

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

**Inquiry Hearing
SPCs 1 - 4**

Friday 30 October 2020

Chairperson’s Opening Statement

This morning we will commence hearings into Suspected Prescribed Contraventions (SPCs) outlined in SPCs 1 to 4 of the Notice of Inquiry.

Mr Walsh and Mr McMenemy have settled their case with the Central Bank. Mr Fingleton’s involvement with the Inquiry was permanently stayed following an application based on medical grounds.

The Legal Practitioner Team will make an opening statement followed by an opening statement from Mr Purcell.

By email dated 29 October 2020, Mr McCollum’s solicitor notified the Inquiry that due to pre-arranged travel commitments, Mr McCollum is unable to attend this morning’s hearing remotely in order to provide an opening statement. Mr McCollum’s solicitor requested that approximately 30 minutes be set aside at the commencement of Loan Hearing 1 next Tuesday, 3 November 2020, to allow Mr McCollum to give his opening statement to the Inquiry remotely.

The Inquiry Members have acceded to this application and the hearing on Tuesday, 3 November 2020, will therefore commence in public at 11:00am to hear Mr McCollum’s opening statement and will then revert to private session for the purposes of Loan Hearing 1.

Enforcement has informed the Inquiry that it does not intend to make an Opening Statement.

We will first take appearances from all parties present and then affidavits of service. I will then briefly outline the events that have led to this hearing.

Appearances

Affidavits of service

Allegations against INBS and Certain Persons Concerned in the Management of the Society (“Persons Concerned”) were set out in the Notice of Inquiry which was served on all relevant parties on 9 July 2015. These allegations were based on an Investigation Report prepared by the Enforcement Directorate of the Central Bank which alleged that the suspected failures by INBS to comply with its own policies and procedures during the Review Period amounted to failures to establish, implement and/or maintain internal procedures, processes, systems and controls in relation to the separate and discreet stages in the Commercial Lending process identified by the SPCs. The Investigation Report also identified suspected failures to ensure that the level of risk in INBS was monitored and managed and that the business was managed in accordance with sound administrative and accounting principles. The allegations which were all in connection with Commercial Lending in the Society between 1 August 2004 and 30 September 2008 were divided into 7 SPCs. The Inquiry divided the SPCs into four modules – SPC 1-4, SPC 5, SPC 6 and SPC 7.

The Inquiry decided to hear modules relating to SPCs 5, 6 and 7 before proceeding to the SPCs 1-4 module. This decision was made in the interests of efficiency and timeliness.

SPC 5 dealt with the Credit Committee’s obligation to review certain matters in relation to commercial lending.

SPC 6 dealt with the obligation imposed on INBS to provide the Board of Directors with reports relating to commercial lending and credit risk management.

SPC 7 dealt with the suspected lack of an adequate credit risk management policy to regulate profit share agreements.

Today we commence our final module of hearings.

SPCs 1-4 allege that:

- (i) INBS failed to ensure that commercial loan applications were processed in accordance with INBS's internal policies.(SPC 1)
- (ii) INBS failed to ensure that commercial loans and variations to commercial loans were approved in accordance with INBS's internal policies and that commercial mortgage offers complied with internal policy. (SPC 2)
- (iii) INBS failed to ensure the taking of security for commercial loans, the obtaining of valuations and the adhering to maximum loan to value ("LTV") limits. (SPC 3).
- (iv) INBS failed to ensure that commercial lending was monitored in accordance with INBS's internal policies. (SPC 4).

Mr William Garfield McCollum and Mr John S. Purcell are the two remaining Persons Concerned in the management of INBS who are alleged to have participated in the commission of SPCs 1 – 4.

The evidence in respect of these allegations is derived from two distinct sources.

1. There is the Loan sample documentation which comprised 98 loan accounts across nine commercial lending customers of INBS and represented approximately 20% of the Commercial loan book by value as of 28 February 2010. This documentation comprises a number of categories of evidence including the loan file itself, scanned copies of the loan documentation originated from the Belfast branch, additional CLAs, Legal due diligence reports, Security review material, Credit review material and summit transaction history reports. Where it is suspected that INBS was not in compliance with its own policies with respect to certain loans in the loan

sample, this is set out in the SPC chapter with the specific details set out in a corresponding table of Loan Sample evidence.

2. The Investigation Report also relied on Commercial Administration documentation, Contemporaneous Reports and Financial Regulatory correspondence. These will be dealt with in public session at the Context Hearing at the end of this module.

The 98 loans that were selected to evidence the SPCs necessarily involve details of customers of INBS during the Review Period. Therefore, in the interests of their right to banking confidentiality, we have directed, in accordance with Section 33 AZ (2) (a) of the Central Bank Act 1942 (as amended) that this part of the SPC 1 – 4 module will be heard in private. That particular legislative provision provides for exceptions to the stated default position that Inquiries conducted under Part III of the Act shall be held in public. One such exception outlined in para 2 sub para (a) is where; *“evidence may be given, or a matter may arise, during the Inquiry that is of a confidential nature...”*. The Inquiry delivered its written decision on this matter in July and a copy of that decision was posted to the Central Bank website thereafter.

Today’s hearing, which is in public, will deal with the 98 loans in general and will not identify any borrowers. The parties here present have been directed by the Inquiry, and I do so again now, not to reveal the names of any customers of INBS during the course of their statements without ensuring that the Inquiry has an opportunity to go in to private session in advance.

The hearings into the 98 loans (the “Loan Modules”) have been divided into 5 tranches of between 15 and 20 loans each. These hearings are scheduled to continue into the early part of 2021. Once these hearings have been completed, the Inquiry will move back into public session for the hearing which will deal with context evidence and issues around the SPC 1-4 allegations. This final hearing will hear witness evidence and look at certain documentation including contemporaneous documents, regulatory correspondence and other documentation which potentially identifies incidences of breach of Society policy in the conduct of Commercial lending.

We will hear from the LPT followed by Mr Purcell.