

Opening statement by the Money Advice and Budgeting Service (MABS) to the Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach, to discuss 'Non-Banks/ Vulture Funds'

Dr Amie Lajoie, Social Policy & Research Executive, MABS Support CLG

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1. Good afternoon Chairman and Committee Members.
2. MABS, the Money Advice and Budgeting Service, very much welcomes the opportunity to contribute to the Committee's deliberations on this important topic. I am joined today by my colleague, Mr Dermot Sreenan, Business Manager of MABS Support CLG and Mr Ger O'Brien, National Development Officer of MABS Support CLG.
3. Non-banking entities (also called 'vulture funds' or 'shadow banks') play an increasingly prominent role in Ireland's financial services sector in direct lending to individuals. Our reflections in this opening statement are based on the practical experience of MABS providing casework support to borrowers with all debt types. For this discussion, we focus on the particular activities of non-banks in the areas of mortgage lending and the servicing of non-performing loans (NPLs) to individuals. We further support the contributions from our colleagues from FLAC who are speaking to the rise of these firms in the space of new lending and unsecured debts.
4. In Ireland, there are two categories of non-banking entities regulated by the Central Bank that lend to individuals, 'retail credit firms' and 'credit servicing firms'. These firms include both those entities who *own* the in-scope loans and those who *manage or administer* these loans. It is important to note that credit servicing firms have been subject to regulation since 2015. This was in direct response to the sale of distressed loan books by regulated banks to non-banks that were (at the time) unregulated. Today, the borrower has rights to consumer protections from the onset of a lending agreement, and these protections continue in the event that the loans are sold to non-banking lenders. On this topic, MABS has made a formal response to the Department of Finance's consultation on the transposition of the EU credit servicers' and credit purchasers' directive,¹ and we base our opening statement on this submission.

¹ Deadline: 8 March 2023 [gov.ie - Minister McGrath announces consultation process on Credit Servicers' Directive \(www.gov.ie\)](https://www.gov.ie/en/news/2023/03/minister-mcgrath-announces-consultation-process-on-credit-servicers-directive/)

5. According to the Central Bank,² non-bank lenders have increased their share of new mortgage lending from 3% in 2018 to 13% in 2021. They are responsible for a third of new lending in the re-financing and 'Buy to Let' segments of the market. As of September 2022,³ non-banking entities own over 56% of all domestic mortgages in arrears, up from 43% in March 2021 and 37% in March 2019.⁴ Non-banking entities also hold higher proportions of those mortgages that display the highest level of arrears. In total, non-banking entities held a significant 74% of all domestic mortgage accounts in arrears for more than 1 year in September 2022, up from 54% in March 2021.
6. There are several important points of note regarding the rise of non-banks in this sector. First, the choice to sell these portfolios en masse is a concerning activity of banks, as it would appear that these creditors 'lose patience' with the process of engaging with borrowers through alternative restructuring arrangements and would rather 'cut their losses and sell'.⁵ MABS would question what such behaviours say about banks, their 'appetite' to support customers in distress, and their policies and procedures in terms of credit assessment in the first instance. The EU Directive on credit servicers and purchasers (2021/2167)⁶ cites the need for these entities in the case when 'institutions face a large build-up of NPLs and lack the staff or expertise to properly service them.'
7. There are also on-going concerns over the consequences of banks severing the relationship with borrowers through loan sales, in particular for how these borrowers will bank and access credit in the future.⁷ Also, these non-banking entities purchase mortgages and other non-performing loans (including SME loans) at discounted rates. Accordingly, any classification of their market share as 'growth' has to be compared with the equal decline in the market share of the selling banks.
8. Since 2017, MABS and the Banking & Payments Federation Ireland (BPF) have had an agreed protocol in place to ensure that all lenders (banks and non-banking firms) work together with MABS to help resolve mortgage debt problems practically and sustainably, ensuring borrowers that their rights to consumer protection are safeguarded throughout this process. MABS can report that we have had a number of positive dealings with non-banking entities in cases of mortgage arrears, in particular

² [Central Bank Response to the Retail Banking Review Consultation](#)

³ [2022q3_ie_mortgage_arrears_statistics.pdf\(centralbank.ie\)](#) 45,746 domestic mortgages in arrears in Ireland in September 2022 – of these, over half or 25,469 are owned by non-banking entities.

⁴ 'From Pillar to Post' FLAC (2021): 'Conclusions from a decade of attempting to resolve family home mortgage arrears in Ireland': see: https://www.flac.ie/assets/files/pdf/flac_pillar_to_post_paper_2_final_v.pdf

⁵ Same as above, pg. 34

⁶ <https://eur-lex.europa.eu/eli/dir/2021/2167/oj>

⁷ For more on this, see [rep-statement-local-public-banking.pdf\(mabs.ie\)](#)

through the Abhaile Scheme.⁸ Some of these funds have agreed to arrangements⁹ that are more favourable for borrowers facing mortgage arrears than a traditional bank.¹⁰

9. However, non-banking entities can also act in a manner that further penalises consumers. MABS staff have observed that the overall behaviour of non-banking entities towards clients (such as the decision to enter into insolvency arrangements) depends on the entity and their own internal protocols, and the amount of documentation received from the original mortgagee bank. We would like to highlight four points of contention that can arise from working with these lenders.

- Loan transparency and communication: In cases where their loan books are sold, clients receive the details of these sales via post, and have no legal basis to appeal the sale. This is true of all loans, regardless of whether or not they are in arrears. In MABS experience, relevant loan documents and statements are often lost during the loan sale process, and this makes it difficult to validate the accurate accrual of debt and arrears balance.
- Chain of loan ownership: In supporting borrowers, MABS does much more than budgeting /rescheduling of debts. It uses, as relevant, legislation and regulation in a model which reflects both client responsibilities as well as their rights as consumers. Therefore, it is very important for MABS to be able to locate responsibility/accountability within the credit 'supply- chain' and draw on related regulation and legislation to support its clients to up-hold their rights.
- Recent interest rate hikes: Over the past 6 months, MABS clients servicing mortgage debts with some retail credit firms have faced an interest rate spike to over 6%, more than twice the ECB (European Central Bank) tracker average of 3%. This includes those clients with voluntary ARAs (Alternative Repayment Arrangements) and with statutory insolvency arrangements sanctioned under the current Irish Personal Insolvency Act, options that serve as a lifeline for MABS clients in mortgage arrears. The interest rate hikes serve as a particularly alarming trend during a cost of living crisis, and is having disastrous effects. With another 0.5% rise in mortgage interest rates indicated by the ECB, we are wary that the situation will continue to worsen.¹¹

⁸ [Abhaile - MABS](#)

⁹ [Possible Solutions to Home Mortgage Arrears - MABS](#)

¹⁰ For more on MABS insight into this, please see our [submission to the Retail Banking Review](#) from July 2022. For example, according to March 2021 Central Bank statistics, non-banks are much less likely to put in place term extensions, while traditional banks were less likely to impose permanent interest rate reductions.

¹¹ For more on this, see: https://mabs.ie/wp-content/uploads/2022/03/Final_MABS-Support-CLG-Submission-to-CBI-Mortgage-Measures.pdf

- Lack of public accountability: From our 30 years' experience working with borrowers facing the stressful situation of arrears, we assert that the more direct engagement between purchaser and credit service providers the better the outcome for all parties. Traditional, mainstream banks have, notwithstanding their responsibility for regulatory compliance, a level of cultural or public accountability in Ireland, a history of engagement with ourselves at MABS and offer a suite of supports for clients in financial distress. In many cases, non-banking entities do not have these traits, and in our experience, this can indicate a lack of willingness to accommodate clients and their needs.

10. At MABS, we recognise the importance of regulatory frameworks that best serve the needs and rights of our clients. Some argue that this new, 'secondary market for non-performing loans' provides a valuable service and increases competition within the Irish financial industry. At MABS, we support competition, in particular where it broadens access to necessary and affordable credit (including for mortgage lending), however, it must be accompanied by appropriate regulation to ensure that all consumers are informed in plain language about all aspects of the finance from the outset. Creditors should also readily communicate with borrowers that they have rights and can exercise their rights when things go wrong.

11. We maintain that non-banking entities must work towards a demonstrable affordable and sustainable solution for borrowers that reflects the fact that the loan has been purchased at a discount from the original loan provider. MABS and other supportive debt and client advocacy organisations play a crucial role in ensuring the realisation of this goal. Therefore, credit servicers must engage with MABS meaningfully and regularly in our work on behalf of clients. We enjoy a positive working relationship, built over years of mutual trust and respect, with mainstream Irish retail banks. It is imperative that this relationship continues in our engagement with non-banking entities.

Thank you. We very much look forward to our discussion.