

**AN INQUIRY PURSUANT TO PART IIIC OF THE CENTRAL BANK ACT 1942 (AS AMENDED)
CONCERNING THE IRISH NATIONWIDE BUILDING SOCIETY, MICHAEL FINGLETON, WILLIAM
GARFIELD MCCOLLUM, TOM MCMENAMIN, JOHN S. PURCELL AND MICHAEL P. WALSH**

SANCTIONS HEARING

21 October 2024

Chairperson's Opening Statement

Introduction

1. Good morning and thank you for attending this hearing of the INBS Inquiry.

My name is Marian Shanley, on my left is Mr Geoffrey McEnery and on my right is Ms Ciara McGoldrick.

We will commence today's proceedings by taking Appearances ...

This hearing is being conducted in public with the caveat that if any person addressing the Inquiry wishes to raise matters of a privileged or confidential nature including confidential material in the Findings Report or other documents relating to borrowers, they should advise the Inquiry in advance and arrangements can be made to move to a private hearing in respect of that issue.

Background

2. The Inquiry Members have conducted an inquiry involving multiple oral hearings and examination of relevant documentation into allegations set out in an Investigation Report produced by the Enforcement Directorate of the Central Bank ("**Enforcement**").
3. The Inquiry was established to determine 21 Suspected Prescribed Contraventions ("**SPCs**") that Enforcement suspected had been committed by INBS in the conduct of its commercial lending business between 1 August 2004 and 30 September 2008 (the "**Review Period**"). These SPCs were divided into seven categories (SPCs 1 to 7) and each category alleged a breach of two separate legislative provisions and a condition of authorisation, hence the overall total of 21 SPCs. The categories covered all aspects of commercial lending from inception of the loan to its conclusion (SPCs 1 to 4). They also covered non-loan related issues such as reports to the Credit Committee and Board and the lack of a formal policy in relation to profit share lending (SPCs 5 to 7). Each category (with the exception of SPC 7) was broken down into a number of sub-categories in respect of which allegations were made. A total number of 42 Specific Allegations were made across all of these categories and sub-categories.
4. Five persons concerned in the management of INBS ("**Persons Concerned**"), were suspected

of participating in certain of these SPCs. INBS and three Persons Concerned entered into settlement agreements with the Central Bank, admitting to certain of the contraventions and, in the case of the three Persons Concerned, paying a fine and accepting other sanctions. The Inquiry was permanently stayed against a fourth Person Concerned, Mr Michael Fingleton, on medical grounds. Accordingly, the remaining individual subject to the Inquiry and concerned with today's hearing is Mr John Stanley Purcell, former Executive Director and Secretary of INBS throughout the Review Period.

The Findings Report

5. Following the conclusion of the oral hearings and a consideration of the documentation and evidence provided to the Inquiry Members at the outset and during the course of the Inquiry, the Inquiry Members completed a Findings Report. This Report consisted of an analysis of all the evidence pertaining to the SPCs in respect of which it was suspected that Mr Purcell had participated. The Findings Report established whether contraventions had been committed by INBS and then assessed Mr Purcell's participation in each of these contraventions. The evidence examined consisted firstly of loan files in respect of which multiple breaches of internal commercial lending policy was alleged leading to breaches of SPC1, SPC2, SPC3 and SPC 4. The second tranche of evidence consisted of documentary evidence that outlined failure by INBS to comply with such policy in relation to commercial lending generally and identified breaches of all seven categories of SPCs.
6. The Investigation Report prepared by Enforcement alleged that Mr Purcell had participated in:
 - a) The 21 Individual SPCs alleged to have to have been committed by INBS; and
 - b) 33 Specific Allegations alleged against INBS in respect of which the Inquiry Members considered and determined an allegation of participation against Mr Purcell.
7. In the Findings Report, Mr Purcell was found to have participated in:
 - a) 18 Individual SPCs; and
 - b) 13 Specific Allegations.

Relevant Legislation

8. The version of section 33AQ(5) of the Central Bank Act 1942 (as amended) (the "**Central Bank Act**"), which was in force during the Review Period provides that:

“If the [Central Bank] makes a finding that a person concerned in the management of a regulated financial service provider is participating or has participated in the commission by the financial service provider of a prescribed contravention, it may impose on the person one or more of the following sanctions:

(a) a caution or reprimand;

(b) a direction to pay to the [Central Bank] a monetary penalty not exceeding the prescribed amount;

(c) a direction disqualifying the person from being concerned in the management of a regulated financial service provider for such period as is specified in the order;

.....

(e) a direction to pay to the [Central Bank] all or a specified part of the costs incurred by [the Central Bank] in holding the inquiry and in investigating the matter to which the inquiry relates”.

Section 33AQ(6) of the Central Bank Act provides that: *“For the purpose of subsection (5) (b), the prescribed amount is - (a) €500,000...”.*

Submissions

9. The Findings Report was delivered to Mr Purcell and Enforcement on 30 April 2024. In its correspondence dated 30 April 2024, the Inquiry invited written submissions from Mr Purcell and Enforcement and the LPT, as necessary, on:

“(a) whether a sanction is warranted;

(b) the type of sanction that is appropriate;

(c) the relevant sanctioning factors that the Inquiry Members should have regard to when deciding on any appropriate sanction; and

(d) any other information relevant to the Inquiry Members’ consideration of the sanctions to be imposed.”

10. Enforcement provided written submissions dated 12 July 2024. Mr Purcell provided written submissions dated 13 September 2024. The LPT provided written submissions dated 9 October 2024. Mr Purcell, Enforcement and the LPT will be given the opportunity to make oral submissions on sanctions today in addition to their written submissions.

11. Prior to your attendance today, you have been provided with an Agenda for today’s

proceedings. Accordingly, I will now invite the LPT to address the hearing followed by Enforcement and then Mr Purcell.

I will then ask the LPT to briefly outline the process from the delivery of the Inquiry's Written Decision to the publication and appeal and court confirmation process.
