

An Inquiry pursuant to Part IIIC of the Central Bank Act 1942 (as amended) concerning the Irish Nationwide Building Society (INBS), Michael Fingleton, William Garfield McCollum, Tom McMenamin, John S. Purcell and Michael P. Walsh (the Inquiry)

DECISION ON PUBLICATION

INTRODUCTION

1. Pursuant to section 33BC of the applicable version of the Central Bank Act 1942 (the **1942 Act**), when a finding has been made by an inquiry that a prescribed contravention has been committed, the Central Bank is required to publish (subject to certain statutory exceptions) the finding and such other information as it considers appropriate. The relevant legal framework in that regard is addressed further below.
2. In the context of this Inquiry, it is for the Inquiry Members, on behalf of the Central Bank, to determine the information that should be published and to produce a document for publication by the Central Bank (**Publication Document**).
3. The Inquiry Members have set out below their decision on the final form and content of the Publication Document and their reasons for same. In making their decision the Inquiry Members had regard to the relevant legislative provisions, other relevant factors identified by the Inquiry Members and the correspondence received from the participants, all of which are outlined in more detail below.

BACKGROUND

4. On 26 February 2025 the Inquiry Members delivered their Written Decision in this Inquiry to Mr John Stanley Purcell and the Enforcement Directorate of the Central Bank (**Enforcement**). In their Written Decision the Inquiry Members found that Mr Purcell had participated in the commission by INBS of certain prescribed contraventions and they imposed a number of sanctions on Mr Purcell in respect of the contraventions he was found to have participated in. The Written Decision was structured as follows:
 - (a) An **Executive Summary**, which set out certain background information on the Inquiry as well as an overview of the Inquiry's findings, the grounds on which the findings were based and the sanctions imposed by the Inquiry.

- (b) **Part 1**, which contained a complete copy of the Inquiry's Findings Report dated 30 April 2024 (the **Findings Report**).
 - (c) **Part 2**, which contained the Inquiry's Sanctions Report dated 26 February 2025 (the **Sanctions Report**).
- 5. The Written Decision was delivered to Mr Purcell and Enforcement via Relativity, an online platform which was used in this Inquiry to facilitate a paperless inquiry environment.
 - 6. On 26 February 2025, shortly after delivering the Written Decision, the Inquiry Members delivered a separate document to Mr Purcell and Enforcement via Relativity which contained the information that the Inquiry Members proposed publishing on the Central Bank's website (the **Proposed Publication Document**). This Proposed Publication Document was a redacted version of the Inquiry's full Written Decision. The proposed redactions were confined to Part 1 of the document, which contained a complete copy of the Inquiry's Findings Report.
 - 7. The Proposed Publication Document was accompanied by correspondence from the Inquiry to Mr Purcell and Enforcement. This correspondence set out the relevant legislative provisions and other factors that the Inquiry Members had regard to when preparing the Proposed Publication Document as well as the scope of the proposed redactions that had been applied by them throughout the Proposed Publication Document. The Inquiry Members invited written submissions from Mr Purcell and Enforcement on the Proposed Publication Document by 19 March 2025. Details of their respective responses are outlined below.

LEGISLATIVE FRAMEWORK

- 8. Section 33BC(1) of the 1942 Act provides that if the Inquiry has found that a person concerned in the management of a regulated financial service provider is participating or has participated in a prescribed contravention, *"it shall publish, subject to subsection (4), in such form and manner as it thinks appropriate, the finding and such (if any) of the particulars specified in subsection (3) as it thinks appropriate"*.
- 9. The particulars specified in section 33BC(3) of the 1942 Act are:
 - (a) the name of the regulated financial service provider or person concerned on whom a sanction has been imposed;

- (b) details of the prescribed contravention in respect of which the sanction has been imposed;
 - (c) details of the sanction imposed;
 - (d) the grounds on which the finding is based.
10. Section 33BC(4) provides that the requirement to publish the finding or specified particulars does not apply if:
- (a) publication of the finding or particulars involves the disclosure of confidential information the disclosure of which is prohibited by the Rome Treaty, the ESCB Statute or the supervisory EU legal acts (within the meaning of section 33AK(10)), or
 - (b) it is determined that
 - (i) the finding or particulars are of a confidential nature or relate to the commission of an offence against a law of the State, or
 - (ii) publication of the finding or particulars would unfairly prejudice a person's reputation.

METHODOLOGY

11. At the outset, the Inquiry Members took the view that, in the interests of transparency and in order to give the reader sufficient context for the findings made and the sanctions imposed by the Inquiry Members, their full Written Decision, or such portions of it as considered appropriate having regard to the legislative provisions and other relevant factors, should be published by the Central Bank.
12. The Inquiry Members used their full Written Decision as the starting point for the Proposed Publication Document and applied redactions throughout the document having regard to the following key considerations:
- (a) The provisions of section 33BC(4)(b) of the 1942 Act.
 - (b) The approach previously taken by the Inquiry to the redaction of documents.
 - (c) The public nature of the Inquiry and matters related to the Inquiry.
 - (d) The approach generally taken by the Courts to the question of redactions.

The provisions of section 33BC(4)(b) of the 1942 Act

13. Section 33BC(4)(b) concerns information that is of a confidential nature, relates to the commission of an offence against a law of the State or would unfairly prejudice a person's reputation. The information that was redacted in the Proposed Publication Document was information which the Inquiry Members determined fell within the scope of section 33BC(4)(b) of the 1942 Act and was information that was necessary, appropriate and proportionate to redact having regard to the other key considerations identified by the Inquiry Members below. Separately, in their correspondence to Enforcement dated 26 February 2025 delivering the Proposed Publication Document, the Inquiry Members asked Enforcement to confirm that the provisions of section 33BC(4)(a) of the 1942 Act, as outlined above, did not apply to the Proposed Publication Document. Enforcement's response is addressed below.

The approach previously taken by the Inquiry to the redaction of documents

14. The Inquiry Members had regard to the approach previously taken by the Inquiry in respect of the redaction of documents contained within the hearing bundles compiled for the purposes of the oral Inquiry hearings, and determined that the approach taken to the redactions in the Proposed Publication Document should be consistent with the previous approach taken to redactions in the Inquiry. The Inquiry's ['Decision on whether to conduct hearing of evidence \[in Module 1\] in public or private'](#), dated 2 July 2020, outlines the safeguards put in place by the Inquiry to deal with evidence of a confidential nature during the Inquiry hearings. These safeguards included the redaction of banking information contained in documents, which could identify customers of INBS.

The public nature of the Inquiry and matters related to the Inquiry

15. In determining the scope of the redactions in the Proposed Publication Document, the Inquiry Members also had regard to the fact that the Inquiry was primarily heard in public and much of the information in the Written Decision is information which may already be in the public domain (due to the public nature and media reporting of the Inquiry hearings and separate civil litigation concerning certain Persons Concerned) or is not otherwise confidential or prejudicial.

The approach generally taken by the Courts to the question of redactions

16. The Inquiry Members further had regard to the approach generally taken by the Courts to the question of redactions, which is to favour the smallest number of redactions required consistent with the proper administration of justice and the principle set out in Article 34.1

of the Constitution that justice shall be administered in public. In that regard, the Inquiry Members considered the following case law:

- (a) *Courtney v OCM Emru Debtco DAC*, which indicates that the general thrust of Article 34.1 of the Constitution is something that the Court should bear in mind when considering whether and to what extent redaction may be permitted, and while the foundation for redaction may be commercial sensitivity, privilege or irrelevance, there is a competing constitutional right to have justice administered in public, and openness in the use and production of documents relied on by a litigant is part of that right.¹
- (b) *Wegner v Murphy*, which demonstrates that redaction should not be made as of course.²
- (c) *Word Perfect Translation Services Ltd v Minister for Public Expenditure and Reform*, which demonstrates that redaction for irrelevance should be kept to an absolute minimum.³

SCOPE OF REDACTIONS

17. Having regard to the above key considerations, the Inquiry Members determined that the following limited information in the Written Decision should be redacted:

(a) Customer/borrower information

- The names of customers and borrowers.
- Security details including personal guarantors and associated security details

(b) Loan information

- Loan account numbers and sub-account numbers.
- The names given to particular loans or the portfolio or project name associated with a particular loan.

(c) Property information

- The name or address of a particular site or property associated with a loan.

¹ [2019] IEHC 160 per Haughton J.

² [2022] IEHC 525 at [11] per Holland J.

³ [2021] IESC 19 at [3.12] per Clarke CJ.

- Specific geographical locations associated with a loan, such as townlands, towns and post codes.

(d) Evidence from private hearings

- Direct references to evidence given in private sessions of Inquiry hearings. This does not include conclusions made by the Inquiry Members on the basis of evidence heard in private sessions or direct reference to submissions made by Mr Purcell during private sessions of Inquiry hearings.

18. The Inquiry Members considered it appropriate to redact this information on the basis that:

(a) this information, if unredacted, would involve a significant risk of making the borrowers and/or projects in question identifiable and resulting in the disclosure of information which would be of a confidential nature at common law and also for the purposes of section 33BC(4)(b) of the 1942 Act; and/or

(b) in the case of evidence from private hearings, the disclosure of same would undermine the private nature of those hearings.

19. The Inquiry Members arranged for the above information to be redacted from their Written Decision and for the preparation of the Proposed Publication Document.

20. The Inquiry Members' correspondence accompanying the Proposed Publication Document, dated 26 February 2025, also indicated the following non-exhaustive list of information that the Inquiry Members did not propose to redact in the Proposed Publication Document:

(a) Customer/borrower information

- The date of incorporation of borrower companies.

(b) Loan information

- Loan amounts, including Society Advance Detail amounts, loan balances and other references to loan figures.
- The described purpose of a loan. (For example, a loan 'to purchase a site' or 'to refinance an existing loan').

(c) Property information

- General geographical locations, such as cities, large city regions and counties.
- Non-specific references to the type of property and/or number of properties associated with a particular loan. (For example, 'hotel', 'pub', 'petrol station', '800 residential units')
- Valuation amounts and date of valuations.

(d) Non-customer/borrower individuals and entities

- The names of non-customer/borrower individuals or entities, including Mr Purcell and other Persons Concerned, witnesses to the Inquiry and other INBS staff members, Central Bank of Ireland officials and professional advisors.

(e) Performance related figures

- Figures and statements relating to the internal financial performance of INBS, including profit-share and financial year pre-tax earnings.

(f) Conclusions and submissions from private hearings

- As outlined above, the Inquiry Members proposed redacting direct references to evidence from private sessions of Inquiry hearings. This did not include, and the Inquiry Members did not propose redacting, conclusions made by them on the basis of evidence heard in private sessions (for example, throughout their Loan File Analysis in Chapter 4 of the Findings Report) or reference to or direct quotations from submissions made by Mr Purcell during private sessions of the Inquiry hearings (for example, in Chapters 2, 5, 7 and 10 of the Findings Report).
- The Inquiry Members also clarified, for the avoidance of doubt and subject to the redacted information outlined above, that they did not propose redacting evidence given or submissions made by Mr Purcell or others during public sessions of the Inquiry hearings.

21. The Inquiry Members considered it appropriate not to redact this information on the basis that:

- (a) this information, if unredacted, would not involve a significant risk of making the borrowers and/or projects in question identifiable and resulting in the disclosure of

information which would be of a confidential nature under common law and for the purposes of section 33BC(4)(b) of the 1942 Act; and/or

- (b) in the case of matters relating to private hearings, the disclosure of same would not undermine the private nature of those hearings.

CORRESPONDENCE

22. As noted above, the Inquiry invited Mr Purcell and Enforcement to make any written submissions they wished to on the Proposed Publication Document by 19 March 2025. The Inquiry received correspondence from Mr Purcell's legal representatives, dated 19 March 2025 confirming that Mr Purcell had no submissions to make in relation to the Proposed Publication Document and the redactions.

23. The Inquiry also received correspondence from Enforcement, dated 19 March 2025, which addressed the following points:

- (a) Application of section 33BC(4)(a) of the 1942 Act

Enforcement confirmed that, in its view, the Proposed Publication Document does not involve a disclosure of information which is prohibited under section 33BC(4)(a) of the 1942 Act.

- (b) Redacted Information

Enforcement indicated that they had *“not reviewed each redaction applied to the Proposed Publication Document in circumstances where the Inquiry Members, as authors of the Proposed Publication Document, have accordingly satisfied themselves as to the application of section 33BC(4)(b) of the 1942 Act to each redaction”* and that they did *“not propose to make any submissions”*.

- (c) Un-redacted Information

Enforcement referred to the non-exhaustive list of information not redacted in the Proposed Publication Document which was identified by the Inquiry Members in their correspondence accompanying the Proposed Publication Document. Enforcement indicated that it did not have visibility on the precise ambit of certain of this material as it was not flagged in the text of the Proposed Publication Document but that *“in circumstances where the Inquiry has reviewed the material itself, and where this information has been determined by the Inquiry not to fall within the scope of section*

33BC(4)(b) of the 1942 Act, Enforcement does not propose to seek to conduct a further review to make observations on this matter”.

(d) Amendments to Sanctions Report

Enforcement identified what they termed “*two inaccuracies in the Proposed Publication Document*”, at paragraphs 40 and 109 of the Sanctions Report, and they requested that the Inquiry Members correct these inaccuracies prior to publication.

24. The Inquiry Members wrote to Mr Purcell and Enforcement on 31 March 2025 accepting that each of paragraph 40 and paragraph 109 of the Sanctions Report contained an incorrect reference and agreeing that these references should be corrected in the Sanctions Report. They set out the two minor revisions that they intended to make at paragraphs 40 and 109 of the Sanctions Report and asked both parties to revert by 2 April 2025 if they had any issue regarding the intended revisions. The Inquiry Members indicated that they would implement these intended revisions to the Sanctions Report and that this updated version of the Sanctions Report would become the finalised Sanctions Report, replacing the original Sanctions Report at Part B of both the Written Decision and the Proposed Publication Document.
25. Neither Mr Purcell nor Enforcement raised any issue regarding the intended revisions to the Sanctions Report with the Inquiry Members. In those circumstances, the Inquiry Members implemented the two revisions to the Sanctions Report and this updated version of the Sanctions Report became the finalised Sanctions Report, replacing the original Sanctions Report at Part B of the Written Decision and Proposed Publication Document. The Inquiry Members then proceeded to make their decision on the final form and content of the Publication Document.

DECISION OF INQUIRY MEMBERS

26. **The Inquiry has found that, Mr Stan Purcell, a person concerned in the management of a regulated financial service provider, has participated in prescribed contraventions and it has determined the appropriate sanction. Section 33BC(1) of the 1942 Act requires that where such a finding is made, the Inquiry “*shall publish...in such form and manner as it thinks appropriate, the finding and such (if any) of the particulars specified in subsection (3) as it thinks appropriate.*” These particulars are: the names of the regulated financial service provider or person concerned; the details of the prescribed contraventions; the sanction imposed; and the grounds on which the findings are based.**

27. The Inquiry Members considered the exceptions to this statutory obligation set out at section 33BC(4) of the 1942 Act (see paragraph 10 above). On foot of the confirmation provided by Enforcement, as set out at paragraph 21(a) above, the Inquiry Members are satisfied that the Publication Document does not disclose confidential information the disclosure of which is prohibited by EU legislation (section 33BC(4)(a) of the 1942 Act). The Inquiry Members also determined that the Publication Document does not include confidential information or relate to a criminal offence and does not unfairly prejudice the reputation of any person identified in the Publication Document (section 33BC(4)(b) of the 1942 Act).
28. In deciding on the format of the Publication Document, the Inquiry Members were mindful of the four factors set out at paragraph 12 above. In particular, the guidance provided by legal precedent, as outlined at paragraph 16, was a key consideration which informed the Inquiry Members' approach to apply as limited a range of redactions as possible consistent with the requirements of transparency and confidentiality.
29. Bearing these factors in mind the Inquiry Members determined that only such redactions as outlined above at paragraph 17 should be applied. These redactions met the requirement for transparency that has been a guiding principle for this Inquiry from the beginning and also protected the confidentiality of bank-customer information that is required by the common law and legislation. In addition, the redactions preserve the integrity of the limited number of private hearings conducted during the course of the Inquiry.

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14 May 2025