounted to the provision of a security by Anglo Irish Bank in relation to a directors' loan which was required to be disclosed under section 197. [Name] stated in evidence: "So, when that was mentioned I was quite able to say no, I don't agree with that." I refer to line 33 when it was suggested to him that he was leaving the drafting of his statement in the hands of his solicitors I refer to transcript for the 20th of October at page 65, line 17, he disagreed stating: "No, I wouldn't say I was leaving it in their hands. I mean, there would be iterations of it. So, if they commented on something I would generally be stepping back in, looking at it, reviewing it, et cetera.

Giving his evidence the following day, on the 21st of October 2016, I refer to transcript page 4, line 18, he stated: "I certainly recall a number of meetings in connection with statements where we dealt with my statement on screen, where changes were made at my instigation to the language

that was being used." [Name] was clearly seeking again to emphasise that he was consciously editing everything presented to him to ensure that he could stand over it being true and accurate. Another sample of his conscientious input to the task of preparing his statements as found in his evidence in relation to the preparation of his second supplemental statement which he insisted was driven by him on his forming the view that the SCI San Roch loan did not fall to be disclosed and I refer to transcript for the 21st October 2016 at page 6, line 26.

It is clear from the evidence which I have heard over the last four weeks that as a consequence of what is now a very voluminous disclosure by the DPP, albeit that some of the disclosure was regrettably belated and notwithstanding the issue of the shredding of documents by [name] to which I shall return to later, the defence is certainly in a position to put before the jury the extent to which others contributed to the preparation of these two witnesses' statements and the Court is in a position to warn the jury of the dangers which arise as a consequence of that process and the extra caution with which they must treat the evidence of these witnesses, particularly insofar as such evidence may be uncorroborated[2]. While the manner in which the statements of the two witnesses were taken is not to be condoned in any sense, insofar as it is conceded that there was a very high degree of suggestion or coaching and contamination by others and cross contamination in the preparation thereof, nevertheless in my view it remains open to a jury properly charged and warned as to the relevant issues and dangers arising to be satisfied that these are two conscientious professional men capable of withstanding and whom, in fact, withstood any suggestion as to what their evidence ought to be.

As indicated already, in addition to the issue of coaching, contamination and cross contamination of the statements of proposed evidence of [name] and [name], as grounds for deeming their evidence to be inadmissible, I'm asked to consider individually and collectively all of the other issues identified, including the contention that the entire investigation was unfair and amounted to a flawed process such that the evidence arising from the investigation ought not to be admitted in evidence. It is intended that the flaws and the unfairness in the investigation arise from the failure to seek out and preserve evidence of innocence as well as guilt, prejudgement by the investigators at the outcome of the investigation, lack of independence and impartiality on the part of the investigators.

[2] Official revision in text: 'which they must treat the evidence of these witnesses, particularly insofar as such evidence may be uncorroborated'

Included under this heading is the shredding of documents relevant to the investigation by [name] and an inadequate disclosure process in relation to the evidence to be given by the two witnesses and the delay in the investigation. These issues are all issues which will fall to be considered throughout the trial and, in particular, when the application is renewed to have the proceedings stayed under the jurisdiction identified in POC. I've already ruled that that application is premature at this time. I'm not persuaded that any of those issues considered individually or all of them considered collectively are such as to alter my conclusion that evidence of [name] and [name] is admissible and ought not to be excluded on grounds of unfairness, notwithstanding the manner and extent to which their statements were drafted for them and thereby suggested to them were contaminated by suggestions of others that were cross contaminated by the views of each other.

As regards the alleged failure to seek out evidence of innocence as well as guilt, much emphasis is placed upon the failure to investigate what has been referred to as audit adequacy. At this stage of the trial the prosecution contends that audit adequacy was irrelevant and that the investigators were correct to exclude audit adequacy from the ambit of their investigation. It is contended that a false or misleading statement to an auditor contrary to the provisions of section 197 of the Companies Act 1990 is no less an offence if it is made to an incompetent auditor than it is to a competent one. On that basis alone, it is clearly premature for the Court to make a final determination on that issue. It is certainly not a basis upon which to exclude the evidence of [name] and [name].

While clearly issues have been raised as to the possibility of the existence of an inappropriate element of prejudgement and lack of independence and lack of impartiality on the part of the investigators, the existence of that issue at this time does not appear to me to add to the case for the exclusion of [name] and [name's] evidence. As regards the shredding of documentation by [name], there has been a very ample disclosure to the defence and to the Court by legal advisor of the ODCE in relation to his shredding of a number of documents on the 1st of May 2015. One can only speculate as to what exactly those documents might have contained. However, the evidence establishes as a matter of probability that they were of a similar type to the 16 documents which were discovered and disclosed on the same date and that they were probably relevant to the preparation of the statement of [name] and [name]. Nevertheless, having regard to the abundance of documents and evidence that has been disclosed to the defence and the extent to which the defence have been put in a position to establish the very significant extent to which [name] and [name's] statements were drafted for them, suggestions made to them in relation to what might be included in their statements and the cross contamination of their statements by each other, I'm not satisfied that this issue of itself or taken together with any or all of the other issues gives rise to a basis upon which to exclude the evidence of [name] and [name]. Beyond that, I

make no final determination in relation to the question of the destruction of the documents by [name], which will remain an issue to be borne in mind throughout the trial and to be considered ultimately upon any renewal of the application for a stay on the trial on the basis of what is being referred to as the POC jurisdiction.

As regards the alleged defects in the disclosure process in the case, I have already made a number of rulings and entertained a number of applications in relation to non-disclosure and late disclosure by the prosecution to the defence. Again, this will remain a live issue throughout the trial, the disclosure obligation continuing throughout the trial and it will inevitably become one of the issues to be considered in any future application to invoke the POC jurisdiction. However, I'm not satisfied that such defects as have arisen in the disclosure process is a basis upon which either individually or collectively to rule that the evidence of [name] and [name] ought to be excluded at this time. The question of delay in the prosecution equally remains to be considered in any future application wherein the POC jurisdiction is sought to be invoked. While there has been an obvious and significant delay in bringing this matter to trial, again it is not such as would, on its own or taken with the other issues, be such as to persuade me that it is a basis upon which to exclude the evidence of [name] and [name] at this time. Accordingly, I decline to rule the evidence of [name] or [name] inadmissible or to exclude it as unfair pursuant to the Court's inherent constitutional obligation to ensure a fair trial on the grounds that such risks as arise as a consequence of the issues identified, particularly in relation to coaching, contamination and cross contamination, may be obviated by appropriate directions and warnings to the jury in charge'.

On the destruction of documents (shredding) and late disclosure of evidence[3]

'*It is contended that the defect and unfairness in the investigation arises from the failure to seek out and preserve evidence of innocence as well as guilt, prejudgement by the investigators of the outcome of the investigation and lack of independence and impartiality on the part of the investigators. Included under this heading is the shredding of documents relevant to the investigation by [name] and an inadequate disclosure process in relation to the evidence to be given by the two witnesses and the delay in the investigation. Further, or in the alternative, it is contended that the evidence of these two witnesses ought to be excluded as being unfair under the jurisdiction identified in POC.*

It is clear from the evidence which I have heard over the last four weeks that as a consequence of what is now a very voluminous disclosure by the DPP, albeit that some of the disclosure was

[3] Ruling 03 November 2016 (Extract)

regrettably belated and notwithstanding the issue of the shredding of documents by [name] to which I shall return later, the defence is certainly in a position to put before the jury the extent to which others contributed to the preparation of these two witnesses' statements and the Court is in a position to warn the jury of the dangers which arise as a consequence of that process and the extra caution which they must treat the evidence of these witnesses ¬- - with which they must treat the evidence of these witnesses, particularly insofar as such evidence may be uncorroborated.

Included under this heading is the shredding of documents relevant to the investigation by [name] and an inadequate disclosure process in relation to the evidence to be given by the two witnesses and the delay in the investigation. These issues are all issues which will fall to be considered throughout the trial and, in particular, when the application is renewed to have the proceedings stayed under the jurisdiction identified in POC. I've already ruled that that application is premature at this time. I'm not persuaded that any of those issues considered individually or all of them considered collectively are such as to alter my conclusion that the evidence of [name] and [name] is admissible and ought not to be excluded on the grounds of unfairness, notwithstanding the manner and extent to which their statements were drafted for them and thereby suggested to them were contaminated by the views of each other. '

What is disclosure ?

The term "disclosure" refers to the process in criminal proceedings where the accused and his or her legal team are entitled to any material which may be relevant to the case. Discovery is rooted in the constitutional right to fair procedures and the prosecution has an ongoing obligation to disclose anything of material importance to the defence.

The disclosure process is driven by relevance. This means that the prosecution is under no obligation to disclose material of no importance to the defence. However, material that may have appeared to be irrelevant at the outset of a trial may take on a different significance as the prosecution progresses. As such, disclosure can be a process that begins before a trial and then continues right throughout the trial. Disclosure is a duty of the Office of the Director of Public Prosecution ("ODPP"). The ODCE, as an investigation agency, assists the ODPP in discharging its disclosure obligations in three ways:

1. Provides the ODDP with copies of potentially disclosable material unless that is not feasible, that is, because of the bulk of the material involved requires a prosecutor to view the material to be able to decide whether disclosure to the defence is required;

2. Informs the ODDP of the existence of any material not submitted under (i) above; and

3. Informs the ODPP of the existence of any potentially disclosable material of which it is aware and which is in the possession of a third party.

'While clearly issues have been raised as to the possibility of the existence of an inappropriate element of prejudgement and lack of independence and lack of impartiality on the part of the investigators, the existence of that issue at this time does not appear to me to add to the case for the exclusion of [name] and [name] evidence. As regards the shredding of documentation by [name], there has been very ample disclosure to the defence and to the Court by [name] in relation to his shredding of a number of documents on the 1st of May 2015. One can only speculate as to what exactly those might have contained. However, the evidence establishes as a matter of probability that they were of a similar type to the 16 documents which were discovered and disclosed on the same date and that they were probably relevant to the preparation of the statement of [name] and [name]. Nevertheless, having regard to the abundance of documents and evidence that has been disclosed to the defence and the extent to which the defence have been put in a position to establish the very significant extent to which [name's] and [name's] statements were drafted for them, suggestions made to them in relation to what might be included in their statements and the cross contamination of their statements by each other, I'm not satisfied that this issue of itself or taken together with any or all of the other issues gives rise to a basis upon which to exclude the evidence of [name] and [name]. Beyond that, I make no final determination in relation to the question of the destruction of documents by Official of the ODCE, which will remain an issue to be borne in mind throughout the trial and to be considered ultimately upon any renewal of the application for a stay on the trial on the basis of what is being referred to as POC jurisdiction.'

On the failure to seek out evidence as to how the letters of representation came into being[4]:

'*There is then the extraordinary occurrence of the shredding by the lead investigator of a number of documents relevant to the investigation. We do not know what might have been in those documents. The evidence establishes that they were similar to the 16 other documents in relation to which the investigator was in the course of preparing a schedule for disclosure to the Director of Public Prosecutions. The worrying feature of the evidence which I have heard is that notwithstanding the investigator's insistence that he did not know the shredded documents to contain anything of particular relevance to the defence, there must be a doubt as to why he singled them out for destruction while at the same time preparing a schedule of disclosure for the other 16 documents. The Court retains a significant doubt which the Court considered to be of substance that those shredded documents may in fact have contained material which might have been of assistance to the defence or damaging to the prosecution*.'

[4] Ruling 23 May 2017 (Extract)

What is a letter of representation ?

A formal written record of representations made by the management of an organisation to the auditors. The letter is prepared by the auditor and signed by management on a date as near as possible to the date of the auditors' report and after all audit work has been completed, including the review of events occurring after the balance sheet date, for example. The information referred to in the letter is material to the financial statements for which the auditor is unable to obtain independent corroborative evidence. These matters might include any future legal claims and adjusting events[5].

'However, in fairness to the accused, I must add that even if witness A and witness B gave contrary evidence as expected by the prosecution, given the total lack of investigation as to how the letters of representation came into being in terms which included a reference to the situation during the year, whether this was entirely accidental or otherwise, the failure to seek out the evidence of those on the audit team actually involved in procuring them, the coaching, contamination and cross-contamination of witness A's and witness B's evidence, the partisan and biased nature of the investigation and the shredding of documents by the lead investigator, I would have been satisfied that there was a real risk of an unfair trial, incapable of being rectified by directions to the jury and I would have directed them to acquit on that basis also. As I have already indicated, the effect of the coaching is the issue of greatest concern to me and I have already indicated why I think warnings to the jury would be inadequate in this case.'

His Honour Judge Francis Aylmer's ruling indicating his intention to direct the jury to acquit on 23 May 2017

Judge:

'*Now, it would give rise to further unfairness to the defendant if I didn't state at the outset that tomorrow I intend to direct the jury to acquit him on all counts on the indictment for the following reasons: This is a renewed application by the defence invoking the Court's jurisdiction to stop the trial on the basis that the accused has been denied his constitutional right to a fair trial in due course of law referred to as a "POC application" after the case in that name. It is suggested that this ought to be done by directing the jury to acquit on all counts. There is also before me an application to direct the jury to acquit the accused on the basis that the prosecution has not yet established a sufficient case to go to the jury on the application of the more familiar Galbraith principles.'*

[5] Oxford University Press 2018

What is a Galbraith principle ?

This refers to situation where, in a criminal case, there is no case for the defendant to answer. Thus, the defendant does not need to submit a defence. It is a general rule that he or she who wants the court to act on his or her behalf, must prove his or her case to the court's satisfaction. Proof of criminal guilt must be beyond reasonable doubt. A 'no case to answer' plea is often submitted at the close of the prosecution case. If the Judge agrees, then the matter is dismissed and the defendant acquitted without having to present any evidence in their defence. If a Judge does not accept the submission, the case continues and the defence must present their case.

The general approach to be followed was described by Lord Lane CJ in R v Galbraith (1981):

(1) If there is no evidence that the crime alleged has been committed by the defendant, there is no difficulty. The Judge will of course stop the case.

(2) The difficulty arises where there is some evidence but it is of a tenuous character, for example because of inherent weakness or vagueness or because it is inconsistent with other evidence.

(a) Where the Judge comes to the conclusion that the prosecution evidence, taken at its highest, is such that a jury properly directed could not properly convict upon it, it is his duty, upon a submission being made, to stop the case.

(b) Where however the prosecution evidence is such that its strength or weakness depends on the view to be taken of a witness's reliability or other matters which are generally speaking within the province of the jury and where on one possible view of the facts there is evidence upon which a jury could properly come to the conclusion that the defendant is guilty, then the Judge should allow the matter to be tried.

'The investigation by the Office of the Director of Corporate Enforcement which gave rise to these charges commenced shortly after the resignation of [name] from his role in Anglo Irish Bank in December of 2008. [Name] was designated to run the investigation. Unfortunately, he had no previous experience relevant to the proper investigation of indictable offences. As a consequence of that inexperience, he has admitted in evidence before me and before the jury that he made many fundamental errors in the investigation and which form the basis of the POC application. As a result, the investigation fell far short of the standard impartial, unbiased and thorough investigation in which the paramount duty was to seek out and preserve all evidence which was or might potentially be relevant to innocence as well as guilt, which is guaranteed under the constitution in this jurisdiction. The most fundamental error was the manner in which the ODCE went about taking witness statements from the two main prosecution witnesses, [name] and [name] of accounting body, who were the statutory auditors for Anglo Irish Bank during the relevant periods. Initially, they intended to follow the usual protocol by sending members of An Garda Síochána attached to the ODCE to take statements from witnesses. However, they quickly lost

sight of that objective and instead embarked upon obtaining their statements of evidence through [name], who were solicitors for [name]. The ODCE was acutely conscious that [name] themselves were, or were about to be, investigated by their professional regulator as regards the adequacy of the statutory audits which they carried out of Anglo Irish Bank and they were at risk of being sued and were ultimately sued by IBRC, the successor to the interests of Anglo Irish Bank and the Irish Nationwide Building Society. They were concerned that in those circumstances they might not cooperate with the ODCE investigation. In order to ensure cooperation, they were at pains to reassure [name], through their solicitors, that they had no interest in investigating the adequacy of the audit, which was not their function, but that of [name]. As a consequence, the ODCE completely lost sight of the need to identify, with reference to the provisions of section 197 and 242 of the Companies Act 1990, which I'll refer to as "The Act", the nature and extent of the evidence relevant to both guilt and innocence which needed to be obtained and preserved. This failure has had negative consequences for both sides of the case which I shall identify in due course.

A lengthy process ensued whereby over a period of about two years, the statements of [name] and [name] were prepared by [name] much in the manner of the careful drafting of affidavits by solicitors and counsel in a civil action. Many drafts of the witness's statements were prepared by the solicitors before [name] and [name] ever said anything. The extent to which this had occurred only became apparent subsequent to the collapse of the first trial of this matter after further disclosure by [name]. After the drafts had initially been prepared by [name], there was extensive consultation and negotiation between the ODCE and [name] as to what ought to be included in the statements of the two witnesses by way of telephone conversations, email communications and meetings. What emerged eventually as the statements of the witnesses included in the book of evidence had been drafted for them in their entirety by others, they being solicitors with [name], a barrister instructed by them, with an intensively negotiated input from the ODCE as to what they wanted the statements to contain. There was also cross-contamination between [name] and [name] as to what went into their respective statements.

The statement taking process was further compromised by the ODCE adopting an inappropriately biased and partisan approach in that it is apparent from their internal communications that they were trying to build or construct a case, rather than to investigate the case independently and impartially. In this regard, I refer to notes recording officers within the ODCE team stating that they wanted to allege misrepresentation, referring to themselves as "building a case", issuing warnings not to mention [name] and their representatives the auditing standards which recommend that in seeking a letter of representation from management, they should discuss with them what needs to go into the letters and warn them that they might be guilty of committing a criminal offence if they misstate anything in them, with specific reference to section 197 of the Companies Act 1990 in

Ireland. There were suggestions that questions ought not to be asked, the answers to which might be "unhelpful" to the case being made by the ODCE.

It was conceded by the prosecution that there was a very high degree of suggestion or coaching and contamination by others and cross-contamination in the preparation of the statements. Notwithstanding these issues, after a lengthy voir dire, I ruled that the evidence of [name] and [name] was admissible and that the issues of the prohibited coaching, contamination and cross-contamination were capable of being dealt with by appropriate warnings in that regard to the jury in due course. However, this is an issue which was reserved to be considered along with all of the other issues raised at the outset of the trial in the preliminary POC application, when that application was renewed at the end of the prosecution case, as it is now.

Having heard the substantive evidence of [name] and [name] before the jury and the prosecution case as a whole, the issue of coaching, contamination and cross-contamination emerges as one of grave concern, it only having become apparent from the cross-examination of these witnesses before the jury just how little involvement they had in obtaining the letters of representation, the subject matter of the 21 section 197 charges, something which might have been much more apparent to the prosecution and defence had their statements been taken in the usual and proper manner in a criminal investigation. That might have prompted the investigator to identify those within the [name] audit team for each of the relevant six years who were in fact involved in obtaining letters of representation and director certificates to take statements from them in relation to that process, and from those within Anglo Irish Bank with whom they discussed the content of the letters and directors' certificates, and what was agreed ought to be included in them. They would also have gathered all documentary evidence, electronic or otherwise, as was available on the direction of those witnesses relevant to that process.

If that was done, evidence both real and testimonial would have been gathered in relation to the following issues: (1) the extent to which the audit team were actually aware of [name's] borrowings and their refinancing approach year end, in circumstances where there is evidence of the quarterly large exposure returns having been on the [name] audit file in which each of the three quarterly returns in advance of the year end the full extent of [name's] borrowings were disclosed. A very large number of banking staff within Anglo Irish Bank were fully aware of the refinancing process and there was no secret made of it within the bank at least below board level. There was also evidence of an unidentified member of the audit team happening upon credit balances in [name's] loan accounts in November 2004, consequent upon refinancing with Irish Nationwide and in which the audit team member has noted, 'Per Financial Controller, the named borrowers above hold

facilities in which Irish Nationwide sub participates. The credit balances above represent this sub-participation. The legal obligation is that the bank discloses the net position and per Financial controller all appropriate disclosures and legal obligations have been fulfilled'.

END

An Roinn Gnó,
Fiontar agus Nuálaíochta
Department of Business,
Enterprise and Innovation