



STATUTORY INSTRUMENTS.

S.I. No. 546 of 2009

NATIONAL ASSET MANAGEMENT AGENCY (DETERMINATION OF
LONG-TERM ECONOMIC VALUE OF PROPERTY AND BANK
ASSETS) REGULATIONS 2009

(Prn. A9/1884)

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I, BRIAN LENIHAN, Minister for Finance, in exercise of the powers conferred on me by sections 75, 76 and 79 of the National Asset Management Agency Act 2009 (No. 34 of 2009) (“the Act”), having had regard to the laws of the European Communities governing state aid and the other matters referred to section 79(2) of that Act, hereby make the following regulations:

Citation.

1. These Regulations may be cited as the National Asset Management Agency (Determination of Long-Term Economic Value of Property and Bank Assets) Regulations 2009.

Definitions.

2. In these Regulations—

“class”, in relation to land, means any class of land that is differentiated by reference to any characteristic or combination of characteristics of the land, including the type of land, the purpose for which the land is used and the location of the land;

“NAMA discount rate”, for bank assets denominated in euro, means the Irish 10-year Government Bond Irish Stock Exchange quoted closing yield at the establishment date plus 0.8 per cent;

“NAMA discount rate”, for bank assets denominated in a currency other than euro, means the 10-year Government Bond Stock Exchange quoted closing yield for the relevant currency at the establishment date plus 0.8 per cent;

“relevant period” means the period that began on 1 January 1985 and ended on 31 December 2005.

Long-term economic value of property other than land.

3. The long term economic value of property other than land shall for all purposes be its market value at a date specified by NAMA.

Long-term economic value of land.

4. In determining the long term economic value of land under section 76 of the Act, NAMA shall use or apply the adjustment factor it derives by reference to such of the matters specified in Regulation 5 or 6, as the case may be, as it considers appropriate.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 5th January, 2010.*

Land located in State.

5. (1) The adjustment factor for land located in the State shall be derived by NAMA in accordance with these Regulations in such manner as it thinks fit, by reference to such of the following as it considers relevant:

- (a) the difference, as determined by NAMA, between—
 - (i) the prices or yields of land located in the State on the valuation date, and
 - (ii) the prices or yields of land located in the State over the relevant period as determined by reference to such of the bulletins and indices specified in Schedule 1 and such other similar relevant bulletins and indices as NAMA may consider appropriate in the circumstances;
- (b) the correlation, in the relevant period, as determined by NAMA in accordance with paragraph (2)—
 - (i) between land prices and demographic variables relating to the State,
 - (ii) between land prices and interest rates in the State, and
 - (iii) between land prices and the State's gross domestic product;
- (c) projections of land prices, demographic variables, interest rates, other relevant variables and the State's gross domestic product referable to any period or periods that end on a day or days not later than 7 years after the valuation date, which are made by the bodies mentioned in paragraph (2) and which are made available to NAMA not later than 21 days after the day on which these Regulations come into operation; and
- (d) data and analyses referred to in the following sub-subparagraphs, which are provided to NAMA by the persons specified in those sub-subparagraphs not later than 21 days after the day on which these Regulations come into operation:
 - (i) data and analyses on the extent to which existing land zoning and planning permissions granted and in force meet or exceed projected growth requirements in the State, which are provided by the Minister for the Environment, Heritage and Local Government;
 - (ii) data and analyses on existing and future transport planning and the associated supply and demand projections for land use, which are provided by the Minister for Transport, or the Dublin Transportation Office or an appropriate national transportation authority; and

- (iii) data and analyses in relation to the potential rise in energy and other costs due to the long-term decline in non-renewable resources, which are provided by the Minister for Communications, Energy and Natural Resources.

(2) In determining the correlation for the purposes of paragraph (1)(b), NAMA shall have regard to such of the data and analyses as it considers appropriate and which are available to NAMA not later than 21 days after the day on which these Regulations come into operation, and as are prepared by any or all of the following:

- (a) Central Statistics Office;
- (b) Economic and Social Research Institute; and
- (c) Central Bank and Financial Services Authority of Ireland.

Land located in state other than State.

6. (1) The adjustment factor for land located in a state other than the State shall be derived by NAMA in accordance with these Regulations in such manner as it thinks fit, by reference to such of the following as it considers relevant:

- (a) the difference, as determined by NAMA, between—
 - (i) the prices or yields of land located in the state concerned on the valuation date, and
 - (ii) the prices or yields of land located in that state over the relevant period as determined by reference to such of the published bulletins and indices specified in Schedule 2, and such other similar relevant bulletins and indices, as NAMA may consider appropriate in the circumstances;
- (b) the correlation, in the relevant period, as determined by NAMA in accordance with paragraph (2)—
 - (i) between land prices and demographic variables relating to the state in which the land is located,
 - (ii) between land prices and interest rates in that state, and
 - (iii) between land prices and that state's gross domestic product; and
- (c) data and analyses which are provided to NAMA not later than 21 days after the day on which these Regulations come into operation, by the Minister for Communications, Energy and Natural Resources in relation to the potential rise in energy and other costs due to the long-term decline in non-renewable resources.

(2) In determining the correlation for the purposes of paragraph (1)(b), NAMA shall have regard to such of the data and analyses as it considers appropriate, and which are published, not later than 21 days after the day on which these Regulations come into operation, by any official national bodies equivalent or comparable to those specified in Regulation 5(2) of the state in which the land is located, and any other equivalent bodies, as NAMA may consider appropriate in the circumstances.

Determination of long term economic value of bank assets.

7. In calculating the long term economic value of a bank asset—

- (a) where the bank asset is a bank asset for which the security is land for which the adjustment factor is one tenth or less of the land's value, NAMA shall take into account the projected cash flows of the bank asset over a period of 3 years using the NAMA discount rate,
- (b) where the bank asset is a bank asset for which the security is land for which the adjustment factor is more than one tenth of the land's value but less than or equal to one quarter of that value, NAMA shall take into account the projected cash flows of the bank asset over a period of 8 years using the NAMA discount rate,
- (c) where the bank asset is a bank asset for which the security is land which is cash flow producing in accordance with its contractual terms, and the market value of the land is greater than the balance outstanding on the credit facility concerned, NAMA shall take into account the projected cash flows of the bank asset during a period that ends on the bank asset's maturity date, or over a period of 8 years, whichever is the lesser period, using the NAMA discount rate, and
- (d) NAMA may take into account such of the following as it considers relevant:
 - (i) the long-term economic value of property;
 - (ii) the net present value of the anticipated income stream associated with bank assets of the same kind as the bank asset concerned;
 - (iii) if the bank asset concerned is secured in whole or in part, by rental property, current and projected vacancy rates;
 - (iv) loan margins;
 - (v) the mark-to-market value of any derivative contracts associated with bank assets of the same kind as the bank asset concerned;
 - (vi) any ancillary security such as personal guarantees and corporate assets;
 - (vii) fees reflecting the costs of loan operation, maintenance and enforcement.

Standard discount rate.

8. The standard discount rate that NAMA shall apply in the calculation of the long-term economic value of all bank assets shall be 2.75 per cent to provide for enforcement costs, and 0.25 per cent to provide for due diligence costs, incurred or likely to be incurred by NAMA over its lifetime in the discharge of its functions.

Prescribed fractions for the purposes of section 76(2) of the Act.

9. (1) For the purposes of section 76(2)(a) of the Act, the fraction by which the long-term economic value determined by NAMA for a parcel of land shall not exceed its market value is one-quarter.

(2) For the purposes of section 76(2)(b) of the Act, the fraction by which the aggregate of the long term economic value of all land valued in connection with the acquired portfolio of each participating institution shall not exceed the aggregate of the market values of that land is one-fifth.

SCHEDULE 1

- SCS / IPD Irish Quarterly Property Index except for the years 2005 to 2008
- Department of the Environment Housing Statistics Bulletin, except for the years 2005 to 2008
- JLL Irish Property Index except for the years 2005 to 2008

SCHEDULE 2

Location of Property	Bulletins and Indices
Great Britain or Northern Ireland:	<ul style="list-style-type: none"> • Nationwide House Price Indices including Northern Ireland • Halifax House Price Indices including Northern Ireland • IPD Monthly Index UK All Sectors • Land Registry House Price Index
United States of America	<ul style="list-style-type: none"> • Case — Shiller Home Price Index • NCREIF Property Index • Moodys/REAL Commercial Property Price Index (CPPI) • FTSE NAREIT US Real Estate Index Historical Values and Returns.
Europe, except for the State, Great Britain and Northern Ireland	<ul style="list-style-type: none"> • EPRA Index • IPD Pan European Index • Any equivalent document published in the relevant place or regarding that place
Any other place	Any equivalent document published in the relevant place or regarding that place



GIVEN under my Official Seal,
21 December 2009.

BRIAN LENIHAN,
Minister for Finance.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
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