FEANTSA

Policy Statement

European Federation of National Organisations working with the Homeless
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Turning Toxic Assets into Social Housing: A Win-Win for Asset Management Companies in the EU?

Overview

This policy briefing was prepared by FEANTSA's Housing Working Group. It aims to show that ***Asset Management Companies (AMC)*** could play a role in providing much-needed social housing in EU Member States. Given their massive real estate portfolios, AMCs can help respond to unmet housing needs – offering a "social dividend" from the bail-out of banks that occurred during the crisis. While Ireland's National Assets Management Agency (NAMA) has been criticised for not delivering the hoped for level of social housing, it has developed a process of turning non-performing real estate into social housing which may serve as a positive model. This paper presents the Irish experience, based on a project which was submitted to the Irish Council of Social Housing (ICSH) bi-annual national Conference and won the Collaboration Award in recognition of the number of partners collaborating to deliver this initiative[1], the development also won a special recognition award at the All Ireland Chartered Institute for Housing Awards, and has potential learning for other EU contexts.

Background

The financial and economic crisis of 2008 has had widespread social consequences, including on the capacity of households to access and maintain adequate housing. Although the EU is now undergoing a fragile recovery, housing exclusion and homelessness have increased in many Member States. The situation of households unable to service debts on their primary residence, and thus at risk of repossession and eviction, has become an explosive political issue in several countries under international bail-out programmes e.g. Greece and Spain. At the same time, the role that governments and tax payers have played in bailing out banks raises questions about how the public interest can best be served in managing those banks' assets. AMCs have been established since 2008

[1] The partners were NAMA, the Dublin Region Homeless Executive and three FEANTSA members: the ICSH, Focus Ireland and the Peter McVerry Trust.

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in a number of EU Member States. Commonly known as “bad banks”, they were created to absorb large stocks of “toxic” bank assets following the financial and economic crisis that started in 2008. Examples of AMCs include: Ireland’s National Assets Management Agency (NAMA), established in 2009; Spain’s Sociedad de Gestión de Activos Procedentes de la Reestructuración Bancaria (SAREB), established in 2012; Hungary’s National Asset Management Inc. (HNAM), established in 2008; UK Asset Resolution, established in 2010; Portugal’s band bank resulting from the bailout of Banco Espirito Santoin 2014. This policy briefing focuses on AMCs where government has intervened in the management of significant portfolios of real estate assets. Such AMCs represent a unique opportunity to generate new social housing.

In designing and managing AMCs, various objectives and interests need to be weighed up and balanced. On the one hand, there is the objective of reducing the weight of Non Performing Exposures (NPEs) in a way that minimizes risk to the State. This entails disposing of assets as profitably as possible over a given time frame. The bursting of housing bubbles in several MS, which led to depressed housing markets in the immediate aftermath of the crisis, made it difficult to sell AMC assets to investors profitably. So-called ‘vulture funds’ were therefore able to buy at very discounted prices. For example, in Spain, SAREB and Madrid’s regional government sold thousands of social housing units to investment funds like Goldman and Sachs and Blackstone in 2012/2013. Where real estate markets remained buoyant or have picked up - as in Dublin, Madrid, Barcelona, London – other types of private institutional investor have been increasingly willing to buy up real-estate assets

On the other hand, States need to consider consumer protection and social issues, as well as the broader general interest in the design and function of AMCs. For example, such imperatives have led various EU governments to introduce moratoriums on evictions of home owners in certain conditions (Hungary, Greece, Spain). Seen from this perspective, AMCs represent an opportunity to create more balanced, resilient housing markets. They can provide what has been called, in the Irish context, a “social dividend”, by transforming suitable real estate into quality, affordable social housing for people that need it. Social and housing rights considerations may be undermined by just selling off assets to the highest bidder. For example, the sell-off of social housing in Madrid has jeopardised

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tenant security, putting households at risk of homelessness to the extent that it has recently been reviewed by the recently elected Mayor Manuela Carmena.

There is therefore a need to identify and pursue "win-win" strategies to both reduce the weight of NPEs and make a contribution to tackling housing exclusion.

EU Policy Context

EU policy plays an important role in determining whether and how AMCs function. Firstly, EU State Aid rules determine how they can be set up and managed. Secondly, the implementation of Troika programmes has determined AMC objectives and functioning in affected countries. Overall, enhanced EU economic and financial surveillance following the crisis impact on AMCs and the context in which they operate. The ECB monitors and provides recommendations on non-performing exposures. It has published guidance on the establishment of AMCs[2]. Stress Tests to gauge the resilience of financial institutions are carried out by the European Banking Authority (EBA), in cooperation with the European Systemic Risk Board (ESRB). The European Central Bank (ECB), national competent authorities and the European Commission. EU policy is thus critical in determining how AMCs operate as State-supported financial institutions in the Single Market.

At the same time, the social dimension of the European Union, as expressed in the so-called horizontal social clause of the Lisbon Treaty (Article 9 TFEU), means that the EU should take into account requirements linked to the fight against social exclusion. Furthermore, housing and related rights are enshrined in the Charter of Fundamental Rights, for example Article 34(3) notes that the Union recognizes and respects the right to social and housing assistance to combat social exclusion and poverty, which is binding for States and Institutions when implementing EU law. There is thus a strong basis for the EU institutions and Member States to seek to ensure that AMCs are managed in a socially responsible fashion, as well as in a way that promotes financial stability.

NAMA and Social Housing in Ireland

2 ECB, *Guiding principles for bank asset support schemes*, February 2009; and O'Brien, E. and Wezel, T., "Asset support schemes in the euro area", *Financial Stability Review*, May 2013.

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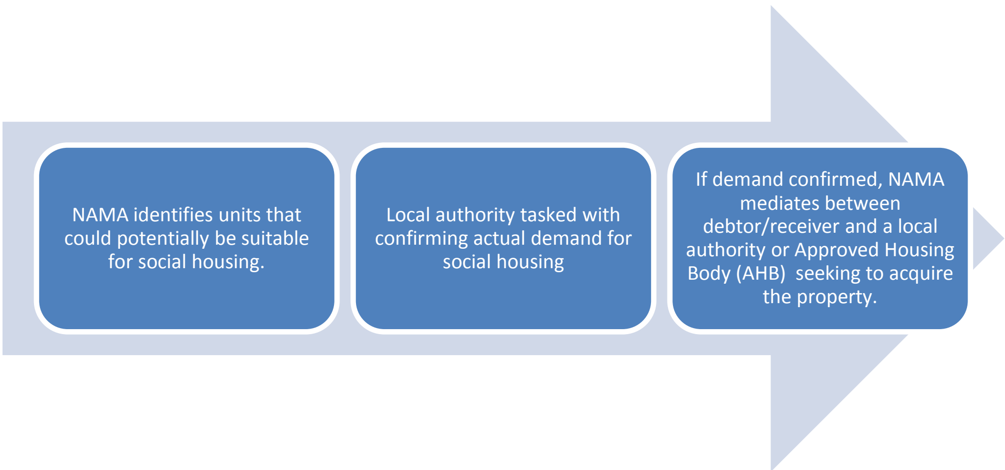
The National Asset Management Agency (NAMA) was established in 2009 as one of a number of initiatives taken by the Irish Government to address the banking crisis. NAMA's primary objective is to manage its balance sheet down to zero as soon as it commercially practicable. It must recoup at a minimum all of the expenditure incurred by it on acquiring loans, advancing working capital and own costs. However, NAMA is also tasked with managing its assets in line with the objectives of Government through a 'Social Dividend' clause inserted during the parliamentary debate on the legislation after extensive lobbying by FEANTSA members in Ireland. This includes taking social initiatives. On December 21th 2011, the then Minister for Environment, Phil Hogan (currently EU Commissioner for Agriculture and Rural Development) announced that NAMA would make 2,000 housing units available for social housing – estimated at around 20% of the housing units then in the NAMA portfolio. [3] It proved more difficult to deliver the social housing units than the Minister has predicted and by January 2014 only 596 units had been delivered.[4] By January 2015, the numbers had risen to 1,068[5]. In the face of increasing political criticism the 2,000 units were delivered by January 2016, though 574 of these had only reached contract stage.[6]

Fig 1: Process by which NAMA makes properties available for social housing



[3] Irish Times, 2.12.2011 http://www.irishtimes.com/news/nama-promises-over-2-000-properties-for-social-housing-1.889176
[4] http://www.housing.ie/Housing/media/Media/Social%20Leasing%20Library/NAMA%20Status%20Reports/Status-Update-January-2014.pdf
[5] http://www.housing.ie/Housing/media/Media/Social%20Leasing%20Library/NAMA%20Status%20Reports/Status-Update-January-2015.pdf
[6] http://www.housing.ie/Housing/media/Media/Social%20Leasing%20Library/NAMA%20Status%20Reports/Status-Update-January-2016.pdf

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Properties can either be purchased or leased by local authorities or Approved Housing Bodies[7]. NAMA has established a special purpose vehicle called the National Asset Residential Property Services Limited (NARPS) to take ownership of properties where there is an established demand and then lease them long-term to an AHB or Local Authority. One of the key problems which emerged in delivering the social housing target was that many of the units identified by NAMA as suitable for social housing in stage 1 were deemed to be unsuitable or unneeded by local authorities in stage 2.

As of January 2016, NAMA had identified 6,634 units as potentially suitable for social housing. Local authorities had confirmed demand for only 2,590 of these. 1,588 of the units identified by NAMA as suitable were sold to private buyers before the local authority assessment was completed and 2,456 were deemed not to meet demand. The high number of units declined by local authorities has been very controversial given the long waiting lists for social housing. Reasons given include poor construction standards, too many social houses already in the area or, in rural areas, isolation from population centers.

In October 2015, the Irish Government announced that NAMA would be tasked to provide a further 20,000 homes by the end of 2020; this is through new build construction, or completion of partially built units. In line with the Government legislation which applies to all privately built housing, ***10% of these (2,000) will be earmarked for social housing.*** Clearly, the volume is small compared to the overall need for social housing in Ireland Dublin currently has up to 100,000 people on local authority housing lists for social housing and supports. Nonetheless, in combination with other measures, this scheme can make an important contribution to overall efforts to meet housing needs. NAMA thus provides a case study of how AMCs can be effectively mobilised in order to provide social housing for the future.

For more information see here: https://www.nama.ie/social-initiatives/social-housing/

[7] Approved Housing Bodies or housing associations are non-profit organisations whose purpose is the provision and management of housing for households in housing need

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Fig 2: Clare Village: An example of a successful NAMA social housing scheme

Clare village provides a concrete example of the type of housing scheme that can be created by successfully mobilising ACMs to transform real estate assets into social housing.

Clare village is a development of 360 1, 2 and 3 bedroom apartments in Dublin. It was an unfinished development held by NAMA. NAMA financed the developer Albany Homes to facilitate phased completion The scheme was developed and is managed through partnership between the following organisations:

- NAMA (AMC)
- The Dublin Region Homeless Executive (local authority)
- Dublin City Council (local authority)
- Túath Housing (AHB)
- Albany Group (developer)
- Focus Ireland (Homeless service)
- Peter McVerry Trust (Homeless service)

It includes 119 social homes funded in a variety of ways including 49 units purchased by Tuath

Housing Association under the Department of the Environment, Community and Local Government's Capital Assistance Scheme, 24 via a social housing leasing scheme with Dublin City Council and the remaining 48 units through NAMA's SPV NARPS leasing vehicle, which were all allocated to formerly homeless households.

The homes were allocated to families that were currently homeless and living in emergency homeless accommodation in Dublin Two homeless organisations which are members of FEANTSA – Focus Ireland and Peter McVerry provided support to the formerly homeless families as part of the Support to Living Independently (SLI) programme. All tenancies were sustained.

Source: Túath Housing Association 2015

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Problems and Limitations

The ability of NAMA to deliver social housing was a much welcomed delivery mechanism at a time of severely restricted supply options with many excellent examples of schemes delivered by the sector. However, one could argue that there was an over estimation on units that could be delivered through the Agency, with the Minister's commitment of 2,000 units leading to too high expectations and criticism. The NAMA portfolio was finite, reported during the crisis to represent a mere 2% of vacant stock nationally with property within the portfolio in locations not matched to areas of greatest housing need as per the local authorities. Properties in some cases were situated in unsustainable rural locations presenting little employment opportunities or appropriate services or facilities for prospective tenants. There are also criticisms that NAMA selected a high proportion of its poorly constructed stock as suitable for social housing, while preferring to sell its more attractive stock to the private market. In order to ensure that NAMA can get the best price for its assets, there is a high level of secrecy about its transactions which has made the various claims impossible to assess. This complex legislation which surrounded NAMA and the legal importance of protecting the constitutional rights of developers also resulted in prolonged legal processes which were frustrating to all sides.

Indeed delivery through NAMA was not without difficulty for Approved Housing Bodies, more commonly known as Housing Associations, with those agreeing to acquisition or leasing arrangements entering into long and procrastinated processes to achieve delivery with housing associations reporting timescales of 18 months to three years to get units across the line. The processes involved are complex involving a number of stakeholders and require the resolution of a myriad of issues including unpaid creditors/receivership, compliance with planning conditions, outstanding development levies, completion of building works, remediation of building defects, compliance with regulatory standards etc. all of which necessitated resource intensive input from all parties involved.

It is hoped that the NAMA new build units coming on stream can be delivered through a more streamlined process involving far less complex issues.

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Transferability

As mentioned in the introduction, many EU Member States have introduced ACMs. Italy is working on developing a bad bank and it is also being discussed in Greece. These countries all face considerable housing exclusion challenges and lack social housing provision. There is thus potential to learn from the experience of NAMA and to address social and housing rights considerations more when planning and implementing schemes to mop up non performing loans in the real estate sector. Key issues in terms of transferability include finding a simple and transparent process through which the housing stock held by the bad bank can be assessed for suitability for social housing – this will avoid lost time assessing unsuitable stock and suspicions that better stock is being withheld. Other issues include governance, the appropriate bodies to deliver social housing and the broader context in terms of social housing provision. If properly used, ACMs could become an instrument for addressing housing exclusion and homelessness rather than putting more people at risk. This would be a veritable win-win.

Recommendations

- FEANTSA Calls ON Member States which have or which are planning to develop ACMs to explore the potential of creating a "social dividend" in the housing area by transforming real-estate assets into social housing
- Calls for the EU institutions and the MS to engage in mutual learning and transnational exchange on how ACMs can contribute to generating much-needed social housing, starting with the experience of NAMA
- Calls for the use of relevant EU Strategic and Investment Funds to support the development of social housing for people who need it, including where relevant through ACMs
- Calls on EU bodies and EU institutions to avoid imposing measures that force MS to dispose of real-estate portfolios held by ACMs in ways that are likely to increase housing exclusion and homelessness e.g. repossessing primary residencies of vulnerable households or selling off social housing to vulture funds

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