

An Inquiry Pursuant to Part IIIC of the Central Bank Act 1942 (as amended) concerning Mr David Guinane

DECISION ON PUBLICATION (ABRIDGED)

INTRODUCTION

1. Pursuant to section 33BC of the applicable version of the Central Bank Act 1942 (the **1942 Act**) where the Inquiry Member has found that Mr Guinane has participated, while performing a relevant controlled function, in the commission of a prescribed contravention by a regulated financial service provider, in this case permanent tsb the trading name of the banking division of Irish Life & Permanent Group Holdings plc (**PTSB**), the Inquiry Member is required (subject to certain exceptions set out in section 33BC(4) of the 1942 Act) to publish, in such form and manner as he considers appropriate, this finding, the grounds on which this finding is based and such other specified particulars as he considers appropriate.
2. The Inquiry Member made the finding against Mr Guinane in the Written Decision of 23 April 2025 and now sets out his decision below on the content that is to be published and the final form and manner of publication (the **Publication Document**) and his reasons for same.

BACKGROUND

3. The Inquiry Member prepared his Written Decision in accordance with section 33AQ(8) of the applicable version of the 1942 Act. On 23 April 2025, the Inquiry Member delivered his Written Decision to Mr Guinane, the Regulatory Investigations team within the Enforcement Directorate of the Central Bank (**RI**) and PTSB (the **Inquiry Participants**). The Inquiry Member found that Mr Guinane had participated, while being a person concerned in the management of PTSB, in a prescribed contravention by PTSB, and determined that sanctions be imposed on Mr Guinane as a consequence of his participation in such prescribed contravention.
4. The Written Decision comprised of:
 - (a) An Executive Summary;
 - (b) The Written Findings (**Part A**), which sets out the Inquiry's finding and the reasons for same; and

- (c) The Decision on Sanction (**Part B**), which sets out the Inquiry's Decision on Sanction and reasons for same.
5. On 23 April 2025, as part of the letter delivering the Written Decision, the Inquiry Member set out his proposal on the document to be published and the next steps in the process. Details of the steps taken are outlined below.

LEGISLATIVE FRAMEWORK

6. Section 33BC(1) of the 1942 Act provides that if it is found that a person concerned in the management of a regulated financial service provider is participating or has participated in a prescribed contravention, the Central Bank "*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*" (emphasis added). In this context, the phrase "*Central Bank*" clearly refers to the Inquiry Member's function and role as such.
7. The particulars specified in subsection (3) 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.
8. Section 33BC(4) provides that the obligation to publish the finding or specified particulars does not apply:
- (i) if publication of the finding 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)) (section 33BC (4) (a)), or
 - (ii) if it is determined that the finding or particulars are of a confidential nature or relate to the commission of an offence against a law of the State (section 33BC (4)(b)(i)), or

- (iii) if it is determined that publication of the finding or particulars would unfairly prejudice a person's reputation (section 33BC (4) (b) (ii))

PROPOSED PUBLICATION DOCUMENT

9. The Inquiry Member proposed that the full Written Decision be published, subject to necessary or appropriate omissions and redactions. The Inquiry Member was aware that in so doing, he was likely to be going beyond the basic requirements for publication set out in section 33BC of the 1942 Act - i.e. the finding, the name of the person to whom the finding relates, the grounds of the finding, details of the contravention in respect of which a sanction is imposed, and details of the sanction. In proposing to publish as much of the full Written Decision as is possible and appropriate, the Inquiry Member had regard to the public nature of the Inquiry and in the interest of transparency, wished to make all information about the findings of the Inquiry and the background to, and reasons for, those findings public, save where there are appropriate reasons not to do so.
10. In proposing to proceed on the basis that the full Written Decision would be published, subject to necessary or appropriate omissions and redactions, the Inquiry Member took particular account of the following matters:
 - (a) Section 33BC (1) provides that if the Inquiry finds, respectively, that a contravention has occurred and has decided to impose a sanction, then the section 33BC(3) particulars shall be published in such "*form and manner*" as the Inquiry Member thinks "*appropriate*". This discretion obviously goes to the mode of publication (and perhaps other ancillary matters) but not to the content of the publication.
 - (b) Section 33BC (1) provides that the Inquiry Member shall publish "*such (if any) of the particulars specified at subsection (3) as it thinks appropriate.*" Accordingly, the Inquiry Member is given a discretion as to which (if any) of the subsection (3) particulars are to be published based on the criterion as to whether such publication is thought by the Inquiry Member to be "*appropriate*".
 - (c) PTSB wished to ensure that its claim to legal professional privilege (**LPP**) over certain documents and other information was preserved, and to that end certain parts of the Inquiry were not held in public session. Material properly covered by PTSB's claim to LPP should not be published in the Publication Document.

11. The Inquiry Member took the following preliminary steps in the course of preparing the proposed publication document:
- (a) In order to protect PTSB's claim of LPP over certain material, the Inquiry Member requested PTSB, by way of letter dated 23 April 2025, to review the full Written Decision and agree the proposed redactions for LPP with RI by 14 May 2025.
 - (b) In order to assist in determining pursuant to section 33BC(4)(b) of the 1942 Act if the Written Decision contains any confidential information or any particulars which would unfairly prejudice a person's reputation, the Inquiry Member confirmed by letter dated 23 April 2025 that he would consider what redactions (if any) should be applied to satisfy the legislation in this regard.
 - (c) In order to assist in ensuring that the Proposed Publication Document did not involve a disclosure of information which is prohibited by the Rome Treaty, the ESCB Statute or the supervisory EU legal acts, (within the meaning of section 33AK(10)), the Inquiry Member asked RI to confirm whether the provisions of section 33BC(4)(a) applied to any of the contents of the Written Decision.
12. On receipt of the proposed redactions for LPP that PTSB had agreed with RI on 14 May 2025, the Inquiry Member prepared a Proposed Publication Document. The Proposed Publication Document was circulated to the Inquiry Participants for review on 28 May 2025. The omissions and redactions applied to the Written Decision in order to produce the Proposed Publication Document at this time and the Inquiry Member's reasoning for the omission or redactions were explained by the Inquiry Member, who invited submissions from the Inquiry Participants on the Proposed Publication Document.

DECISION OF THE INQUIRY MEMBER

13. The Inquiry Member considered all of the submissions of the Inquiry Participants and the relevant legislative provisions and proceeded to make his decision on the content that is to be published and the form and manner in which such content is to be published. The Inquiry Member remains of the view that, having regard to the public nature of the Inquiry and in the interest of transparency, he wishes to make public all information about the findings of the Inquiry and the background to, and reasons for,

those findings, save where the 1942 Act restricts publication, or there are appropriate reasons not to do so.

Form of Publication Document

14. The Inquiry Member has therefore decided that the Publication Document will be issued in a form that comprises the full Written Decision with omissions or redactions where these are required by section 33BC (4) of the 1942 Act, or where such omission or redaction is otherwise appropriate.
15. The Inquiry Member has identified certain issues that might make it necessary or appropriate not to publish parts of the content of the Written Decision. These are:

(a) Finding or particulars that, pursuant to section 33BC(1) of the 1942 Act, it is not appropriate to publish.

The Inquiry Member considered whether any information in the Written Decision should not be published on the basis that it would be inappropriate to do so and considered the submissions of the Inquiry Participants on this issue. The Inquiry Member determined that, save as set out below, there was no need to withhold publication of any content in the Written Decision on the basis that it was inappropriate to do so.

(b) Finding or particulars involving a disclosure of confidential information covered by section 33BC(4)(a)

The Inquiry Member has relied on the confirmation provided by RI in their letter dated 11 June 2025 that the Proposed Publication Document does not involve a disclosure of confidential information which is prohibited by the Rome Treaty, the ESCB Statute or the supervisory EU legal acts (within the meaning of section 33AK(10) of the 1942 Act).

(c) Finding or particulars that it is not necessary or appropriate to publish pursuant to section 33BC(4)(b) of the 1942 Act.

- (i) In order to withhold confidential information, the Inquiry Member will not publish information that might identify consumers who were customers of PTSB. Two redactions included in the Updated Proposed Publication Document are retained.

- (ii) The Inquiry Member did not identify any information in the Written Decision that should not be published on the basis that it related to the commission of an offence against a law of the State.

(d) Finding or particulars that it is not necessary or appropriate to publish pursuant to section 33BC(4)(b) as publication of the finding or particulars would unfairly prejudice a person's reputation

The Inquiry Member did not identify any finding or particular that would unfairly prejudice a person's reputation.

(e) Findings or particulars that it is necessary or appropriate not to publish in order to protect PTSB's claim of LPP over certain material.

The Inquiry Member will not publish references in the Written Decision to material over which LPP is claimed by PTSB and where such redactions had been agreed between PTSB and RI, save for the proposed redactions for LPP contained in paragraphs 4.32 and 9.102. The basis for publishing these two proposed redactions is that they provide basic information on the source and timing of the legal advice over which PTSB claimed LPP, which is useful to a reader of the Publication Document, and they do not disclose the content of any legal advice. An explanatory text box is to be included in the side margin of the Publication Document alongside certain sections which are not being published in order to protect PTSB's claim for legal professional privilege. This explanatory text is included at paragraphs 1.3(f), 6.15, 6.16, 7.1D, 7.32, 7.41, 7.55, 7.59, 9.1, 9.9, 9.62, 9.70, 9.71, 9.75 and Annex A to Appendix 1 and will state "*The redacted content in paragraph [X] contains reference to legal advice that was available to PTSB and about which Mr Guinane received reports prior to 19 January 2009*". The inclusion of the text box is intended to mitigate the risk that it would be unfair to Mr Guinane if the redactions in the Publication Document omitted all references to the fact that he had been provided with a report of the advice given by the legal function when making a decision on the Proposal he was asked to consider on 19 January 2009.

(f) Names of individuals involved in the Inquiry

The Inquiry Member also considered whether the names of witnesses to the Inquiry, other PTSB staff members and Central Bank of Ireland officers should not be published. The Inquiry Member considered it appropriate not to redact this information on the basis that the names of these individuals were mentioned in the course of a public inquiry hearing and there are no references to these individuals in the Written Decision that would cause them any unfair prejudice.

Peter Hinchliffe

15 October 2025